

MINUTES

TOWN COUNCIL MEETING

TUESDAY, JULY 8, 2008 AT 7:15 PM

RICHARD E. MASTRANGELO CHAMBER

ADMINISTRATION BUILDING

1. ROLL CALL: A regular meeting of the Town Council was called to order at 7:15 pm, in the Richard E. Mastrangelo Chamber, Administration Building. Present for the meeting were Councilors Stephen P. Corbett, Marilyn M. Petitto Devaney, Susan G. Falkoff, Jonathan Hecht, Angeline B. Kounelis, John J. Lawn, Jr., Vincent J. Piccirilli, Jr., Vice President Mark S. Sideris and Council President Clyde L. Younger. Also present were the Town Manager Michael J. Driscoll, Town Attorney Mark Reich and Council Clerk Valerie Papas.

2. PLEDGE OF ALLEGIANCE

3. ACCEPTANCE OF MINUTES: June 10th and June 24th. The Chair indicated that it was necessary to adopt the minutes tonight at the urgent request of bond counsel. Councilor Sideris moved to adopt the minutes of June 10th and June 24th. Councilor Devaney moved to Table the minutes of June 24th, seconded by Councilor Kounelis. Councilor Devaney stated that the minutes were not sent out on the Friday after the June 24th meeting therefore not allowing for Councilors to submit their comments. She asked that omissions in her remarks as reported in the June 24th minutes be tabled to allow for additional comments. Upon a roll call vote, the motion to Table was defeated. Councilor Falkoff stated that comments were submitted by a councilor as an amendment to the minutes but were unsigned, she asked that in the future all submitted comments be signed by the councilor submitting them. Councilor Sideris moved to adopt the June 10th and June 24th minutes, seconded by Councilor Piccirilli and adopted by voice vote, with Councilor Devaney voting no on the adoption of the June 24th minutes.

4. PUBLIC FORUM

- A. Robert Childs, Historical Society – announced an upcoming event on June 18th at 6:30 pm at the Edmund Fowle House commemorating the reading of the Declaration of Independence.

Councilor Sideris moved to Suspend the Rules in order to bring forward agenda item 6A Committee on Economic Development and Planning update on the Pleasant Street Corridor

Zoning District – Jonathan Hecht, Chair. Councilor Hecht noted that a public hearing will be held on the Pleasant Street Corridor District Ordinance tonight, which was the culmination of a lengthy effort since 2007 to study Pleasant Street and provide a comprehensive guide for the area.

Councilor Hecht indicated that Sasaki Associates initiated a public charrette which resulted in a concept plan, which was then developed into proposed zoning amendments by the Planning Staff. The amendments were brought before the Council and referred back to the Planning Board for further consideration and hearings. At a subsequent Town Council meeting, the proposed amendments were forwarded to the subcommittee of Economic Development and Planning for additional public hearings. The study outlined a number of objectives for the area to stimulate redevelopment, a mix of commercial and residential uses designed to create a lively and attractive part of town, an enhancement to the west end of town and contribute to the tax base of the entire town. The Charles River was highlighted making it an asset for the town. The Study also called for protecting and enhancing the neighborhoods. Councilor Hecht stated that the amendments reflect this range of objectives and provided a list of incentives and environmental goals. All proposals for development will go through a special permit provision, he noted.

Councilor Sideris moved to accept the report, seconded by Councilor Piccirilli and adopted by voice vote.

5. PUBLIC HEARING AND VOTE:

- A. Public hearing and vote on a Proposed Pleasant Street Zoning District Ordinance. The Chair opened up the hearing to the public. There being no comments, the hearing was closed.

Councilor Falkoff asked if there were any suggested changes since the last draft. Councilor Hecht provided a list of recommended changes (attached) regarding setbacks.

Ms. Danielle Fillis, Senior Planner reviewed the changes.

Councilor Corbett stated that a lot of work and a lot of input from the public have gone into this document which was compromise of many different viewpoints. He noted that he is not sure how it will play out in the real world but that it is a good document. He asked if there will be exceptions to smaller projects with special permit process.

Ms. Fillis stated that anything over three units will require a special permit and that anything by right is protected under the Dover Amendment, churches, nurseries, etc.

Councilor Kounelis spoke in concern with the height incentives and asked Ms. Phyllis to address the increased heights incentive.

Ms. Fillis indicated that the height increase would be near the River where it would be beneficial. Each application will be scrutinized on its own merit, no blanket approval.

Councilor Kounelis spoke in concern with the reduction of parking spaces and asked for further explanation. Ms. Phyllis stated that the applicant needs to demonstrate that they are reducing the demand for parking for example with bus shuttles, etc

Councilor Hecht proposed the following revision to Page 6 H1 insert "a larger adjustment may be allowed" where the public usage open space is contiguous with other areas of contiguous open space

The Chair noted his concern regarding over development.

Councilor Hecht indicated that no seven story buildings can be placed at the property line. Anything above 5 stories involves a setback so that there can be no canyon effect along Pleasant Street or along the River.

Councilor Falkoff stated that the cumulative effect of development was raised at the committee level.

Councilor Hecht stated that it is hard to say what the cumulative effect will be but that the dimensional requirements are reasonable with some flexibility for a more productive use of the area. He noted that the zoning amendments will try to shape the area over time in ways that suit the Pleasant Street Corridor Study and that we need to give the Planning Board that discretion.

The Chair asked for a report back on certain assumptions; the best case scenario versus the worst case scenario.

Councilor Piccirilli stated that the change in zoning encourages appropriate development with public benefits without giving away the store. A considerable amount of time was taken to build in safe guards to ensure that the vision we have is built. In general every project will be regarded as a special project. Each permit will be evaluated using these principles. Lastly, Councilor Piccirilli indicated that they tried to tie each incentive to specific public benefit on a case by case basis.

Councilor Devaney stated that she is opposed to reducing parking requirements. She noted that she does not have a problem with the height aspect of the zoning changes due to the added creativity element. She also indicated that the Town does not need more residential units and that the commercial base has been lost over the years. On the surface, it's a good plan, but she again noted her opposition to reducing parking requirements.

Councilor Hecht proposed a second change in H4 add a sentence "in determining such increases to FAR height, the Planning Board may seek input from advisory committees such as public works, conservation commission and the energy committee". Councilor Sideris moved Councilor Hecht's two amendments H1 and H4 of the zoning ordinance, seconded by Councilor Corbett and adopted by unanimous roll call vote.

Councilor Devaney moved that no special permit be allowed to reduce parking spaces, seconded by Councilor Kounelis and defeated by a roll call vote of 3 for 5 against and 1 present. Councilors Devaney, Sideris and Kounelis voting yes and Council President Younger voting Present.

On the main motion to adopt the zoning ordinance as amended, Councilor Piccirilli moved the motion to include the Planning Board's comments, seconded by Councilor Sideris and adopted by a roll call vote 7 for, 1 against and 1 Present, with Councilor Devaney voting no and Council President Younger voting Present.

6. COMMITTEE REPORTS:

A. Committee on Economic Development and Planning update on the Pleasant

Street Corridor Zoning District – Jonathan Hecht, Chair. Previously taken up.

B. Committee on Public Works report on new charges for water/sewer and rate

structure for two and three family homes – Susan G. Falkoff, Chair. The Chair recognized Councilor Falkoff who read the Committee's report (attached). The Committee decided to meet again on this matter with a recommendation to follow after further review at the next Town Council meeting. Councilor Sideris moved to accept the report, seconded by Councilor Piccirilli and adopted by voice vote.

Councilor Falkoff read the new fee charges.

Councilor Lawn moved to refer the fee charges back to committee for further discussion and review of what other communities are charging, seconded by Councilor Corbett.

Councilor Sideris asked what the process is for these fees.

Attorney Reich stated that water rates require hearings, but fees are not subject to the public hearing process.

On the previous motion to refer the fees back to committee, it was adopted by voice vote.

Councilor Sideris moved to refer the DPW organization structure jointly to the Committee on Public Works and Personnel and Town Organization, seconded by Councilor Lawn and adopted by voice vote.

Councilor Sideris provided a brief update on the disbursements of the Ad Hoc Charitable monies given out earlier tonight. Councilor Sideris moved to send a letter of thanks to Mary Power, seconded by Councilor Lawn and adopted by voice vote.

7. MOTIONS, ORDERS AND RESOLUTIONS:

A. Resolution authorizing a transfer of \$151,987 from various accounts to the Other Post

Employment Benefits (OPEB) Stabilization Fund. The Chair recognized Town Auditor Thomas Tracy who provided a brief overview of the transfer. Following a brief discussion of pension investments in general, Councilor Hecht moved to refer to Committee the idea of exploring further the filing of special legislation regarding investing for higher returns to the Budget and Oversight Committee, seconded by Councilor Sideris and adopted by voice vote. Councilor Sideris moved the transfer, seconded by Councilor Hecht and adopted by unanimous roll call vote.

A. Resolution authorizing a transfer of \$545,000 from various Fiscal Year 2008 Accounts to the Fiscal Year 2008 Town Council Reserve Account. The Chair recognized the Town Manager who provided a brief overview of the transfer. Councilor Sideris moved the resolution, seconded by Councilor Hecht and adopted by unanimous roll call vote.

8. REPORTS FROM THE COUNCIL PRESIDENT

The Chair read the Composite Evaluation of the Town Manager for Fiscal Year 2008 (attached). Councilor Devaney stated that she is disappointed that her typed comments were not included in the composite evaluation as she spent a lot of time on providing specific examples and comments. The Chair noted that the Manager has the full text of Councilors' comments for guidance. Councilor Corbett commended the Chair for putting this report together on a timely basis.

Councilor Sideris moved to accept the composite report, seconded by Councilor Hecht and adopted by a roll call vote of 8 for and 1 Present with Councilor Devaney voting Present.

Councilor Hecht moved to refer the Fiscal Year 2009 evaluation to the Personnel Committee for recommendation, seconded by Councilor Sideris and adopted by voice vote.

Councilor Corbett asked the Council to give consideration to updating goals and objectives for the Town Manager.

9. COMMUNICATIONS FROM THE TOWN MANAGER

1. The Manager requested a late agenda item to discuss strategy with respect to litigation.
2. Summer Concerts continue to take place every Thursday night.
3. An update on Whitney Woods will be forwarded through the Town Attorney's office.
4. Miscellaneous items are being sent by email in an effort to conserve paper.
5. The Manager asked that Attorney Reich be allowed to speak on 41 Katherine Road and a previous matter regarding a free speech issue.

Attorney Reich provided an update on the condition of 41 Katherine Road. He noted that court action resulted in an injunction allowing the town to enter the home to make inspections. The Town filed motions with the court for additional relief to remedy the condition of the property. Board of Health issued a condemnation order, condemning the property. The owner has been vacated. He pointed to the concerns of the property owner and neighbors. The locks were changed to secure the property. Board of Health and Police are monitoring the property.

Attorney Reich provided an opinion in response to previous request by Councilor Devaney asking if any rules could prohibit a film that was shown at the Watertown free Public Library "giving 30 reasons why the US government was responsible for the attack of the Twin Towers on 9/11" An issue was raised as to the airing of a film at the library and distribution of flyers about the film. A question was posed about whether the Library should allow the showing of such a controversial subject matter regarding 9/11. Attorney Reich noted that the room was made open to the general public for a public forum purpose, including all free speech activities. Once you make a location open to the public, you are unable to restrict the content. Regarding leafleting of cars at the town hall, he noted that this is not an area

for free speech activity. A parking area used to access a particular building, is not in and of itself a use for free speech and the Manager can undertake regulation of that.

Councilor Devaney disagreed that a policy can't be set to disallow the showing of such a film at the library. Councilor Devaney asked if the library trustees can change their policy and asked the Manager to check into this so that this does not happen again.

Attorney Reich stated that you can regulate a parking lot but not a public forum space, which has been open to the general public for such a public purpose.

Councilor Sideris moved to refer the matter of leafleting to the Committee of Rules and Ordinances, seconded by Councilor Devaney and adopted by voice vote.

Councilor Hecht noted that he strongly disagrees with Councilor Devaney on this matter of free speech and asked that the request to the manager be put into a motion for the council to vote on.

Councilor Devaney moved the motion, no second was made. The motion fails.

10. REQUEST FOR INFORMATION

Councilor Kounelis stated that she presumed she would have had the opportunity to amend the minutes of June 24th. She stated that if she finds something that needs correcting she will submit it for attachment.

Councilor Devaney reiterated her previous request and asked that the Manager look into the matter of using the library as a public forum for the purpose as previously stated.

Councilor Falkoff asked the Town Attorney if Councilor Devaney can make such a request to the Manager.

Attorney Reich stated that since no formal action is being requested, this request for information is permissible.

11. ANNOUNCEMENTS

Councilor Lawn announced the Ground Breaking Ceremony for the new police station, Wednesday, July 9th at 7:00 pm.

12. PUBLIC FORUM – none noted.

13. EXECUTIVE SESSION There being no further business to come before the Council, Councilor Sideris moved to go into executive session in order to discuss strategy with respect to real property; the council will not return to open session, seconded by Councilor Lawn and adopted by unanimous roll call vote.

I hereby certify that the above minutes were adopted by voice vote as amended on August 12, 2008.

Clyde L. Younger Council President