

**CITY OF NORTHAMPTON WALLACE J. PUCHALSKI MUNICIPAL  
BUILDING**

Northampton, MA  
November 2, 2006

A regular meeting of the City Council was called to order by Mayor Mary Clare Higgins at 8:18 p.m. On roll call 9 Councilors were present.

Councilor Michael Bardsley  
“ James Dostal  
“ Maureen Carney  
“ Paul Spector  
“ Marilyn Richards  
“ David Narkewicz  
“ David Murphy  
“ Marianne LaBarge  
“ Raymond LaBarge

Roll called by Lyn Nuttelman, Clerk of the Council

<b><u>Minutes Accepted</u></b>	<b><u>Minutes of October 19, 2006</u></b>  Councilor Marianne LaBarge moved to approve the minutes of October 19, 2006. Councilor Bardsley seconded. The vote for the minutes of October 19, 2006 passed unanimously (9-0).
<b><u>Proclamation – Never Another Death Month</u></b>	<b><u>Proclamation – Never Another Death Month</u></b>  The Mayor read the proclamation and presented it to Joyce Rescia.
<b><u>Proclamation – Family Literacy Month</u></b>	<b><u>Proclamation – Family Literacy Month</u></b>  The Mayor read the proclamation and stated that the Proclamation would be given to Barbara Black the City’s Early Childhood Education Coordinator.
<b><u>Committee Reports</u></b>  <b><u>Economic Development, Housing &amp; Land Use Committee</u></b>  <b><u>Ordinance Committee</u></b>	<b><u>Committee Reports - Economic Development, Housing &amp; Land Use Committee report of September 11, 2006 and the Ordinance Committee Reports of August 1, 2006 and September 12, 2006</u></b>  Councilor Marianne LaBarge moved to approve the Economic Development, Housing & Land Use Committee report of September 11, 2006 and the Ordinance Committee Reports of August 1, 2006 and September 12, 2006 Councilor Bardsley seconded. The vote passed unanimously (9-0).
<b><u>Presentation - Third 6<sup>th</sup> month update on Demolition Review Ordinance</u></b>	<b><u>Presentation - Third 6<sup>th</sup> month update on Demolition Review Ordinance</u></b>  Chris Kennedy was present on behalf of the Historical Commission and stated this is the next to the last 6 <sup>th</sup> month update. The Commission has received 27 applications for demolition and 26 of the properties were determined to be not significant, 1 property is still pending. On November 13 at 6:30pm there will be a meeting for local historians to give information specific to properties in Northampton. At the first meeting in January the Commission will hopefully finalize the list of historically significant properties.
<b><u>Appointments – Re-Appointments Special Police Officers for 2007</u></b>	<b><u>Appointments – Re-Appointments Special Police Officers for 2007</u></b>  Councilor Dostal moved to Appoint Jeffrey S. Brown, Gordon R. Luce, Mitchell S. Cichy, Jr., Kenneth I. Nichols, Susan M. Farrell, Matthew A. Rice, Donald R. Fournier, Brian C. Rust, Raymond L. Goulet, Joseph M. Ustaiti, Anne Gaffney Graham (for animal control officer’s duties only) and Lori J. Speer (for court administrator’s duties only) as special police officers for 2007. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).

**Order of Taking – 8.1 acre parcel owned by Berestka in the Fitzgerald Lake Conservation Area**

**Order of Taking - City Council adopts the order of taking for four parcels of land containing a total of 8.1 acres more or less in the Fitzgerald Lake Conservation Area owned by John Berestka Jr., and Sandra Berestka. Broad Brook Coalition has agreed to donate the entire \$6,600 purchase price**

**Councilor Marianne LaBarge moved Second Reading. Councilor Richards seconded. The vote passed unanimously (9-0).**

**Councilor Dostal moved to recognize Wayne Feiden. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).**

Wayne Feiden stated that there is nothing on the property that will require any maintenance.

The following Order passed Second Reading:

In City Council October 19, 2006

Upon the recommendation of the Conservation Commission and Councilor Maureen Carney

**BE IT ORDERED**

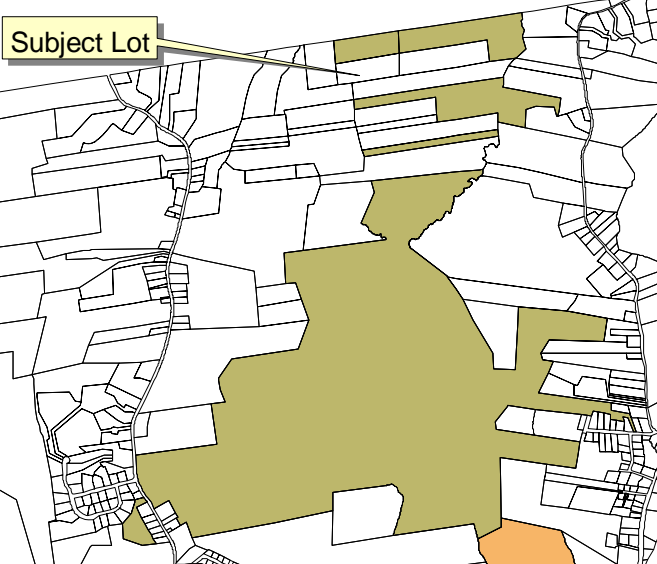
WHEREAS, the Open Space and Recreation Plan, adopted by the Planning Board, Conservation Commission, Recreation Commission, and City Council, recommends permanent protection of certain lands to be added to Fitzgerald Lake Conservation Area; and

WHEREAS, John M. Berestka Jr. and Sandra Berestka have offered to sell a parcel which the Conservation Commission has identified as an ecologically valuable addition to Fitzgerald Lake Conservation Area; and

WHEREAS, The property has some title defects that can best be corrected by a “friendly” taking; and

WHEREAS, The Broad Brook Coalition has agreed to donate the entire \$6,600 purchase price, which reflects both the City’s assessment on the property and the negotiated price for the property; and

**NOW, THEREFORE BE IT ORDERED,**



That the City Council adopts the Order of Taking, attached hereto.

**Enrolled**

Rules suspended, passed two readings and enrolled.

**Capital Improvement Program Orders –**

Appropriation of \$100,000 for Smith Vocational Shop Equipment Computers (CIP)

Appropriation of \$125,000 for pavement resurfacing of Smith Vocational parking lot (CIP)

Appropriation of \$180,000 for remodeling, reconstructing and making extraordinary repairs to three school owned buildings (CIP)

Appropriation of \$180,000 for pavement resurfacing and construction of sidewalks (CIP)

Appropriation of \$85,000 for a Police Department CSI vehicle replacement (CIP)

Appropriation of \$350,000 for engineering, construction or reconstruction of surface drains (CIP)

Appropriation of \$125,000 for the reconstruction of the Ryan Road Bridge at Parsons Brook (CIP)

Transfer of \$331,000 from the Parking Meter Reserve Fund to General Fund FY2007 Capital Program for Seven (7) Parking Division Capital items (CIP)

Transfer of \$53,000 from the Receipts Reserved Account for Ambulance Fees to the General Fund FY2007 Capital Program for replacement defibrillators (CIP)

**Capital Improvement Program Orders - Appropriation of \$100,000 for Smith Vocational Shop Equipment Computers (CIP), Appropriation of \$125,000 for pavement resurfacing of Smith Vocational parking lot (CIP), Appropriation of \$180,000 for remodeling, reconstructing and making extraordinary repairs to three school owned buildings (CIP), Appropriation of \$180,000 for pavement resurfacing and construction of sidewalks (CIP), Appropriation of \$85,000 for a Police Department CSI vehicle replacement (CIP), Appropriation of \$350,000 for engineering, construction or reconstruction of surface drains (CIP), Appropriation of \$125,000 for the reconstruction of the Ryan Road Bridge at Parsons Brook (CIP), Transfer of \$331,000 from the Parking Meter Reserve Fund to General Fund FY2007 Capital Program for Seven (7) Parking Division Capital items (CIP), Transfer of \$53,000 from the Receipts Reserved Account for Ambulance Fees to the General Fund FY2007 Capital Program for replacement defibrillators (CIP), Transfer of \$300,000 from the Capital Stabilization Fund to the General Fund FY2007 Capital Program for Thirteen items (CIP)**

**Councilor Bardsley moved First Reading on all of the Capital Improvement Orders. Councilor Marianne LaBarge seconded.**

**Councilor Bardsley moved to recognize Dr. Frank Llamas, Superintendent of Smith Vocational & Agricultural High School. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).**

Dr. Llamas stated that the projects are continuing and the three new labs that were installed this summer are really paying off. 2/3 of the parking lots have been repaved. The changes are very noticeable. The students are doing really well on the MCAS and the School is also looking into renewable sustainable energy.

**Councilor Spector moved to recognize Susan Wright, School Department Business Manager. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).**

Susan stated that the PA systems at Bridge Street School and Jackson Street School need to be replaced because they are end of their life cycle. Council previously supported a capital item for a PA system at Ryan Road school so she would like to put all three PA systems out to bid together to get a better price. There is also a district wide effort to replace the 650 computers within the School system as they are overhauling the technology. The replacement of computers will happen over five years and 23 servers will also be replaced.

Dr. Llamas added that there is a capital improvement request for \$80,000 for replacing the fire alarm system and thermostat at Smith Vocational.

**Councilor Marianne LaBarge moved to recognize Ned Huntley from the Department of Public Works. Councilor Dostal seconded. The vote passed unanimously (9-0).**

Ned Stated that Chapter 90 Funds are inadequate to keep up with \$450,000 per year in paving with constructing and repairing sidewalks. Historically \$62,000 has been budgeted per year to deal with surface drains, the Capital Improvement request was for \$350,000 to deal with surface drains so it is great news that it was approved. The Ryan Road bridge project was projected to cost \$40,000 to fix when the bids came back it was \$70,000 more than expected but it will hopefully be completed before the winter.

**Councilor Spector moved to recognize Russell Sienkiewicz, Police Chief. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).**

Russ stated that when he heard what Capital Items were being forwarded to the Council he asked Lt. Patenaude to prepare something regarding the CSI vehicle.

Ken Patenaude stated that the current CSI van is an old AMR Ambulance given to the department in 2000, it had 230,000 miles on it when it accepted in 2000. It is in pretty good shape but it is technologically out of date. Currently the Department is back working out of cruiser for crime scene investigations. A new van should last the Department 7-10 years or longer.

Transfer of \$300,000 from the Capital Stabilization Fund to the General Fund FY2007 Capital Program for Thirteen items (CIP)

Russ stated that since he became the Police Chief in 1994 he has been expressing the need for a new police station. The building was built in 1965 and it used to be shared with the Registry of Motor Vehicles. The Department has just gone through their second accreditation and the accreditation team was surprised the Department could meet the demand with the physical limitations of the building. A new building has been one of his highest priorities. In 2002 \$35,000 was spent on a plan for a new facility and in 2004 the Department received a preliminary report. In 2002 the Department responded to 22,000 calls, from the beginning of 2006 to November 1 the Department has responded to 27,000 calls. He would like to be able to build the best facility for the future.

**The vote to approve all of the Capital Improvement Orders passed First Reading unanimously (9-0).**

**First Reading**

See meeting of November 16, 2006 for Second Reading.

**Late File Order – Appropriation of \$82,000 for remodeling, replacement and extraordinary repairs to the Jackson Street School Boiler Burners**

**Late File Order – Appropriation of \$82,000 for remodeling, replacement and extraordinary repairs to the Jackson Street School Boiler Burners**

Councilor Bardsley moved to suspend Rule 39. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).

Councilor Marianne LaBarge moved First Reading. Councilor Bardsley seconded. The vote passed unanimously (9-0).

**First Reading**

See meeting of November 16, 2006 for Second Reading.

**Order - The City accept the provisions of Chap 59 § 5L allowing National Guardsmen and Reservists deployed out of State, or their dependents, a deferral of their property taxes**

**Order - The City accept the provisions of Chap 59 § 5L allowing National Guardsmen and Reservists deployed out of State, or their dependents, a deferral of their property taxes**

Councilor Dostal moved First Reading. Councilor Spector seconded. The vote passed unanimously (9-0).

**First Reading**

See meeting of November 16, 2006 for Second Reading.

**Order - Appropriation from the Stabilization Fund as voted in support of the FY07 General Fund Budget be and hereby is reduced by \$200,000 and that \$200,000 will instead be raised and appropriated**

**Order - Appropriation from the Stabilization Fund as voted in support of the FY07 General Fund Budget be and hereby is reduced by \$200,000 and that \$200,000 will instead be raised and appropriated**

Councilor Marianne LaBarge moved Second Reading. Councilor Carney seconded. The vote passed unanimously (9-0).

**The following Order passed Second Reading:**

In City Council October 19, 2006

Upon recommendation of the Mayor and City Council

**Ordered, that** the appropriation from the Stabilization Fund as voted in support of the Fiscal Year 2007 General Fund Budget be and hereby is reduced by \$200,000 and that \$200,000 will instead be raised and appropriated.

**Enrolled**

Rules suspended, passed two readings and enrolled.

Zoning Ordinance § 3.4 Rezone Land on West Street to Central Business and Amend § 27.2 Expand Central Business Architecture to West Street

**Zoning Ordinance § 3.4 Rezone Land on West Street to Central Business and Amend § 27.2 Expand Central Business Architecture to West Street**

Councilor Marianne LaBarge moved to refer the ordinances to the Planning Board, EDHLU and Ordinance Committee. Councilor Bardsley seconded. The vote passed unanimously (9-0).

Referred

Ordinance - 20-205(a) No Parking Zones

**Ordinance 20-205(a) No Parking Zones**

Councilor Dostal moved Second Reading as a group. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).

The following Ordinance passed Second Reading:

In the Year Two Thousand and Six

Upon the Recommendation of the Transportation & Parking Commission

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising 20-205(a), of said Code; by providing for No Parking Zones on State Street.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That 20-205(a) of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

**20-205(a) Schedule I; Parking**

(a) No Parking Zones on State Street

**Delete**

<u>Location</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Type Parking</u>
State Street	Easterly	Point 65 Feet Northerly of Button Street	Point Opposite the corner of Mary's Church property (northerly)	No Parking Any Time. (Rev. Ords. 1959, Ch. 33, Sec. 5; Ord. Of 9-18-80, Sec. 1)

**Add**

<u>Location</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Type Parking</u>
State Street	Easterly	Button Street	Point 65 feet northerly	No Parking Any Time.

Ordained & Enrolled

Rules suspended, passed two readings, ordained and enrolled.

**Ordinance - 20-205(g) Limited Parking Zones State Street**

**Ordinance - 20-205(g) Limited Parking Zones State Street**

See vote above.

The following Ordinance passed Second Reading:

In the Year Two Thousand and Six

Upon the Recommendation of the Transportation & Parking Commission

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising 20-205(g), of said Code; by providing for Limited Parking Zones on State Street.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That 20-205(g) of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

**20-205(g) Schedule I; Parking**

(g) Limited Parking

**Delete**

<u>Location</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Type Parking</u>
State Street	Easterly	Button Street	Point 65 ft. northerly	No parking for longer than twenty minutes (Ord. Of 9-18-80, sec. 1)

**Ordained & Enrolled**

Rules suspended, passed two readings, ordained and enrolled.

**Zoning Ordinance - Amend Appendix A § 6.8(4) Clarify Maximum Heights for Roof Top Mechanical Structures**

**Zoning Ordinance - Amend Appendix A § 6.8(4) Clarify Maximum Heights for Roof Top Mechanical Structures**

Councilor Dostal moved Second Reading. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).

The following ordinance passed Second Reading:

In the Year Two Thousand and Six

Upon the Recommendation of the Planning Board

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising Appendix A § 6.8, of said Code; by providing for Clarify Maximum Heights for Roof Top Mechanical Structures.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Appendix A § 6.8 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

***Amend section 6.8(4) as follows:***

**4.** The provisions of the Ordinance governing the height of buildings shall not apply to the following, provided these facilities comply with FAA regulations and are no more than 130-feet above the ground, except as provided in §10.9, Telecommunications and Personal Wireless Facilities or as further specified below:

A. Chimneys, cooling towers, elevators, skylights, ventilators, electronic

**Ordained & Enrolled**

**Zoning Ordinance - Amend Appendix A § 6.8(4) Clarify Maximum Heights for Robt Top Mechanical Structures**

equipment, or other necessary appurtenances usually carried above the roof **but in no case may the total height of the building including such facilities exceed 85'**;  
B. Domes, towers, stacks, or spires on a principal building if not used for human occupancy and, other than for churches, if not occupying more than 20 percent of the ground floor area of the building **but in no case may the total height of the building including such structures exceed 85'**;  
{no other changes to this section}

**Ordained & Enrolled**

Rules suspended, passed two readings, ordained and enrolled.

**Zoning Ordinance - Amend Appendix A § 11.4 Clarify Site Plan Procedures and Jurisdiction**

**Zoning Ordinance – Amend Appendix A § 11.4 Clarify Site Plan Procedures and Jurisdiction**

**Councilor Marianne LaBarge moved Second Reading. Councilor Spector seconded. The vote passed unanimously (9-0).**

**The following ordinance passed Second Reading:**

In the Year Two Thousand and Six

Upon the Recommendation of the Planning Board

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising Appendix A § 11.4, of said Code; by providing for Clarify Site Plan Procedures and Jurisdiction.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Appendix A §11.4 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

**Amend Section 11.4: Requirements by making the following changes.**

These requirements are superimposed over any other requirements of this Zoning Ordinance. The Building Commissioner may not issue any Building or Zoning Permits for any Intermediate or Major Projects until the Site Plan has been approved by the Planning Board **through a simple majority vote of the members present. The Site Plan process shall be conducted by the Planning Board in** conformance with the filing, review and public hearing requirements for a Special Permit. The Planning Board shall use the criteria of Section 11.6 for approving or disapproving the Site Plan. **As with Special Permits, any appeal of a Site Plan decision by the Planning Board shall be made in accordance with MGL Chapter 40A Section 17.**

{no other changes to this section}

**Ordained & Enrolled**

Rules suspended, passed two readings, ordained and enrolled.

**Zoning Ordinance - Amend Appendix A § 6.2 Change how allowable height is calculated in Central Business District**

**Zoning Ordinance - Amend Appendix A § 6.2 Change how allowable height is calculated in Central Business District**

**Councilor Dostal moved Second Reading. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).**

**The following ordinance passed Second Reading:**

In the Year Two Thousand and Six

Upon the Recommendation of the Planning Board and Economic Development,

**Ordained & Enrolled**

Deleted: T  
Deleted: shall conduct the Site Plan process

Zoning Ordinance - Amend Appendix A § 6.2 Change how allowable height is calculated in Central Business District

Housing & Land Use Committee

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising Appendix A § 6.2, of said Code; by providing for Change how allowable height is calculated in Central Business District.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Appendix A § 6.2 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

Principal Use	Minimum Required Lot			Minimum Setback			Max. Building Height	Min. Open Space
	Area	Frontage/Width	Depth	Front	Side	Rear		
<b>CB Central Business Zoning District</b> (> Also see Architectural Ordinance & Design Guidelines for Downtown/CBD)								
{Add new language as shown in <b>bold</b> . No other changes to section.}								
Any other use	None	None	None	0	0	15 ♦	55 ♦ ♦	5%
♦ There is no rear yard setback requirement in the Central Business District when the rear yard abuts on a road, public way, municipal parking lot or an alley on which the public has the right to use. ♦♦ <b>In the Central Business District height is measured from front façade of a building and not from average grade.</b>								

Ordained & Enrolled

Rules suspended, passed two readings, ordained and enrolled.

Zoning Ordinance - Amend § 7.2(19) & 11.6 General Sign Regulations and Approval Criteria

Zoning Ordinance Amend § 7.2(19) & 11.6 General Sign Regulations and Approval Criteria

Councilor Marianne LaBarge moved First Reading. Councilor Bardsley seconded. The motion carried on a voice vote of 7 Yes, 2 No (Councilors Raymond LaBarge and Carney dissenting).

The following Ordinance passed Second Reading:

In the Year Two Thousand and Six

Upon the Recommendation of Councilors Marianne LaBarge and Marilyn Richards

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising Appendix A § 7.2 & 11.6, of said Code; by providing for General Sign Regulations and Site Plan Approval Criteria as they relate to adult uses.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Appendix A §7.2 & 11.6 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

Amend §7.2 by adding a new subsection 19.

New 7.2(19)

A sign may not include text, graphics or pictures defined as obscene in MGL Chpt. 272 §31 if taken as a whole it

- A. appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed;
- B. depicts or describes sexual conduct in a patently offensive way; and
- C. lacks serious literary, artistic, political or scientific value.

Nor may signs depict or describe sexual conduct or sexual excitement as defined in MGL Chpt 272, §31.

Ordained & Enrolled



Zoning Ordinance - Amend § 7.2(19) & 11.6 General Sign Regulations and Approval Criteria

Add new subsection 9 to 11.6 (site plan approval criteria) 11.6(9)  
A. No signs, text, graphics, pictures, publications, videotapes, CDs, DVDs, movies, covers, merchandise or other objects, implements, items or advertising, depicting, describing sexual conduct or sexual excitement as defined in MGL Chpt. 272, §31 shall be displayed in the windows or on any building or be visible to the public from the street, pedestrian sidewalks, walkways, or bikepaths or from other areas outside such establishments.

Further, windows may only be blocked or shaded by approval of the Planning Board through site plan approval.

Ordained & Enrolled

Rules suspended, passed two readings, ordained and enrolled.

Zoning Ordinance - Amend § 2.1, 5.2 & 10.13 Definitions General, Table of Use Regulations & Special Permits

Zoning Ordinance - Amend § 2.1, 5.2 & 10.13 Definitions General, Table of Use Regulations & Special Permits

Councilor Dostal moved Second Reading as amended. Councilor Marianne LaBarge seconded. The motion carried on a Roll Call vote of 6 Yes, 3 No (Councilors Raymond LaBarge, Spector and Carney dissenting).

The following Ordinance passed Second Reading as amended:

In the Year Two Thousand and Six

Upon the Recommendation of Councilors Marianne LaBarge and Marilyn Richards

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising Appendix A § 2.1, 5.2 & 10.13, of said Code; by providing for Definitions, Table of Use Regulations and Special Permits as they relate to adult uses.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Appendix A §2.1, 5.2 & 10.13 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

**Section 2.1**

{Insert the following definition in alphabetical order. No other changes.}

**ADULT ESTABLISHMENTS WHICH DISPLAY LIVE OR PRIVATE**

**BOOTH NUDITY:** Any establishment which provides live entertainment for its patrons which includes the display of nudity as a substantial or significant portion of such live entertainment on twenty-one or more days per year or which provide private or semi-private booths or areas for the viewing of live or recorded nudity, as nudity is defined in section thirty-one of chapter two hundred and seventy-two.

**Section 5.2 – Table of Use Regulations**

{Amend the following rows under Retail, Service Commercial Uses in alphabetical order. No other changes.}

**Retail Service Commercial Uses**

RR SR UR-A UR-B UR-C CB GB HB NB M GI SI BP SC  
Adult Establishments which display live or private booth nudity (→see Section 10.13)  
NO NO NO NO NO NO NO SP\* NO NO NO NO NO NO

\*In HB, these uses shall be allowed on sites no portion of which is less than 500 feet from any church/house of worship, day care center, park, playground, school, residence, or other adult establishment which displays live nudity or private booth nudity.

**Section 10.13 Adult Establishments.** The City of Northampton does not desire to suppress any speech or expression activities protected by the First Amendment but does want to enact a content neutral ordinance concerned with the secondary effects of adult establishments which display live nudity or provide private or semi-private booths for viewing live or recorded nudity or are large-scale adult establishments that could drain the character and economic vitality of the surrounding community, especially crime and effects on children and family life, and therefore desires reasonable regulations of the location of such adult

Ordained & Enrolled

**Zoning Ordinance - Amend § 2.1, 5.2 & 10.13 Definitions General, Table of Use Regulations & Special Permits**

establishments in order to provide for the protection of the image of the community, its property values, and to protect our residents from any adverse adult entertainment land uses, while providing to those who desire to patronize adult entertainment land uses such an opportunity in areas within the City which are appropriate for location of such land uses.

The City has historically valued the preservation and expansion of dense, safe, pedestrian-scale neighborhoods and development that enable residents to walk to school, services, recreation, and other activities. More specifically, such pedestrian-scale neighborhoods that contain services within 500 feet of residences, schools and houses of worship are an important means to enable children to walk to such services safely and independently. One of the great successes of Northampton is that all evidence that we have collected shows that the vast majority of trips up to 500 feet, even for relatively young children, is on foot.

Because the large-scale adult establishments greater than 1,000 square feet have the tendency to create blank, inactive voids in the street fabric due to their size and façade treatments it is important to ensure that such businesses are not located within 500' of such walkable neighborhoods that include churches, residences or schools. These voids have a direct impact on the desirability of walking to such services, schools, or other activities and reduce the sense of safety for pedestrians. If these voids discourage walking or decrease the number of trips that are done without a car or are done by younger children on their own, Northampton would suffer a harm far worse than most communities who have not been as successful as we are at getting people to walk.

Additionally, the secondary effects of larger scale adult establishments with adult material often include impacts to adjoining businesses that may result in economic decline and declining property values which further spreads the inactive void along the street façade. This economic decline may be less serious in areas where everyone drives and is cloistered from the effects of nearby business, but in Northampton where many people walk, and we are investing large sums to increase the number of trips done on foot (and by bicycle) the impacts would be devastating. Thus in addition to ensuring these voids are not created within walking distance or 500' from churches, schools and residences, the City has determined that larger establishments should be separated by distances of 500' from other such establishments to prevent continuous voids within the street and pedestrian fabric.

The City has not found compelling reasons to regulate other types of adult uses, including those under 1,000 square feet which can more readily blend into the existing commercial fabric without creating large voids on the street front and thus have no effect on the safety of children or other pedestrians walking to services, schools or other residences.

In summary:

1. It is not the City's intent to regulate content for the purposes of regulating morality or any other direct reason.
2. The City is specifically allowing sales of "adult" materials in display areas up to a certain size because to date we have not found sufficient adverse effects from this size of business that justifies new regulations.
3. The City is specifically allowing sales of "adult" materials with no limits on size in certain reasonable areas of the City.
4. The City has found that larger concentrations of adult materials creates a magnet which can, and in many communities has, increased crime in the area, especially sex crimes and crimes against women and children. The magnet nature of these stores brings in visitors from greater distances who do not have any connection to the local community.
5. The City has found that larger concentrations of adult materials can and does lead to declining property values, adverse impacts on other businesses, urban blight, and a general decrease in the quality of life. Generally, there is a disinvestment in areas near adult uses, especially in smaller communities such as our own. This trend is seen in many communities, but its impacts would be especially severe in Northampton because of our emphasis on commerce at the pedestrian

**Ordained & Enrolled**

Zoning Ordinance - Amend § 2.1, 5.2 & 10.13 Definitions General, Table of Use Regulations & Special Permits  
Ordained & Enrolled

scale.

These adult establishments, as defined in definitions, will be allowed with a Special Permit from the Planning Board with the following conditions:

1. The Planning Board can establish clear days and times of operation to avoid conflict with any other non-compatible land uses.
2. Any person convicted of violating the provisions of M.G.L. section sixty-three of chapter one hundred and nineteen or M.G.L. section twenty-eight of chapter two hundred and seventy two shall be prohibited from receiving or using a Special Permit for these uses.
3. Only in accordance with Section 5.2.

Rules suspended, passed two readings, ordained and enrolled.

Zoning Ordinance - Amend Appendix A § 2.1 and 5.2 Regulate the location and size of adult entertainment

Zoning Ordinance - Amend Appendix A § 2.1 and 5.2 Regulate the location and size of adult entertainment

**Councilor Dostal moved Second Reading as amended dated 11/2/06. Councilor Marianne LaBarge seconded.**

Wayne Feiden clarified the amendments.

**The vote passed Second Reading as amended on a Roll Call vote of 6 Yes, 3 No (Councilors Raymond LaBarge, Spector and Carney dissenting).**

In the Year Two Thousand and Six

Upon the Recommendation of Councilors Marianne LaBarge and Marilyn Richards

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising Appendix A § 2.1 & 5.2, of said Code; by providing for Regulate the location and size of adult entertainment.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Appendix A §2.1 & 5.2, of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

**Section 2.1**

{Insert the following definition in alphabetical order. No other changes.}

**ADULT ESTABLISHMENTS WITH ADULT MATERIAL**

**Any establishment selling adult books, magazines, videos, movies, software, any other media or electronic recording, or adult paraphernalia, as defined by Chapter 40A, Section 9A or in section thirty-one of chapter two hundred and seventy-two, provided the total display area of such adult material exceeds 1,000 square feet. Display area shall be calculated as all display areas in establishments and all buildings within a property, and in establishments and all building on adjacent properties under the same ownership or control, on which any adult materials, as herein defined, are displayed and any aisles adjacent to such display areas.**

**Section 5.2 – Table of Use Regulations**

{Amend the following rows under Retail, Service Commercial Uses in alphabetical order. No other changes.}

**Retail Service Commercial Uses**

*RR SR UR-A UR-B UR-C CB GB HB NB M GI SI BP SC*  
Adult Establishments which display live or private booth nudity and Adult Establishments with adult material (→see Section 10.13)

NO NO NO NO NO NO NO **SP\*** NO NO NO NO NO NO

\*In HB, these uses shall be allowed on sites no portion of which is less than 500 feet from any church/house of worship, day care center, park, playground, school, residence, or other adult establishment which displays live or private booth nudity or adult establishments with adult material.

Ordained & Enrolled

Rules suspended, passed two readings, ordained and enrolled.

**Ordinance -  
Revise section  
2-393  
Providing for  
adjustments of  
pay for the  
City Treasurer  
and City Clerk**

**Ordinance - Revise section 2-393 Providing for adjustments of pay for the  
City Treasurer and City Clerk**

**Councilor Dostal moved Second Reading. Councilor Richards seconded. The vote passed unanimously (9-0).**

**The following Ordinance passed Second Reading:**

In City Council In the Year Two Thousand and Six

Upon the Recommendation of Mayor Mary Clare Higgins

**ORDINANCE**

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising section 2-393 of said Code; by providing for Non-Classified Personnel; I Non-classified salary schedule.

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

Section 1. That Section 2-393, of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that section shall read as follows:

Revise section 2-393 (I) - Non-Classified Personnel; I. Nonclassified Salary Schedule

Providing for adjustments of pay for the City Treasurer and City Clerk.

***Delete***

Treasurer \$51,091.43 per year (\$1965.06 per pay period)  
effective FY03

City Clerk \$51,091.43 per year (\$1965.06 per pay period)  
effective FY03

***Add in Place thereof***

City Treasurer \$55,722.77 per year (\$2,143.18 per pay period)  
effective FY07

City Clerk \$55,722.77 per year (\$2,143.18 per pay period)  
effective FY07

Effective date of Ordinance will be July 1, 2006.

Rules suspended, passed two readings, ordained and enrolled.

**Ordained &  
Enrolled**

Resolution - The Northampton School Committee be permitted to enter contracts for up to five years for information technology equipment

Resolution - The Northampton School Committee be permitted to enter contracts for up to five years for information technology equipment

Councilor Marianne LaBarge moved First Reading. Councilor Carney seconded. The vote passed unanimously (9-0).

Enrolled

See meeting of November 16, 2006 for Second Reading.

Resolution - City Council authorizes Conservation Commission to accept a conservation restriction off of Haydenville Road

Resolution - City Council authorizes the Conservation Commission to accept a conservation restriction of 41 acres located along the Mill River and Beaver Brook off of Haydenville Road owned by Patrick J. Melnik and John J. Hanley

Councilor Spector moved First Reading. Councilor Marilyn Richards seconded. The vote passed unanimously (9-0).

First Reading

See meeting of November 16, 2006 for Second Reading.

Resolution - City Council declares Map ID Parcel 46-62 as surplus to City needs and authorizes the sale of the parcel

Resolution - City Council declares Map ID Parcel 46-62 as surplus to City needs and authorizes the City to execute a purchase and sale agreement and deed to sell the parcel in a manor to ensure its inclusion as part of the Silvio O. Conte National Fish and Wildlife Sanctuary

Councilor Marianne LaBarge moved First Reading. Councilor Bardsley seconded. The vote passed unanimously (9-0).

First Reading

See meeting of November 16, 2006 for Second Reading.

New Business

Councilor Bardsley announced that the Tax Classification hearing has been scheduled for November 16, 2006

Wayne Feiden stated that \$186,000 was raised in contributions in 2 months for the Turkey Hill Road conservation land. The City received the grant for the land but has not received the contract yet.

The Mayor stated that a vote was needed to set the Tax Classification Hearing for November 16, 2006 at 8pm. **Councilor Dostal moved to set the hearing. Councilor Marianne LaBarge seconded. The vote passed unanimously (9-0).**

The Mayor also announced the movies that are being shown at Pleasant Street Theater and the Academy of Music in honor of Veteran's Day. The Ground Truth is being shown at Pleasant Street Theater on November 9, 2006 at 7pm and When I Came Home is being shown at the Academy of Music on November 10, 2006 at 2pm with a reception to follow.

Councilor Marianne LaBarge stated that there is a benefit dinner for Donald Sadusky a former Ward 6 resident of 18 years. The benefit is for his wife and daughter on November 26, 2006 from 3pm – 7pm.

**At 9:46 p.m. motion made and seconded by Councilors Bardsley and Marianne LaBarge to adjourn passed unanimously (9-0).**

Attest: \_\_\_\_\_, Clerk of Council