

Municipal Council Meeting  
December 14, 2004 7:00PM  
Town Hall Auditorium

Pledge of Allegiance – Councilor Larnard

Roll Call – Esther F. Headley, Anne C. Larnard, Christopher G. Lawrence, Mario J. Pinierio, Robert D. Woodsom, Roger Benson, James D. Chandler, Ann Connolly King and Joseph W. McMilleon

Accept Minutes October 12, 2004 and November 9, 2004  
Councilor Benson motioned to accept, Councilor Chandler second  
Voted Unanimous

Councilor Larnard – A couple of councilors and me recently went to a training session provided by the Senior Center in Amesbury about Elder Services of the Merrimac Valley. This service helps to provide one on one help to identify options and offer relief from the demands of providing constant care to seniors. They really want to get this message across because they feel that a lot of people are not aware that this is a resource available. Booklets are available at the Town Hall, Senior Center and the Library.

## **PUBLIC COMMENT**

James Thivierge, 11.5 Sanborn Terrace – Reads his letter to the Council (attached).

Kevin Murphy, 131 Pleasant Valley Road – Is asking the Council to consider a dual tax rate. He states most Amesbury homeowners will pay on average \$150 more on their taxes and a lot of businesses are going to pay \$200 - \$800 less on average with a single tax rate. Mr. Murphy wants both the commercial and residential to go up the same amount; fair and equitable for everyone.

Annette Denietolis, 21 Orchard Street - Following up on the Beedee waste oil superfund site. Mrs. Denietolis is questioning the use of funds that have been reimbursed to the Town from the State for projects that have already been done by borrowing up front. She is unclear what happens to the money when it comes back to us from the State. According to the memorandum from Mike Basque this money becomes available. Of the \$326,000 that was reimbursed to the town for the Huntington Ave. Neighborhood Project all but \$5,500 of it was spent elsewhere with out any process that involves the Municipal Council or the Taxpayers. If that is the process she would like to see it changed. The other issue is the Inspection Dept. collection of fees. She feels the fees may be in excess and are being used to fund the general government. She feels the fee schedule needs to be looked into.

Mike Greaney, 50 Orchard St. – Mr. Greaney wants to know if the \$15.8 million received for the sewer treatment plant and lines is in fact interest free? He believes \$13 million is interest free and \$2.8 million is interest bearing.

Orlando Pacheco will look into this and provide a memo to the council and send Mr. Greaney a copy.

Marc Deschenes - Mr. Deschenes states over time there has been a shifting of the burden to the residential tax payer. He feels the rate should be split. The Administration spends a lot of money enticing businesses to town spending tax dollars for more water mains, more sidewalks, more policemen, more fire trucks and hydrants. We are spending tax dollars to support commercial and industrial property and are not seeing it coming back. He feels that by splitting the tax rate we would be more or less leveling the playing field and making it fair.

Chris York, 13 Warren Avenue – Mr. York would like to see the tax rate split.

## **LICENSES AND PERMITS**

### **2004-136 2005 Common Victualler's License Renewals**

President McMilleon – reads 2004-136 into the record.

Councilor Benson – motion to approve

Councilor Lawrence – second

Councilor Woodsom – I will not be voting on Flatbread and Amesbury Golf and Country Club

Councilor Benson – I will amend my motion to exclude Flatbread and Amesbury

Councilor Lawrence - second

Voted – Unanimous

President McMilleon – I will now have a motion for Flatbread and Amesbury Golf and Country Club

Councilor Benson – motion to approve

Councilor Pinierio – second

Voted – 8 Yes, 1 abstain (Woodsom)

### **2004-137 Automatic Amusement Renewal**

President McMilleon – reads 2004-137 into the record.

Councilor Pinierio – motion to approve

Councilor Benson – second

Voted – Unanimous

### **2004-138 Dine, Dance & Entertainment Renewal**

President McMilleon – reads 2004-138 into the record.

Councilor Pinierio – motion to approve

Councilor Benson – second

Voted – Unanimous

### **2004-139 Sunday Jukebox Renewal**

President McMilleon – reads 2004-139 into the record

Councilor Benson – motion to approve

Councilor Pinierio – second

Voted – 8 Yes, 1 No (Headley)

### **2004-140 Inn Holders Renewal**

President McMilleon – reads 2004-140 into the record

Councilor Pinierio – motion to approve

Councilor Benson – second

Voted – Unanimous

### **2004-141 Auto Class I Renewal**

President McMilleon – reads 2004-141 into the record

Councilor Benson – abstaining for Auto Class I, II, and III

Councilor Pinierio – motion to approve

Councilor Lawrence – second

Voted – 8 Yes, 1 abstain (Benson)

### **2004-142 Auto Class II Renewal**

President McMilleon – reads 2004-142 into the record

Councilor Lawrence – move for approval of 2004-142.  
Councilor King – second

Councilor Pinierio – A have a question about A Bargain Co. He brought someone in there illegally. He was leaving his trash out and the town was not picking it up. I think the building inspector went down to see him. He was having too many vehicles down there. Dennis has those issues been resolved?

Dennis Nadeau – He has cleaned up the site quite a bit. He still has the other man down there, he is doing auto body. There has always been an auto body there.

Councilor Pinierio – So he can sub lease from A Bargain?

Dennis Nadeau – Yes, because he is not selling cars.

Councilor Pinierio – Do they have their own disposal?

Dennis Nadeau – I don't know,

Councilor Pinierio – They are not supposed to throw that stuff out in the regular trash.

Dennis Nadeau – No. You can hold it until next meeting and I will look into it.

President McMilleon – We have a motion to approve these as they were read and that the businesses are in compliance with the regulations.

Councilor Lawrence – move for approval of 2004-142.  
Councilor King – second  
Voted – Unanimous

### **2004-143 Auto Class III**

President McMilleon – reads 2004-143 into the record.  
Councilor Pinierio – move for approval of 2004-143  
Councilor Larnard – second

Councilor Chandler – I have a question about Martin Road Salvage. Is there any pollution going on there and what are we doing to make sure we don't have another Alan's Truck Stop on our hands. I know there were questions about how clean that site was. Dennis told us at the Finance Committee meeting that he couldn't go on the site to check it because it is private property. I would like some assurance that there is not oil going into the ground.

Denis Nadeau – Yes he still has cars on town property, he is getting rid of them slow but sure. As far as pollution; I don't know if those cars are causing any more pollution.

President McMilleon – Do you do the inspection for that kind of thing?

Denis Nadeau – If he is expanding his business it would come under zoning. He has been told to move them off the site.

President McMilleon – Do we know how many vehicles he still has on the site.

Denis Nadeau – On the other side of the property line, no I don't.

Councilor Pinierio – Is there a way we can find out? If you can't do anything about it, is there an agency like EPA that can go down there and make sure he is not dumping oil on another part of the property where no one can see? We don't want another pollution problem.

Denis Nadeau – I understand. If there is a pollution problem now it has leached down from his property already. Everything has gone down hill from his property. I will send him a letter and give him 30 days to get the cars off of there.

Councilor Pinierio – But if there is any oil spilled out there is there anything you can do?

Denis Nadeau – You would have to put some money up to have someone go out and test it. And then you would have to get permission from him to test it. I don't know all the regulations on this but, just because the pollution is on the other side of the fence, did he cause it? Where is the proof? It has been a dump, a truck stop and a junk yard. He is responsible for that property he is still there. We are not responsible for that property as of right now.

President McMilleon – There has to be State regulations in effect on that property for that type of business.

Denis Nadeau – He has been approved by the DEP, he has his license. I don't know all the DEP regulations of what he is required to do.

President McMilleon – Who makes sure that these businesses are in compliance with the regulations?

Denis Nadeau – Zoning regulations me, the other regulations I don't know.

Councilor Chandler – Orlando is that something you can check out? I don't think we want to encourage the kind of business that is going to create pollution in town. I have questions if he is storing cars illegally on our own land or different property. A Junk Yard by its nature tends to be not the cleanest operation.

Orlando Pacheco – The enforcement comes under DEP, the question is whether DEP is mandated to inspect them every year. I don't believe so, if in fact I don't know when DEP is allowed to inspect other than the initial opening. If we filed a complaint and we had merit to the complaint we could request DEP to go in there. We can't just say that it is a junk yard and they tend to have pollution is not enough to warrant DEP to send an inspector down.

Councilor Chandler – Who could inspect because no one did that at Alan's Truck Stop and look what happened.

Orlando Pacheco – If he was willing to say to the Town come and inspect it and we had a licensed inspector and were willing to pick up the cost that wouldn't be a problem. Otherwise we would need a State Inspector to come down.

Denis Nadeau – We would have to have proof. We just can't go on someone's property, it's private.

Councilor Pinierio – Orlando, why can't you call the DEP and find out how often they inspect.

Orlando Pacheco – Certainly I can do that.

President McMilleon – Who has the authority to make sure that they are in compliance? Let's send a letter to the Mayor's office to find that out for us and get that information back.

Orlando Pacheco – The only other thing I would say is if there are particular types of flammables on the property then those have to be on file with the Fire Department.

Councilor Chandler – That is part of the TerreSphere Project.

Orlando Pacheco – I would think if you are going to redevelop that whole area I don't know if that is a desirable portion.

Councilor Chandler – If we look at the overlay of the TerraSphere Project we know how much the developer wants to do Bailey Pond but it seems that he is not so anxious to do all the other things that are part of it.

President McMilleon – We have a motion before us and we will find out all the information.

Councilor Lawrence – move for approval of 2004-142.

Councilor King – second

Voted – Unanimous

## **MAYOR APPOINTMENTS**

### **2004-133 Marcia Gilmore member Council on Aging term to expire 6/30/06**

President McMilleon – reads 2004-133 into the record.

Marcia Gilmore – Ms. Gilmore has worked with the COA for a number of years. Now that her 80 year old Mother has move here from the Cape and that she and her husband consider themselves seniors she has more of an interest in the center.

Councilor Pinierio – motion to approve 2004-133.

Councilor Lawrence – second

Voted – Unanimous

### **2004-134 William Croteau, Jr. member Board of Registrars term to expire 6/30/06**

President McMilleon – reads 2004-134 into the record.

William Croteau, Sanborn Ter. – Mr. Croteau has been involved in town politics since 1963 and is available to fill this position.

Councilor Benson – I move for approval of 2004-134 as submitted.

Councilor Pinierio – second

Voted – Unanimous

### **2004-135 Revisions to the Master Plan Implementation and Oversight Committee**

President McMilleon – reads 2004-135 into the record.

Councilor Pinierio – I move for approval of 2004-135.

Councilor King – second

Voted – Unanimous

## **SECOND READINGS**

**2004-83 An Act authorizing the Town of Amesbury to establish a Tourism Promotion Fund – Councilor Lawrence sponsor cont.**

President McMilleon – reads 2004-83 into the record.

Councilor Lawrence – I move to continue this to our next Council meeting January 11, 2005

Councilor Pinierio – second

Voted – Unanimous

**2004-119 An Order to request that the Municipal Council allows the Town of Amesbury to accept and expend a U.S. Dept. Of Homeland Security Grant \$4,500.00 – Mayor Hildt sponsor**

President McMilleon – reads 2004-119 into the record.

Councilor Woodsom – The recommendation from the Finance Committee was to approve and I will make that my motion.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2004-120 An Order that \$60,000 be appropriated for the purchase of demolishing and removing the structures at Trader Alan's Truck Stop – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-120 into the record.

Joe Fahey – There were some questions sent to me through the Mayor's office regarding the RFP process for the truck stop and specific wording regarding the demolition of the properties. I would like to begin by doing a quick over view. The project was a result of a TerraSphere study funded by both the Town and the Alliance. The study was presented to the Municipal Council for review and with the recommendations. When the study was originally initiated it was to look primarily at a truck stop proposed down there. There was also a strip club proposed at the sports park. It was decided to take the entire area and look at the entire area and create a mini master plan for the development of all of the area along Hunt Road, Bailey's Pond and the Truck stop etc. In March 2002 we approached the Municipal Council to surplus the property based on that TerraSphere proposal. At that meeting the Council voted to surplus both properties, Bailey's Pond for \$1 and parcel 98 for \$403,000 which was owed in taxes. The developer at the sole discretion of the Town may deduct from that amount any costs related to the 21E site clean up which would include demolition of the property. The council at that time also provided that there would be a committee established and the committee would make a recommendation to the Mayor and the Mayor would then in turn make a recommendation to the Council for award once the selection was made. The Mayor's recommendation was submitted on November 12<sup>th</sup>, 2002 and the Council voted at that time to award the project to Fafard which was the recommendation of the committee to the Mayor. So with regards to demolition which is the subject of this issue the Town has one option, it can either do the demolition it self and that gets deducted from the \$403,000 or eventually Fafard would do the demolition and they would be able to deduct that cost and 21E related costs from that purchase price. What legal hold Fafard has on the property if there is no P&S agreement? I spoke with Town council today, we went through the RFP process and it included both parcels and required the developer to show some assemblage of the other parcels that would be related to the Fafard proposal. The developer went ahead and did purchase the sports park for \$1.4 million and by virtue our RFP that included both parcels and included the development and assemblage of other parcels on the property and by virtue of our award as a result of the response from Fafard we have in essence have created an agreement, the agreement is in place and it is standing at the point as far as their need to both do Bailey's Pond, the Truck Stop and some assemblage of the Sports Park.

They did have some discussions with the Salvage Yard and with Waste Management about assembling those parcels.

Councilor Pinierio – That is \$432,000, is that what Fafard is going to be paying for that property?

Joe Fahey - \$403,000 was the back taxes, plus they have a provision in their response that they are doing over 55 housing on that location and for every unit approved there would be an additional \$10,000 paid to the town.

Councilor Pinierio – Have we received the \$403,000?

Joe Fahey – No we haven't.

Councilor Pinierio – When will we receive that money from them?

Joe Fahey – The way they are approaching it is they indicated that they would start with Bailey's Pond and then initiate the second part of the project which I know immediately brings up the question what happens if they just want to do Bailey's Pond and don't do the truck stop. As I mentioned before the agreement with the Town through the RFP process and their response to the RFP process is they must undertake all aspects of the project which includes Bailey's Pond, the Truck Stop and the assemblage of additional land. Once they even went through the Bailey's Pond permitting process the Town would have no obligation to give them their permits until we are assured that they are moving forward on the rest of their projects.

Councilor Pinierio – If they are obligated to clean that up why don't they put up the \$60,000 to tear it down? If you are going to tear down the Truck Stop you should also have the developer pull the tanks up at the same time because if that is not done we are going to have the same problem we have at the Millyard.

Joe Fahey – Fafard is willing to do that once we have a P&S agreement for that particular piece of property and they will do the work that they are obligated to do. I believe the issue that has come forward now is that we have an emergency situation. That was not necessarily anticipated in the agreement at that point in time.

Councilor Pinierio – How long have we owned this property?

Joe Fahey – I don't have that information.

Councilor Pinierio – If we have owned this property much longer than 4 years how come we have to tear this building down now? Didn't someone in the previous years say anything about this?

Joe Fahey – We understood the need for the demolition for the property that was obvious from the moment we took the property. I think quite frankly one of the issues that we had to look at and was discussed in numerous meeting with the Mayor and the improvement groups is that the same time we had this particular piece of property we were also going after other people and making them stabilize their property or tear their property down. It is very difficult for us to go out to somebody in the community and say you have an unsafe piece of property and it is at the point of deterioration that you must tear this down. Mean while they point to us and say what are you doing about your own property and that was part of the consideration as we hopefully get moving quicker and have Fafard actually

initiate the demolition. As far as the reasons for the mandated demolition I would defer to the Building Commissioner.

Councilor King – Orlando had mentioned at the Finance Committee that the Town was trying to secure some grants to see if we could use the grant money to tear down the building.

Joe Fahey – We have actually applied for three different grants in the attempt to clean up the site under 21 E and get the demolition done and we weren't successful at any of those grant applications.

Councilor King – When did the process conclude?

Joe Fahey – That has been on going for 2 years now. We asked Mass Development, EPA and DEP and a number of brownfields projects to see if we could get the clean up covered.

Councilor King – I am trying to put together a time line. Was it a year ago that you found out that you had no grant money.

Joe Fahey – The last notice we got was probably about 6 months ago with the EPA grant. We appear to have exhausted every grant that we could use. What is before you right now is for the demolition of the property, it is not for the clean up of the property. If we find that there is another program through Mass Development and they issue a more aggressive clean up program then we would aggressively go after that money.

Councilor King – As far as the Town's responsibility verses Farfards responsibility. Right now we have no P&S agreement with Farfard, just the on going plan for the truck site. In the agreement that the council approved it says that after the P&S he would demolish the building at his cost. Prior to the P&S we are responsible for the demolition. After the P&S agreement who is responsible for taking out the tanks. Before Farfard takes it, will he take it remediated?

Joe Fahey – No, at this point we will continue to look for the grants to see if we can do the 21E clean up. If we are not successful then Fafard is responsible for that work and can deduct the cost of that work from the \$403,000. If it exceeds the \$403,000 they are responsible for that clean up we don't have any obligation to put any additional funds into it.

Councilor Lawrence – Did we request at the last meeting that we get a final copy of the agreement between Farfard and the Town?

Joe Fahey – You requested the exact wording in the RFP regarding the demolition of Trader Alan's, what legal hold Farfard has on the property if there is no P&S and come before the council. I can get a copy of the P&S to the council. I can get you both and Farfards response.

Councilor Lawrence – Can you explain the Cedar Street project and the building permit for \$100,000?

Joe Fahey – The Cedar St. property went out to another request for proposal. It's probably the 4<sup>th</sup> or 5<sup>th</sup> time that we put it out. One of the requirements is that the successful developer would stabilize the property. We were lucky that we didn't have a bad winter last year because if we had the building would have collapsed. If it had we would have had a cost of about \$60,000 for demolition. Because we can't finalize the actual transfer of title, we do have a P&S on that property, we have done the same thing we did in the upper millyard; we will provide a license agreement to the developer to accomplish a stabilization to make sure it is done before winter comes and that was the permit you saw.

Councilor Headley – My understanding is - this is not going to be done this week or next and we don't have any proof of when it is going to be done at all. Our Town Inspector has told us that it has to be done immediately. When the Town Inspector tells you that in your own home, you better do it that day. There still isn't any date when that is going to be taken down by the developer. Has the town made any other proposition to do it?

Joe Fahey – Right now we can take it down and we will get the \$403,000 from the developer or the developer takes it down and deducts the cost from the \$403,000. Either way it is coming out of the cost of the property. Right now as far as the developer is concerned I would expect we are talking months before we would be at that point.

Councilor Woodsom – What are we waiting for on the money transfer on the property?

Joe Fahey – The way the developer proposed to phase the projects they wanted to begin with Bailey's Pond and then move to the truck stop. At this point their concentration is on Bailey's Pond.

Councilor Woodsom – I realize we are under the gun; I am not willing to vote on this without seeing the RFP. We made it really clear in our Finance Meeting that was something we wanted to see.

Councilor Chandler – Back in November 2002 the council approved the TerraSphere Project and the RFP. We all know the purpose of the TerraSphere was to broaden the commercial and industrial tax base. It seems like this administration and Farfard has lost sight of increasing the commercial and industrial tax base and all we hear about is residential development. Maybe Farfard wants to do Bailey's Pond first but, from my point of view; other things have to be done first. Let's see some industrial stuff before we put more residential tax burden on this town. I think we have to approve that \$60,000 tonight but as part of this deal ...our \$60,000 spent and the clean up on that place could be over the \$400,000, we may never see that \$60,000 back. Somehow this thing has to be resolved, maybe taking that piece of land out of the TerraSphere project.

Joe Fahey – I would suggest that if the discussion here wants to get into the whole TerraSphere proposal then perhaps at a later date, go back and renew what the developers proposal was, why they wanted to do the residential before they did commercial/industrial. I think it is well worth to have a discussion and an update on what is happening on that. I would reiterate that it may seem like the developer is concentrating on Bailey's Pond and not doing anything else. Not in the defense of the developer because I have had differences with them and their proposals on Bailey Pond but, they did step forward and purchase the Sports Park which was part of the assemblage of property. They did talk to Waste Management and had an offer on the table with Waste Management and Waste Management has withdrawn the availability of that property. That may be something for a later date.

President McMilleon – We do need to have that discussion. Right now before us we have something that is kind of an immediate situation. I would say that one of the primary concerns when we put out this RFP and finally made the agreement with Farfard was about the fear and concern about someone coming in and doing just the residential piece of it. That seems exactly what is happening here. I'm not saying that they haven't done some things on that list that they were supposed to do but, the primary thing that they are focusing on right now is the residential. What happens if the residential goes through and they don't do the rest of it, particularly the Truck Stop.?

Joe Fahey – With specifics to the Truck Stop, if we were to assume that they were to propose a project that was acceptable to the Town and the Bailey Pond neighborhood, just as I mentioned earlier, the

award of the project was in total. The Town would be well within its rights to hold those permits until such time as they show how they are initiating the rest of the project including the truck stop.

President McMilleon – Wasn't there also some sort of escrow funds put aside and what was the amount?

Joe Fahey – Right now we have \$120,000 on the Bailey's Pond property and then they proposed that \$20,000 per unit as approved on the Bailey's Pond would go into an escrow fund for the assemblage of other properties and \$10,000 per unit from the truck stop that would go into the assemblage of parcels.

President McMilleon – So, if they ever got to a point where they just completed the residential we would have that escrow account would get up to \$1,000,000?

Joe Fahey – Depending on the number of units it could be several millions of dollars.

President McMilleon – That would be in escrow and if they didn't complete the project then that money would be provided to the town.

Joe Fahey – Including our reviewing of any purchases of any property because we don't want them to suddenly decide they are buying a million dollar house on Hunt Road.

President McMilleon – And we can, even if they were to put a project forward and get approval, we could put a stop to that in terms of there using those permits to go forward until we thought they were in compliance with the full agreement.

Joe Fahey – Absolutely. I also asked Town Council, if we were to say ok lets just pull the truck stop off the table then we would be liable for significant damages because we would be in a breach of contract that we proposed to them and agreed to. Just the same they would be in a breach of contract if they just decided to do one parcel and not more relative to the proposal.

Councilor Chandler - We won't be in a breach of contract if we say not Bailey Pond first because there is nothing that says they have to do Bailey Pond first, is that correct?

Joe Fahey – Their proposal indicated that they wanted to do Bailey Pond first and we were in agreement with that.

Councilor Chandler – As I understand it, if we have \$20,000 per unit on Bailey Pond that would mean 70 of the units would get a \$1.4 million which would take care of the Sports Park so they'll take that money and put it back into their own pocket and we'll get nothing from it.

Joe Fahey – I guess we would just leave that to another discussion. There was the issue of controlling the properties.

Councilor Benson – It looks like no matter what, in terms of taking this building down, which needs to be taken down because the Building Inspector said so; we are going to pay now or pay later.

Joe Fahey – That is the agreement.

Councilor Benson – So the next question is, where is the money coming from. It seems the Mayor wants it to come from the money we got from the state. Really that is where I see the debate happening now is

where the money is coming from. It is not a question of whether we do it or not, we have to do it. I have a real problem with taking the money that we got from the state. I would like to have put it in a stabilization fund but, that would have had to have happened at an earlier date. I would like to know, have we looked anywhere else? Have we looked in the budget? What was the process that decided to spend this money on it?

Orlando Pacheco – The CFO does a review of all the accounts and if he notices that there may be a surplus in a department and/or line item especially some that are more estimated; he would look to draw funds from there. It is just really too early in the year to be doing that. If it is later in the year and you notice that you didn't spend as much money on street lighting or rebates come back on insurance then there is a surplus and you can draw on that. It is really too early in the year to tell right now.

Councilor Benson – I would really like to see us decide, as a group or work with the Mayor, to find a different way to pay for this. We can sit down and look at the budget and decide what we are not going to have in order to pay for this.

President McMilleon – I don't know for the life of me know why this has become an emergency. A month ago when this was introduced to the council, all of a sudden this is an emergency. Where was the responsibility of the Mayor and the CFO? It seems to me we heard from Joe that for the last two years we have been trying to get money to demolish and clean up that area. We haven't gotten the money. We knew six months ago that we weren't going to have the money because we didn't get the grant funds. This isn't something that has come up in the last couple of months. This is something that has been brewing for at least six months. This is the first time that this Council is hearing about it as being an emergency. If we can't depend on our department heads and the Mayor to let us know and keep us informed, how can we make decisions? I am not going to make a decision tonight in favor of this because of that.

Orlando Pacheco – I think the one thing you need to understand too Councilor McMilleon, under the building code.... Denis has asked us on several occasions to take care of this site. We need to make this site safe, which is exactly what he has told us. We have boarded the building up numerous times. We have made every effort to try to secure the site. It got to the point where no matter what we have done in terms of trying to secure the site people were still finding a way to get in. The only other thing we can do is leave a patrolman down there 24/7 to make sure nobody else got in there. Also, to continually board it up is not cost efficient. The other option we had was putting a fence around the entire structure and boarding it up.

President McMilleon – All I am saying is all that time when you were having those discussions with Denis and he was telling you that that place needed to be boarded up or demolished. All those discussions were going on and this council was never given any information about that discussion. That is the problem, we should have been included in the discussion and we weren't.

Councilor King – I was wondering if this was ever brought up in your discussions with the Mayor.

President McMilleon – No it didn't and what does that have to do with this.

Councilor King - When you look back at the DOR that is one of the forums where information like that is to be passed to the council and if that is not working we need to address that. I would ask that maybe there would be some conversation between you and the Mayor regarding that. That being said the next thing I would like to address, what are Councilor Benson's concerns; where we are going to be able to find the money to support this. In June I attended a DOR workshop and they specifically addressed

applying onetime allotments to tax rates and they very clearly stated that they did not recommend communities to apply onetime fundings to tax rates. When you look at the issue that we need to fund this evening we need to look at how this will follow down the road. We do not apply this to the tax rate as the DOR recommends. I agree with Roger, I wish part of this got into the stabilization fund but it has not. If we pay our onetime expenses with these funds we address those issues with funds that are appropriate to address those issues. If we do not address those issues we will have to look into our budget and take money that we will be able to use for a stabilization fund. If we do not and we pull money out of our free cash reserves that is money that we can not put into our stabilization fund. We do not have that option now and I agree with you that I wish we had. I feel that that should have been part of the proposal and I feel that was a bit short sighted by the Administration. I think we really need to look at what we do with that \$169,000. If we take this and put it to the tax rate it goes against DOR recommendations. We are going to have to get cruisers, the reality is we are going to have to get cruisers, and pay for the \$60,000 so let's take it from the source where that money was intended to be used for. Then let's get the cruisers back into the budget to get that out of the CIP so we don't have to address this again. Part of the reason that the DOR recommended not to use onetime funding is because it does nothing to really bring down the tax rate. The work of bring down the tax rate, like you have said many times, is to work within our budget.

Councilor Chandler – Joe, we had a budget submitted to us several months ago that really talks about what this town is going to spend for the year and how we are going to appropriate money. Obviously this expense should have been on somebody's plate at that time. It should have been in the budget. This \$168,000 that we are getting back is wonderful for free cash or if we really had an emergency. This wasn't a last minute thing. This has been around for month and years. If we want to have an RFP with Farford then fine they can take that thing down.

Councilor Benson – I am going to ask a rhetorical question because I know the answer to it. Why not? Why would the State say we shouldn't put it against the tax rate? It is the exact same reason that they say we should not spend one time revenue sources on reoccurring expenses such as police cruisers. I disagree that that is not a reoccurring expense. We talked about putting the police cruisers into a 3 – 2 rotation and sticking to it; I agree that we should do that. The problem is not do we need cruisers or not, the problem is how do we fund this 3 – 2 program? Funding it with a one time revenue source is a bad idea, so is taking the money and putting it towards the tax rate. However, the only way that we are going to get that tax relief is if we do that and tonight make a sacrifice with in the budget to pay for this expense. This is when it will happen, it will happen tonight. It is not going to happen at the end of the year. Unless we decide consciously to live without something in the budget to pay for this expense. The money is not going to be left over. We have to decide now that we don't want to do this; we are going to have to live without this. We are going to have to cut this back now or the money will be spent. If we don't do it now it is not going to happen, the money will not be there at the end of the year.

Councilor King – In response to that we have to get two more cruisers and right now the cruisers are listed as a capital expense and I don't agree with that. So, we are taking a one time fund and using it for a one time cost the way it is set in our budget at the moment. I believe it should go back into the budget. We need to look at where we are right now. That is one time expense. It is listed as a capital expense right now and that is what you use one time revenues for. You say that if we pull it out of the budget we do without something else, well the budget is set. You say we pull it out of the budget and we live without, I don't understand where you say we are pulling the money out and what we are going to live without.

Councilor Benson – We need to have that discussion.

President McMilleon – Councilor we are off on the cruisers and we should be on 2004-120.

Councilor Pinierio – Orlando, if we didn't have this \$168,000 where would you get the \$60,000 to tear that building down?

Orlando Pacheco – I don't know?

Mike Basque – I don't think we could tell the Mayor that there is \$60,000 available right now. I don't think we could do the job right now unless the Mayor chose to make a change to a budget or the operations.

Councilor Pinierio – I believe that Joe said that Farfard gave us up front \$120,000 up front?

Orlando Pacheco – That I'm not really specific about – they may have pledged that money and it may be sitting in an account somewhere and I don't really know the rules and if we can access that money.

Councilor Pinierio – Mike do you know?

Mike Basque – I don't know, I'm not sure what you are talking about.

Councilor Pinierio – That \$120,000 agreement they made with Farfard to do the TerraSphere and start with Bailey's Pond. Why can't we tap into that \$120,000 and pay for the truck stop?

Mike Basque – I would have to ask Joe, I am not aware what that is.

Councilor Pinierio – So if we didn't have this here money no one would know what would happen to that truck stop.

Mike Basque – The Mayor would have to decide he either finds it by not doing something and making that a priority or waiting.

Councilor Lawrence – Joe Fahey's office was looking for grants to tear this building down. They were notified that they did not get the grants before the FY05 budget came to us. Don't you think it was up to someone to say that we needed this money to tear this truck stop down?

Mike Basque – If it was an emergency, absolutely. Now you are being told it is an emergency.

Orlando Pacheco – In working with the Building Inspector; we did have the site boarded up and secure at the time. We have actually had it boarded up and secure a number of times. The problem was after we had it boarded up somebody was still able to break into it. If we could secure the site and people were not able to break into it we wouldn't have to take it down but, that approach does not work.

President McMilleon – Orlando, we understand that. But, six months ago we had been working on this project for about two years and six months ago; before the budget, we knew that this was going to be a problem. Whether it was at the capacity that we would claim it was an emergency six months ago doesn't matter. It was a serious concern; at least we can say that. If you have a serious concern that is going to cost the town \$60,000 – to me it makes a whole lot of sense that you should let the public know and you ought to let this council know that this is something that is going to come up in the budget. We were not told a thing about this, nothing. That is the problem.

Councilor King – I am going to ask the Building Inspector, when did you see this as being an acute need?

Denis Nadeau – We took this building over in 1997. I sent Trader Alan's a notice that the truck stop was an unsafe structure. We closed the place in August of 1997. In 1999 we took it in tax title. Ever since this has been taken in tax title we boarded the place up and tried to make it safe. Five years of being abandoned, five years of leaky roofs, five years of kids breaking every window and demolition of the place it is beyond our control. This has been brought up at every staff meeting for the past two years. The reason Joe has lost the grants is because the building is standing. They asked for grants to do 21E project and they wouldn't give us the money to take the building as part of the grant. The reason it is an emergency now is because it has got beyond repair. I have been patient with everyone; I can not wait any more. This place is going to hurt somebody. This is pure negligence.

President McMilleon – The bottom line is we were not given the information sooner and we could have been. Even though it wasn't at the emergency level it is at right now.

Denis Nadeau – I agree with you but this was brought up at every meeting. We waited to see if we got the grants. Everybody was working on trying to do this. I talked to Joe and they were hoping that Farfard was going to be able to do this. Then it got to the point that we determined that it has to come down. I believe when they got word that this money was coming they determined they would use this money to take it down.

Councilor Benson – Have we applied for any insurance money on this?

Denis Nadeau – When we took down the Warf Building we got help from the insurance company.

Mike Basque – This building is through neglect not through damage, you have to maintain your facilities.

Councilor Headley – We all know it needs to come down. They're saying now it is going to be a month. Are you going to hold it for a month?

Denis Nadeau – If that money is appropriated tonight it will start the next day.

Councilor Chandler – I move that we approve \$60,000 to demolish the truck stop and as part of this appropriation that we pull this piece of land off the TerraSphere Project and that the Town recap \$60,000 after it is cleaned up and out for public bid.

President McMilleon – We can't do that. We have an order before us that has been submitted by the Mayor. We can vote up or down but as far as what you are saying, taking it off the agreement with Farfard we can't. It is an appropriation for money.

Councilor Larnard – There are some things that concern me about that motion. You are saying after we clean it up but, we have no idea the cost of cleaning that up. That is a massive Brownfields site. After the developer cleans it up he can deduct up to the purchase price \$403,000. If it costs him like a million to clean it up, he is going to be responsible for paying that. I'm not sure the Town wants to get into a Brownfield issue. I just don't see how we can put that as part of that motion. We really have to be aware that that is a massively contaminated site.

President McMilleon – Well we do have a motion. Do you want to change the motion? Do you want to leave the motion to stand? What do you want to do?

Councilor Chandler – Does the motion have to be just a yes or no?

Councilor Benson – I know we have amended stuff in the past. I'm not saying that I support the motion; in fact I don't support the motion. I know we can amend something. Jim can do what he wants to do.

Councilor Chandler – I agree with you, this may be very expensive. I move that we approve the \$60,000 for making this site safe and then so we can recoup some of our funds, maybe I should amend it to say that Farfard's first project will be the truck stop so that we can get that money back, \$403,000 less and that his first project will be the truck stop.

President McMilleon – Just so that you are clear by appropriating the \$60,000 it does not clean up the site, it demolishes the building. We still have the underground. So your motion is to approve the \$60,000 and the first project to be operated on by Farfard will be the truck stop. Do I hear a second?

President McMilleon – Hear none I call for another motion.

Councilor Pinierio – *I make a motion that we don't approve 2004-120 and let the Mayor find it within his budget.*

Councilor Benson – *second.*

President McMilleon – Motion was made not to approve and was seconded by Councilor Benson; any further discussion.

Councilor Larnard – If that motion was approved does that affect the timing of the demolition? Denis is saying this has to be done right away because this is such a hazard. If the money is coming out of the budget and you have to go back and look in the budget; does that hold up the money so it delay the demolition?

Mike Basque – That would be up to the Mayor. If you don't vote this tonight then obviously there is not an additional \$60,000 to complete the job. That would be up to the Mayor to eliminate something and spend it on this, which is up to him to determine. Does it delay it, yes. If you vote this tonight, as Denis said, it is ready to go tomorrow. If the Mayor sat down tomorrow morning and said here is what I want to do instead then it wouldn't delay it.

Councilor Larnard – Denis, if we approve this motion that is on the floor right now we are saying that the Mayor has to go back and find it within his budget and that delays it for another month or two in your opinion...

Denis Nadeau – We are three weeks beyond the limit now.

Councilor Larnard – So you are saying that that would jeopardize the town's liability.

Councilor Woodsom – Mike, if he was to find it within the budget it would have to be in a form of a transfer and then submit it to us, is that correct?

Mike Basque – When you voted the budget this year by one bottom line number. If he is going to eliminate something within a department and it is not going to force that budget over at the end of the year then I don't know that he would have to.

Councilor Headley – This should not wait 3 to 6 weeks to be taken down until money comes through. If we order it taken down and that the Mayor find the money it should work.

President McMilleon – The Mayor or the Council could call an emergency meeting and if the Mayor were to tomorrow come up with a different proposal that could be approved very quickly under an emergency due to health in the community. So within 24 hours if the Mayor wants to respond in some way this could be resolved. If we were to vote in favor of not approving this tonight, the motion that is before us, that doesn't mean that within 24 to 48 hours this could not be resolved it could be. That is what I would recommend. If this proposal for \$60,000 is defeated the Mayor has a responsibility and an obligation to respond if what Denis is saying as the inspector that this is a safety and liability issue for the community.

Councilor Larnard – Could you read the motion again?

President McMilleon – *The motion is to not approve 2004-120. If you don't want this \$60,000 approved you would vote you would vote yes.*

Roll Call Vote – 7 Yes, 2 No (Woodsom, King)

Councilor Larnard – Point of order, I think I got confused. I want to change my vote to No.

*Roll Call Vote – 6 Yes, 3 No (Woodsom, King, Larnard)*

President McMilleon – Motion carries 2004-120 is defeated. I want to deal with the next two because they have been withdrawn and they will be quick and we will take a break.

**2004-121 An Order that \$35,000 be appropriated for the purpose of purchasing Map 87, Lot 2 from Sprague Energy – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-121 into the record.

Councilor Woodsom – This was withdrawn by the Mayor in the Finance Committee. Recommendation is to withdraw.

Councilor Benson – second

Voted – Unanimous

**2004-122 An Order that \$14,000 be appropriated for the purpose of removing oil tanks in the Upper Millyard – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-122 into the record.

Councilor Woodsom – This was also withdrawn in the Finance Committee. Recommendation is to withdraw.

Councilor Benson – second

Voted – Unanimous

Ten minute recess

**2004-123 An Order that \$50,000 be appropriated for the purpose of purchasing 2 police cruisers – Mayor Hildt sponsor**

President McMilleon - Reads 2004-123 into the record.

Councilor Woodsom – I will recuse myself from this. The Finance Committee continued this to their January meeting.

President McMilleon – I know that the Chief would like to make some statements.

Mike Cronin, Chief of Police Town of Amesbury – Mr. Cronin passes out a memo to the Council explaining police cruiser purchasing and reads it (attached).

Councilor King – I just want to reinforce that the DOR recommends that we do not use one time capital expenses to put towards the tax rate. One time allotments of money are best used per the DOR for one time expenses. I see this as a one time expense. If we chose to take it out of the budget I feel that it is money that we could put towards the stabilization fund.

Councilor Chandler – Chief, I agree with what you just said I thought it was well put. You list seven cruisers the oldest being 1998. Will those two oldest end up going to you or the Lieutenant.

Mike Cronin – No, the two cruisers are 406 and 408. 406 cruiser will be put in place as a front line Supervisor's cruiser, our Sergeants. The reason you see the mileage lower and we have had it longer in service is because we start the cruiser new with the Sergeants on the front line. That way we get the best service out of it. Less people drive and we typically get 60 to 80 months out of that car. The same thing with the one underneath it 408, that is a 1998 crown Victoria. That is a detective cruiser. They will receive a new cruiser and they will continue to use that. That cruiser will not be up for replacement again for 60 to 80 months that is why you can do 2 one year and 3 the other. We are not buying every car every year. Within our budget we can extend the life of the cruiser 6 months or 9 months or we can get rid of it immediately if it is costing us money. We have a way to deal with that.

Councilor Chandler – The ones that we just bought they show here as in line cruisers.

Mike Cronin – Correct they are; 402, 407 and 409 are all front line cruisers they are patrol cruisers. They were purchased in March 2004. They went into service in April 2004 and they would be ready to be scheduled for replacement in July 2006. That means that they would be replaced in FY07. If you look at the next two below you will see that 404 and 405 are 2003 Crown Victorias They went into service August 2002. Those cars are scheduled for replacement in July of 2005 or in other words within the budget year of FY06. Sometime of July 2005 and June 2006 we will replace those two cars. Right now they just came off warranty and we are not having too much problem with them. Experience has shown us that those cars will become problems quickly. We have at least another half a year to go until we get to the fiscal year so those cars will be up for replacement next year.

Councilor Chandler – If we approve these two cruisers where will they go?

Mike Cronin – They will be replacing 406 and 408.

Councilor Chandler – What is your car?

Mike Cronin – What happens with the cruisers for the Chief and Lieutenant is they go into the cycle as well. The Lieutenant's car is scheduled to be replaced next year which would be the third car however, if

it is in my budget and the car is in good shape and the communication system comes in with a higher amount of money then I may delay replacing his car for one year and move that money into the communication system so that I don't have to come back here for funding. If the car isn't falling apart but the K-9 car is falling apart we recycle it back as a K-9 unit. Then we cycle it out after that. Same thing with my car we cycle it in as secondary or in my case we just dispose of it and replace it.

Councilor Chandler – So your car wouldn't go back into the fleet?

Mike Cronin – No, once my car is done it is pretty much junk.

President McMilleon – What would happen if you didn't get this appropriation until early spring?

Mike Cronin – The two cars that we are dealing with now are the 406 and 408 car one is a 99 and one a 98. They're not used by the entire operation only the Detectives and Sergeants. The appropriation came through and we could buy these cars in March – I may do that anyway. It is not necessary to go out and replace these cars tomorrow. I am telling you I need to replace these cars in this fiscal year. If the appropriations are in place and the car starts to fall apart like the transmission; I don't want to replace it I need to keep the car in line. At that point I would say that car is all done and replace it. If the cars are running good I may keep it right up to June. That way I can purchase it on last years state bid.

Councilor Benson – I think the Chief is feeling the same frustration I am in terms of what has happened in how we do this because it has changed in the past few years. I know a lot of us supported that change. I'm not necessarily saying to take it out of the budget was a bad thing but I think we need to look at this expense, that is a reoccurring expense, and approach it in such a way that we fund it less haphazardly. The problem isn't the need and that is not what you are running into we understand the need as well as anyone else. The problem is where the money is coming from and each year the last couple of years it has come as sort of a winter surprise to us. The cruisers are not the surprise it's the funding. I am going to have a hard time supporting this appropriation because of where the funding is coming from. We need to all sit down and take a long hard look at this and figure out exactly where we are going to put this in terms of budget or capital and how we are going to pay for it every year. That is something that we have been neglecting and just sort of happened over the last few years and I really feel that is not the way to do it. I would like with this appropriation as with the last to vote it down and ask the Mayor to figure out somewhere else for it to come from.

Mike Cronin – I hear you concerns Roger but, I tell you there are two reasons that I don't think you should do that. First, I really do want to keep this purchase in this fiscal year and I don't want to put \$100,000 burden on the FY06 budget process. I will tell you there is no money in the police budget to buy those cars. I don't want to start spending additional money to maintain these cars when they start to go. The second reason I urge you to do this is I have had my discussion with the Mayor and I think I have the Mayor on board, I want to be sitting before you during the FY06 budget appropriation and I want to recommend to you that not only do you put the police cruisers into the police budget because that is a regularly occurring expense and should be on the table when you are planning the budget but, I am going to propose that in certain circumstances as I use the communication system as an example. If a department head can come to you and say I've known about this requirement and have worked on getting the thing put together and I am bringing you a funding mechanism so that I don't ask that it be put into capital I think we should be given the leeway to do that. That is going to disappear if you don't vote these two cars tonight. I have to look at \$100,000 for police cruisers. I know the principal behind your vote is the fact that this is money that was unknown and if the theory is if it wasn't there at all what would you be doing, I don't know. The fact of the matter is for a \$50,000 expenditure I would hate to be put behind the 8 ball next year on a \$200,000 communication center and four cruisers required. I think it

would be short sighted to vote against this particular appropriation for that reason. We know it is coming. I heard enough tonight about what you don't know is coming. I'm telling you \$200,000 plus for a communication center in FY06. I told you about it in FY04, I work on it in FY05 and I am trying to get it funded and I am going to bring it to in FY06. I want to bring it as a budget recommendation not as a capital item. So I don't just ask you to go out and find the money. This is going to be an integral part of it. I don't need the car tomorrow but, I need the car in FY05 and I would urge you to vote the funding in this one instance.

Councilor Benson – I understand and appreciate why you are doing that. I still feel as a group we should take a step back and work with the Mayor and find another funding source for this.

President McMilleon – I think what Councilor Benson is suggesting here is if we were not to vote this appropriation tonight I think there is a level of commitment to find the funds so that we fund this in FY05.

Mike Cronin – I hear what you are saying but, I know what is going to happen. The Mayor is going to send me a note and say do what you have to do. I don't have it in the budget I'm telling you that.

Councilor King – I would ask Mary in the Assessors Dept, could you give me an idea – for the \$50,000 that would not go toward the tax bill, roughly what is that per household.

Mary Marino – If you voted nothing this evening it would be \$14.24, if you vote just the cruiser it would go up .03 cents.

Councilor King – So it is 3 cents on the tax rate to fund the cruisers. My concern is we say to the Chief that we will find the money for him. What if we don't? We can't make a statement like that.

President McMilleon – No one made that statement.

Councilor Pinierio – Why does car 402 have double the mileage?

Mike Cronin – Highway safety car, traffic car.

Councilor Pinierio – The money you have been saving on repairs with these three new cruisers – you must have some money in that budget.

Mike Cronin – If you look at the budget I gave you the 2002, 2003, 2004 and 2005 budget and spent numbers. We have \$15,000 in maintenance and we spent just about 43%. We have \$16,000 in repairs and we spent only \$6,000 so we are about \$4,000 to the good in that account. That could change with one transmission. Right now we are \$4,000 to the good in that account and we have 3 new cars online. We have just passed the warranty period on the other two marked units. Now everything that happens to those cars is on us as well. We have 4 cars that are out of warranty right now and we have to go another 6 months with those cars until we get to the new fiscal year. I don't want to be standing before you on July 1st FY06 saying I need \$100,000 to replace these cars. That is my fear. I would like to get this purchase done in FY05 so we can plan the purchase for FY06 and perhaps play with that money and help with the communication center. I really hope to fund the communication center through alternate sources – through grants, playing with the cruisers and asking the Fire Chief to give me 25% out of the ambulance account because part of this whole communication center deals with the Fire Department. If we do that you don't have to look for \$200,000. That is what is in the works that is my thought process.

Councilor Larnard – I think that is a good point but I am concerned because just a couple minutes ago we voted to not fund the \$60,000 to tear down Trader Allen's and we are going to look for that in the budget and now we are going to look for \$50,000 more that is \$110,000. I think Councilor King brought up a good point, because the one time money that we got from the state, \$168,000, we didn't think ahead enough to put it into a stabilization fund that opportunity has been lost to us. The \$168,000 we just got from the state can not go into the stabilization fund. If we are going to go back in the budget and look for \$100,000 at the end of the year that is \$110,000 or some part of it that can never go into the stabilization fund. That is a big chunk of change. So now we are looking for \$110,000 in the budget if we are not going to use the one time money for any of these things. The other point I want to make and I really appreciate the documentation you provided for us. The communication center – you are saying that basically you are going to be able to fund that through grant funding.

Mike Cronin – I am working on that. Right now I have about \$75,000 that I know I am going to get my hands on. I am working on the other \$50,000. The only thing I can tell you is that I have a long standing history of being successful with seeking funding. It is not going to fund the whole thing but I have a good track record. I am one of the better financial managers. I balance my budget every year and don't over spend. I know you are struggling with finances that's why I am saying I want to come to you not only with a request for a proposal to replace a piece of equipment but I am also giving you a funding source.

Councilor Larnard – Are you saying that you won't be coming to the Council for any money for the communication center?

Mike Cronin – I am saying I hope to come to the Council next year FY06 and say the bad news is we are probably going to have to spend \$200,000 on a communication center. The good news is I secured \$125,000 in grants and I would like to be able to manage my other capital money including the purchase of the three cruisers and maybe I will delay the purchase on one for 6 month to a year and I am going to hit the Fire Department for \$50,000. They have an ambulance account that brings in free money every year and they get a free ride on the communication system.

Councilor Larnard – Typically the Police Department has not pulled from the ambulance fund but when the ambulance goes out we are sending cruisers out, correct?

Mike Cronin – Not only do we provide communication personnel, we pay them and train them for a number of years. This is not a Police item it is a community item. I am going to ask them for 25%. The Chief is new I'm taking it easy on him I am not asking for 50/50 I am asking for 25%.

Councilor Larnard – But there would be wear and tear on the cruisers when you respond to an ambulance call.

Mike Cronin – We send personnel; we use equipment we work in tandem with them. No offense to the Fire Department but they got a pretty good ride with that deal. We put things into communications, ambulance response time, training communication personnel it has always been in our budget. Good example is the generator right out side the door, who do you think pays the maintenance cost on that each year, the Police Department I have to fund that. Every year, why has the police budget gone up, that stuff all gets put into the account of the people who do the project.

Councilor Pinierio – All the tickets go to the general fund; do you have an idea how much revenue we get from those tickets?

Mike Cronin – It is probably over \$100,000. There is a provision in the statute that that money can come back to the Police Department for our acquisition.

Councilor Pinierio – What I am thinking Chief is why can't we start a fund in your department like the Fire Department?

Mike Cronin – I just said that. That money goes into the general fund for the use of the community. I don't think you would get that passed. I'm not even asking you to do that. I don't even want to try that. That money serves the general fund. I don't want people to think the Police Department is out writing tickets to raise revenue for themselves. That money is community money, this is all community money.

Councilor Benson – This really comes out to about \$10 for your average household. It is not a lot of money we are talking about but it is the principal as far as I am concerned. I disagree with where the money is coming from. I also disagree with the idea that somehow by cutting the budget now we are eating up free cash later that will go into a stabilization fund. First, we don't have that guarantee. Secondly, if you say you are going to spend a certain amount of money on pencils and to buy a software program and you decide mid year not to buy those pencils and that software program you have saved the money. We need to take a look and decide what we are not going to have to pay for it. By doing that we are not eating up free cash. The money that would have been left over by budgets that were over budgeted will be left over anyway. Just because you decide not to spend it on something it's going to disappear.

President McMilleon – Any other questions by the council in regard to 2004-123.

Councilor Lawrence – We have a recommendation from the Finance Committee to continue to the next Finance Committee. I will move the recommendation of the Finance Committee.

President McMilleon – Motion *has been made to continue this to the next Finance Committee meeting.*

Councilor Pinierio – *second*

President McMilleon – The motion was to continue and if we vote in favor of that we will lose this source of funding.

Voted – 6 Yes, 2 No (Larnard, King) Woodsom abstained

**2004-124 An Order to increase the exemption amount of qualified applicants under the provisions of M.G.L. Chapter 59, Section 5, Clause 17E, Clause 22 through 22E, Clause 37A, Clause 41D, Clause 42 and Clause 43 by 100% as provided by Chapter 73, Section 4 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 – Mayor Hildt sponsor**

President McMilleon – reads 2004-124 into the record.

Councilor Woodsom – Finance Committee recommends approval, I move the recommendation of the Finance Committee.

Councilor Chandler – *second*

Councilor Headley – This bothers me every time I see this. Where do you find out what they are talking about? I have looked in everything I have and I don't have anything that tells me which exemption goes to which. I don't see how we are going to vote on something that we don't know about.

Mary Marino – First off, I didn't realize that you wanted that for this week. Those are for the elderly, the veterans and the blind exemptions. There are several clauses for the veterans, all of the clause 22's. Blind are the 37's, elderly are the 31's and the widow/widower are 17.

Councilor Larnard – I know you clarified in greater detail in Finance Committee. Just in case people are watching at home that are wondering what this is. I think Councilor Headley brings up a valid point that if somebody is listening at home they really don't know and I think it is very good public information to get out there. If you could go over again exactly what this means to people.

Mary Marino – The bill before you is to double. Ordinarily for example the elderly, 41C is a \$500 exemption. If this passes tonight it would allow up to \$1000 if the person is a qualifying recipient from the prior year. We have to exempt by the same amount. If we increase one by 100% all of them have to be increased by 100%.

Councilor Larnard – What are the income guidelines for people?

Mary Marino – It is very specific depending on which clause they are filing under. I would encourage anybody if they want them we can send it out. Pamela Brown from the Council on Aging put it in her flyer last month and we did do a seminar over there.

*Motion by Councilor Woodsom to recommend approval, seconded by Councilor Chandler*

Roll Call Vote – Unanimous

**2004-125 An Order to hold the Annual Classification Hearing – Mayor Hildt sponsor**

President McMilleon – reads 2004-125 into the record.

Councilor Woodsom – Finance Committee recommends approval with a factor of 1. I move the recommendation of the Finance Committee.

Councilor Larnard – second

Councilor Benson – I spoke in support of a factor 1 and in the past have supported a factor of 1. I have taken a look a closer look at some of the data in terms of what has happened with the shift in burden and it is some pretty convincing stuff. I would like to discuss this more in terms of splitting it. I'd also like to ask Mary; at what factor does the percentage increase for an average bill become the same for residential and commercial.

Mary Marino – When I use the averages of these classes it was at 105% that the single family stayed about the same as last year and the commercial industrial personal property also stayed about the same. A shift to 105 with a residential factor of 99.2170.

Councilor Benson – At 105 the average single family goes up 3.20%, average commercial goes up 1.4% and average industrial goes up .06%.

Mary Marino – The bad news about that report. I based that report on assuming that Trader Alan's truck stop was going to pass. The new tax rate is down to 14.24 a single tax rate. If you shift to 105 your residential drops to 14.13 and your CIP goes to 14.95.

Councilor Benson – What does that do to the percentage increase, the average bill?

Mary Marino – It would drop it down to 1.2% increase in residential and the commercial/industrial would not go down it would stay about the same.

Councilor Benson – So that would bring the increase in your average single family tax bill down to 1.2%. It would level commercial and industrial.

President McMilleon – What would be the dollar rather than the percentages on the average commercial?

Mary Marino – The average commercial and industrial would not be paying more than last year under the 105.

Councilor Benson – But by a factor on 1 it would go down.

President McMilleon – At what point would it go up?

Mary Marino – At 1.10 the commercial/industrial were paying more...

Councilor Benson – I really think that a 1.05 represents a fairer disbursing of the increase. We would bring the increase of the average single family down to 1.2 and would basically level the increase for commercial/industrial. What would happen if we did a factor of one would be that the average residential would pay a larger percentage increase while commercial/industrial would actually go down. In looking at the objectively it seems that splitting it by 1.05 is more fair.

Mary Marino – I did do some quick math this afternoon and I randomly picked some of your larger industrial and some smaller commercial. I do want to tell you that your larger industrial people would be saving money at a shift of 1. I used 4 small commercial properties in downtown area and all 4 of those properties will go up at a shift of 1.

President McMilleon – A dollar amount would be helpful to me.

Mary Marino – I used a large strip mall; if they say at a shift of 1 their bill goes down \$2,000. If you go to 105 their bill goes up \$11,000. I used an industrial building out on Monroe Street, if \$110,000 bill last year at a shift of 105 it is \$110,000. Then I used a Pizza shop, last year \$5,600 this year \$5,770. I used a large well known gas station \$23,665 last year at a shift of 105 \$23,500. Commercial condo \$2,459 at 1 the go to \$2,900 at 105 they go to \$3,100. Another property downtown \$4,029 last year at 1 \$4,108 at 105 \$4,300. Law Office in downtown last year \$1,450 at 1 \$1,831 at 105 \$1,922.

President McMilleon – For the residential if we went to the 105 for an average home what would the savings be.

Mary Marino – They would save \$24 and then you would see the increases I just spoke of.

President McMilleon – Do you recommend a factor of 1?

Mary Marino – I am not a voting member of the board I will turn you over to them.

Deb Dow - We went back and for on this at our meetings basically two of us would make the recommendation for a factor of 1 and one for a slight shift probably to the 105 or at least to balance off.

President McMilleon – Why did you tend to the factor of 1?

Deb Dow – In addition to a lot of the issues we went through the other night a few things. If the Council is seriously going to look at splitting the rate one of the first things that I would suggest that you actually take more time and look at it. No just hear a few numbers but to see what effect overall this would have not on an average home but pick several homes. How would it benefit residents versus what would it do to the commercial/industrial. Are we looking at big hits small commercial owners who could not afford it, are we looking at a drop in the bucket for some of the larger industrial. The CFO came in the other night and we said if the Council is interested in this it is something we could look at and have several meetings with them over the course of the year to see if it is something that would benefit the residents. I do have to say personally as somebody that does live here in town one of the other issues why I would recommend a factor on one would be that if a community has a spending problem I don't thing shifting the rate would do anything to help that problem. In fact I think it will exacerbate the problem.

President McMilleon – Why do you say that, again what was your thinking?

Deb Dow – I agree with my fellow board members that once a community goes down this path that they don't come back. Maybe if you start at 5% shift that you would always stay there but that would not be the likelihood. It doesn't sound like it would be the likelihood from the experience of the other board members as well as our Assessor. I'm not sure that this community wants to go down that road. We heard testimony from Professor Cena regarding the vacancies; we heard testimony from Damion Johnson regarding vacancies. It is all of those things and in addition if we are having problems with spending, that just taking a small burden off of the residents, I'm not sure is really cure that problem. I think it was our consensus also that the real action is when you set the budget. When you vote and determine what you are going to spend for the year you are setting the rate. What happens after that is the process to get to that point.

President McMilleon – So you are saying by going to a factor of 105 there is a possibility that some of the commercial/industrial could take such a hit that it might be debilitating. We have to be careful about that.

Deb Dow – The problem that I have in terms of averages is just that, we don't have a large commercial/industrial base so you are not seeing the effect that it may have on individual businesses. That is part of the problem in looking at this as an average. At this point I would not feel comfortable recommending it at this point.

Councilor Chandler – What is the maximum split that the state allows?

Mary Marino – 150 for Amesbury

Councilor Chandler – So we are talking about 15, 10 I think what is happening over the years if you look at the average house it has gone up so much more rapidly than the average commercial. For some reason they have not kept pace on assessments. I have seen some of the assessments on some of the commercial/industrial property around town and it seems very low to me. They are not pulling their fair share. If you look at this at a factor of 1 the average house goes up \$176 dollars and the average commercial goes down \$203. This is what has been happening for the last several years and so we have to address that. I was in Swampscott the other day and you talk about not having a large

commercial/industrial base, Swampscott has a very small commercial/industrial base and there residential tax is \$12 per thousand and their commercial/industrial is \$22. I think maybe the reason that once you get on this cycle people don't go back because people find out that it is a lot fairer that way than it is with 1.

Deb Dow – The issue of are the commercial/industrial properties being assessed fairly; I do want to say that Mrs. Marino was obviously busy looking at the residential portion of the town this year so she hired out the appraisals to Vision Appraisal for the commercial/industrial. One of the things that the board has discussed is that we are going to look along with Mrs. Marino at those values again this year. For properties where there weren't any sales or any comparable sales we obviously have to do a different approach. We are going to look very carefully at the information and the data that was provided to make sure that everybody is paying their fair share. We will be looking at that and we understand what people are saying so we are recognizing that.

Councilor Chandler – I think the state recognizes there has been a problem across the state with the commercial/industrial assessments and that is why they give us this opportunity to assess them at a split rate so we can level the field a little bit. Over the last several years the field has really skewed the other way.

Councilor Benson – I agree with Ms. Dow in terms of addressing the real problem here which is when we budget. That is when you can really control taxes. This is a procedural mechanism in terms of a little control. Something that we have to do every year, something that we really haven't looked at. I'm not saying the Board of Assessors I'm saying the Council. I think your idea of really examining this for next year is a really good one. I'd like to hear from the gentleman from Methuen, he can give us some insight in terms of a community that has done it.

Mike Cena – What you are asked to do is a difficult situation. I would have to agree with what Deb said. We discussed that earlier this evening in the office. My feeling is that you need to examine it as a group. The Board is willing to sit down, perhaps you need to discuss it, find out exactly what is going to happen get some more information and address the issue next year. To jump into the pool right now without having a previous experience in it is kind of a difficult situation. One of the things I will say about the City of Methuen that when we considered the shift, we considered it very closely so that when we make that shift it does not put an extraneous burden on businesses. The shift is enough so that the share is passed on but is not to the point where it is overburdening. Because one of the things you don't want to happen is, as you alluded to in the Finance Committee meeting, is you do not want to have people say this is not place to do business. Sound financial management is the way to control the tax rate. I will applaud the Mayor of Methuen in that we have had a zero budget increase the previous year and this year we are working bare bones. Our increase is due to a \$4 million school increase. Of the tax rate I ask myself as an Assessor the average single family home increased \$60.62, 50.00 of that went to schools. It is not the municipality in many cases. When you consider your shift you have to consider all things being equal. I am not changing my tune by the way. I am saying you need to examine it. I asked Mary to run those numbers for me personally. We did this in Methuen. I wanted to see as the Assessor if we go X what happens to the Majority of the single family homes. The average increase in Methuen is \$60.62. I told you before our surplus overlay is \$4.2 million, we have a 14% decrease in the tax rate. That is based on your decisions. You really have to take a close look at this. I would agree that you consider a factor of 1 and perhaps during the year you meet with the Board and discuss what is going to happen.

Councilor Chandler – What is the split now in Methuen?

Mike Cena – We shifted to 167. We are allowed to go to 175. We were at 157. With the shift you try to find a point at which you reach balance. I have to take exception with the comment that once you shift you can go back. If you went to 120 which is the point where the residential comes down substantially and the shift burden is more to the commercial/industrial and next year you decide that is not where you want to be because you are more into the financial so to speak, you now reverse your shift. If you read the news that happened in North Andover they went from 130 to 127.

Councilor Woodsom – I think we got some good information and it is just enough for us to get concerned and maybe think about this for the first year. In the past we have to gone into this. I am not prepared to go out of a factor of 1 tonight. This bill does not have to come in December, it could come in August or September and we could start next year at that point and really get into this.

President McMilleon – Regardless what we end up doing tonight there seems to be a level of commitment that we need to take a good look at this. Deb you said you were going to take a closer look at the values on commercial/industrial so I think that and in combination with looking at in more detail some of the scenarios if we were to go to a 105 or 110.

Councilor Larnard – I had gotten interested in this topic last year because I had clipped out some newspaper articles about towns that were considering it. In the fall I went to the tax classification debate that MMA put on and they had a speaker Ann Carney. They made a good point, they talked about how years ago it used to be you had to have this magic number 30% but, now they have lowered it down to 20% but she said you don't just look at that. You are really looking at if you are a Town that has one big business like a power plant then it would probably definitely make sense to split your rate because you will have that power plant provide a lot of money. If you are not a town that does not have one giant industry, if you split the rate you end up hurting a lot of mom and pop smaller business or you hurt people that live in town and pay taxes on their house and also own a business in town. They are almost getting a double hit. They did say that if you are going to do that you really have to think and plan. If you are going to split that rate how are you going to then retain and attract businesses. They did make the point that the tax rate isn't the number one thing that they are going to look at. It is actually about the seventh thing that a business will look at before they relocate into a town. We are in an area where we are next to Newburyport and Salisbury and they don't split the rate. All things being equal if they kind of go down and everything is pretty much the same and you get to Amesbury and they have a split rate and Newburyport doesn't. We do want to attract businesses and retain the ones we have. I would not be comfortable splitting the rate tonight.

Councilor Chandler - On a non split rate the average single family goes up \$176. The average commercial property, which is valued at \$80,000 more, goes down \$203. To me that is not fair.

Councilor Woodsom – I need to amend my motion to include the full recommendation of the Finance Committee which I left out. *My motion will be to approve of a factor of one and reject the small residential and commercial exemptions.*

Councilor Larnard – *second*

Councilor Lawrence – *I would like to make a motion to suspend the rules to let Mr. York speak. I refer to rule 5F.*

Councilor Benson – *second*

Voted – Unanimous

Christopher York – Is concerned that the split rate has not been looked at. Mr. York wants to know why the councilors aren't concerned that people are moving out of town because they can't afford their taxes.

President McMilleon – You have been here through the whole discussion. What we are saying and we are having that information provided to us by experts and I agree with it, we have to run the numbers more and play out the scenarios more. I don't think you or anyone else here is wanting to wack commercial/industrial like the \$11,000 example. We don't know how frequently that is going to happen. If we were to go to a factor of 105 or 110 we are not going to get significant relief. Are we going to give some relief, yes we are. It does need to be looked at and I think there is a level of commitment that I have heard.

Dave Pearley – Mr. Pearley does not agree with dual taxes because commercial/industrial does not use services.

Marc Deschenes – Mr. Deschenes states that the income of the people in single family homes is not taken into consideration when assessing property. He would like to see a factor of 105.

President McMilleon – We have a motion of a factor of 1 and reject the small residential and commercial exemptions.

Councilor Pinierio – I just want to say that Mary Marino has had a lot of residents ask her for reevaluation and she has gone out there and has gone out of her way to accommodate them. I want to say you have done a good job. We need some workshops with you this coming year.

Roll Call Vote – 8 Yes, 1 No (Chandler)

## **PUBLIC HEARINGS**

### **2004-86 An Ordinance to delete e) from Section IX paragraph B.1 from the Town of Amesbury Zoning Bylaw – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-86 into the record. We have a recommendation from the planning board not to recommend adoption of Bill No. 2004-86. Instead they voted to recommend amendment to the language of Section IX, Paragraph B.1 to read e) The proposed change, alteration or extension is not in excess of two hundred and eighty (280) feet and twelve (12) feet in height from ground level.

Councilor Lawrence – I move the recommendation of the Planning Board to amend section e. to read The proposed change, alteration or extension is not in excess of two hundred and eighty (280) feet and twelve (12) feet in height from ground level.

Councilor Pinierio – second

Roll Call Vote – Unanimous

### **2004-95 An Ordinance to Amend the Amesbury Zoning Bylaw Sec. X – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-95 into the record and reads an opinion by Town Council (attached).

Councilor Lawrence – Motion to accept Town Council opinion and move the recommendation of the Ordinance Committee to adopt.

Councilor King – second

President McMilleon – What happens to the rest of the agenda if we adjourn?

Bonnijo Kitchin – It goes to you January meeting.

Councilor Benson – Motion to adjourn

Councilor Pinierio – second.

Councilor King – If we don't take up the resignations it will hold up the School Committee.

Bonnijo Kitchin – You should declare those two seats vacant.

Councilor Woodsom – Mr. President I request that we take 2004-128 and 2004-129 out of order.

Councilor Larnard – second

Voted – Unanimous

**2004-128 The resignation of Robert Gosselin from the School Committee**

**2004-129 The resignation of Edna O'Connell from the Board of Library Trustees**

Councilor Benson – I move we accept the resignation of Robert Gosselin from the School Committee and the resignation of Edna O'Connell from the Board of Library Trustees and declare both seats vacant.

Councilor Chandler – second

Voted – Unanimous

Councilor Benson – Motion to adjourn

Councilor Larnard – second

Adjourn

Respectfully submitted

Assistant Town Clerk