

Approved 3/25/2019

Town of Chelmsford Board of Selectmen Minutes  
50 Billerica Rd., Room 204  
Chelmsford, MA 01824

Regular Meeting MINUTES  
January 7, 2019

Attending:

Glenn Diggs, Chairman  
Kenneth Lefebvre, Vice Chairman  
Emily Antul, Clerk  
George Dixon, Selectman  
Patricia Wojtas, Selectman

Paul Cohen, Town Manager  
Michael McCall, Asst. Town Manager

**RECEIVED**  
**2019-04-01**  
**10:00 AM**  
**TOWN OF CHELMSFORD**  
**PATRICIA E. DZURIS**  
**TOWN CLERK**

Please note that all documents referenced in these minutes are on file at the Town Manager's Office, 50 Billerica Rd., Chelmsford, Mass. The meeting was recorded by Chelmsford Telemedia and Lowell Sun and the Chelmsford Independent. Chairman Diggs called the meeting to order at 7:01 PM.

**JOINT MEETING WITH PLANNING BOARD**

Planning Board Members Present:

Michael Raisbeck  
Henry Parlee  
Glenn Kohl  
Hank Houle  
Tim Shanahan  
Donald Van Dyne

Not present:

Nancy Araway

**Vote to Fill Vacancy on the Planning Board**

The Joint Meeting was Called to Order by Mr. Raisbeck at 7:04PM.

Candidate Michael Walsh, 7 Burton Lane, North Chelmsford is interested in filling this position until the April elections. The current alternate member wished to remain as alternate. Mr. Walsh listed his qualifications and past committee experience. He intends to pull papers for the April election.

**Motion:** by Mr. Kohl to appoint Michael Walsh to the Planning Board, for an unexpired term ending April 2, 2019. Seconded by Mr., Houle.

Roll call:

Mr. Raisbeck: Aye  
Mr. Kohl: Aye  
Mr. Houle: Aye  
Mr. Shanahan: Aye  
Mr. Parlee: Aye  
Mr. Van Dyne: Aye  
Selectman Wojtas: Aye  
Selectman Lefebvre: Aye  
Selectman Dixon: Aye

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Selectman Antul: Aye  
Chairman Diggs: Aye

**Motion carries, unanimous, 11-0.**

**Discuss a Special Town Meeting to Amend the Town's Zoning Bylaw Section 1956 Paragraph E: Animals Accessory to Dwellings**

The proposed Article will exclude small animals from the zoning bylaw. Permitting will completely be under the jurisdiction of the Board of Health. Zoning would still apply to animals weighing more than 25 lbs.

On a different matter, Chairman Diggs announced that a request to create access across town land has been requested. Mr. Raisbeck advised that the Planning Board has not discussed whether access should be granted; however, they are aware of the situation. A Public Hearing has been continued to January 23, 2019, per request of the proponent. The proposed Special Town Meeting date was February 4, 2019. The Board of Selectmen will decide whether to put this item on the warrant or not.

**Motion:** by Mr. Houle to adjourn the Joint meeting of the Planning Board and the Board of Selectmen at 7:11PM. Seconded by Mr. Parlee. **Motion carries, unanimous, 11-0.**

**SIGN SPECIAL TOWN MEETING WARRANT**

At this time, the only Articles are to approve are the Zoning Bylaw Amendment article and an Article to fund the Arbitration Award for the Police Superior Officers Union. If a third item is added, it must be presented as soon as possible, as the warrant is issued 14 days before the meeting. Additional items can be heard at the Spring Annual Town Meeting in April.

Mr. Cohen explained the date of February 4, 2019 was chosen for the special Town Meeting because the Board of Health needs to issue new permits for 2019. Regulations are still being modified to clarify side yards vs back yards. The issue of certified plot plans is still being worked out. The goal is to have permits conform to the zoning bylaw.

Selectman Wojtas felt the easement request on Town property seems rushed, and could wait for Spring Town Meeting. Other Board members supported adding a Board meeting to discuss a third article for an easement request, and to sign the warrant for the Special Town Meeting. The Board was asked to think about what the Town should request as compensation for the proposed easement.

It was decided that there will be a Board meeting beginning at 6:00PM on Monday, January 14, 2019, for the sole purpose of determining which articles will be on the Special Town Meeting warrant.

**PUBLIC SERVICE ANNOUNCEMENTS**

**Town Clerk Patricia Dzuris: Nomination Papers for Annual Town Election**

Ms. Dzuris announced that nomination papers are available as of January 2, 2019. Open positions were listed for boards and town meeting representatives. Papers must be pulled by February 8, 2019, and must be returned by Tuesday, February 12, 2019. Incumbent Town Meeting Representatives must return letters of intent by February 1, 2019. The Town website is updated every day as papers are pulled.

**OPEN SESSION**

No one came forward at this time.

**TOWN COUNSEL PAUL HAVERTY**

**Legal Opinions Regarding Board of Selectmen's Right to Attend Another Board's Executive Session and to Attend Town Manager's Collective Bargaining Negotiations**

Discussion tabled as Atty. Haverly was at another meeting.

**COMMITTEE VACANCIES**

Selectman Lefebvre read the list of current vacancies. Interested applicants can apply online at <http://www.townofchelmsford.us> or through the Town Manager's office.

**PUBLIC HEARINGS**

**Transfer of the All Alcoholic Beverages Restaurant, Common Victualer, and Entertainment License: from Bertucci's Restaurant Corp. to Bertucci's Restaurants LLC, 14E Littleton Road**  
Charlie Garbedian, manager for Bertucci's, explained that Robert Earl is the new owner of the chain as Earl Enterprises. Michelle Doherty is the manager of the Chelmsford location. All other management positions will remain the same. The goal of the new LLC is to open more locations. No changes are anticipated for the Chelmsford location at this time. They may want to put in a bar in the future.

There were no comments from the audience.

**Motion:** by Selectman Lefebvre to close the Public Hearing for Bertucci's Restaurants, LLC. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**Motion:** by Selectman Lefebvre to approve the transfer of the All Alcoholic Beverages Restaurant, Common Victualer, and Entertainment License from Bertucci's Restaurant Corp. to Bertucci's Restaurants, LLC, to be exercised at 14E Littleton Rd. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**LICENSES**

**Common Victualer License Transfer – add Entertainment License: from Mass Burgers Chelmsford LLC to Mass 5G, 90 Drum Hill Road**

Jason Nance is the new owner of the franchise, which includes 13 of these restaurants. The Board had no further questions.

**Motion:** by Selectman Lefebvre to approve the transfer of the Common Victualer License from Mass Burgers Chelmsford, LLC to Mass 5G, and to add an Entertainment License, to be exercised at 90 Drum Hill Rd. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**Common Victualer and Entertainment License: Oodles of Noodles LLC, 14 Chelmsford Street**

Thomas Nguyen and Yim Na Chang explained their request to open a restaurant at the site of the former Cancun Restaurant. Mr. Nguyen has 10 years of restaurant experience. They will offer dine-in first, then will consider take-out. They will offer Asian, Indian and some American dishes. The menu will change on a regular basis, perhaps monthly. They hope to open by February 1, 2019. Clean up, repainting and minor renovations are needed.

**Motion:** by Selectman Lefebvre to approve the Common Victualer and Entertainment License for Oodles of Noodles LLC, to be exercised on at the premises at 14 Chelmsford St. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**All Alcoholic Beverages Restaurant License – Clerical Address Change: The Yu Restaurant Group Corp. DBA Nobo Restaurant, change from 20 Boston Road to 18 Boston Road**

The applicant was not required to appear, as this was a request by the ABCC to clarify the address.

**Motion:** by Selectman Lefebvre to approve the address change for the All Alcohol Beverages Restaurant License for the Yu Restaurant Group Corp. b/b/a Nobo Restaurant to be exercised on the premises at 18 Boston Rd. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**TOWN COUNSEL PAUL HAVERTY**

**Legal Opinions Regarding Board of Selectmen’s Right to Attend Another Board’s Executive Session and to Attend Town Manager’s Collective Bargaining Negotiations**

Atty. Haverty arrived at 7:45PM.

Chairman Diggs explained this discussion started during the charter review process. Atty. Haverty was asked to look at the Town Charter and the powers of the Board of Selectmen and the Town Manager to attend another Board’s Executive Session and for the Board of Selectmen to attend the Town Manager’s Collective Bargaining negotiations. Applicable sections of the Charter were read into the record. Under the current charter, the Town Manger has the power to determine whether Board of Selectmen presence is beneficial.

The Chairman of the Board holding the Executive Session has the jurisdiction whether to allow someone from another board into an executive session. This is covered by Open Meeting Law. The practice generally causes more problems; however, it can be beneficial in mediations.

Selectman Lefebvre asked if there was a difference between participating versus observing the session. Atty. Haverty repeated that it is up to the person leading the negotiation whether to allow other people in or not. Selectman Antul felt a board member being present could alleviate tension as a neutral presence. Atty. Haverty advised that a selectman’s presence could also inflame the situation.

Mr. Cohen asked the Board why this is concern. The Board of Selectmen is the approving authority and shouldn’t be in the room for these sessions. Selectman Antul stated she would be interested in learning how these sessions are done as an observer. Mr. Cohen advised that Assistant Town Manager Michael McCall has a background that works well with these negotiations. Department Chiefs are not invited to the negotiations, and all proposals are put in writing. Chairman Diggs felt the Board should know as much as possible about everything. Mr. Cohen felt that having a Board member present changes the tone in the room. There would need to be a good reason for them to be there. The Board has always made the financial bargaining parameters clear, and he has abided by them. Department heads are called in when needed, usually to discuss operations of the department. Mr. Cohen believed a charter change was not needed at this time. Selectman Wojtas agreed with the Town Manager, that the presence of a Board member in union negotiations can create unintended consequences.

**REPORTS AND PRESENTATIONS**

**Assessor Frank Reen and Treasurer John Sousa: Property Tax Billing Process**

Chairman Diggs stated this was requested by residents concerned about recent bill increases.

Mr. Sousa explained the billing process is regulated by state law. Towns have the choice of how frequently bills can be sent. Chelmsford bills quarterly. There are preliminary estimated and actual bills. An example was shown on how the bills are calculated. Sewer and water liens can be added to a bill if

warranted. Many people with mortgages pay a portion of their tax bills monthly to the mortgage company and the mortgage company pays the bill to the town.

The decision to split the tax rate has generated many phone calls and changed the amounts due for taxes. Changes in value also changed bills for many people. The amount of excluded debt also impacts the tax bill.

Mr. Reen discussed how properties are evaluated. Adjustments are made uniformly to all parcels. Values can go up because of improvements, or go down because of things like a fire. Lot size, age, sales prices, location, style of home and other factors are used in determining a value. DOR has guidelines that must be used. Ratio of sales to assessed value is used to create data, and that's why some properties vary widely from one year to the next. An example of a 12,000 square foot commercial office building was presented. The split tax rate increased the Q3 & Q4 bills by almost \$8,900.00. Next year, the payments will be more stable.

The Small Commercial Exemption is an application that can be filled out. Commercial property owners can apply for this up to April 1, 2019.

Another residential example was shown. A retail example was shown that showed the Small Commercial Exemption in place, and compared it without the same exemption.

**Jim Martin, Tree Committee: Emerald Ash Borer**

Mr. Martin showed a photo of the insect, which came from Asia and has spread rapidly. It has killed over 100 million trees. It takes at least three years for the tree to die. The insect is commonly spread through transport of firewood.

Insect traps were hung around Chelmsford in June; they were re-baited in July, and removed in August. Three insects were caught in one tree. The life cycle of the insect was described.

The Committee estimates about 6% of trees in town may be ash trees. Mr. Martin is hopeful that this information will give the town time to plan how to deal with the problem as it will be several years before one can see the trees die.

Treatment options include chemical control, remove the trees, or set more traps. The wood becomes weak quickly once it is infected, and removal of the tree can be expensive if a bucket truck or a crane is needed.

The Committee suggests consulting with a professional arborist to determine if a tree can be saved. Similar situations with Dutch Elm Disease and the Asian Long Horn Beetle have occurred.

A concern to the Town is having a tree fall on someone. In Chelmsford, 2% of public trees tend to be ash trees. Newly planted trees in town tend to be Red Maple trees. The Committee recommends having more varieties of trees planted to avoid creating a monoculture.

The Town currently has a policy to replace trees one for one. It is not being followed.

The Committee will be having a meeting tomorrow, everyone is welcome to attend.

**MMA RESOLUTIONS**

Selectman Wojtas explained the Annual MMA Conference will be held at the end of next week.

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The Board was asked to vote on two resolutions, and to appoint an attending board member to vote at the conference.

The first Resolution is to “Support an Enduring Fiscal Partnership Between Cities and Towns and State Government in Fiscal 2020 and Beyond (2019)”. The second Resolution is to “Support a Local-State Federal Partnership to Address the Challenges to the Recycling Marketplace (2019).”

**Motion:** by Selectman Lefebvre to support both MMA Resolutions, as presented. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**Motion:** by Selectman Lefebvre to nominate Selectman Wojtas to represent the Town of Chelmsford, for voting purposes, at this year’s MMA Conference. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

### **TOWN MANAGER REPORTS**

#### **Draft Spring Annual Town Meeting Warrant**

The initial list was presented to the Board. Many articles are typical annual requests. Several are items that were previously withdrawn.

#### **Citizen Petitions Regarding Animals Accessory to Dwellings**

One seeks to remove the restrictions; one seeks to enhance the restrictions. Both will be dependent on what happens at the Special Town Meeting in February.

#### **State’s Certification of the Town’s Affordable Housing Production Plan**

The Certificate was received by the Town. This certification is good through October, 22, 2019. The Town is now in “safe harbor” from certain 40B projects.

#### **Other**

The 101 Mill Rd. property has been conveyed to the new owner. Construction activity is taking place.

### **TOWN MANAGER APPOINTMENTS**

#### **Military Community Covenant Task Force: Charles Fidler, unexpired 3 year term ending 6/30/19 Holiday Decorating Committee Reappointments, 1 year terms ending 12/31/19**

**Motion:** by Selectman Lefebvre to approve the Town Manager’s appointment of Charles Fidler to the Military Community Covenant Task Force for a term ending June 30, 2019. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**Motion:** by Selectman Lefebvre to approve the Town Manager’s appointments for the Holiday Decorating Committee as presented, for a term to expire December 31, 2019. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

### **BOARD OF SELECTMEN APPOINTMENTS**

#### **Deputy Constable Reappointments through 4/2/19**

**Motion:** by Selectman Lefebvre to approve the Deputy Constable reappointments as presented, for terms to expire on April 2, 2019. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**MEETING MINUTES**

**BOS Regular Session Minutes 09-24-18**

**Motion:** by Selectman Lefebvre to approve the Regular Meeting minutes of September 24, 2018, as presented. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**BOS Regular Session Minutes 10-01-18**

**Motion:** by Selectman Lefebvre to approve the Regular Meeting minutes of October 1, 2018, as presented. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

**BOS Executive Session Minutes 12-10-18**

**Motion:** by Selectman Lefebvre to approve but not release the Executive Session Meeting minutes of December 10, 2018, as presented. Seconded by Selectman Antul. Selectman Dixon abstained, all others in favor. **Motion carries, 4-0.**

**SELECTMEN LIAISON REPORTS & REFERRALS**

Selectman Dixon:

-Multiple calls have been received regarding complaints about truck traffic on Main St., and delays in trash pickup today. Mr. McCall advised that the Town is aware that not all streets had their trash picked up today, and it will be done today or tomorrow. The issue is the wait lines at the Haverhill disposal facility due to excess trash with the holidays. The facilities are running out of places to put the trash. Landfills are closing, and new ones aren't opening up. It's a statewide issue.

Selectman Antul:

-The Rt. 40 Study Committee is meeting on January 8, 2019 to discuss five options for the area. The Planning Board is expected to bring forward a zoning article for the Rt. 40 area at the Spring Town Meeting.

Selectman Wojtas:

-No reports this evening.

Selectman Lefebvre:

-No reports this evening.

Selectman Dixon suggested that Selectman Lefebvre be the Board's liaison to the Tree Committee.

Selectman Wojtas added condolences for the family of former Selectman Paul Hart, who passed away recently. Mr. Hart served from 1971-1986, and will be missed.

Chairman Diggs:

-An agenda item was requested for the next meeting to discuss whether to allow this year's local political candidates to introduce themselves at a future board meeting.

-An agenda item was requested to discuss the possibility to allow people 60 years or older that serve on an elected board to receive a credit on their taxes, similar to the senior work credit.

-Chairman Diggs announced that he is not running for re-election. He and his wife want to travel, which will impact his availability. He encouraged residents to run for a seat. He has met a lot of people.

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**PRESS QUESTIONS**

No one came forward at this time.

**NEXT REGULAR MEETING DATE:** Special meeting on Monday, January 14<sup>th</sup> at 6pm.  
January 28, 2019-Regular Meeting

**ADJOURN**

**Motion:** by Selectman Lefebvre to adjourn at 9:50PM. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

Respectfully Submitted,

Vivian W. Merrill  
Recording Secretary

Supporting Documents:

- Legal Notice and supporting documents for Joint Meeting
- Special Town Meeting Warrant & Citizen Petitions
- List of Committee Vacancies
- Supporting Documents for Bertucci's
- Supporting Documents for License Requests
- Supporting documents for Legal Opinion on Executive & Negotiation Sessions
- Presentation on Property Tax Billing Procedures
- Presentation of the Chelmsford Tree Committee
- Proposed MMA Resolutions
- Draft 2019 Spring Town Meeting Warrant
- Letter regarding Affordable Housing Certification
- Committee Applications
- List of Deputy Constable Reappointments
- Draft Minutes