

Approved 4/21/2020

Filed with Town Clerk:

RECEIVED

2020-04-22

2:29 PM

TOWN OF CHELMSFORD

PATRICIA E. DZURIS

TOWN CLERK

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

Regular Meeting MINUTES
February 10, 2020

Attending:

Kenneth Lefebvre, Chairman
Patricia Wojtas, Vice Chairman
Emily Antul, Clerk
George Dixon, Selectman
Virginia Crocker Timmins, Selectman

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

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. Chairman Lefebvre called the meeting to order at 7:00 PM.

PUBLIC SERVICE ANNOUNCEMENTS

Presidential Primary Election, March 3, 2020 7:00 AM – 8:00 PM

Early Voting for Presidential Primary, February 24th – 28th During Regular Town Offices Hours

Selectman Wojtas described early voting procedures and hours. The last day to register to vote is February 12, 2020, by 8:00PM.

League of Women Voters of Chelmsford: 100th Anniversary of the League of Women Voters of the United States

Proclamation was read by Selectman Wojtas.

Six League of Women Voters members were present to accept the proclamation.

Mary Frantz described some history on how the League came to be, starting with the Women's Suffrage movement. The anniversary will be celebrated throughout the entire year.

All voters were encouraged to vote in the upcoming elections. And residents were encouraged to run for open positions. The League is hosting a Candidates Night on Monday, March 16, 2020.

Master Plan Survey

Chairman Lefebvre announced that this survey is available online and at the Library, Town Offices and the Senior Center. This will help with the next Master Plan update, which is being completed now.

OPEN SESSION

Chairman Lefebvre announced this session would be limited to 30 minutes total, and asked each speaker to limit their remarks to three minutes.

Frank Goode, 4 Longspur Rd., President of the Superior Officers Union provided two documents to the Board. These documents were the Code of Ethics and Professional Conduct Policy documents.

Mr. Goode summarized past incidents of alleged past misconduct of the Town Manager and the ensuing investigation of 8 violations, all relating to the failed Town Meeting vote on the Arbitrated award for the Superior Officers contract. Legal proceedings are ongoing. He feels the Town Manager's actions were intentional, and that legal fees will be exorbitant.

John Sousa, 88 Carlisle St., stated he was speaking as a resident. Mr. Cohen has worked tirelessly to improve this town, and he is devoted to Chelmsford. He is a strong manager. He cited negotiations around the reconstruction of the Center Fire Station as an example. He feels the timing of the Executive Session being two days after Mr. Cohen's father's funeral was irresponsible on the Board's part. The Board was asked to put politics aside, and develop a new contract to allow the Town Manager to stay in Chelmsford.

Mr. Cohen described events surrounding the development of the agenda for the prior meeting's Executive Session.

Kathy Duffett, 47 Thomas Dr., listed several committees she participates in, and stated she was speaking as a resident. She summarized major past accomplishments that Mr. Cohen has completed, and that most of the Town employees are happy. The Town's bond rating is up, and the stabilization fund is strong. The leak of the Executive Session is an ethical problem, too. The board was asked to do their due diligence.

Robert Walton, Janet Rd, Precinct 4 Representative, stated he felt Town Meeting was stampeded into voting the bargaining unit agreement down. He agreed with the Board's decision.

Frank Reen, 41 Sherman St., and Chief Assessor, stated he supported Mr. Cohen, as he is fair to everyone. He is enthusiastic on behalf of the Town. His knowledge of municipal laws and procedures is vast, and he should be allowed to stay.

Christine Bowman, 3 Julio St., Precinct 4 Representative, advised the Town is a government, not a business. Perspectives are different. Residents want good government. And there are those that feel the Town government is failing the residents. Resident quality of life is degrading; the tax rate is too high, and quality of life is eroding. We need to do things better. She supports the Board's decision to take action. There is a fear of retaliation, and that is why residents do not come forward. However, a vote tonight on the Town Manager's contract is premature, as he is being investigated by the state. She recommended the Board wait until the hearing is complete.

Jerry Hall, 34 Lovett Lane stated that he is not a happy resident. He feels town government is dismissive and arrogant. He cited the Rt. 40 Committee work, and feels residents are generally ignored.

Chris Lavallee, 10 Edgewood St., and precinct representative, felt ethics is a two way street. Any person can make decisions, they do not have to live in the Town. He feels the Town is a government and a

Approved 4/21/2020

business, as it provides services and a budget, and runs the operations. The Town Manager's past great reviews are important. Mr. Lavalley stated his vote on the arbitration agreement at Town Meeting was based on the Finance Committee's not having had a chance to review the numbers. His past committee work was cited, and he believes Mr. Cohen has always been open and trustworthy.

Pete Pedulla, Telemedia Department Director, stated Town employees also serve the people. Chelmsford has a great Town Manager.

Annita Tanini, 8 Columbus Ave., Town Meeting Representative and Finance Committee member stated Mr. Cohen is an effective and exceptional leader. Sometimes he has to make unpopular decisions. No leader can make everyone happy. She asked the Board to articulate their reasons for not renewing the contract, and how the Board planned to vet a new manager. Mrs. Tanini presented the Board with a petition containing 400 signatures in support of renewing the Town Manager's contract.

Phil Dube 11 Village View Rd., and Police Sergeant., felt that when the Executive Session Minutes become public record, the residents will learn who the leak was that commented in the Lowell Sun Article.

Glenn Thoren, 18 Pinewood Rd., praised the Police Department, and noted that he has been on many committees. One incident should not dictate the future. Mr. Cohen got the Town back on stable financial footing. Good management is hard to come by. Mr. Cohen is a good town manager, with many good accomplishments.

Regina Jackson, 27 year resident, stated that Mr. Cohen is honest and hard-working, and has always had the best interests of Chelmsford at heart. Searching for a new manager will be costly and difficult. She has been a Veterans' Agent, and Mr. Cohen has always been supportive of Veterans' needs. She recommended that the Board look at the big picture.

Steve Murray, 17 Clover Hill Dr., and Principal of the Chelmsford High School, noted that the Town is in great shape, and has many great leaders. Mr. Cohen has been responsive, and spends much time in the community. He hopes the problem can be fixed.

Richard Stander, 153 Turnpike Rd., stated that he's lost confidence that the government wants to do what's best for the Town. There is too much development. Resident concerns are not taken to heart. People can speak, but they are not listened to. The Town is being overdeveloped. He recommended that the Board wait and see how the state situation develops.

Gary Persichetti, DPW Director, noted that the town's Stabilization Fund is in great shape, and the DPW & new Fire Station were built without the need of overrides. It would be unfortunate to see Mr. Cohen go.

Chairman Lefebvre read a statement into the record, advising that discussions with the Town Manager are ongoing. Open session was now concluded

COMMITTEE VACANCIES

Selectman Wojtas 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

National Grid Pole Petition, Billerica Rd. (plan #28017006, 7/10/2019)

National Grid Pole Petition, Riverneck Rd. (plan #24796669, 7/11/2019)

Approved 4/21/2020

National Grid Pole Petition, Billerica Rd. (plan #24796669, 4/17/2019)

Peter Walsh, consultant for National Grid explained that the work is related to the widening and reconfiguration of the road, and a number of poles are being relocated. Mass DOT has submitted an approved plan as the whole road is being shifted. Poles are being removed, work on the road will be done, and the poles will be replaced in a position slightly further back, in accordance with the shift. Before and after drawings were presented.

No comments were received from the audience.

Motion: by Selectman Wojtas to close the Public Hearings on National Grid Pole Petition, Billerica Rd. (plan #28017006, 7/10/2019), National Grid Pole Petition, Riverneck Rd. (plan #24796669, 7/11/2019), and National Grid Pole Petition, Billerica Rd. (plan #24796669, 4/17/2019). Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

Motion: by Selectman Wojtas to approve the National Grid Pole Petitions for Billerica Rd. (plan #28017006, 7/10/2019), Riverneck Rd. (plan #24796669, 7/11/2019), and Billerica Rd. (plan #24796669, 4/17/2019), as presented. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

REPORTS AND PRESENTATIONS

Business Development Director, Lisa Marrone: Quarterly Business Development Report

Ms. Marrone announced that NMCOG is completing their 5-year Comprehensive Economic Developments Strategy (CEDS) report, which will allow for grant funding for future planning efforts. Residents were encouraged to participate in the survey.

Ribbon cutting events and networking events were listed. Site visits and other events listed in multiple areas all over town.

Tenant negotiations are ongoing at a number of properties in the Rt. 129 area. Overall business investment is about \$3.5 million in new growth and real estate value, including renovations, new business fit outs, and other work. Spaces are slowly filling.

There are four finalists for the Business Amenity Incentive Grant Program. Ms. Marrone is awaiting letters of intent from the finalists. The final award will be presented to the Board. The funding expires on June 30, 2020. If no one follows through on the \$200,000.00 available, the funds will be put toward a new and different program. The letters are contingent on negotiations with landlords.

Future events through April were listed, including a Spring Festival will be in the Center Village. Details are still coming.

NORTH CHELMSFORD WATER DISTRICT LETTER OF CONCERN REGARDING THE TOWN OF CHELMSFORD'S ACTIVITIES AT 54 RICHARDSON ROAD

This item was taken out of order as a courtesy to the North Chelmsford Water District.

District Superintendent Bruce Harper requested the Board act upon the District's recommendations in their letter, and they requested the Board make a motion to test the monitoring wells and soils for PFAS and VOC's. They further requested to have the Fire Department file for a permit for use of the mechanics bay, and to not allow any private contractors to park at 54 Richardson Rd. The District also requested that

Approved 4/21/2020

the motion include language to forbid the placement of piles of materials, waste containers for metals, electronics, etc. and install an electric gate.

Selectman Dixon supported testing on the wells. Mr. Cohen advised that testing can be done, however, drainage comes in from the highway, and other areas. The DPW has done testing in the past. Mr. Cohen asked for clarification on what to do with the test results, as they would not determine the origin of any pollutants.

Mr. Harper stated that if the Town takes action, the State doesn't have to. This would include the monitoring of surrounding parcels. The District tests the water sources for their own wells, and parcels; they are asking that the Town does testing of the monitoring wells and piles at this site because they have no idea what is in the piles. Mr. Harper described testing they have to do under their state permits.

Chairman Lefebvre requested that the District submit a formal description and list of what items they are looking for the Town to do before the Board's meeting on February 24, 2020. The DPW can then start putting together a plan.

TOWN MANAGER REPORTS

Revised Draft Spring Annual Town Meeting Warrant

The Warrant will be signed at the next meeting. The only change was that a request for easements along Ledge Rd. was deleted.

Bids for the South Row Elementary School roof MSBA project will be opened tomorrow.

Completion of 27 Katrina Road Brownfields Remedial Activities

This work has been going on since before 2006. This parcel was an old chemical Brownfields site. The site was secured, the building was removed, and the ground has been cleaned. The site will now be used as school bus storage by the new owner.

Remediation goals have been achieved. Katrina Rd. LLC will continue with monitoring. The Town will not be held responsible for issues with the parcel any more.

MVP Grant Award \$86K

An award of \$83,545.00 was provided for culvert and stream restoration activities in the area of Dunshire Drive, to be completed by June 30, 2020. More grants will be pursued for future work. The DPW will continue to coordinate the work.

Fiscal Year 2020 Abatement Applications

Chief Assessor Frank Reen reported that his office received 46 residential requests and 32 commercial requests for abatements. Corresponding data from FY 2017-2020 was presented.

Schedule Joint Meeting for Appointments to the Nashoba Tech School Committee

March 9, 2020 is the preferred date to appoint one Regular position, and one Alternate position to this Committee.

TOWN MANAGER APPOINTMENTS

Historical Commission: David Vigeant, unexpired 3-year term ending 6/30/2020

Approved 4/21/2020

Motion: by Selectman Wojtas to approve the Town Manager's Appointment of David Vigeant to the Historical Commission for a term to expire June 30, 2020. Seconded by Selectman Antul.
Motion carries, unanimous, 5-0.

SIGN ELECTION WARRANT FOR MARCH 3RD PRESIDENTIAL PRIMARY

Motion: by Selectman Wojtas to approve and post the Election Warrant for the March 3, 2020 Presidential Primary, as presented. Seconded by Selectman Antul. **Motion carries, unanimous, 5-0.**

MEETING MINUTES

BOS Regular Session Minutes 1-20-2020

BOS Executive Session Minutes 1-20-2020

Selectman Timmins requested tabling this vote, as she would like to submit additional edits.

SELECTMEN LIAISON REPORTS & REFERRALS

Selectman Dixon:

No reports this evening.

Selectman Timmins:

-The School Department will begin their budget hearing on February 25, 2020, at 6:00PM. Supporting documents are available on the Department's website. Questions can be e-mailed to any School Committee Member.

-The Conservation Commission will open the hearing on their Notice of Intent to remove trees from the Cranberry Bog Reservation dam. There is a Warrant Article to request funding for this project at Spring Town Meeting.

-The Age Friendly Initiative Committee is collaborating with the Master Plan Committee and hoping for a high response rate to their public survey.

Selectman Antul:

-The Permanent Building Committee will be touring the fire stations, and they are working on recommendations for the renovation of the station in North Chelmsford. They will also visit other newer area fire stations to look at potential options.

Selectman Wojtas:

-The Library will be celebrating the 20th Anniversary of the Library addition on February 29, 2020. Residents were encouraged to join the Friends of the Library in an effort to reach their goal of having 2,020 members in 2020.

Chairman Lefebvre:

-Residents were encouraged to participate in completing the Master Plan Survey.

-The Planning Board will be opening the hearing for a proposal to redevelop the Oddfellows Building. The Historic District has voted to support the proposal.

PRESS QUESTIONS

Robert Mills, Lowell Sun, asked if a vote will be taken on the Town Manager's contract tonight. Chairman Lefebvre could not confirm whether a vote would be taken tonight or not.

EXECUTIVE SESSION TO RETURN TO OPEN SESSION

Approved 4/21/2020

To Conduct Strategy Sessions in Preparation for Negotiations with the Town Manager and to Conduct Contract Negotiations with the Town Manager

Motion: by Selectman Wojtas to enter into Executive Session at 8:52PM, to return to Regular Session, to Conduct Strategy Sessions in Preparation for Negotiations with the Town Manager and to Conduct Contract Negotiations with the Town Manager. Seconded by Selectman Antul.

Roll Call Vote:

Selectman Crocker-Timmins: Aye

Selectman Wojtas: Aye

Selectman Dixon: Aye

Selectman Antul: Aye

Chairman Lefebvre: Aye

Motion Carries, 5-0.

VOTE ON NEW EMPLOYMENT AGREEMENT WITH THE TOWN MANAGER

The Board returned to Regular Session at 11:00PM. Selectman Wojtas announced that the Board will continue their discussion on February 25, 2020, at 2:00PM.

Motion: by Selectman Wojtas to adjourn the meeting at 11:01PM. Seconded by Selectman Antul.

Motion carries, unanimous, 5-0.

NEXT REGULAR MEETING DATE: February 24, 2020

Respectfully Submitted,

Vivian W. Merrill
Recording Secretary

Supporting documents:

-Early Voting Calendar

-Proclamation for the League of Women Voters

-Master Plan Survey

-Documents from Frank Goode to the Board of Selectmen

-Resident Petition submitted by Annita Tanini

-List of Committee Vacancies

-Supporting documents for Pole Petitions

-Presentation from Business Development Director

-List of Spring Town Meeting Warrant Articles

-Supporting documents for 27 Katrina Rd.

-Documents regarding MVP Grant Award for Dunshire Drive

-Memo regarding FY20 Abatement Applications

-Memo regarding the Appointment to the Nashoba Technical School Committee

-Committee Application

-Election Warrant

-Letter from North Chelmsford Water District

-Draft Minutes

Approved 4/21/2020

Approved & Held 5/4/2020
Released 5/18/2020

Town of Chelmsford Board of Selectmen Minutes
Town Offices, Room 200
50 Billerica Rd.
Chelmsford, MA 01824

RECEIVED
2020-05-19
2:39 PM
TOWN OF CHELMSFORD
PATRICIA E. DZURIS
TOWN CLERK

Executive Session MINUTES
February 10, 2020

Attending:

Kenneth Lefebvre, Chairman
Patricia Wojtas, Vice Chairman
Emily Antul, Clerk
George Dixon, Selectman
Virginia Crocker Timmins, Selectman

Brian Maser, Town Labor Counsel

The purpose of this Executive Session was to discuss strategy with respect to negotiations with the Town Manager, and to conduct negotiations with the Town Manager regarding his Employment Agreement. Discussion began at 8:55PM.

Chairman Lefebvre expressed his disappointment that the press learned of the substance of discussions during the prior Executive Session, held on January 27, on this same matter. He was especially upset because he feels that it reflects poorly on him, given that his business requires confidentiality with his clients.

Chairman Lefebvre asked if the Board members felt there was a middle ground in regards to the Town Manager, such that the Board would be willing to entertain an extension of his employment agreement.

Selectman Antul stated that she was horrified by the lack of awareness by the Town Manager that this Board may have issues with him. She particularly noted his management of the union contracts. She said she would be willing to explore a one year extension for him, contingent on the results of the upcoming Department of Labor Relations hearing.

In response to a question by the Board, Mr. Maser stated a six-month severance package was fairly standard for town managers. He suggested that the Board may consider an option similar to one imposed in Groton, where the contract included opt-out language for both the Board and Town Manager.

Chairman Lefebvre noted that he would be more willing to extend the Town Manager's contract if the outcome from DLR clears him of any wrongdoing, but he is unwilling to extend past six months under the current conditions. He also noted several behaviors by Mr. Cohen that he had requested since early in his term on the Board, but that Mr. Cohen had just recently adopted (offering TIFs to potential businesses; notifying the Board of bid openings, etc.).

Selectman Dixon reported that he had been in touch with Special Labor Counsel Brian Harrington, and asked if he would provide a written report of his findings, based on the interviews he conducted at the request of the Board. Mr. Harrington told Selectman Dixon he would submit such a report if a majority of the Board requested it.

Motion: by Selectman Dixon to request a written report from Attorney Brian Harrington.
Seconded by Selectman Antul.

Roll call vote:

Selectman Dixon: Aye

Selectman Timmins: Aye

Selectman Wojtas: Aye

Chairman Lefebvre: Abstained due to potential conflict

Selectman Antul: Aye

Motion passes, 4-0, with one abstention.

Selectman Antul stated that she likes Mr. Cohen, but is optimistic that there are other potential town managers who are just as effective.

Mr. Maser recommended that if the Board wishes to end its employment agreement with Mr. Cohen, the process should begin quickly, as it may take several months to hire a new town manager, and if an interim is put in place, there may be restrictions that will limit who can fill that role, and to what extent.

Selectman Dixon asked Mr. Maser about a letter from the town insurance carrier, which stated that any damages resulting from the upcoming DLR hearing would not be covered under the town's policy. Mr. Maser noted that is standard practice for municipal insurance companies, and he was not surprised.

Selectman Timmins stated that she would like Mr. Cohen to be held to a standard of conduct that requires respectful behavior. She noted remembering only two meetings during her term on the Board during which Mr. Cohen did not shut others down and/or yell. She said that trust has been shattered between some Board members and Mr. Cohen and that there also seem to be trust issues between some Board members. She asked if the Board could meet with a facilitator to attempt to reestablish trust. In response to a question from Selectman Wojtas, Mr. Maser noted that such a meeting could be conducted in an Executive Session under various Executive Session reasons, such that it would not violate Open Meeting Law.

Mr. Maser reviewed the possible timeline for receiving a decision from DLR, estimating that it would take a year for completing the hearing, and the hearing officer submitting her findings. So he asked if the Board might consider a one-year extension for Mr. Cohen.

Selectman Antul asked about the potential legal costs for the DLR hearing, and any appeals that may follow. Mr. Maser estimated \$12,000 - \$18,000 for the hearing, and \$24,000 - \$36,00 for each level of appeal, which could be at least two.

Selectman Antul asked about the 'probable cause' term that was used when the complaints to DLR were considered for dismissal. Mr. Maser stated that he has never encountered a situation where a complaint filed by a union was dismissed; the 'probable cause' standard is quite low.

The Board asked Mr. Maser to work on examples of successor agreements that may be used in this situation to temporarily extend Mr. Cohen's employment.

Mr. Cohen was called into the meeting at this point.

Chairman Lefebvre reiterated his disappointment regarding the leak of the previous Executive Session to the media. He explained the requests made of Mr. Maser.

Approved & Held 5/4/2020

Released 5/18/2020

Mr. Cohen asked if there were any actions he could take at this time to better serve the Board.

Selectman Antul expressed frustration that the union continues to use the media in attempting to sway public opinion.

It was agreed to continue discussions on Tuesday, February 25, and 2:00PM, and to make that announcement in open session, prior to adjourning tonight's regular meeting.

Motion: by Selectman Wojtas to adjourn the Executive Session at 10:55pm, and return to open session. Seconded by Selectman Antul.

Roll call vote:

Selectman Dixon: Aye

Selectman Timmins: Aye

Selectman Wojtas: Aye

Chairman Lefebvre: Aye

Selectman Antul: Aye

Motion passes, unanimous, 5-0.

Respectfully Submitted,

Pat Wojtas
Board of Selectmen

Supporting Document:
Draft Employment Agreement between Town of Chelmsford and Town Manager