

Municipal Council Minutes
Tuesday, March 11, 2008
7:00PM Town Hall Auditorium

Call To Order 7:00PM

Roll Call: Anne Ferguson, Robert Gilday, Robert Lavoie, Joseph McMilleon, Allen Neale, Jonathan Sherwood, Mary Chatigny, Stephen Dunford, Roger Benson

Pledge of Allegiance – Councilor Lavoie

Act on Minutes – 12/11/07 Councilor Neale motioned to accept, Councilor Chatigny second
Voted Unanimous

Public Comment

Stephen Dunford, 27 Woodman Way – Mr. Dunford feels it is very necessary and a prudent idea for the town to hire lawyers to fight 40B's that are not in the best interests of the town.

James Thivierge, 106 Friend Street - Mr. Thivierge reminds the council that his bill Senate 2459 – The Tax Payer Relief Act is on the agenda at the State House tomorrow.

Ann Carrier, 83 Market Street – Ms. Carrier would like to see police visibility at the Carriage Town Market Place and the downtown area all the time. She states she is constantly being harassed and is very troubled by it.

J. Michael Greaney, 50 Orchard Street – Regarding purchasing the building on S. Hunt Road for the DPW garage and offices Mr. Greaney would like to know what the purchase price would be, what the loss in taxes will be and how much it would cost to retro fit it. He suggests instead the town use the Titcomb property which the town owns to construct a building for DPW.

Mario Pinierio, 4 Gardner Street – Mr. Pinierio is appalled at the amount of money spent for the MMA conference. He does not want the council to pass 2008-013 he wants the Mayor to find the money in his budget.

Alison Lindstrom, 6 Wells Ave. – Ms. Lindstrom is upset with the amount of money spent at the MMA conference. She stated the Eminent Domain bill she sponsored has been assigned a number at the State House and would appreciate the council sending a resolution in support.

Council Response to Public Comment

Councilor Ferguson responds to Ann Carrier stating if she is being harassed she should pull the police box and they will come to her aid immediately.

Councilor Lavoie explains the MMA meets once a year and it's an opportunity for the council to participate in 16 hours of training. He believes it is a reasonable expense to ask the town to bear for councilors who are willing to give up two days for training and meeting counter parts from other city councils.

President Benson states the council oversees a 50 million dollar plus operation and believes \$2,500 for professional development is reasonable.

Councilor Neale states the cost for 9 councilors to attend the MMA conference is approximately \$4,600. Last years budget did not have enough money to cover the conference. He will propose to fund that line item to cover the conference for next year. He believes the educational experience is

well worth the money spent. The money spent this year was half of what is necessary for everyone to attend. Councilor Neale addresses Ann Carrier and urges her to go to the police if she is being harrassed.

Councilor Sherwood states once the town reaches 10% affordable housing we are no longer subject to 40B's. However, any project that is already in progress before reaching the exemption status is in under the limit. They will have to be addressed through the appeal process.

Licenses and Permits

2008-020 Absolute Auto, 39 Hillside Ave – Class II Auto

Councilor Sherwood asks Mr. Sesto if he will have staff on site during business hours and Mr. Sesto states yes at the detailing shop.

Councilor Lavoie asks Mr. Sesto if he is aware of the restriction by the Building Inspector of no more than 8 vehicles on site at any time. He is aware of it and doesn't have any problems with it.

Councilor Dunford motions to accept 2008-020, Councilor Neale second – Voted 8 Yes, 1 abstain (Benson)

Mayoral Appointments

2008-016 Appointment of Andrew H. Sims, Jr. – Conservation Committee unexpired term to expire 6/30/09

Councilor Sherwood moved to accept 2008-016, Councilor McMilleon second
Voted – Unanimous

2008-017 Appointment of William W. Rudolph – Lakes & Waterways Associate term to expire 6/30/10

Councilor Ferguson motions to accept 2008-017, Councilor McMilleon second
Voted – Unanimous

2008-018 Appointment of Normand Pare – Board of Registrars term 4/1/08-3/31/11

Councilor Lavoie moved to accept 2008-018, Councilor Neale second
Voted – Unanimous

2008-019 Appointment of Deborah Comick – High School Building Committee

Councilor Neale moved to accept 2008-019, Councilor Ferguson second
Voted – Unanimous

2008-021 Appointment of David Penna – Cultural Council term to expire 6/30/10

Kendra Amaral, Chief of Staff – Ms. Amaral states Mr. Penna was invited to attend this meeting and is not certain why he did not make it. She will look into it and see if he can make it to the next meeting.

Councilor Sherwood motioned to continue 2008-021 to the next council meeting. Councilor Dunford second Voted Unanimous

Second Readings

2008-010 Accept a \$5,400 donation from the Newburyport Five Cent Savings Charitable Foundation – Mayor Kezer sponsor

Councilor Neale read the recommendation of the Finance Committee for approval.

Councilor Neale moved the recommendation of the Finance Committee, Councilor Chatigny second
Roll Call Vote – Unanimous

2008-013 Transfer \$40,000 from Reserve for Unforeseen to Legal Services – Mayor Kezer
sponsor

Councilor Neale read the recommendation of the Finance Committee to accept 2008-013.

President Benson states for several years the council held off from taking from reserve for unforeseen. Since then over the last couple of years a lot of free cash has been put into the stabilization fund. He now feels comfortable taking from reserve for unforeseen because this is exactly what the fund is for.

Councilor Lavoie moved the council adopt the Finance Committee recommendation to approve 2008-013, Councilor Dunford second
Roll Call Vote – Unanimous

2008-014 Transfer \$25,000 from Insurance to Veterans – Mayor Kezer sponsor

Councilor Neale read the recommendation of the Finance Committee to approve 2008-014.

Councilor Chatigny motioned to accept the Finance Committee recommendation and approve 2008-014. Councilor Sherwood second
Roll Call Vote – Unanimous

Public Hearings

2008-009 Amend Zoning Map 78, Lot 10 (49 Macy St.) from R20 – C – Mayor Kezer sponsor

Nipun Jain, Town Planner – Mr. Jain states the parcel in question is zoned both commercial and residential. The front part on Route 110 is zoned commercial and the rear is zoned residential. Currently the existing business is in the residential part of the parcel. Being a nonconforming structure and use they would never be able to expand or add on. The Master Plan does mandate that commercial uses be allowed along Route 110. The benefits of moving the zoning line on this parcel would be if there are any changes, those changes would be more conforming to the uses that are on the parcel and intended by the Master Plan and the abutters will be notified of any changes. He states the land use pattern would not change because 2 parcels surrounding this parcel are land locked and the topography of one is too steep.

Councilor Sherwood states this would bring into conformance what already is on that property. He asks Mr. Jain what the possible ramifications could be if the conformance issue was taken out of the way and there was a full build out given that there are residential units close by.

Nipun Jain states there are serious constraints on what can be done on this property. If anything changes on the property there are standards in place that would address noise, traffic, lighting, landscaping, topography and public safety. By making it conforming the property is more usable plus expansion possible within the framework of zoning.

President Benson read the recommendation of the Planning Board to recommend adoption of 2008-009.

Councilor Lavoie states the Ordinance did not meet because they did not have a quorum however; he did meet with Councilor Gilday and Nipun Jain and is satisfied that the wording works.

Councilor Lavoie motioned the Council take 2008-009 back from the Ordinance Committee and approve as submitted. Councilor Sherwood second.

Roll Call Vote – Unanimous

First Readings

2008-015 An Order to accept \$2,400 grant from the Provident Bank – Mayor Kezer sponsor
Councilor Lavoie motioned to refer 2008-015 to the Finance Committee for a public hearing.

Councilor Dunford second

Voted – Unanimous

2008-022 An Order to accept \$300 settlement for the Public Library – Atty General's Compact Disc Antitrust Litigation – Mayor Kezer sponsor

Councilor Ferguson motions to refer 2008-022 to the Finance Committee for a public hearing.

Councilor Neale second.

Voted – Unanimous

2008-023 An order to Appropriate from Free Cash \$75,000 – Mayor Kezer sponsor

Councilor Sherwood motions to refer 2008-023 to the Finance Committee for a public hearing.

Councilor Chatigny second

Voted – Unanimous

Late Files

2008-024 An Order to increase the Mayors salary to \$90,000 effective 1/1/10 – Councilor Lavoie sponsor

2008-025 An Order to increase the Councilors salary to \$5,000 and Council President to \$5,500 effective 1/1/10 – Councilor Lavoie sponsor

2008-026 A Resolution to execute the acceptance form required by the Attorney General relative to the Compact Disc Antitrust Litigation – Councilor Benson sponsor

Councilor Neale motions to accept 2008-024, 2008-025 and 2008-026 late files. Councilor Sherwood second – Voted Unanimous

Councilor Chatigny motioned to refer 2008-024 to the April 22nd Finance Committee for a public hearing. Councilor Neale second – Voted Unanimous

Councilor Neale motioned to refer 2008-025 to the April 22nd Finance Committee for a public hearing. Councilor Dunford second – Voted Unanimous

2008-026 A Resolution to execute the acceptance form required by the Attorney General relative to the Compact Disc Antitrust Litigation – Councilor Benson sponsor

Councilor Lavoie read 2008-026 into the record.

Councilor Neale motioned to adopt 2008-026 as submitted. Councilor Sherwood second
Voted – Unanimous

Correspondence

President Benson made the appointments to the Financial Advisory Committee; Scott Jordan, Norman Morris and Jamie Grant.

Councilor Lavoie motioned to approve the appointments. Councilor Neale second Voted – Unanimous

Councilor Ferguson reported on the Traffic and Transportation Committee.

Councilor Neale motioned to adjourn, Councilor Dunford second. 8:12PM

Respectfully Submitted
Asst. Town Clerk