

REGULAR MEETING OF THE AGAWAM CITY COUNCIL

Minutes dated September 19, 2011

President Rheault – Good evening ladies and gentlemen. Welcome to the September 19, 2011 City Council meeting.

Item 1. Citizen's Speak Time

President Rheault – We have several speakers wishing to address the Council this evening, the first being Mayor Cohen.

Mayor Cohen – Good evening. Richard Cohen, 47 Alexander Drive. I'm here this evening to speak in favor of the Supplemental Budget before you this evening and I know this morning that Council President Rheault, Rossi, Bitzas and Mr. Sapelli and I did discuss the issues and what the money would be used for and I've also made packets for everybody this evening so you have a list of where the money is gonna go, what it's gonna be used for and the importance of it. The Commonwealth of Massachusetts voted to restore funds to cities and towns according to a formula that was established on August 16, 2011. The town is expected to receive approximately \$220,000.00 in additional, unrestricted local aid for cities and towns. The unexpended funds left after the \$97,000.00 is hopefully appropriated this evening will be utilized to continue to stabilize our low tax rate for future years. The Agawam School Committee met on June 27, 2011 and instituted \$97,000.00 in fees in an effort for the budget gap that existed in a budget presented by the former superintendent Dr. Czajkowski. No one on this School Committee was ever in favor of fees. I was never in favor of fees but it was our job to hopefully, we wanted to maintain teachers and paraprofessionals. Well, I'm glad with your help that we were able to get the first Supplemental Budget to maintain all of the teaching staff and everybody necessary so I thank the Council and the School Committee for doing that. Tonight we're here to ask you to appropriate \$97,000.00 because many people had mentioned, also on the Council especially Robert Magovern, I thank him for that, spoke up and said he was not in favor of the fees right from the start – thank you Mr. Magovern and I have to say you were correct. I am glad that we will be receiving these additional funds so I am here to ask you to appropriate the \$97,000.00 that the School Committee already unanimously approved and I can tell you, I know some people were concerned about next year, I meet every day with Department Heads, with the School Department and with Laurel, the Treasurer/Collector to maintain and make sure that our budgets are sound and I am willing to put the \$97,000.00 forward and use the remaining because I feel that is the best thing to do. I will continue to meet and watch the budget. I will continue to make sure that we are prudent and responsible and I ask that you vote tonight to help those students who wish to participate and the many families that can't afford to pay the fees and I know I've had calls from people in town, well not a lot, but there were a lot of emails! And people are not interested in having fees in Agawam and I am glad to support not having them and I hope you will support us also.

President Rheault – Thank you. William Sapelli?

William Sapelli – Good evening. William Sapelli, Interim Superintendent. I'm here this evening also to speak in favor of the \$97,000.00 Supplemental Budget. As Mayor Cohen indicated, I spoke to many of you personally and I attended your meetings where you verbally voiced the fact that you weren't in favor of fees – none of us are. The School Committee was not in favor of the fees either but as we all know and we've heard it a number of times already that we were required to cut \$1.6million from the budget. You can only cut so many programs, materials, supplies and staff to reach that amount so unfortunately the School Committee felt that had to implement these fees. What this \$97,000.00 will do, it will eliminate any of those newly incorporated fees, the existing fees would remain the same. It would allow us to leave the parking fee at \$40 rather than increase it. This money would help as you could see from the handout you have, it would help us by paying stipends to the advisors to the clubs and organizations and activities that the students have, it would also help us with some of the band fees, the Director's fees, uniforms there, athletic transportation is an extreme cost today. If you look at all the teams that we offer between the boys and the girls for three seasons, three levels – Varsity, JV and Freshmen – the transportation to and from events and practices is very high so this would help defray that cost. It would go right back to where you would want it to go to. I know many of the parents, the booster clubs are very interested in seeing how this is going to play out and I do know that right now we are in a holding pattern. By that I mean we have not collected any fees to this point because we knew this was going to be coming up. Now that puts us at a slight disadvantage and it puts us at a disadvantage because our plan was to collect the fees prior to the first contest and/or distributing uniforms. Now obviously that has come and gone because we are well into our season so our leverage, we're losing our leverage with that and some of our fall sports end in October. We all know football goes to Thanksgiving but some of the sports end in October. If we table this this evening and put this off for two more weeks, that puts us further behind the eight ball and to try to collect fees retroactively is very difficult. So I'm requesting two things – please if you could vote in favor of this this evening to eliminate these additional fees and two if you could please vote on it this evening and not postpone it because one way or the other, the parents of the student/athletes need to know where they stand one way or the other. So I greatly appreciate your support in the past, as Mayor Cohen said, that \$250,000.00 Supplemental Budget that you approved was very helpful in maintaining staff and returning staff that was laid off in the neighborhood of eighteen members between secretaries and paraprofessionals, big help and this would also go a long way in helping the school system and I know a lot of communities their City Council and School Committees talk about how they're pro-education. Well, you people show it by your positive votes for the schools and your support for the schools and I hope I see that continued this evening. So thank you.

President Rheault – Thank you Bill. Dave Stratton?

Dave Stratton – Good evening. Dave Stratton, 64 Wright Street, Agawam, 1983 graduate of Agawam High School. I'm the current Director of Athletics at the High School and I'm the Director of Physical Education and Student Activities for the system.

Just in brief, many things that were said by Mr. Sapelli certainly – my main concerns with user fees are we’ve always sort of been the class of the area. Everyone will talk about what a great program Longmeadow has or what a great program East Longmeadow has. I’m not too sure I could afford to have my daughter play three sports – she’s a three sport athlete – I truly don’t think that she’d be able to play the three sports that she loves. I think we’re really lucky here, I don’t know if luck has anything to do with it but I think we’ve had good leadership and many of you I’ve know for a long time. I’ve know many of your kids or you’ve known me as a kid, you know in some regard I think we’ve been very, very fortunate to have what we’ve had in this town and I guess selfishly I would like to see that continue. We’ve always supported education both in and out of the classroom and I really believe that athletics was a big part of my life. It was something that made me want to do better in school, kind of kept my in school a little bit, I never missed because Mr. Sapelli wouldn’t let you play if you were in detention, you had to be at practice so that was one of those things that athletics teaches you in life and I think of many kids even when there’s reductions for different, when we use the federal guidelines and things like that, things still are tight and the fee for many people would be perceived as a tax and it would be a pretty difficult thing for them to make a decision like that. And I think the decision would be that their children would have to go with less and we’d like to not have that happen at least from my perspective. I’ve always felt that Agawam was ahead of the curve when it came to education. Certainly with its funding we’ve always been able to fund education in this town the way it should be funded and I would just ask that, to echo Mr. Sapelli’s words that you do vote on this issue tonight. Or course, I would love to see the \$97,000.00 from the Supplemental Budget come into the School Department for the reasons of keeping our fees down but also the collection of fees right now would be rather difficult. We could probably do a pretty good job with the winter and the spring but I think we might lose out on an awful lot, unfortunately. Thank you for your time. I appreciate it.

President Rheault – Thank you Dave. Anthony Bonavita?

Anthony Bonavita – Thank you. Anthony Bonavita, 683 Cooper Street, Agawam. Without rehashing what everybody else said, these fees for the School Committee were a last resort. We had a very difficult budget process. We were faced with potential lay offs and loss of positions and programs and we made some very tough decisions under the circumstances – decisions we did not like and I think everybody on the School Committee voiced that opinion. So as far as the fees are concerned, the School Committee voted on it at its last meeting to repeal the fees subject obviously to your vote for the \$97,000.00. The question comes up and I’ve had people say well can’t the School Committee just find the money? Can’t you just look in your budget and find the \$97,000.00 somewhere else? Well, I attended two different things in the last month. One of them was I’m gonna call it a seminar, it was an administrative retreat, where I was able to take half a day and listen to our new Curriculum Director explain what the Common Core is. Common Core requirements across the State of Massachusetts that are being implemented in the state and these Common Core requirements are requiring us to collect data to improve the new textbooks. There’s a lot of different things we have to do to keep up with these requirements and if you don’t have the data, and if you don’t meet the

requirements, you don't get certain state funding. So specifically that alone is gonna cost us a lot of money. Now secondly I'd ask you to consider the fact of special education. We just recently met, a group of us and Mr. Sapelli led the way on this, our Superintendent led the way, we had a meeting with Commission Chester – the Commissioner of Education for the State of Massachusetts – just last week and in meeting with Commissioner Chester, Mr. Sapelli asked him a very pertinent question. He said when we have special education, we finish our budget as of a certain date that we send it to the Council, people move in our district two or three weeks before we start the school year – hundreds of thousands of dollars it could cost us potentially thousands of dollars, it could cost us to fund the programs for these special ed students. Now we know it's the right thing to do, that we have to do it and we know we have to do it and it's the right thing to do but it costs thousands of dollars. The money from the school that that student came from, let's say it's Barnstable, that money doesn't follow us to Agawam, it doesn't follow that student to Agawam, it stays in Barnstable. So Mr. Sapelli, why don't we pass some legislation, I mentioned this to Mr. Magovern and Mr. Mineo, why don't the House, State of Representatives pass a law to say that the money follows the student to the school that you're going to. Wouldn't that be common sense? I think we all could agree on that but that's not the way it is. So this year alone, we have thousands of dollars of current expenses due to the fact of students moving into our district after we've prepared our budget. Now even this money now that we're talking about and of course we thank you very much for the \$250,000.00 you've already previously approved, that was very gracious and it's certainly gonna improve the education of Agawam but this latest round of money the \$200 some odd thousand dollars coming from the state that the Mayor referred to, that money, if we had known about that money, if we knew funds such as that were coming in let's say three months ago, if we had knowledge of that type of a thing, of course it could have made a difference in how we prepared our budget, maybe we would have asked for the money from the beginning, maybe we would have never voted for fees but the system, the process, the way it's set up, frankly is very skewed, it's not a good process and it leads to these types of situations and the only way you can work through these types of situations, is the cooperative, collaborative effort of all of us and that really is in your hands at this point. You're the final decision. We've done all we can and you're the final decision so I am respectfully asking you to support this transfer, not because it's good for the School Committee, not because it's good for the Mayor, not because it's good for anybody except for the students and the families of the Town of Agawam. Thank you.

President Rheault – Thank you, Anthony. Teresa Kozloski?

Teresa Kozloski – Good evening. My name is Teresa Kozloski and I live at 102 Meadow Street. I wanted to address the request you received to waive the right of first refusal for the Agawam Sportsman Club property at 358 Corey Street which is registered under Massachusetts General Law Chapter 61b both as recorded in the Registry of Deeds and as described by the Mayor for the Buyer. The property consists of 5.5 acres. If you are told otherwise, I caution you to double check. There is a new Purchase & Sale Agreement in place to purchase that undeveloped space and potentially build more condominiums. The new Purchase & Sale Agreement requires a new vote of the Full

Council because the previous sale of the property in 2005 never occurred. This new Purchase & Sale Agreement involves a different individual. This property is being sold free and clear of all liens for \$235,000.00. This Council has the ability to correct a mistake made by the town in 2005. The Agawam Sportsman Club is property immediately adjacent to the School Street Park – a jewel of the Agawam Parks & Rec Department. The 5.5 acres includes the pond and would allow secondary access to the Park from Corey Street. The addition of this property to our current School Street Park would enhance an already great park. Funds for this open space are available through the Community Preservation Act and a development plan is already in place should the land become available again. One problem is that the notification of the intended purchase and the request to waive the right of first refusal was received by Mayor Cohen on July 6th of this year. This request by the buyer asking the town to waive the right of first refusal surfaced publicly only last Wednesday, September 14th – two months later! Massachusetts General Law Chapter 61B states that the right by the town to exercise this option must be done in 120 days. Time is running out. It is urgent that the Council decides this quickly. On November 7th, the town will lose this right. Purchasing this property is a no-brainer. Allowing this property to be developed with condos or residential housing will only add additional burden to our education expenses and other services. These costs would not be offset by the additional property tax base. For this small amount that is already set aside for Open Space Acquisition, I ask the Council to do the proper thing – give this topic a vote by the Full Council now. Make this new additional park with picnic area, water park, music shed, volleyball court and additional amenities a part of this Council's legacy to the citizens of Agawam. Thank you.

President Rheault – Thank you Teresa. Henry Kozloski?

Henry Kozloski – Henry Kozloski, 102 Meadow Street, Agawam. I am also Chair of the CPA Committee as well as the Conservation Committee and in our Conservation responsibilities; we have an Open Space Plan to recommend open space to be purchased by the Town of Agawam. Obviously nobody reads it because that piece of property has been on that every year for the last fifteen years. The problem is we have no plan of what we want to obtain for open space in the Town of Agawam. You cannot put that responsibility as one councilor member thinks on the Community Preservation Committee. It is an impossibility. We cannot negotiate sale agreements. That he should understand. The only open space we bought recently was up near the High School and it had to be a teacher who lived out of town who made the recommendation. We've gotta start, you've gotta start planning for the future. This we don't have. We don't have any idea, we have a public hearing for CPA which very few members of the Council, some do, most do not and those are, I think people have to realize, those invitations are delivered by mail, it's a direct invitation, it's required by the CPA Act that the powers that be both elected and non-elected officials should go to that meeting so you could have a plan for the future of how to spend this money. Well right now we don't have that plan. So we have to go by, everything comes up very quickly – we've gotta do it yesterday. There's got to be some long range plans both in conservation open space plans and also in CPA – that's what good planning would be and the town should do it. Thank you.

President Rheault – Thank you Henry. Cheryl Wagner?

Cheryl Wagner – My name is Cheryl Wagner. I live at 22 Rising Street, Feeding Hills, Mass. and I'm here with some parents of the booster clubs and sports teams of Agawam and many, many more who weren't able to make it here tonight. I've been a booster club member for about seven years between my daughter and my son and my son is my youngest who is a senior at Agawam High so – user fees don't really, may not bother me as much for only one year but I'm speaking for a lot of the other parents that it will bother and hinder and make their child unavailable to play sports. Each year in the last seven years, we've had a couple of players not be able to play or parents say that they were not gonna be able to play and we've made accommodations for these players to play so they didn't have to pay booster club fees and our booster club fees are considerably less than what the proposed user fees are so it'll be a shame if there is a player that is not gonna play a sport because he has to pay \$100 user fee. This past year I had a mother say to me if I knew I'd have to pay for this sport; my son would not have played. That's a shame. A doctoral student, Gary Overton, did a survey, it took six different things in account – GPA, attendance, end of course testing, discipline, drop out rate and graduation rate – in each and every one of these areas it proved that the athlete got a better GPA, his or her attendance rate was 6.3 out of school when the non-athlete was 11.9 days out of school; and end of course testing – the athlete had 8% higher testing rate than the non-athlete, discipline – 10% rate of discipline, I'm sure some of these gentlemen sitting here have been coaches and they have to tow the mark if they're playing on a team so they're gonna be well disciplined in school, that's how they learn later life lessons in a sport; drop out rate - .06 for the athlete, for the non-athlete 10.32 – that's a huge difference! Why would you want a child dropping out of school because they can't afford a user fee? Now come on! Graduation rate – an athlete graduation rate – 99.4% comparatively to a 93.5% for a non-athlete – that's a big difference and the person, Mr. Overton, who did this survey was so shocked at his results, he went and tested other surveys, the SIM survey which is a nationwide survey, to see if his numbers were correct and if they were in line or if his were just way out of whack because of the district he was working in and they were all along the same lines. Why would we have to even one athlete be turned away because they cannot pay a user fee?

Clerk – One minute please.

Cheryl Wagner – I'm sorry. I just got excited.

Clerk – That's good!

Cheryl Wagner – So, Mr. Stratton said something about a child should go with less so that they can play a sport for the single mother or father have to pay \$100? I don't think that's right so I'm here with the rest of the people saying I highly and I'm sure that the people that are with me and the many parents that aren't able to be here approve and want you to approve that \$97,000.00 appropriation so we wouldn't have user fees at Agawam High School. Thank you.

President Rheault – Thank you. Shelley Reed?

Shelley Borgatti-Reed – I’m Shelley Borgatti-Reed, 10 Shelley Lane, Feeding Hills, MA 01030. I’m here to speak in favor of the Supplemental Budget going to the school system. I’m here as two people – as a School Committee member, I didn’t vote for the budget. I didn’t vote for cutting \$1.6million from our schools and I didn’t vote for the fees. I’ve received many emails and letters from parents about how angry they are about the fees. I’m not happy with the way the budget process went this year, the politics, where the money comes from – it doesn’t matter – the schools need to be supported by our tax dollars. Public education should be funded by public money. How many of you had to pay fees for your kids? Probably none. How many people had to even had to pay fees for yourself? We’ve never had fees here. As a parent, I have a freshman in High School, he plays football. I’ve spent over \$100 just on football gear and now I have to pay another \$100 to have him play football? That is unacceptable to me. I have a friend who has twins in High School and a daughter who is a senior. The twins play sports, they play football. She’s already spent \$200 on football gear and she hasn’t even started to pay any fees. She’d have to pay over \$400 in fees. That is unacceptable. We need to support our schools no matter what the cost. It’s a fact that kids, teenagers, need sports, it’s part of the school system and it should remain that way. Thank you.

President Rheault – Thank you Shelley. William Hueglin? Want to state your name and address for the record please?

William Hueglin – Hi. My name’s William Hueglin. I’m a resident of Chicopee, Massachusetts – 1 Springfield Street, Apt. 301. I’m the very proud and fortunate Band Director at Agawam High School and I’m here tonight to also encourage you to appropriate the necessary funds for the School Department so that we can avoid these fees. Working with the band students, the fees are kind of close territory for us because initially school administration and the School Committee included a fee for band for this coming year. Luckily after some conversations with school administration and the School Committee, they saw the wisdom in not having fees for an actual class which is what band is and the same thing for Yearbook and the Mirror and some of these other activities and so they eliminated the fees for those areas which we’re very, very grateful for but still having fees in the budget is a problem because that will affect the education of our students at Agawam High School and I think that’s a risk that this community can’t really afford to make considering how strong the education system is. I’m going to leave you with just a quick thought and this is the same thing that I tell my students in class which is “this is important, you can do it and I won’t give up on you”. So please ladies and gentlemen of the Council, supporting our schools and making sure that we don’t have user fees is important, you can do it and we won’t give up on you. Thank you. (APPLAUSE)

President Rheault – Thank you. That concludes our Citizen’s Speak Time.

Item 2. Roll Call

President Rheault – Barbara, please call the roll?

ROLL CALL – 10 PRESENT, 1 ABSENT (Councilor Letellier)

President Rheault – Ten present, one absent. Councilor Letellier has texted us and she will not be in attendance this evening. She's not feeling well.

Item 3. Moment of Silence and the Pledge of Allegiance

President Rheault – Please rise for a moment of silence and Pledge of Allegiance.

Item 4. Minutes

(a) **Regular Council Meeting – September 6, 2011**

President Rheault – Moved by Councilor Perry, seconded by Councilor Messick. Any discussion, corrections? If not, voice vote is sufficient, all those in favor? Opposed? Unanimous.

Item 5. Declaration from Council President

(a) **Brief presentation from Jessica Allan, Pioneer Valley Planning Commission, regarding Zoning Review update**

President Rheault – I had put that on but have decided that it's more appropriate that it be at the end of our Old Business so I'll entertain a motion to move it from there to the end of the Old Business. Moved by Councilor Rossi, seconded by Councilor Perry. All those in favor? Opposed? All right.

Item 6. Presentation of Petitions, Memorials & Remonstrances

(a) **Resolutions**

1. **TR-2011-43 - A Resolution Accepting a Gift of Land by Fether, Inc. pursuant to Massachusetts General Law Chapter 40, Section 14 for the Town of Agawam, MA (Tabled 9/6/11) (Referred to Zoning Review Committee) (Councilor Messick)**

President Rheault – The item is on the table. Moved by Councilor Magovern, seconded by Councilor Perry to take it off the table. All those in favor? It's off the table. Council's pleasure? The Zoning should have a committee report? Councilor Messick?

Councilor Messick – Yes, the Zoning Review Sub-Committee met this evening to discuss this issue. This piece of property is important from an open space and from an ecological point of view. The property abuts what will be the School Street Bike Loop.

There's going to be a bike path that runs by the property. It's very important as far as flood capacity. It is in the flood zone, open space, habitat, there's a good deal of excellent habitat for wildlife there and it is un-developable because of problems with access and the wetlands and the flood plain that are in there so the councilors present were Councilors Bitzas, Councilor Rossi and myself and we voted 3 to 0 in favor of accepting this gift of land.

President Rheault – Thank you. Any other discussion? Councilor Bitzas?

Councilor Bitzas – Yes, it's a win/win for the town because it's land given to us for free and we can use it and it's an open space without costing us any money so it's common sense for us all to accept it. I hope. Thank you.

President Rheault – Barbara, please call the roll?

ROLL CALL – 10 YES, 0 NO, 1 ABSENT (Councilor Letellier)

President Rheault – Ten yes, one absent, you've approved the resolution.

2. **TR-2011-45 - A Resolution Confirming the Appointment of Gary Janulewicz, 41 Elm Street, Agawam, MA to the Historical Commission for a Term Expiring January 1, 2015 (Mayor)**

President Rheault – Moved by Councilor Simpson, seconded by Councilor Perry, any further discussion? If not, Barbara, please call the roll.

ROLL CALL – 10 YES, 0 NO, 1 ABSENT (Councilor Letellier)

President Rheault – Ten yes, one absent, you've approved the resolution confirming the appointment.

3. **TR-2011-46 - A Resolution to Waive the Right of First Refusal for Land Classified under M.G.L. Chapter 61B located at 358 Corey Street, Agawam, MA. (Referred to Finance Committee) (Councilor Magovern)**

President Rheault – Councilor Magovern?

Councilor Magovern – I'd like to make a motion that this be withdrawn from the Agenda and I'll give a little explanation as to why. Michael Allen who is the attorney for the Seller –

Councilor Mineo – I second it.

President Rheault – Let's get a second before you discuss it. Seconded by Councilor Mineo. All right.

Councilor Magovern – Okay, Michael Allen who is the attorney for the Seller it was stated previously that he was the attorney for the Buyer, the Buyer is Tommy Russo but the Seller is the Sportsman Club and that's Michael Allen, when he went down to do his due diligence, he did go down to the County Courthouse and found out that there was a lien still on the property for the 61B. However, he wrote a letter to the town attorney back in the summer asking that the town release their option of first refusal and that letter was sent to the attorney, the attorney put an item on the Agenda but in doing his review and speaking with the Assessor, the Assessor told him it was already out of 61B and had been out of 61B for several years. And I have a letter here from our town attorney and he says "According to the records, the property was assessed as recreational land from 1993 to 2008. I was hired as the Assessor in April of 2008; I removed the property from recreational classification and assessed it at its full fair cash value in 2009. This was due to the fact that the rollback was paid on the property and there was no subsequent filing by the owner to keep it as recreational land. Therefore it was not in 61B." And I also would like to read a couple of other letters here, one back to the comment that there was no planning done in this town. There has been planning done in this town and when this item first came up for discussion back in 2005, there was a letter that was sent out by the Mayor to all the Department Heads asking their opinion as to what he should do on whether or not to take the property. One letter I'm gonna read that says "after reviewing the Sale and Purchase Agreement for this property located at 358 Corey Street, it is my recommendation that the town does not purchase this property. While this property does abut the property we are developing into a park land, they are determined (?) by adding this property to the park. There are wetlands separating the Sportsman Club from the School Street River Park. These wetlands would act as a barrier prohibiting us from committing fields, parks, amenities and parking lots to the two parcels. I also do not see this property as a potential site for further recreational centers" and it goes on but that letter was signed by Christopher Sparks of the, Director of the Park Department. I have another letter stating here "at a duly called meeting held June 23, 2005, the Agawam Conservation Commission voted to send a negative recommendation to you as regard to the town exercising its right of first refusal to purchase land owned by the Agawam Sportsman's Club. The Commission does not feel that the purchase price of that property is economically viable for the town due to the potential clean-up costs associated with the possibility of lead contamination." And that letter was signed by Henry Kozloski, Chairman of the Agawam Conservation Commission and I have other letters from other Department Heads stating that the property would not suit the Agawam basis and that is why it was refused under the 61B and we have a developer who is ready to develop that property, clean it up. It has been a mess for too long. If anybody drives down Bodurtha Highway, they can see those buildings. Those buildings are a disgrace. They're a disaster. They are a hazard. Kids are breaking into them, things have been stolen and when the property is closed hopefully on October 31st, is the closing date, Mr. Russo will be tearing down those buildings and cleaning up the property. There is an \$813,000.00 federal lien on that property right now which has to be worked out and this is being worked out between the Buyer and the Seller. The town will get money when that property is closed on and I feel that there's still some conditions to be worked out with the State as far as the environmental is concerned, hopefully those will be worked out by the time of the closing and we'll have a piece of property put back on the tax rolls of

Agawam with a very, very nice looking development. So for those reasons I'd like to have it withdrawn and allow it, the process to go forward. Thank you.

President Rheault – A report from the Finance Committee?

Councilor Walsh – The Finance Committee met on September 14th. Present were myself, Councilors Perry, Rossi and Letellier. Also in attendance were Councilors Rheault and Cichetti, Treasurer Laurel Placzek, Auditor Cheryl St. John, Theresa Kozloski, Henry Kozloski, Louis Russo and William Chester. The meeting was called to order at 7:00 and a resolution to waive the right of first refusal was the first item, for land classified under Mass General Law Chapter 61B, located at 358 Corey Street, Agawam, MA. Laurel Placzek stated that the U.S. Government did not intend to walk away from the EPA lien of \$817,000 and therefore Agawam's tax lien of over \$40,000 could also be in jeopardy. There was a discussion of whether the property was even classified under Mass General Law Chapter 61B. Apparently, there is supposed to be an annually filing to retain the classification and there was evidence to suggest that this had not been done and that the property underwent a zone change in 2005. Henry Kozlowski stated that the Chapter 61B classification is still on file at the Registry of Deeds, which raises the question is the property currently classified under Mass General Law Chapter 61B? There was a motion to recommend to the Council to table, based on the legal issues regarding the current zoning, by Councilor Letellier and seconded by Councilor Rossi, while requesting an assessment history from the Assessor and a tax history from the Treasurer/Collector. The vote was 5 to 0 in favor.

President Rheault – Thank you. Councilor Mineo?

Councilor Mineo – Yea, I just wanted to point out a couple things about this. I was the one that brought this up back in 2005, that they did not file an application for 61B, the liens here for \$817,000.00 is certainly, it's certainly a lot of money and I think, I don't know if anybody's mentioned anything about more environmental problems, I mean, how about the pond? I know they've done clean-up but I don't think they've done anything with that pond, they don't even know if that pond, I was talking to Mayor Cohen today and he said, they have know idea about that pond. This piece of property was never in the master plan for School Street Park. As far as I know, Chris Sparks isn't here tonight, but Chris Sparks has never been in favor of this so, I agree with what Councilor Magovern said and I'm certainly not in favor of this.

President Rheault – Councilor Rossi?

Councilor Rossi – Thank you. I have been in favor of adding this to our rolls of open space for close to ten years now. I thought that it would be a nice addition to the open space seeing as how it borders the School Street property even before it was our School Street Park. There's 5 ½ acres of land over there that has been cleaned up since but we've been going around and around and around and from the first buyers that came across when this first right of refusal came by in 2005, this Council went and created a zone change changing that from agricultural land to A-3 which in my opinion I don't

think, I thought it was an improper move to do so. I wasn't aware of all the constraints and restraints under Mass General Law 61B but it clearly states that under 61B that you can't sell property under 61B for any considerations of zone changes or any other contingencies that the sale has to go through as it is. Any zone changes or anything else would have to be made after the zone, but this City Council went ahead and changed that to A-3 prior to any changes under 61B and at the time, that land was listed under 61B so I think there's some real problems here about the current zoning that it's under. Secondly and I'm a little disappointed and frustrated quite frankly with the fact that the town has never done enough to purchase that land. I had visions of that land and I know other people have of aqueduct fountains, fishing derbies in the summer time for our children, skating arenas for our students in the wintertime, passive recreations with picnics tables and walkways where people can come to recreate, play board games, and those types of things with a walk way over to our School Street Park. I thought it would have been a tremendous addition to our open rolls. Secondly when you talk about open roll status, back in 2002 there was a survey done by our current Mayor and it was in that survey that was done, 80% responded that said should that property become available the town should make every effort to purchase that land and that is in the Planning Board, the Director of Planning's office, that booklet and I read it so I know it's there. But that aside, let me just say and I hate to be redundant on it, I didn't think the Council, not the Council, but I thought that the town should have done more to appropriate this and I still think that the town should make every effort to put this under our rolls. Now I don't know if it's become too late or not but I think it's worthwhile checking into and I think that it would be in the best interest of this Council to take it under advisement at least for a little while longer to make certain that this property would not be lost for recreation rolls under the Town of Agawam.

President Rheault – Councilor Messick?

Councilor Messick – Thank you, Councilor Rossi, for making some statements that I will concur with wholeheartedly. Some of the facts of this case are a little embellished I believe. I don't believe from what I'm hearing here that anybody's read the contract that the town has with the EPA but the \$817,000.00 or \$813,000.00 issue is more or less a moot point. There's a Purchase & Sales here for however much it's for, \$233,000.00, so that's the amount of money we're talking about. What happens with the lien and what happens with the EPA is of that amount of funding, the contract states that almost all of that is going to the EPA. So the Seller is not going to, is not gonna see any profit whatsoever because all that money is going toward that lien. The rest of that lien disappears, when you're talking about EPA liens and the Brownsfield funding, they decide how much money they are going to put out when they go and they assess the property. They took a look at this property, they said this could be a million dollars, it could be \$700,000.00 but yeah, the contamination's bad enough that we feel that we need to clean it up, because of where it is, because of it's closest to the residential area. So that's what they based their decision on, not the finances, they knew what the property value was when they made the contract with the town to clean it up. So we're talking about \$233,000.00 which as Henry Kozloski did just say, there's enough money in the CPA Open Space Fund to purchase this outright. The other number as far as, that's being

blown out of proportion, is two statements – this is still contaminated and we have no idea how much that’s going to cost. Well right here in the Purchase & Sales, the estimated cost to clean up which is only inside the building – everything else has been cleaned and I’ll get to the pond in a second – so inside the building it’s estimated \$34,500.00 to clean up the rest of it and dispose of what’s in there. It’s mostly asbestos, it’s not really, well it’s lead and asbestos, it’s not any of the arsenic that was really the concerning problem out there. The other thing is people are saying we have no idea whether the pond is contaminated. The pond was assessed by the EPA while they were out there cleaning. The decision was made that the contamination, whatever it was in the pond, is either encapsulated or is not severe enough to dredge the pond and disturb it. All right so the pond will be purely decorative. We would not want to have people swimming in it or eating fish out of it, much, but again they decided that the contamination levels were not such that they were concerned about cleaning it up. So the other thing is to this has been in the Open Space Plan as one of the prime properties that we would like to obtain and I think that we would be very foolish to not make absolutely sure that we don’t have the chance to obtain this property because adding this to the School Street Park would be so advantageous. That road – 57 – is the entranceway to our town and I would much prefer to see a park there than condos or houses or something, something that makes less of a statement about what Agawam is. I would much prefer to see open space and I think the price is right for this property. So I’m gonna make a motion to table this until we can find out for absolutely sure whether we still have the right of first refusal or not.

Councilor Perry – I second.

Councilor Magovern – There’s, the, uh, Mr. President?

President Rheault – Councilor Magovern?

Councilor Magovern – Well, two things. I can answer some of her questions but if I remember last –

Councilor Perry – Point of Order, Mr. President?

President Rheault – What’s your point?

Councilor Perry – The motion was made to table and seconded.

Councilor Magovern – No, no there’s a point of order here because –

Councilor Perry – No, there was a motion on the floor, Councilor Magovern –

Councilor Magovern – No, taking something –

President Rheault – Time out!

Councilor Perry – There was a motion on the floor to table and there was a second. We can vote on it or if the person who made the motion wants to withdraw that to allow you to speak, that is the proper order in which we should go through.

Councilor Magovern – There's a motion that's already on the floor –

President Rheault – Time out! My apologies. I was in discussion with Councilor so I did not hear. Who made the motion to table?

Councilor Messick – That would be me.

President Rheault – You and seconded was by Councilor Perry? Then the motion on the floor stands. Barbara, please call the roll.

Councilor Bitzas – Point of order, Mr. President?

President Rheault – There's no Point of Order under tabling.

Councilor Bitzas – We have a motion before from Councilor Magovern and seconded by Councilor Mineo –

President Rheault – Tabling supersedes the motion.

Councilor Bitzas – Okay.

ROLL CALL - 5 YES (Councilors Messick Perry, Rheault, Rossi, and Simpson), 4 NO (Councilors Bitzas, Magovern, Mineo and Walsh), 1 ABSENT (Councilor Letellier), 1 ABSTENTION (Councilor Cichetti)

President Rheault – Five yes, four no, one absent, one abstention. You've tabled the motion.

Councilor Magovern – This is not right this evening, President Rheault, of all the years I've been on the Council, I have never seen anything quite as bad as this!

President Rheault – Excuse me, excuse me. That's your personal opinion.

Councilor Magovern – Last week we tabled –

President Rheault – I'm not here for discussion and neither or we. There's procedure that needs to be followed and my job is to follow it.

Councilor Magovern – I agree with you. You should follow procedure. You haven't done it this evening!

Councilor Perry – Then challenge the Chair!

President Rheault – Thank you.

4. **TR-2011-47 - A Resolution Adopting a Fiscal Year 2012 Supplemental Budget of \$97,000.00 for the Town of Agawam to Eliminate new and increased fees at the Agawam High School (Referred to Finance Committee) (Mayor)**

President Rheault – Moved by Councilor Rossi, seconded by Councilors Bitzas and Simpson. A report from the Finance Committee?

Councilor Walsh – The Finance Committee met on September 14th, the same meeting we had for the prior resolution and the same people were present. A Resolution Adopting a Fiscal Year 2012 Supplemental Budget of \$97,000.00 for the Town of Agawam to Eliminate new and increased fees at the Agawam High School. During the discussion, it was noted that in Senator Welch’s letter and Representative Boldyga’s letter that while it is the intent of the state to distribute \$225,300.00 to the Town of Agawam by October 31st, there is no guarantee that these funds will actually be distributed. The exact figure will not be known until it is actually received. There was a motion to table to obtain a breakdown of the \$97,000.00 of user fees and what they are spending them on and that we receive copies of the minutes of the last two School Committee meetings and a copy of the tape from the 9/13/11 School Committee meeting. Motion was made by Councilor Perry and seconded by Councilor Mineo; the vote was 5 to 0 in favor.

President Rheault – Thank you.

Councilor Bitzas – Mr. President?

President Rheault – Councilor Bitzas?

Councilor Bitzas – I hope nobody tables this with no discussions, Councilors, and give the opportunity for the Council to discuss it and then we can, if you wish to do so and I hope not, then you can table. I was disappointed when I read the committee’s report that you tabled for those reasons and of course, if you have a reason, I don’t blame you, it’s fine, you table the committee, but tonight, there is no reason to table because those answers you were looking for, you have them, and I met today with Councilor Rheault and Councilor Rossi, Mayor and Superintendent of Schools and we discussed this. I have my questions. I have the answers. They have their questions. They have their answers. There is no way, I hope, to table this and I hope you support it. A lady spoke for the booster club about the importance of the athletics. Just remember that Greeks, ancient Greece is where the Olympics was born. They didn’t have only one Olympic games, they have five other games in each city they have the games because they put so much emphasis on sports because a healthy mind is a healthy body. Let’s not and also in the music, it’s important also, the \$95,000.00 that luckily, we were pleasantly surprised that we got from the state was well spent. The School Committee, the Superintendent and the Mayor did the right thing to, not to put this money into the side and have the parents pay two, three or four hundred dollars per child. This is just another form of taxation and we should not stand for it. We should encourage sports and clubs and other athletics and other clubs and activities because that way we keep, first of all, we are helping the kids

stay away from other things to do by making them compete, or making them stay after school and study in different clubs. We should pay them actually, we should give them incentives to participate and make more kids participate, not take it away and make them to pay fess. That's unthinkable. So I hope tonight, councilors, you do not table, let us discuss it and let's pass it. It is the good thing to do for our children, our schools and the people they pay enough money in these economic times, they deserve a break. Thank you.

President Rheault – Councilor Simpson?

Councilor Simpson – Thank you. I had a lot to say and now I just decided not to just two comments actually because what I had to say isn't going to sway anybody, it's not really proof of anything but first of all, athletics, clubs, everything is very important but I hope that people out there, especially kids who are not athletes, they don't get the feeling that you're doomed for failure because you keep saying that this is so much better for the athletes, this is that, I agree with that but I know plenty of children who have graduated from Agawam and many other schools who are not student athletes and did very well and went on to college so I hope we're not pitting athlete against kids who for just some reason do not participate in sports. Also, remember parents have paid for sports since children were five, usually you started your children in soccer or football, well football might have been a little bit older, hockey, you've paid, we've paid, I've paid all those years. You get to high school and you don't have to pay anything. So I do believe that there are certain families that would struggle with this, low income, that there could be some things that could be done so that the child would not be denied an activity because of ability to not be able to pay. But I know I've raised two children. I've had to pay for sports, I've had to pay for soccer, I've had to pay for basketball, had to pay for baseball, had to pay for lacrosse, and you get to high school and you don't have to pay for anything. So I'd like to see this money that we're, extra money that we're receiving, be put towards as Mr. Bonavita said from School Committee, we're looking ahead at some challenges coming up with some new mandates and things that are coming across that we're gonna have to take care of, we should be fore-thinking and using this money and putting it towards that. I believe there's a difference between not wanting to pay a fee or liking to pay a fee and being able to pay a fee. Like I said I'm sure that there are families who cannot pay – low income, struggling families but nobody likes to pay a fee but I say that if there was that large a concern this auditorium would have been packed, the School Committee meetings would have been packed. Do you remember quite a few years ago when they wanted to get rid of band? The auditorium was packed. I hear parents go I don't like it but pay it. I would have been in favor when my kids were in school of paying a fee, like I said I've been paying fees all along. Also the parking fee, people say you can't charge the kids a parking fee, it's too much. You can drive a car, afford to drive a car, you can pay a parking fee. A car is a luxury. If a child is able to drive their own car, buy their gas, pay their insurance, they can pay a parking fee. I'm a parent of two children, so you can't say I didn't have any vested interest in it. I would like to see this money go towards something else to go for the future because next budget season, we all know it's gonna be tight and could be even worse. So I think we could be proactive. I don't know how many communities have fees. I was talking to friends of

our's who live in Connecticut and somehow we got talking about athletics, he started talking about a fee and I said oh you guys have fees and he says oh, we've had them for a long time. We, you know, nobody likes a fee but some times it's a necessity. So I will be voting no tonight. Thank you.

President Rheault – Councilor Mineo?

Councilor Mineo – Yea, I just wanted to say that it was tabled the other night because we asked for a breakdown and I want to thank Mr. Sapelli for giving us that breakdown. I think that explains it all. Now I was never in favor of the fees and since I got the breakdown, I'm voting in favor of it tonight.

President Rheault – Councilor Magovern?

Councilor Magovern – As you know I've been on record from the very beginning as being against the fees basically because I feel that if a student can go on the National Honor Society and have the academics that they have to be on the National Honor Society, I think that it's a sacrilege to have to charge them a fee to belong to the National Honor Society. I feel the same thing that was said earlier by many parents that the extracurricular activities that our students have in Agawam, I think that it's a blessing that we have the programs we do in this town. Out of a \$35million budget, I don't think that \$97,000.00 is gonna kill our school budget if we can pay the fees for the students, especially if we can get that money back from the state. The parking is another situation and I agree with Councilor Simpson, I think that a parking fee is fine if somebody wants it. It's a privilege to take your car to school and if you're taking your car to school I think you could help defray some of the costs of the parking expense. But as far as band, I was a member of Agawam High School band for four years. I never played sports so I'm not a sports person but by the same token I'm totally 100% against charging any students fees. Thank you and please tonight don't table this. I think we table much too much on this Council. You've had plenty of time to research your information. Vote on it tonight, either up or vote it down but vote it. Don't table it!

President Rheault – Councilor Messick?

Councilor Messick – Two things. I'm very glad, I'm happy that the discussion occurred with the School Committee about the fees because I suspect that at some point in time this will not be an option. Right now it's optional, it's not a popular option and I agree with Councilor Simpson if you put anybody through ballet or jazz dancing or any kind of outside physical activity, you're going to pay so I don't think that a fee is really going to bring a horrible shock to the system. On the other hand, I'm really glad that we have this option to not have the fees occur at this time so I'll be voting in favor of this.

President Rheault – Councilor Walsh?

Councilor Walsh – Yes, in regards to the lady that spoke from the booster club and she had a very good point, there are people in town who probably cannot afford the fees. I

think what we have to do is suggest both to the School Department and to all the booster clubs, I think if we're looking ahead at the economy a year from now, I personally expect things to be a lot worse so these user fees could very well come back into play. My suggestion would be to start to plan fundraising, scholarships to take care of those students who come from families that cannot afford it and I agree with Councilor Simpson that there's a lot of people that will grumble but in reality when push comes to shove, they will dig down and find the money so but for those people who absolutely don't have it, I think this is a good warning that you really have got to address this problem starting now, not waiting until the budget next year. Thank you.

President Rheault – Thank you. Councilor Rossi?

Councilor Rossi – Thank you. I have never been in favor of user fees. I was not in favor of them when I first read the budget and I'm certainly not in favor of it now but I'm not in favor more of the process by which we got here. I've listened to everybody out there speak. I listened to some dialogue up here and I haven't heard the actual facts come out. I've heard some rhetoric but the fact of the matter is these user fees was a design by the pre – by Superintendent Czajkowski. She put those fees into this budget in its formative process. It was done with her team as she stated in her address in the budget as well as the Budget Finance Committee of the School Committee all apparently all had a process in putting these fees in. It was first brought to public light back in February of this year when user fees were introduced in the budget and although there had been some discussion because I was at some of those meetings, although not able to participate but certainly as an observer, and I noticed there were some speeches made but everybody voted in favor of those. Since February there has been nine workshops School Committee meetings, nine! If user fees were such an issue, why didn't somebody do something before this? I mean that's a question that I have to ask, I haven't got an answer to but it's certainly a valid question. I've read an article in a newspaper by a School Committee member that says well is you don't like user fees give us more money. I can't tell you what a heartwarming thing that was to read – the creativity of a School Committee member saying something like that. I think personally that there is some money to be found in our \$34million. I think the City Council along with the Mayor has been extremely, extremely generous to the School Committee. This School Committee was asked to reduce their budget by \$1.9million. They only reduced it by \$1.6million and the Mayor graciously allowed to put in \$300,000.00 to make up that difference. Now, the shortfall that was seen in that budget didn't come because of lack of state aid or federal assistance, that came because of a stimulus grant, a one time stimulus grant with the window of three years was over spent. That stimulus grant was a recovery grant given to cities and towns to recover positions in the School Department of teachers and other critical positions to be restored with the understanding that that money was to be gone in three years. Looking back over the budget processes I found that there was \$1.8million spent not to restore positions but to create positions so that left us with a couple of options here at the end of the three years. Either include these in our budget or lay these people off so the real budget deficits were really created by that \$1.9million deficit that we overshot the runway and even Dr. Czajkowski if some of you have some memories when we had a little discussion up here admitted that she walked up to the cliff

and then got hung up there. All of a sudden as I said earlier before it seems like crisis always seem to fall on the City Council. I've seen some people over here and quite frankly I'd like to see you hear more often but why weren't all those people at those School Committee meetings when these things were taking place? Where was the outcry when these things were still in their formative periods in the School Budget? Where were these people? They're here now some of you are here now but where was the outcry then? I was at a sub-committee meeting when one School Committee member said well I don't think it's fair to have somebody in the band or the Mensa program be charged or the Mirror people be charged well let's increase the fees for the athletic people, let's increase the fees to park your car from \$40 to \$160. Where's the fairness in that? If everybody's gonna have to pay then why doesn't everybody pay together, why can't we be fair and equitable about this whole thing. The other thing that bothers me deeply is the fact that these monies that we're talking about over here although they said that they are looking at it but we haven't actually got it. They said that we're earmarked for it, we haven't got it yet, we may not get it, maybe we'll get \$100,000.00, I don't know but the money that was given to us in this stimulus package which was given us to supplement our budgets here in the Town of Agawam – the entire budget and as anybody's familiar with our budget knows, we're in some pretty tough shape here. We've got some real problems with our budget and we're gonna have a lot more this year and we're gonna have a lot more in our School Department budget next year because of increases that were given this year in their contracts. That money - \$200,000.00 – could have gone a long way into our Stabilization accounts, our Free Cash accounts, to stabilize our tax future, not for user fees. I would suggest to the School Committee that they could put their creative caps on and come up with the \$97,000.00 if the user fees were that big of a deal. I know that there's a little bit of fluff in the budget and I hate to use the term because I know I'm gonna get some sneers but there is a little bit of fluff in that budget and I think with a little bit of creativity, they could probably come up and find it. I think giving \$100,000.00 out of the \$200,000 stimulus money, that should be designed to help our tax base and this is not a good idea to spend on this.

President Rheault – Thank you. Barbara, please call the roll?

ROLL CALL – 8 YES, 2 NO (Councilors Rossi and Simpson), 1 ABSENT (Councilor Cichetti)

President Rheault – Eight yes, two no, one absent, you've approved the resolution.

5. **TR-2011-48 - A Resolution for Refunding Bonds in the event that interest rates change to a level that would reduce the City's interest cost on existing debt (Referred to Finance Committee) (Mayor)**

President Rheault – Moved by Councilor Messick, seconded by Councilor Perry and a report from the Finance Committee.

Councilor Walsh – This was also part of our meeting on September 14th, the same people were in attendance. TR-2011-48- A Resolution for refunding bonds in the event that interest rates change to a level that would reduce the city's interest cost on existing debt. Laurel

Placzek stated that the bonds of \$6,240,000.00, which were issued in 2001 at an interest rate of 4.14% could be refunded in an amount not to exceed \$3,600,000.00, which would include the costs to reissue the bonds. If they could be refunded at an interest rate of 2¼%, the Town of Agawam could save approximately \$204,000.00 of interest charges over the life of the bonds. There was a motion to recommend to the Council to refund the bonds if interest rates change to a rate that would result in the projected interest savings by Councilor Rossi and seconded by Councilor Letellier. The vote was 5 to 0 in favor.

President Rheault – Thank you. Any further comments? Barbara, please call the roll?

ROLL CALL – 10 YES, 0 NO, 1 ABSENT (Councilor Letellier)

President Rheault – Ten yes, one absent, you’ve approved the resolution.

Item 7. Report of Council Committees

None.

Item 8. Elections

None.

Item 9. Public Hearings

None.

Item 10. Old Business

1. **TO-2011-13 - An Order Granting or Renewing a LICENSE for an Automatic Amusement Device(s) – Sinavarg, LLC d/b/a Bruburger’s, 241 South Westfield Street, Feeding Hills, MA. (Referred to License Committee) (Clerk)**

President Rheault – Moved by Councilor Perry, seconded by Councilor Messick. A report from the Licensing Committee?

Councilor Rossi – Thank you Mr. President. The Licensing Committee met and unanimously agreed to send a positive recommendation in for the passage of this license.

President Rheault – Thank you. Any other comments? No? Barbara, please call the roll.

ROLL CALL – 10 YES, 0 NO, 1 ABSENT (Councilor Letellier)

President Rheault – Ten yes and one absent, you have approved the license. At this time I’d like to call on Jessica Allen from the Pioneer Valley Planning Commission and

her entourage and they're gonna give us a brief presentation on the Zoning Review update.

Jessica Allan – Good evening. Thank you for having me tonight. My name is Jessica Allen. I'm a Principal Planner at the Pioneer Valley Planning Commission. PVPC is the regional planning agency for the 43 communities in Hampden and Hampshire Counties. I was hired by the Town of Agawam through a grant from the Department of Housing and Community Development. It was a Planning Technical Assistance Grant. The grant was for; my contract is for \$7,800.00. The grant from the state was \$7,500.00. The town is paying the remainder of that contract. So the reason I was hired is that there is a general understanding by the Planning Board and other town officials that the zoning ordinance is in need of a reconfiguration, that it's outdated, it's poorly organized and it's in desperate need of an update and so I was hired to conduct a comprehensive zoning review of the existing zoning ordinance and provide recommendations based on looking at inconsistencies with the State Zoning Act, Chapter 40A, and also identify sections that might need clarification, looking for inconsistencies in language within the document itself, also to provide recommendations based on sound planning principals that are known within the profession, encouraging some consistency with Valley Vision, our regional land use plan that we've put out at PVPC and I believe the town has received our latest copy of that, it's under review for a Memorandum of Agreement signature and also looking at the states' sustainable development principles and seeing how the zoning ordinance's consistence is with that and then finally also looking to see how the zoning ordinance could be updated to be providing some consistency and recommendations that were based out of the most recent economic development plan that was completed in 2010 and so those were the things that were initially looked at through this zoning review. The grant from the state expires in December of this year and so my work is in the process of being completed and a final report will be provided to the town based on those recommendations. My review also compliments the work that was done in 1999 by Attorney Mark Bobrowski who also conducted a comprehensive zoning review and you'll find from the memo that you have that a lot of the recommendations that I've provided are consistent with what he found in his report in 1999. So what I would like to do is walk you through the memo, you should all have a copy, an extra copy was provided to you tonight, you should all have one, the memo's organized in basically four different levels – the first level is to identify items of the highest priority, those that are in violation of current Mass. General Laws or any other federal or state laws; the second level is considered high priority – these are areas of the ordinance that are in need of a clarification due to the inconsistent or confusing standards that are currently there; the third level is medium priority issues – these would be minor amendments to existing regulations that have some confusing language or which just don't make sense based on what's in the ordinance and low priority are those issues that would take into consideration smart growth and sustainability principles also looking at being consistent with the Economic Development Plan that was done in 2010. The reason that this is broken down into chunks is for the town to consider doing a zoning re-write in basically two different ways. You can do it piece by piece, tackling the things that are the most pressing issue, that might be illegal, that might be an easy fix and sort of working down the list into doing amending the more complicated sections. Another approach is to

revise the entire document as one and do it in one full package. Communities do it different ways depending on what makes most sense in terms of local knowledge and politics. So it's up to the community to decide what's the best way to approach this but this memo is drafted in a way that basically you could tackle this in chunks if that's the way that seems to be most appropriate. Any questions with the process of this memo? Okay. I'm just gonna walk through then the memo. The biggest issue that I found that's in violation of federal law and Federal Fair Housing Laws is the definition of "Family" in the Zoning By-Law and this needs to be amended as soon as possible. Right now the definition in the zoning document says that a "Family" is defined by members that must be of "immediate kindred". This is in complete violation of federal law. A "Family" cannot be defined that way. It can be defined as "functioning members of a cohesive household" but it cannot distinguish that they must be related so the town needs to seriously consider this and make an amendment to that as soon as possible. The other item in the zoning ordinance which is of a highest priority for amendment is and it's clear that this zoning ordinance was written by a Building Inspector probably in its initial drafting but riddled throughout the entire document is reference to building materials. Mass. General Law prohibits zoning to regulate building materials. That is covered under the Building Code and so ALL references to building materials should be removed from the existing zoning document and that needs to be considered. Thirdly, the "Special Use Permit Exceptions" this is a zoning mechanism that was in one of the original Zoning Enabling Acts and is no longer allowed under Mass General Law, it was eliminated in 1975. Initially this Special Use Permit Exceptions were the pre-variance concept where it would allow somebody to go in and ask for a dimensional change and they would get a Special Use Permit Exceptions. Now we have variance language that is very strict in the state. There are elements that somebody must prove that they have in order to receive a variance by state law. None of this is currently listed in the zoning document and so this whole section should be replaced with Special Permit Regulation that is clear and has consistent standards and also there needs to be information in here regarding variances and the roles and responsibility of the ZBA. And then finally of the highest concern is language regarding non-conforming uses and structures and this was also highlighted in the 1999 report from Attorney Bobrowski. There have been multiple case studies or law cases that have shown that non-conforming structures, the local body has the ability to determine the extent of how the non-conforming structures may be extended or altered. There also is very specific language in there regarding the exemption of single-family homes and duplexes. Your current zoning document has none of that language regarding the exemption of single-family homes and duplexes and so that language really does need to be in there. That entire section should be re-written. Bobrowski's document already provides some base language that the town can look at as a possibility for that so there's already a working document that you can look at. So those are the four items that are of the highest level and need to be addressed sooner rather than later to bring your document up to legal standing. Level Two are high priority items and these are mostly standards that are confusing or inconsistent. This really sort of gets at the core of the confusion and the organization issues in the document which I believe many people have identified as an issue. First is just the organization of the document itself. There are standards for certain developments that are mixed in with definition sections, they're mixed in all over the place and it's really I think hard for the

Planning Board members and they can speak to this if this is not true but in our discussions they've said you know it's hard to know exactly what standards we need to be working off of because they're buried in different sections and it's a perfect example is the signage. There is a signage by-law but then riddled throughout the zoning district sections there's information on signage in each of those other districts and so you're flipping back and forth and it makes it difficult – not just for Planning Board but also for the development community when they come forth to do a project, they're trying to find what standards they need to meet and it ends up taking more meeting time because there's a back and forth because those people aren't clear as to what they're supposed to do. Also, a very simple thing is going from a Roman numeral system to a Decimal system. It makes cross-referencing much easier. You can cross-reference within the document. It doesn't get confusing. People are forgetting what Roman numerals are and what they reference to so just making a simple transition to a Decimal system – we always recommend for our community. The definition section also needs to have a good, hard look at; there are several definitions within the document that are not mentioned anywhere else in the ordinance. We always encourage that a community looks at their definitions sections and make sure they're defining terms that are actually being used in the document somewhere else. Some of the terms that were being used are “building material” and again, that's illegal based on the state law; “hotel” and “motel” is listed nowhere else in the document except in the definition section; a “retail shopping center” you have some performance standards that are mixed in with that definition and those really need to be extracted and put into another appropriate place in the document. You shouldn't need to expect somebody to go to a definition's section to figure out what they need to do and what's the requirement for building a certain type of development. There's also some terms that are used throughout the entire document that are not defined like “housekeeping unit” it is used throughout the ordinance quite a bit – there's no definition of what that is and given that the “Family” definition is illegal, that could be some conflicts there just within terminology and then also looking at trying to establish some purpose statements for districts. A lot of municipalities have developed these, they are one or two sentences to explain what the purpose of a specific business district is, what the purpose of a specific residential district is, that not only helps folks that are trying to develop within these specific zoning districts but when you organize the document, you can look at a table of uses and determine whether this is truly meeting the intent of the purpose of this district. So simply taking some time to draft what the vision or the mission of that zoning district is could help organize the document in itself. I had mentioned the “Special Use Exemption”, there needs to be some criteria for consideration and granting a special permit, providing guidance on the application procedure, the contents required, again, having a really clear permitting process is only going to help in terms of economic development. If somebody knows what the rules of the game are, they're gonna be able to meet those rules a little bit easier so being very clear with that language is helpful. There is a section on Site Plan Review which is tied to the Special Permit Process but Site Plan Review is something that can be used by communities to provide some review process for by-right uses. It appears that it is being used that way in Agawam but to be very clear about that and to develop a table of uses that says yes, this use is allowed by Site Plan Review in this district but it requires a Special Permit in that district; it requires just a higher level of review under the Special Permit process. Site

Plan Review really is sort of a Special Permit light that provides some reviews, some comments, some consideration but you can't deny a Site Plan Review because it's for a by-right use unless the application is incomplete. So having that process, again, just allows another level of review for those types of uses that you don't want just walking up and getting a Building Permit for but you don't necessarily want to make it so difficult that they have to jump through a lot of hoops and make it expensive for the Special Permit Process. I've mentioned a Table of Uses. A Table of Uses is a very handy tool to have in an ordinance. It just organizes all of the uses in all of the zoning districts in a matrix. It's easy for reference. The way that the system is set up right now, it's kind of like a pyramid. You have to start at the first section, you have to see what's allowed there, then you go to the next section, we're gonna allow everything in the first section and all of these additional issues. It makes it very difficult for people to understand what they can do where so putting it into a matrix format is just easier for the Board as well as those that are trying to develop in specific locations. Again, just putting in a matrix or chart for dimensional standards. They are sort of riddled throughout each of the zoning districts' language and so having that in one location where somebody can quickly reference a chart and find out what the dimensional requirements are within that location or for a specific use is extremely helpful and then finally, it's my understanding that the Board does not have parking standards but they have a document that they use as sort of a reference. It would be a good idea to adopt some, to formally adopt, some parking standards and to while you're doing that you could just model what's out there, but there's a new way of thinking about parking. It's called "Smart Parking". It's trying to reduce the amount of impervious surface and not having to put parking spaces absolutely everywhere and thinking about the amount that we're doing. So setting, some of the techniques of "Smart Parking" are setting minimum and maximum parking standards, shared parking requirements, bicycle parking standards and incorporating on-street parking into parking requirements so thinking a little bit more creatively about parking so if you're gonna be doing that you might as well think a little bit outside the box in where communities are going in that regard. Level Three is the medium priority items. Right now you already have an Open Space Residential Development (OSRD) Ordinance on your books. The problem with it is that, you are, it's a little confusing because it's saying that the minimum lot size for a development of that type is one acre however they're only permitted in a zoning district where the minimum lot size is 15,000 – 17,000 square feet. The purpose of an OSRD is to cluster housings on one portion of the property and protect Open Space in the other. A great idea in concept but when somebody can walk in and build a minimum lot sizes of an acre and not have an Open Space Requirement, why would they go through the process of going through a Special Permit Process of having to build smaller lots to protect Open Space, from a developer's point of view, it doesn't, there's no market to that, so you might as well do what the conventional zoning is allowing. So my recommendation is either get rid of the ordinance completely or re-think it so that it actually makes sense and putting it into a larger lot residential zoned so that you are actually reducing the size of each of the lots. The Industrial District – we recommend that rather than trying to list every industrial use you could possibly think of because technology is changing so fast and you have a lot of uses in here that are just not around anymore – slaughter houses for one, tanneries – that you create a really clear performance standards to prevent nuisance issues with industrial areas rather than trying

to list everything that you can think of. Home Occupations – you do have some Home Occupation language, it's a little bit buried under one of the zoning districts, under Resident A-3, so we suggest that you pull that out and put it in its own section and think about other locations that it might be appropriate rather than just one zone and then to expand that thinking about hours of operation, number of employees, parking, etc., so expanding that language a little bit. And then signs, I had already mentioned that you already do have a Sign Ordinance however, there's other sign language that's throughout other sections of the document. I didn't have the time to look to see if it conflicts with one another and so it would be important to take a look at that to make sure that the language isn't conflicting and if so, you need to resolve those conflicts. So lastly, the Low Priority items – these are items that we are encouraging that, for smart growth and sustainable development principles – one is the idea of the Mixed Use Building and the Mixed Use Village Overlay District. This would allow a community to provide a mix of uses in one building or within one zoning district to encourage pedestrian walking, commercial and residential all in one area, this is something that would be very appropriate given what came out of your Economic Development Plan, specifically, for the Tennis Road area and the Walnut Street Extension, those are the key concepts and ideas that were in that plan so it would make sense to at least consider that for some locations. Also, Accessory Apartments which allows supplementary housing that can be integrated into existing residential single-family neighborhoods; Low Impact Development Standards which is a way to think about storm water management rather than a piping and culvert system, you're treating storm water on sight through natural drainage system. It's a more environmentally sound way to deal with storm water and then finally Green Development Performance Standards, these are standards which think about different Green Technologies and Green Site Development as part of a commercial or industrial development so you could add those as part of a separate. So that's all of the different items that I've highlighted. The next steps are to put all of this information into a more expanded report by the end of the calendar year providing examples, model by-laws, anything that the town wants in terms of information for moving forward.

President Rheault – Thank you for a complete presentation. I would think it incumbent on the Zoning Committee to follow up on this as well as the Ordinance Committee to in concert and the Planning Board, obviously. Are there any questions at this time? So thorough, there are no questions.

Jessica Allan - Thank you very much for your time.

President Rheault – No, thank you.

Item 11. New Business

- 1. TR-2011-49 - A Resolution Raising Exemption Amounts for Senior Citizens Pursuant to General Law Chapter 59, Section 5, Clause 41C (Mayor)**

President Rheault – Next Agenda. That should go to Finance and Ordinance. I would look in the Town Code to see if we need to make some changes in that respect.

2. **TR-2011-50 - A Resolution Adopting Massachusetts General Law Chapter 59, Section 5, Clause 41D (Mayor)**

President Rheault – Next Agenda. Same to the Finance and Ordinance.

3. **TR-2011-51 - A Resolution to Attach Exemption and Asset Limit Amounts for Senior Citizens, Surviving Spouses and Surviving Minors to the Cost of Living Adjustment (Mayor)**

President Rheault – Next Agenda, Finance and Ordinance as well.

Item 12. Any other matter that may legally come before the City Council.

President Rheault – My furthest right, Councilor Bitzas?

Councilor Bitzas – Thank you Mr. President. I just wanted to remind you and the people that are watching us, keep the date open for October 22nd. I know we mentioned at the last meeting, we have three Rotary Club members – Mr. Walsh, Mr. Magovern and myself – the Rotary Club is to have a great event on Saturday, October 22nd. We have a five member band, very famous band; we have the High School 75-member band, also the cheerleaders they come to perform. The big event will be a many car, antique cars, and we have a lot of food and entertainment for the kids and all this be for free, no charge at all, even for the car show, antique car show, so more information will come to you; you can see some of these posters around the town. So just keep your date open, Saturday, October 22nd, at Phelp’s Schools, Veterans’ Green from 10:00 to 4:00. Thank you.

President Rheault – Thank you. Councilor Simpson?

Councilor Simpson – Thank you just briefly, just a reminder I talked about this at last meeting, on October 2nd the Simpson family will be walking in the Out of Darkness Walk for Suicide Awareness and Prevention and if anyone wants to join the team or walk or donate they can go onto www.outofthedarkness.org and join up, it’s for a really great cause. Thank you.

President Rheault – Mr. Magovern?

Councilor Magovern – Just very briefly, I just want to say I’m very unhappy with the vote this evening on that 61B. There attorneys said it was not 61B, our Assessor said it was not 61B, our tax person said it was not 61B, everybody I’ve talked to within authority said it was not 61B and I don’t know why something like that would have been tabled. It’s just totally beyond my comprehension as to why you would table something when it is totally not 61B as stated by every legal opinion that I’ve spoken to and I don’t think it’s taking the developers into consideration when they’ve already expended thousands and thousands and thousands of dollars to develop that piece of property and

then you come in at the eleventh hour and say that they can't purchase that property or you table something that if you want to vote it up, you vote it up, if you want to vote it down, you vote it down but I don't see why everything has to be tabled. Thank you.

President Rheault – Councilor Mineo?

Councilor Mineo – Yea, the only thing I'd like to say and I'm pretty happy that the fees were eliminated this year. I don't know what's gonna happen next year but we'll see what happens next year, hopefully we can maintain that. Thanks.

President Rheault – Thank you. Councilor Rossi?

Councilor Rossi – I would just like to give a cheer for the democratic process.

President Rheault – Rah! Rah! I'd like to just state that each of the Council has received a revised set of Rules that Barbara spent a great deal of time on and we are facing towards the end of the year and one of our responsibilities is to provide the new Council with a set of Rules and I think it incumbent on us to act on those as soon as we can to formalize them so they receive the new copy rather than the old and hopefully Gina will get well enough soon to call a meeting and resolve that. If anybody's got any different ideas, obviously, they are very welcomed to come forward. Councilor Walsh?

Councilor Walsh – I have nothing tonight, thank you.

President Rheault – Councilor Cichetti?

Councilor Cichetti – Just to clarify on my abstention on TR-2011-46. It is because of my relationship when it went under contract with the developer.

President Rheault – Thank you. Councilor Messick?

Councilor Messick – I'd just like to thank the members of the Planning Board who came tonight in case they did need to answer any questions. I really appreciate them making the effort to be here and we will be working on the zoning revision. It's a long time overdue. Thanks.

President Rheault – Thank you. I echo those sentiments. Councilor Perry?

Councilor Perry – Yes, thank you Mr. President. Just one thing this evening, I want to personally thank George for his efforts on the ceremony on 9/11 in front of the Fire State. It was a beautiful ceremony George. I tip my hat to you. Thank you publicly and I thank everyone who participated. It was a great ceremony. Thank you.

President Rheault – Go ahead.

Councilor Mineo – I just wanted to let you know that Councilor Walsh and I did attend that. We were standing off to the side. There was no enough seats for us to go up but that's okay we were, I know Councilor Walsh could say for himself but we were both happy to attend that. It was a very nice ceremony.

Councilor Bitzas – Thank you Councilors.

President Rheault – I have nothing further so I'll entertain a motion to adjourn. Moved by the Council, seconded by the Council, all those in favor? Thank you. We are adjourned and good evening.

Adjournment.