

METHUEN CITY COUNCIL SPECIAL MEETING
MONDAY, JULY 28, 2008 – 7:00 P.M.
GREAT HALL, SEARLES BUILDING

Chairman Lahey called the Special meeting to order at 7:00 p.m. with all members present.

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to accept the agenda as posted. UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to remove TO-08-03 from the table. UPON VOTE: UNANIMOUS.

PUBLIC PARTICIPATION

Paul King, 8 Sycamore Road, said he received notice of the proposed zoning in or around March or April. When he looked at the map it appeared that previous areas that were RD were being moved to business limited to only two to three houses off of the corner of Jackson Street and Pleasant Street. He said he called up the Community development department and they basically said to him (from his memory) that his read is accurate, no reason to come to the meeting. It really wasn't going to be an issue up for a debate. It was called to his attention that after the initial notice was sent out (if you look at your map) the area as of last week was expanded from two to three houses (based on his memory) to about twelve houses and two parcels deep. He had raised some concerns about notice – when this was called to his attention he did call Karen Sawyer and a number of Councilors. When he was on the phone with Karen, he was out of the office. She called him back thirty minutes later saying he was right. There was an issue about notice. His memory of the conversation was this business limited was only two deep from the corner of Jackson and Pleasant Streets. It would be moved back for the purpose of submitting it to the City Council due to different notice issues, he did exchange several emails with Councilor Willette and in turn Karen Sawyer. He distributed copies of the emails for Councilors' review. In the initial response from Karen Sawyer it appears that she does acknowledge that initially the map showed that the business limited would be expanded only three parcels over from Jackson Street, which is near the paper road. Her subsequent emails state no, the map shows that it was approximately six parcels in. He doesn't have the original map and is going by his memory. He requested that if any areas over on the Pleasant Street and the Jackson Street corners are going to be rezoned, he asked the Council to keep it residential as that's a neighborhood, mostly residences on that side of the street. He suggested that having the mixed use would be detrimental to everybody who has moved in there thinking it was a residential neighborhood.

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He moved in on Sycamore Road thinking it was kind of a U shaped road and this is where he could raid his family. If the city allows business, it would be in his backyard. He objects to the way this was done. If Council is going to include business limited spots in that area, he asked that it be limited to initially what the map showed originally, two to three lots. He referred to the business limited those ventures all the way down into Bruce Street, stating that he spoke with Karen Sawyer and Councilor Cronin about Bruce Street being residential. Only half the street would be zoned business limited, which would be detrimental to the neighborhood. He said Karen Sawyer acknowledged to him that it doesn't make any sense having the business-limited stretch out that far, abutting the Bruce Street residential condo complex. Someone could move a business, i.e., lawyer's office, doctor's office, etc. into the residential condo complex and that would be detrimental to all the residents in that condo unit. It also appears that parking is usually an issue. His primary concern as a resident of Sycamore Road is that the business limited seems to be stretching out from the Loop down six parcels deep from the corner of Jackson and Pleasant Street.

Chairman Lahey announced that once public participation was done, the Mayor and Karen Sawyer would address residents' concerns.

Jim Robertson, 2 Wilson Street, presented to the Council forty additional signatures of residents in opposition of the project proposal on the north side of Haverhill Street. The traffic is horrendous and to add additional traffic would cause resident to use side streets into the residential neighborhoods. It would also bring more crime into the area. He thanked Councilor Pappalardo for her assistance and the excellent job she's done.

Scott Foster, 33 Camden Street, Arlington Neighborhood questioned why there is a need to increase the zoned business lots. He doesn't understand why 135 Camden Street and the adjacent property 40 Lawrence Street are on the proposed zoning map. Their neighborhood has worked hard at trying to maintain the number of residential properties and not increase mixed use or areas zoned for business. His concern is the type of business could increase traffic through the neighborhood, resulting in kids hanging around in cars in parking lots and he doesn't want to see that in their neighborhood. He noted that the Camden Street area has seen an increase in traffic due to people trying to avoid the Downtown Square and traffic signals.

Linda Soucy, 8 Kirk Street, said she and neighbors have discussed this and they wouldn't have a problem if the business were a doctor's office or similar business. They already have sixteen auto body shops within 14 streets and six liquor stores. She can understand 40 Lawrence Street as its right on the main road but not the Camden Street property. They've spoken to the Mayor and Karen and any consideration would be appreciated.

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Jack Burke, 49 Canobieola road read the following statement: “What are you voting for tonight? What ordinance do you have before you? The city website shows Comprehensive Zoning Ordinance 1989 revised through March 10th 2008. Is that what you have in your packets? What does the Comprehensive Zoning Ordinance of 1989 state about adoption? Well, Section 13B is entitled Adoption and Amendments and says “no vote to adopt any such proposed ordinance or amendment shall be taken until a report with recommendations by the Community Development Board has been submitted to the City Council.” Are the proposal before your tonight the recommendations of the Community Development Board? Were they arrived at in open meeting session and approved and forwarded to your attention or were they more likely the recommendation arrived at by Mayoral brokered meetings? The Charter for the City of Methuen is clear, Article I, Section 1-3 states the administration of the fiscal? Prudential? And municipal affairs of the town with the government thereof shall be vested in an Executive Branch to consist of the Mayor and a Legislative Branch to consist of the City council. The Executive Branch shall never exercise any legislative power and the Legislative Branch shall never exercise any executive powers. What does this mean? I submit the following written by Judge William Rowley in 1829 in a book he wrote about government that was taught at West Point from that point until a date just before the Civil War. I’ve paraphrased the section entitled” Of the Executive Participation in the Legislative Power” It states the Chief Executive partakes of the legislative power under wise and cautious qualifications founded as the whole frame of our government is founded on their tendency to promote the interests of the people. He does not originate laws or resolutions. He takes no part in the deliberations on them during their progress. He does not act in relation to them indirectly by advice or interference of any sort until they have passed the legislature. It is only when your operations are concluded that his power begins. I propose the Mayor has overstepped his authority in regards to this legislation. I am sure that he will disagree with my assumption. What do I recommend? I seek someone with courage and conviction and not political self-interest. That person needs to step forward tonight and constitutionally object tonight to this proceeding and this proposal. The measure next proposed should be vetted by the people and not brokered by the Mayor. I thank you for your patience.”

Aidan Flynn, 6 Myona Street said it is his understanding that all current property zoned as residential in regards to 126 Merrimack will remain residential and unchanged by this plan. He thank the City Council for its patience and assisting the residents in their neighborhood in resolving the zoning issues at 126 Merrimack Street as well as helping them deal with other issues. He believes the remaining issues will be resolved with Council’s continued support. He also thanked Chief Lavigne and her department for their efforts. The residents are grateful for all the support received from the Councilors, the Mayor, Karen Sawyer and the police department.

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Scott Round, 14 Myona Street, re-enforced what Mr. Flynn said. It's been very emotional and he can certainly sympathize with all the other residents in town and what they're going through. It's very draining and he just wanted to thank everybody for the help and consideration shown. It's been a long battle and they're making progress in the right direction.

Samuel Malignaggi, 40 Fairview supported what Scott Round and Aidan Flynn said. He thanked the Council for coming out and touring the property and listening to the residents.

Guy Ambrosio, 19 Glen Avenue, spoke in opposition to the Haverhill Street development because of traffic issues and what the residents have been going through. The traffic has grown over the years and is a nightmare in the west end. The traffic on Glen Avenue some nights is unbelievable, all night long, cutting through from Haverhill Street to Riverside Drive. He can't imagine what it would be like with more businesses on Haverhill Street.

Irene Smith said she's lived on Broadway for twenty-eight years and has seven children. She asked the Council: "How many of my children got hit? Can you answer that? How many accidents on Broadway between Rosewood and Dunkin Donuts per week? Council can't answer that because they don't live there and have to endure it." She has to face all the snow blowers, street sweepers, plows in that parking lot, and all the fumes going into her home. They can't sell their house because who would buy it. They can't get out of their driveway without getting hit by an 18-wheeler. "Are you being fair leaving four houses?" Council is not being fair, not even being realistic. She hoped they'd work with her. The sidewalks didn't get plowed and her children had to walk on Route 28 and if they went to the Library they'd have to cross the main bridge that was not plowed either. She asked for reasons why the main plan was changed and if Council has the right to choose what their life is going to be like. The residents were not notified of meetings and the proposed changes.

Evelyn Lacroix thanked Councilor Pappalardo for inviting her to the meeting with the Mayor and Karen Sawyer to help clarify some of the issues on Haverhill Street. She thanked everyone who had input in extending Haverhill Street on the south side as residential up to Madison Street. She would like to see it also extended to Cypress Street because there are businesses in Lawrence after that. She'd like the whole neighborhood north and south side to stay residential if possible. People in the neighborhood walk to the supermarket, etc. The map shows four or five deep onto Strathmore onto Glen onto Madison. She experienced this same problem when she lived on Oakland Avenue and the neighborhood was zoned neighborhood business from Lowell Street up onto Oakland Avenue. She's afraid that these residential areas or the business areas that are on Madison to the Lawrence line show businesses going in five or six house lot in to the neighborhood. The Planning Director basically said they would do a site review and it wouldn't necessarily be affecting that neighborhood. But she would like to see it pertain to just the front lots, not the back lots, but would accept what is in place. She said if there's any further changes to business, then she'll petition the neighborhood to go back

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to residential as much as possible. She thanked the Mayor and the City Council for keeping her informed.

Sharon Ployer, 2 Wilson Street, said she also attended the meeting with the Mayor and Councilor Pappalardo. They decided to meet again on Friday morning on Haverhill Street so the Mayor could walk Haverhill Street and see the traffic. He went off in one direction with one gentleman and it's now placed in writing. She thanked the Mayor that 91 and 93 Haverhill Street will not be rezoned in the back. Ms. Ployer asked when the police department and the Mayor would be co-ordinating efforts regarding traffic and signage for this area. She thanked Councilor Pappalardo for being in attendance and noted Councilor Quinn was not.

Councilor Quinn stated she was not invited.

Sharon Ployer said Councilor Quinn did not go out and speak with the residents. Councilor Pappalardo did and stood by them and she just wanted to say thank you.

Dorothy Kalil, 8 Oakridge Street, said she doesn't usually get involved with zoning issues as long as the ADCON is protected. The 2-acre zoning has been her main concern for many years. She said she went to a meeting at the Marsh School regarding this proposal. There were a couple of Councilors there, Community Development, and a few police officers also in attendance. When they entered the room at the Marsh School, they were all given a different color-coded piece of paper (pink, blue, green, yellow, white), not knowing what it was for. After the company that was hired to do this work spoke and after Karen Sawyer spoke, they were told they were to be broken up into smaller groups and the groups were color-coded. She didn't bother to go to that group meeting because people in control of this, realtors and developers, were holding these. She said she doesn't have to site with a developer or a realtor and express her opinion on zoning nor does she want to listen to their opinion because they have their own agenda. She said she has a problem with the way this entire zoning map is being presented and believes at the last Council meeting it was suppose to come up for a vote but the resolution was withdrawn by the administration. It makes her suspicious and it was obvious to her that it was withdrawn because there were not enough votes to support the plan and the Mayor needed to work with certain Councilors in order to get their vote. Based on public participants, she guessed that some of the issues in their districts they were concerned about were met. In fact, she thinks that every Councilor who met with the Mayor relative to a particular interest they had with the zoning map was resolved, except for one and that's Haverhill Street. There's one Councilor sitting here that has not been able to satisfy the residents that are still complaining about this. To her knowledge zoning measures of this nature coming before the Council have always gone on the ballot. She asked the Council to put this on the ballot and let the people of the community decide how they want to live because none of the Councilors know what certain areas are facing, what certain people are going through and they should have the opportunity as the bill paying public, the taxpaying citizen, the voting public, to decide their own neighborhoods.

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Chris McEvoy, 461 Broadway, said he attended several meetings about the Master Plan. Last Monday he picked up the newspaper and found out that he was left out of that plan. Someone decided to change it. He asked if it was true that 471 south will not change.

Chairman Lahey said the Mayor would address all of the concerns section by section.

Mr. McEvoy said he read in the local paper last week 471 South will not be included in the plan. Today, he heard two parcels have been added and that one parcel abuts his property. If that were the case, he would like his property added. His neighbor spoke the truth. It's horrendous to live on that road. It should be rezoned for commercial business, something other than residential. It's sheer gridlock. It makes sense for the City of Methuen to receive taxes from that type of zoning, not in homes that can't be lived in. When he began following this master plan, he was included. No one notified him that he is now excluded. He read it in the paper and he is being told today that two parcels have been added this afternoon. That parcel abuts his property and he is asking the Council to look one more time at that and add 461 Broadway.

Colie Ryan, 11 North Lowell Street, spoke in favor of the plan to clarify our zoning, noting that some very smart, hardworking city employees and volunteer board members have invested a lot of time and energy in their efforts to improve our city with the total package of a Master Plan and this very important part of that, the zoning map. Becoming a city many years ago, we've taken on many responsibilities. One of those was to provide our residents with a long list of services, which are not easy or inexpensive to provide; i.e., a full time, fully equipped police and fire department, many new modern schools, which he believes provide our children with an excellent public education. The vast majority of Methuen residents have public water and sewer available to them, have trash and recycle pick up. We have many well-kept and safe parks and ball fields. These are many of the things most American cities strive for. But these services come at a price and as we saw in our last budget which the Council and the Mayor's office worked very hard to rectify and pass that each year we look harder for more ways to create revenue. Every year we have no problem coming up with more expenses for our city and very few ways, other than raising our property taxes, of generating revenue. This is an opportunity for the city to generate a new form of revenue in tax dollars from commercial properties. This is a unique opportunity for this Council to take a step in the right direction towards the future and ensure the quality of life, vision of services, which our community has become accustomed to. He supports this plan as a way to generate the commercial tax dollars we need to grow as a city in a financially responsible manner.

Roger Bergeron, 5 Moody Avenue, said he read a little bit about the special permits for adult entertainment. In the special permit requirement section, there are several requirements which have to be met, including a number of establishments per population, a requirement that any establishment be located at least a quarter of a mile from any residential zone and any other permitted adult entertainment establishment and the requirement to stay at least a half mile from an establishment that serves alcohol. He asked if these measurements are fixed or if they can be changed by special permit. That's

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very imperative to know. For example, if there are two streets, one to the left and one to the right and there is an alcohol establishment a half mile from where they want to put the new adult entertainment center, does the half mile distance have to be on the same roadway. He also asked if it is essential that the city include adult entertaining in the zoning bylaws.

Councilor Willette said yes, by law, constitutionally unfortunately.

Mr. Bergeron thanked the Council for listening. He thinks the plan is generally very good and he endorses it.

Mike Clancy, 6 Strathmore Road, stated he is against this zoning, noting that five to six years ago somebody on Haverhill Street tried to get a business only zone and it failed. Now it is part of the Master Plan and he'd like to know how it became part of this plan. He said anything of scale should at least have a traffic survey. Haverhill Street is a very busy place. Further down from the proposed change there is a big strip mall; there are several places on Route 110 being neglected. The old Near East Bakery is just sitting there. He asked why it couldn't be changed to that location or the old farm further on heading towards Dracut. The Master Plan should include all the neglected area first and foremost before we start tearing up residential areas. He thanked Councilor Pappalardo for her help, noting residents obtained seventy-four names against the plan on Haverhill Street. He suggested putting a hold on the Master Plan and build what we already have.

Frank Foderaro, 122 Haverhill Street, voiced his opposition to the new rezoning program for several reasons. He read about it in the paper to rezone the business area from the YMCA up to the Lawrence line on the north side of Broadway. He counts seven or eight or nine active businesses in that area. 122 Haverhill Street is directly across from the YMCA and he can see the traffic going both ways, all day, every day. It doesn't matter what you put there, it's going to exacerbate that problem and it's a dangerous situation now. He said he hoped the rumor is incorrect regarding a Walgreens in that area. There is a problem with crime as well. He asked how rezoning would help broaden our tax base. Anything at all that's going to increase business on that particular stretch of land is going to present a greater danger to the citizens of Haverhill Street and also require more money for police cruisers and police to monitor the area.

Mayor Manzi said, regarding the adult entertainment, the obvious answer to the last question, that we do need, unfortunately an adult zone. The special permit requirements cannot be waived and would have to be upheld. The Solicitor advised him that the buffer area would be property line to property line regardless of any intervening public ways.

Chairman Lahey said the individual on Sycamore Street was concerned about the zoning change going up Pleasant around Jackson. He had discussions with Karen Sawyer.

Karen Sawyer reported that she just spoke with Mr. King. He was looking at a different part of the map. She oriented him to the correct portion of the map, the map that was initially given to Council in April. He understood that there were a total of six parcels along Jackson.

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Mr. King stated that he spoke with Karen Sawyer a number of times and she has been nothing but professional. He hoped that anything he said was not viewed to slight her in any way. When he presented himself to the Council it was based off his memory, his read of the email, and the phone conversation with Karen. They talked about the two or three what are six parcels, he had explained to her he was out of the office and didn't have the information in front of him and hasn't been able to find it online to substantiate it. If he is mistaken, he apologizes to Karen because she has been nothing but professional. He noted that he never received notification, especially regarding the business limited going down Jackson Street and the business limited coming up.

Councilor Cronin asked Karen Sawyer to clarify where the line is now.

Karen Sawyer said, looking at the triangle, there are a total of six parcels along Pleasant Street across from what is currently zoned limited business. There are a total of fourteen parcels involved in proposed rezone of that area.

Councilor Cronin asked if it is right across the street from the Route 213 ramp.

Karen Sawyer said coming from the Searles Building, down Pleasant Street, six parcels past Medford Street is where the proposed limited business zone would start and that is directly across from and at essentially the light onto 213.

Chairman Lahey asked if the Lawrence and Camden Street concerns were addressed.

Mayor Manzi said he understood 40 Lawrence Street was less of a concern than Camden Street. Karen Sawyer will address the fact that it is a contiguous line and we go into that with a continuous line of business highway, so it was a continuation of a corridor but it is proposed business highway.

Chairman Lahey asked if that pertains to Camden.

Mayor Manzi said this is Camden and Lawrence.

Karen Sawyer said that is correct. She reminded everyone of the dimensional requirements to do anything in that zone; i.e., 100 feet of frontage, one hundred feet of width and would need to be at least sixty feet between a commercial building and a residential lot line. It would not be possible unless you were talking about an assembly of parcels.

Mayor Manzi said he was asked, under the current configuration with the zone, if something could be put there. He understood it could not, unless you assemble lots.

Karen Sawyer said they have no knowledge of any plans for anyone to develop anything there. The thought process was to draw a corridor from what already emanates from the George's Bakery site as business highway.

Mayor Manzi said Myona Street is resolved and it has been resolved for some time. The corridor that was residential remains residential as well as the small portion that was in question. The process is ongoing to assist the neighborhood in solving some of the issues not related to zoning, certainly related to their quality of life and he thinks the residents themselves feel we are on the right path here.

Councilor Willette recognized Linda Soucy from the audience and noted she would like to speak on a past item.

Linda Soucy asked for clarification - that if they parcel 135 Camden with another parcel, then someone can put whatever they want in there.

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Mayor Manzi responded, no. Karen Sawyer also responded no.

Karen Sawyer said first they'd have to meet the dimensional requirements and then we can look at the Table of Uses. But pretty much every use allowed in the business highway zone would require a special permit from the Community Development Board.

Linda Soucy asked how the residents would be notified of that.

Karen Sawyer responded that direct abutters and abutters within 300 feet would automatically get notified.

Linda Soucy said they are all businesses. It's not going to help the residents. If its business neighborhood, that's a different story.

Mayor Manzi said the problem with that is its not contiguous. One parcel cannot be business neighborhood if everything else is business highway. That's a spot zone and that creates a legal issue for us. The answer and the question was raised can you do something with that lot and the answer obviously is no, you can't.

Linda Soucy stated that Karen Sawyer said if you put it with another parcel, you could.

Mayor Manzi said you have to aggregate lots in order to do that.

Linda Soucy said with 40 Lawrence Street becoming business highway then you could aggregate that to 135 Camden Street because it is right beside it.

Karen Sawyer responded that she didn't have the dimensions of those two lots together

Linda Soucy said the house beside that is already zoned and now there are three houses in a row.

Mayor Manzi said they would have to aggregate them, common ownership. It would be business highway but they've added protection of the special permit requirement that means a hearing and the board can deny the special permit.

Linda Soucy asked if there is anyway to notify the neighborhood organization if this goes forward instead of just notification to direct abutters.

Mayor Manzi said he would include Linda Soucy on the abutter list.

Karen Sawyer reiterated a point about Myona Street and 126 Merrimack Street. She said not only did the rear parcel of 126 Merrimack Street revert back to residential D but also 4 Myona Street reverted back to residential D as well. It's an empty lot used for parking right now.

Councilor Leone said Mrs. Soucy is more concerned about what types of businesses can't go there. There are a couple of specific types of uses that she is very sensitive about because there is an overabundance of them in her neighborhood now, specifically auto body shops and liquor stores. She needs some assurance that those types of usage are not automatically going to be in that zone.

Mayor Manzi said most of the uses are Special Permit and if those uses were allowed in the business highway it would be SP.

Karen Sawyer clarified that uses Councilor Leone is talking about are only allowed through Special permit not by right.

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Mayor Manzi said Broadway is a difficult question to answer. The original proposal was to include all of the parcels down to Rosewood. In order to achieve some semblance of consensus on that, there were multiple neighborhood meetings and our proposal was amended to include three lots. They brought the police in and discussed traffic improvements on Hampshire and other concerns that were raised. There is no question it is a commercial corridor. The original proposal had those parcels in it. The reality is he felt that there was not a political consensus to keep them in but that is a decision that the City Council can make. He cautioned them that the neighborhood groups have met on a number of occasions and it is somewhat of a delicate balance that was achieved. If it were the determination of the Council to include them, which would go along with his original recommendation, but it would be not what was discussed with the neighbors.

Chairman Lahey said it was his understanding that the neighborhood would be more than willing to sit down with the people on Broadway to revisit, to see what the use would be, if there were a buffer, the type of business and so forth.

Mayor Manzi said the neighborhood had the traditional concerns. He was not involved in an additional meeting between an individual over the weekend and some of the neighbors. The neighborhood asked for things that would protect the neighborhood, additional buffering, some additional plantings and he's not quite sure what else beyond that, but things that would protect the residential area in the back. Those are the types of things that can be worked out between this neighborhood and any potential applicant that would like to meet with them. The administration and staff amended the original recommendation to achieve the consensus that they thought the City Council would go along with and particularly paid heed to the district councilors that represent those residents.

Councilor Quinn said she was in favor of this originally and is favor of it now. It doesn't make any sense to leave a few houses in between business zones. There is traffic flow on 28 now and that makes no difference to anybody but the people who are directly affected particularly when they walk out the front door to the mailbox and the cars are speeding by. She doesn't understand it, if the political climate doesn't adhere to that. Council needs to get these four houses back into the proposal.

Irene Smith said she doesn't know what the riff is but her conclusion is there are four houses, her, Solomon, McEvoy and empty lots. If the riff is because of Solomon, she and her children are being punished because Solomon lives next door and owns property there.

Chairman Lahey said discussion would be limited to issues not accusations.

Councilor Willette said he's never personalized any issue on the Methuen City Council. He voted against granting Lowes to go into that location and was concerned about the traffic a long time ago. Once Lowes was approved, that very same night, people came forward and wanted to be added as commercial. There are people who are concerned. He's going to vote against any commercial expansion in that area. From the very beginning he was concerned about traffic. There is an empty lot and Staples. This is going to benefit Salem, NH.

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Councilor Cronin said he's been almost twenty years on this Council on and off. Every time this issue has come to Council (it has numerous times over the years), he's consistently voted "No", Joe Solomon or not. These neighbors live there and they do have a problem. If they leave, they are going to leave their problem with the neighbors behind them and that's why these neighbors are opposed to it. That's why they are afraid. If someone would visit with those neighbors, show them what kind of building is going to put there, show them its going to be a nice building and a nice facility, not a barroom, Dunkin Donuts or a fast food chain. He suggested meeting with the neighbors to show them a proposal and include some guarantees.

Councilor Quinn asked if the Council could propose that the neighbors do that.

Councilor Cronin said he thinks the neighbors would be willing to meet on a one to one basis or as a group. They want to know what's going on the property. They don't want to be left looking at the back of a block building with dumpsters and trash behind it.

Brenda McEvoy, 461 Broadway said she doesn't want a McDonald's or a Burger King there. She suggested a hairdresser, a dog grooming shop, something small, something that fits with that area, not a great big building. She's not looking for millions of dollars for her property but would like to get market value for it so she can leave. They don't like the traffic and its difficult going in and out of the driveway. Its not a great place to live, but it would be great for a very small business, great exposure, an insurance company, something small, nothing elaborate, nothing that's going to detract from the neighbors in back of them. That's all they're asking.

Councilor Cronin said he doesn't have a problem with that all they have to do is satisfy the neighbors.

Chairman Lahey asked the Mayor if he had any proposals for the Haverhill Street issues.

Mayor Manzi reported there was a meeting with Councilor Pappalardo, Chief Lavigne, Captain Haggar and the neighbors on Friday. It was their hope that they'd be able to develop a system similar to what was proposed on 28, which was quite extensive. Captain Haggar is working on it now. They'd like to do some things that could be helpful to traffic. They have made a slight change to address a direct concern that was given to him by one of the residents and he thought that when he showed it to him it was a legitimate concern and did their best to address it through the map. Councilors came to him, as representatives of the public, with issues and concerns. They met with everyone that asked and yet the administration and the staff are being criticized. They took the input that flowed from the City Council and met as requested. Nobody was told they couldn't meet. Anybody that made a request to the Mayor's office, was granted a meeting and they did their best to address concerns either through heighten enforcement, additional signage, some changes to the map that reflected what they felt were legitimate concerns. They will continue to work with the residents to address their concerns.

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Captain Haggar said he attended several neighborhood meetings, beginning first in the Merrimack Street area. The department has done a lot of work regarding 126 Merrimack Street and the neighborhood association which has become involved in the issues regarding commercial trucks gathering in the parking lots there, the noise, and the fumes coming from diesel trucks. They've also worked extensively in the Arlington Neighborhood. Two weeks ago, he was invited to a meeting at city hall regarding the Hampshire Street area, in particular the neighborhood association which he calls Hampshire Street, Rosewood Street, Melissa Circle, Bartlett, Gaywood Circle, Kimball Street, Kimball Circle and Stanley Road. The residents had many concerns regarding this area of town. As Sergeant in charge of the traffic unit and as a patrol officer, he was able to address some of the concerns of this neighborhood. Historically the above portion of Hampshire Street, between the New Hampshire border and Rosewood Street has had increased traffic flow due to motorists attempting to avoid the area around Route 28 and the Route 28 congestion. The neighborhood association expressed their concerns for public safety with violations ranging from speed violations, stop sign regulations, a cross walk that was being avoided by traffic. The department ran an accident history out there and the accident history was very low, which surprised him. The neighborhood association came back with several recommendations, (several Councilors were present on that) recommendations ranging from stop signs to relocations of the crosswalks to placing speed bumps and the most excessive of the recommendations was to shut down Hampshire Street at the Salem, NH border, basically a road block. He expressed his concerns and he promised the citizens there that he would go out there and take an honest look at that intersection of items that he knows he can legally take care of right now in regard to the area. Most of his experience and review was done using the federal website utilizing the manual on uniform traffic devices which basically states for a device to be effective it has to do five things, fulfill a need, command attention, convey a clear simple meaning, command respect from road users, and give adequate time for proper response and then basically, the design, maintenance and operation and uniformity of the traffic controls are aspects which we need to carefully consider. Some of the areas in question were the intersection of Hampshire Street and the one-way access road, which leads from Route 28 Broadway onto Hampshire Street. In past findings of this street, as an example, back in the 1950's when this street was converted from a one-way access road Hampshire Street was disconnected and dissected due to the fact of Route 213 being constructed, that small portion was never renamed officially. One of the recommendations that he came up with was the additional stop signs at the end of that Hampshire Street extension at Hampshire Road which would be the back portion of Dr. Avila's office, southbound and northbound stop sign at that location as well as (because of poor site distance) a stop sign at the intersection of Hampshire Street extension. In looking at that intersection, he believes that the "do not enter signs" there could be better properly placed, possibly recommending the relocation of these signs and use oversized signs with the additional of the long "one way" signs to be used in addition. Hampshire Street extension is a narrow road. The north side of that street currently is overgrown with vegetation. His memo to the DPW today was to trim back that vegetation. He has memos coming up to the City Council in the next several weeks for the above stop signs mentioned as well as the north side of Hampshire Street extension to be declared "no parking" zone for the entire length

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of 250' - The south side of the street, 135' from Broadway which would be just past Dr. Avila's exit. He also found that there are many people that disregard the one way as you exit Dr. Avila's office and they take a left to go out to Broadway and recommends posting additional signage across from Dr. Avila's building. He's working with Dr. Avila to repaint what he is responsible for on his property as far as the "right turn only". He then took his attention to the intersection of Rosewood Road and Hampshire Street. He found there to be a flaw with this intersection in the placement of the stop sign. The stop sign on Rosewood is 23' back from the intersection of Hampshire Street. This is caused by the flare of the roadway at the end of Rosewood at Hampshire, which does not allow that stop sign to be right at that intersection. In monitoring this they've have found vehicles roll right through the stop sign because if you come to a complete stop at that stop sign and look to your right, you're looking at shrubs. There's no sight distance whatsoever. In his memo to the traffic and DPW, he's recommending that they cut out that last 20' of the flare that comes out, relocate the stop sign straight up at the very intersection which will now provide 275' or more of sight distance to the right and also to the left. The department could then have some enforcement in that area and get that stop sign under control. The last major issue that they had was the placement of the current crosswalk on Rosewood when you take a right onto Hampshire Street from Rosewood. There were a lot of recommendations that the neighborhood found and felt that that crosswalk should be moved further northbound on Rosewood. His review was to not move this crosswalk for the following reasons: Hampshire Road as you look to the north goes in an upgrade. In his research, the crosswalk was placed on that side of Rosewood Road was because they felt that that side of Rosewood Road would have the least amount of traffic. Furthermore, the placement of that crosswalk allows the traffic coming over that peak to be able to respond in enough time for anyone who would be in that crosswalk. He feels that with the additional warning signs of the crosswalk being there as well as repainting it, and moving the sign up on Rosewood would stop any traffic taking that right from failing to see a pedestrian. Other suggestions included adding stop signs at Gaywood Circle, Kimball Street, and Bartlett Road. The other recommendation was for "resident traffic only" at this location, posting signs on Broadway as you enter there and coming up with a city ordinance to enforce "resident only" travel through that intersection. He doesn't know of any legal law in existence or ordinance in existence, which would allow them to enforce "resident traffic only". He's called other cities and towns, i.e., Somerville, Medford, regarding posting of "resident traffic only" signs. They were unable to find any instances of "resident traffic only" signs and the one sign that was posted is unenforceable due to the fact that we have a Constitution. They cannot stop people from driving on public ways. In speaking to the neighborhood of Hampshire Street, as one of the neighborhood residents shared with him afterwards, they addressed every single one of their issues brought forward to the police department, issues that he had a legal right to amend, fix, repair. On Friday he was invited to a meeting regarding Haverhill Street, where he spoke to several residents along with Councilor Pappalardo and Mayor Manzi. It is his intent now to visit and monitor a traffic plan which would include the streets between Riverside Drive and Haverhill Street in particularly Strathmore Road, Madison, Cypress Ave, Emery Street, Hemmingway, Moison, Wellington Street and what can be done to make that area a safer place. These streets that are used as a cut through from Riverside Drive onto Haverhill Street. He is in the

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process of working to make this area safer (stop signs at intersections, etc) and committed to working with many of the neighborhoods throughout the city. Daily, he hears from Councilors that traffic is the number one concern. We live in a society now that people have three, four cars to a family. Roads were built years and years ago for a lot less traffic. The department has done a lot of work with the neighborhoods present this evening. The traffic division has three speed board trailers – two of them being message boards and one is a speed board trailer. They're able to strategically divert patrols to different areas as well as using decoy cars for enforcement.

Councilor Willette requested a copy of the report.

Councilor Quinn said clarified for the record that she did not receive notice nor was she invited to attend the neighborhood group meeting. She received several calls in opposition but no one mentioned a meeting. In the past three years, she's spoken with Randy Hagggar many times dealing with the traffic problems as well as the Chief regarding these problems in that area. Traffic has been an issue for a long time and we need to fix it now.

Councilor Kannan asked Karen Sawyer what the process would be for these residents to get their house in a commercial zone.

Karen Sawyer explained that the property owner seeking rezoning would petition the City Council. The City Council would send the item down to the Community Development Board to schedule a Joint Public Hearing. After that hearing the Community Development Board would make a recommendation back to the Council.

Councilor Kannan asked if they have to petition their neighbors.

Karen Sawyer said they would need to and Community Development would help explain the process.

Councilor Giordano asked if the adult entertainment discussed is going to be located on Brooks Property on North Lowell Street and if they are zoned for that.

Karen Sawyer reported to the Council that the language currently in the zoning ordinance hasn't changed at all. The zones where it can occur have changed. Today, it could occur in the central business district, the business highway district and the limited industrial district. They took out the central business district. She further explained that Mr. Bergeron was trying to outline the requirements that need to be met in order to get a special permit. The city needs to provide some geographical areas where this could happen or it could happen anywhere. The city could be challenged and wants to be careful to provide geographic locations, which meet all the requirements, which are nowhere near residences.

Councilor Giordano stated that a couple of residents would like to speak.

Barbara Grondine apologized for arriving late (due to a School Committee meeting). She thanked Councilor Willette because she did call him about the problem and he obtained the answers. She said she understands the permit requirements and appreciates the fact that it would be harder to get it, but she doesn't think it belongs in this section at all. She also understands the state law is that the city has to have designated areas in town. It doesn't say you have to have more than one. She asked why it couldn't just be in the industrial park where there is plenty of land and not near any

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residential. There is a daycare center in that office park, doctors, and clean businesses. She can't call it (adult entertainment) anything but trash that would be allowed here.

Mayor Manzi said its currently allowed in Business Highway.

Barbara Grondine said she has the current uses (obtained from the Community Development office) and this was not listed. She compared the old to the new and this is something new.

Karen Sawyer said business highway is one of the two zones where this could be allowed. The Brooks Property site doesn't satisfy the requirements. Therefore a special permit for an adult entertainment facility could never be issued there. The city has to meet certain geographic areas.

Attorney McQuillan said the city couldn't confine a certain activity to a certain location. There's a case that came out of Rhode Island and it stated that certain geographical locations have to be made available. Case law simply says that you have to make available reasonable locations throughout a municipality for the purposes of a constitutionally accepted use. It can't be confine to one particular location.

Barbara Grondine said she doesn't consider this reasonable as it is bordered on three sides by residential homes.

Attorney McQuillan said there is a distance that they're allowed, to be established between a residential district and the district that allows the use of this particular activity.

Barbara Grondine suggested having zoned areas just for this so that this sort of thing doesn't happen in their residential neighborhood.

Attorney McQuillan said its not confined to one area. It has to be indiscriminately throughout the parts of the municipality. They tried it in one city and it didn't work.

Mayor Manzi said it doesn't work and they have vetted this through the Attorney General's office. What was referred to under the current buffer situation could not happen. It was previously allowed in the BH and CBD zoning district.

Barbara Grondine said she didn't get a zoning book. She got two sheets of paper that listed everything that was allowed.

Mayor Manzi said it hasn't changed. It was allowed. There was no change for the BH section. The only difference is they took it out of the central business district and put it into the IL district. As far as BH, they added protection, added buffers.

Barbara Grondine asked why it was taken out of the central business district.

Mayor Manzi said they thought it would be more appropriate in the IL district and not the central business district.

Barbara Grondine said it shouldn't be in the residential neighborhood.

Mayor Manzi said the buffer would prevent the area she asked about from getting it.

Barbara Grondine said the neighborhood is not happy with the zoning change. If something comes up and has to go to court, the whole neighborhood now has to get involved with meetings.

Mayor Manzi said if the city doesn't draw it properly it could end up in court and they'd not only be able to put it in her neighborhood but in any neighborhood in Methuen. We're being guided by the best legal minds in the state on this. Case law has lead to some pretty bad things for municipalities that didn't listen.

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Barbara Grondine referred to the article in Windham where they allowed it with permit and the entire town is involved in a legal battle that could have been avoided if it hadn't been allowed in the first place. All she's saying is we're asking for trouble down the road.

Paul Higginbottom, 9 Village Lane, said he's here tonight to get clarification on one issue. He noted that the residents (386 Merrimack) are in their advanced years and it is very difficult for them to come here. He reminded the Council that a number of petitions were submitted regarding the property known as 386 Merrimack Street and hopefully the issue will soon be done through the good work of many people in this building. They (the residents of 386 Merrimack Street) want to be sure the first segment of 386 Merrimack would be .75 acre of land as highway business and that was their agreement with the Community Development Department. He wanted that clarified and to be sure they're all on the same page. He thanked Councilors, the Mayor, and Karen Sawyer for all their attention to the town's people, noting Ms. Sawyer exemplified herself as a keen professional person and him in the highest fashion.

Councilor Giordano said Ms. Sawyer said the six lots on Pleasant Valley Street are going to be zoned for business.

Karen Sawyer said that is correct.

Councilor Giordano asked if the residents would be notified when this is adopted or are they aware of this now.

Karen Sawyer said everyone received notification of the proposed map in April via the water and sewer bill. Residents in that area would be notified of any proposed developments but we don't have any development at this time.

Councilor Giordano asked if anyone ever came forward on those lots.

Karen Sawyer responded, no.

Councilor Willette stated that he shared Barbara Grondine's concerns. It's been mentioned tonight that under no circumstances would an adult entertainment center facility be located at Brooks Property because you have property line to property line well within a quarter of a mile there is residential property. There is a restriction of at least a ½ mile from a drinking establishment but it was only a ¼ of a mile from a residence. He asked Attorney McQuillan if the same standards could apply to residences as a drinking establishment and have a greater boundary line.

Attorney McQuillan said it is something that would be within the province and the authority of this Council to do what they think would be a proper buffer. In his opinion, Council is not precluded from setting a policy of having a ½ mile buffer between that type of business and a residential area.

Councilor Willette said he would also like to expand the definition of a drinking establishment.

Attorney McQuillan said its any business that's licensed under Chapter 138 and 138 contemplates any sale of alcohol, whether it's a package store, a restaurant, anybody that serves alcohol whether it is drunk on the premises or off the premises.

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Councilor Willette said that is something he would like to bring forward. He said this proposal is stricter than the previous availability of the zoning and he is willing work on more restrictions if that is possible, work to expand the boundary lines as well as expanding the definition of drinking establishments.

Councilor Pappalardo said during the past week and half she's been called by many, many residents on Haverhill Street, Strathmore, Glenn Avenue and all of the streets that are in questions because of the concerns. The parcel of land in question is going to be rezoned business neighborhood so they'd be able to have small business there. She believes the neighbors here this evening are opposed to it. She reported that she had a meeting with the Mayor last Tuesday and disagreed with the Mayor when he said he sat down with every single person that's asked by refusing to sit down with one resident. The individual is a taxpayer and a citizen of this town and should not have been left out of the meeting. This individual did attend the meeting held on Friday at the YMCA and the Mayor compromised with him. The compromise was to allow businesses only on the front part of Haverhill Street going back 150' and not touching the back parts of the area. She didn't know what the Mayor was proposing until she saw it tonight in writing. The individual is present and he just saw the proposal tonight. The residents are still opposed to having businesses put on that parcel of land. There are other parcels of land on Haverhill Street that are vacant and can't be sold. They can't lease them or rent. They're empty. There is no need for any more businesses on Haverhill Street. The traffic situation is horrendous. Councilor Pappalardo thanked Captain Haggar and Chief Lavigne. They've had more police presences in the area. The plaza is a big problem. CVS is going up where Burger King is now. If more business or major buildings go up that's going to be more traffic, problems, traffic lights, signs and police presence creating a domino effect. She's heard other concerns regarding other areas in town. Councilors have made concessions and have been satisfied with the results. She is not satisfied and does not think the residents who reside on the west end are satisfied. One individual mentioned "quality of life". The quality of life on Haverhill Street is diminishing on a daily basis. There are bus stops and many children in that neighborhood and many neighborhoods that surround Haverhill Street. She lives in the area and knows what the problems are. She can't get out at the top of Forest Street and goes around into the other neighborhoods. These residents don't want the additional traffic. There is a need for more traffic solutions. Captain Haggar said he would meet with the neighborhood group. She asked that the Mayor, the Chief, Randy Haggar, Councilor Quinn and the citizens from these areas meet to further discuss their concerns. She reiterated that the quality of life in Methuen is diminishing with all the commercial property that is being put into place.

Councilor Leone asked if the regulations regarding the adult entertainment requires the facility to be a half mile from a controlled liquor establishment and asked if that implies liquor cannot be sold on the premises.

Attorney McQuillan responded, no it does not imply that if there is an adult entertainment facility.

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Councilor Leone asked if the 1/2 mile buffer requirement precludes the facility itself from having a liquor license.

Attorney McQuillan said if the facility is a ½ mile away from an establishment licensed under Chapter 138, it is allowed to sell liquor. It has to have a license.

TO-08-03 An Ordinance Amending the Comprehensive Zoning Ordinance and Map of the City of Methuen (2008 Recodification)

MOTION BY: Councilor Giordano, seconded by Councilor Kannan to divide and vote separately on amendment revisions presented in the July 28th memo

Councilor Willette asked how many votes are required.

Attorney McQuillan said six votes are required for the amendments.

MOTION BY: Councilor Cronin, seconded by Councilor Pappalardo to delete the zoning change from Lawrence line to the Stephen Barker School.

UPON ROLL CALL VOTE: 4 yes, 5 no (Clr. Quinn, Clr. Willette, Clr. Zanni, Clr. Leone and Clr. Lahey) Chairman Lahey announced the voted and noted that the motion to delete the zoning change failed

Attorney McQuillan suggested that Council read the measures individually prior to a vote.

Chairman Lahey read:

Haverhill Street – 91-93 Haverhill Street is now proposed to be rezoned BN in the front area of the lot (along the entire front of the parcel and back approximately 150 feet to a line parallel to the rear lot line of 79 Haverhill Street), and the back of the parcel is to remain Residential G (RG). Further, the parcel immediately behind 91 Haverhill Street (formally known as parcel 616-155-4B, VP Hudson Street that includes 118, 918 square feet to the rear) shall revert back to Residential G (RG).

Note regarding Neighborhood Business (BN) zoning: the BN zone is defined on page 29 of the proposed ordinance as follows: “Predominant uses include small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. Uses, which would detract from this small-scale business character, or otherwise interfere with the intent of the ordinance, are prohibited.”

Map Revisions:

4 Myona Street was proposed to be rezoned Business Highway (BH) but is now proposed to stay zoned as Residential D (RD)

MOTION BY: Councilor Willette, seconded by Councilor Zanni to adopt.

UPON VOTE: UNANIMOUS.

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465 and 469 Broadway are once again included in the proposed rezoning from Residential D (RD) to Business Highway (BH)

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to adopt. UPON ROLL CALL VOTE: 5 yes, 4 no (Clr. Pappalardo, Clr. Quinn, Clr. Willette, Clr. Giordano) Chairman Lahey asked if Council needs six votes. Attorney McQuillan responded, yes. Chairman Lahey announced the above motion failed.

Mayor Manzi explained that the two lots Council excluded by not having the six votes would be an extension that was agreed to by the neighborhood. It leaves the original three in place but the neighborhood agreed to these changes and he's not sure why anyone would want to exclude them. The two parcels were added because the petitioner met with the neighborhood to discuss neighborhood considerations, concerns, and buffers.

The Proposed rezone north of Maple Street and south of North Street from two acres to one acre has been eliminated, keeping this entire area as currently zoned.

MOTION BY: Councilor Zanni, seconded by Councilor Leone to adopt. UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Zanni, seconded by Councilor Willette to adopt TO-08-03 as amended.

Councilor Cronin said he would vote against the main motion because as the Mayor said the people that he represents made an agreement and based on that agreement they supported the change. Clr. Cronin said he's not so sure they're going to support the Master Plan as it reads without the zoning change on Broadway.

Chairman Lahey declared a brief recess

Chairman Lahey called the meeting back to order. He informed Council that they voted to take the Haverhill Street amendment out of the proposal. Now Council has to vote the amendment as stated in the memorandum July 28, 2008 for the parcel on Haverhill Street at the request of the resident.

Haverhill Street – 91-93 Haverhill Street is now proposed to be rezoned BN in the front area of the lot (along the entire front of the parcel and back approximately 150 feet to a line parallel to the ear lot line of 79 Haverhill Street), and the back of the parcel is to remain Residential G (RG). Further, the parcel immediately behind 91 Haverhill street (formally known as parcel 616-155-4B, VP Hudson Street which includes 118, 918 square feet to the rear) shall revert back to Residential G (RG).

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MOTION BY: Councilor Leone, seconded by Councilor Zanni to accept Haverhill Street amendment (7/28/08) at the request of the resident.

UPON ROLL CALL VOTE: 5 yes, 4 no (Clr. Pappalardo, Clr. Cronin, Clr. Giordano, Clr. Kannan) Chairman Lahey announced that the above motion failed.

MOTION BY: Councilor Willette, seconded by Councilor Cronin to reconsider 465 and 469 Broadway.

UPON VOTE: UNANIMOUS.

465 and 469 Broadway are once again included in the proposed rezoning from Residential D (RD) to Business Highway (BH)

MOTION BY: Councilor Willette, seconded by Councilor Zanni to adopt.

Councilor Willette noted that (through discussion with the Mayor, the Chair, and Councilor Cronin) the above was the product of concerns and discussions with the neighborhood behind Rt 28. There will be buffer zones for these residents on Rosewood and behind Rt. 28.

UPON ROLL CALL VOTE: 7 yes, 2 no (Clr. Quinn, Clr. Pappalardo)

MOTION BY: Councilor Giordano, seconded by Councilor Leone to adopt TO-08-03 as amended. UPON VOTE: 8 yes, 1 no (Clr. Pappalardo)

ADJOURN

MOTION BY: Councilor Zanni, seconded by Councilor Leone to adjourn.

UPON VOTE: UNANIMOUS.

The meeting adjourned at 9:30 p.m.

COUNCIL CLERK