

Approved 1/23/2023

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

Regular Meeting MINUTES
January 9, 2023

Attending:

Virginia Crocker Timmins, Chair
Ken Lefebvre, Vice Chair
George Dixon, Clerk
Mark Carota, Board Member
Patricia Wojtas, Board Member

Paul Cohen, Town Manager
Paul Haverty, Town Counsel

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.

Chair Timmins called the meeting to order at 6:00PM followed by the Pledge of Allegiance.

Vice Chair Lefebvre read the following announcements:

PUBLIC SERVICE ANNOUNCEMENTS

Northern Middlesex Council of Governments Envision 2050 Survey

The Northern Middlesex Council of Governments (NMCOG) is embarking on Envision 2050, an update to the Northern Middlesex Metropolitan Planning Organization's (NMMPO) long-range regional transportation plan. This is an opportunity to help shape the future of transportation in our region. For more information visit www.nmcog.org/envision2050.

Northern Middlesex Council of Governments North Chelmsford Traffic Study Presentation and Public Input Scheduled for January 23rd Select Board Meeting

NMCOG North Chelmsford traffic study presentation and public input is scheduled for the January 23rd Select Board meeting.

Nomination Papers for Annual Town Election

The town election will be held on Tuesday, April 4th and nomination papers are available now with the last day to obtain papers on February 10th. The last day to file nomination papers with the Board of Registrars is February 14th. The last day to register to vote is March 24th. See list of open town-wide offices on the town website.

PUBLIC INPUT

There was none.

COMMITTEE VACANCIES

Vice Chair Lefebvre read the list of current vacancies. Interested applicants can apply online at <http://www.chelmsfordma.gov> or through the Town Manager's office.

LICENSES

One Day All Alcoholic Beverages License: Sts. Vartanantz Armenian Church, 180 Old Westford Rd.

Bruce Kayajanian appeared before the Board and stated that this is the first Mardi Gras event that the church has been able to sponsor since the pandemic.

MOTION: by Vice Chair Lefebvre to approve the one day all alcoholic beverages license for Sts. Vartanantz Armenian Church for the Mardi Gras event scheduled for February 18th on its premises at 180 Old Westford Rd. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

ALCOHOL LICENSING DISCUSSIONS

Discussion with Town Counsel Regarding the Licensing Disciplinary Hearing Process

Chair Timmins asked Town Counsel to clarify whether a disciplinary hearing is necessary in order to provide a record of an alcohol license violation even if the Board decides not to pursue discipline.

Attorney Haverty stated that the Board does not need to have a disciplinary hearing in order to provide a record of the incident. The Board at its last meeting required the license holder to provide a corrective action plan. The Board's requirement which was made part of the record and the corrective action plan will be part of the public record. He added that M.G.L. ch. 138 sec. 10a requires the local licensing authority (Select Board) to file an annual report with the Alcohol Beverages Control Commission (ABCC) listing all violations that came before it over the previous year and any actions and findings made thereto regardless of any disciplinary action. Entering into a corrective action plan with the license holder to address issues that are the subject of the complaint fall within the category of actions taken as a result of the complaint reported to the ABCC.

If the Board decides to go forward with the disciplinary process, there is nothing formally set forth about what needs to be done other than provide adequate notice to the license holder of a scheduled disciplinary hearing. With regard to the Board's authority to require employees of the license holder to provide testimony with regard to the incident, ch. 138 sec. 12a provides authority to the Board to require testimony as part of its investigation, and the Board may make a negative inference from an employee declining to provide such testimony.

Ch. 138 sec. 23 gives the Board authority to modify, suspend or cancel a license for non-compliance. However, while the Board needs to ensure that all claims are taken seriously and addressed in an appropriate manner, the Board does not incur liability for *not* taking action with regard to a claim.

Discussion ensued. In response to Board Member Wojtas' comment that a disciplinary hearing could address the Board's policy with regard to serving intoxicated persons, Attorney Haverty stated that license holders are given a copy of the Board's policy and are required to be in compliance with the policy as well as ABCC policies. He confirmed that the Board is required to file an annual report by February 15th of any and all violations from the previous year.

Board Member Wojtas was concerned that the ABCC would question the Board's consistent handling of violations if the Board did not take any action in one situation, and in a later situation, took more severe action. Attorney Haverty stated that each incident is unique. If disciplinary action is taken, the license holder has five days to file an appeal with the ABCC. Upon review of the violation, the ABCC will review the determination of the Board without precedential value. Every incident must be documented in the annual report including disciplinary action, corrective action or no action taken. If there are no violations, no report needs to be filed.

Chair Timmins stated that the fundamental question is whether a disciplinary hearing is necessary. Attorney Haverty stated that revocation or suspension of a license would require a disciplinary hearing. Otherwise, any other action taken by the Board, including the correction action plan, would need to be filed in the annual report.

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Discussion ensued. Board Member Dixon stated that no further action of the Board is needed since the Police and Fire Chiefs had already conducted an investigation. Board Member Wojtas strongly advocated that a precedent be set that all violations are taken seriously and would be addressed in a disciplinary hearing, but at the very least the license holder should present its corrective action plan for the Board's review. Other board members, including the Chair, were in favor of the latter as an interim step for the Board's final disposition. Attorney Haverty agreed that this approach would provide additional relevant information to the Board in order to better advise next steps.

Town Manager Cohen will schedule the license holder as well as attendance by the Fire and Police Chiefs for either of the next two meetings on January 23rd and 30th prior to the February 15th annual report deadline.

Vice Chair Lefebvre stated that restaurants and bars are reporting an increased incidence of patrons' use of alcohol nips as a supplement to bar service, and the problems this creates for servers to be in compliance with not serving to intoxicated patrons.

Town Counsel Haverty left the meeting.

Discussion Regarding Issuance of Additional All Alcoholic Beverages Off Premises License

Town Manager Cohen stated that as a result of an increase in the Town's population, the ABCC adjusted the licensing quotas of one license per 5,000 residents by one additional all alcoholic beverages off premises license. The Board took action last year to issue a moratorium on the issuance of the additional license, and that moratorium is due to expire at the end of March.

Chief Spinney appeared before the Board. He stated that in connection with his defined role to ensure public safety, he is not opposed to the expansion of alcohol licenses from seven to eight as long as the entity abides by all guidelines, ordinances and applicable laws related thereto.

Discussion ensued. Vice Chair Lefebvre and Board Members Dixon and Wojtas were opposed to the expansion of licenses as potentially causing competitive hardship to existing retail operations and supported the extension of the moratorium indefinitely. Chair Timmins noted that the state formula supported an additional license noting that the Board does not restrict approval of licenses to victuallers. Vice Chair Lefebvre stated that the formula did not take into account the Town's proximity to New Hampshire and residents' choice for discounted purchases.

Following discussion, it was the consensus of the Board to continue the moratorium for another year and reassessment of the market at that time due to planned expansions of current retail operations.

MOTION: by Vice Chair Lefebvre to continue the moratorium on the issuance of an additional off premises retail liquor license to December 31, 2023. Seconded by Board Member Dixon.
Motion carries 5-0, unanimous.

Discussion Regarding Unissued Wine and Malt Beverages Off Premises Licenses and Select Board Policy Regarding Mixed Use Off Premises Licenses

Chair Timmins began the discussion on the Board's policy on the issuance of licenses for wine and malt beverages for mixed use off premises retail operations. All applications have been heretofore denied.

Chief Spinney appeared before the Board and stated that he is not opposed to the issuance of these types of licenses, as long as all regulations and laws are followed.

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Following discussion, it was the consensus of the Board to keep its current policy with regard to mixed use off premises licenses.

REPORTS AND PRESENTATIONS

Board Member Dixon recused himself from the meeting.

Paul McKinlay, Weston & Sampson: 54 Richardson Road PFAS Treatment Sampling Results North Chelmsford Water District Input

Paul McKinlay of Weston & Sampson appeared before the Board and reviewed his PowerPoint presentation on the 54 Richardson Road PFAS treatment sampling results, including the following highlights.

54 Richardson Road – PFAS assessment and remediation update since July 5, 2022

- November 2022 data trends
 - PFAS detected in the majority of site monitoring wells
- Treatment area monitoring well trends
- Dog park area monitoring well trends
- Offsite shallow monitoring well trends
- Phase I system alterations
 - Goal of system modifications is to ensure system meets PFAS discharge limits at all times
 - Phase I utilizes existing equipment for treatment
 - Phase 2 will be implemented as needed to increase flow rate and/or capture area under revised regulatory thresholds

Discussion ensued. Paul Pires of the North Chelmsford Water District appeared before the Board. In response to his question on the continuing increase in numbers, Mr. McKinlay responded that since its inception in July, there have been two rounds of data reflecting very low parts per trillion data, which may be within the margin of error in sampling and analysis. The sampling of influent and effluent concentrations show effluent data non-detect for unregulated PFAS 6 compounds. After several months of operation the treatment is operating as designed. He added that reconfiguring the system to increase the efficiency of water capture results in decreasing the flow slightly from 130-160 gals/minute to 100 gals/minute. As a cost savings to the Town, the number of wells tested will be reduced. The next sample report is expected next month.

Board Member Dixon returned to the meeting.

DPW Director Christine Clancy: Sewer Capacity Credit Transfer Policy

DPW Director Christine Clancy appeared before the Board. She stated that changes were made to the sewer capacity credit transfer policy as a result of input from the latest joint meeting of the Select Board, Board of Health and Planning Board as well as public input in early December.

The DPW will generate a list of potential properties to start the pilot program for sump pump removal of outflow to the town sewer, and the conveyance of flow from one non-residential property to another. The developer shall request a specified number of sump pumps needed to accrue the necessary flow credit. The DPW will provide notice to proceed with the project as long as the property owner agrees to participate in the infiltration/inflow removal program and complete necessary work prior to the issuance of the certificate of occupancy. A certificate of occupancy will not be issued until agreed I/I removal work has been completed and approved by the DPW.

Ms. Clancy reported that application for funding has been submitted to the state for the pilot program with an award expected at the end of the month. A list of available properties will be generated in the spring/summer timeframe. Part of the pilot program will determine the number of sump pumps in the specified category, as well as an average estimated allotment to each sump pump.

Discussion ensued. In response to Vice Chair Lefebvre's question on how sewer flow amounts will be estimated, Ms. Clancy responded that an estimated number has not been determined for the pilot study at this time, but other communities have estimated anywhere between 200-450 gallons/day. Interest from developers thus far has been for additional capacity. When the program is advertised, it will be the responsibility of the property owner to request assistance from the program. With variable costs of sump pump replacement in the range of \$15-40K, setting the actual cost has not yet been determined. The intent is to allow developers to get a jump start with the program as estimated costs and flows are being determined.

Discussion ensued on the proposed projects in the pipeline like Center Village and Apollo Drive. Town Manager Cohen stated that once the funding is in place, developers will be allowed the opportunity to proceed albeit with some uncertainty. Commitment to reduce flow before the occupancy certificate is issued will be sufficient without *payment in lieu of*. Given the fact that projects will take months to complete in a range of costs, projects can move forward without delaying the initiating process or setting a precedent of an exact number. Other water saving efforts of low flow fixtures will also be factored in at a later time and actual calculations will be verified by DPW. At the end of the day, flows must meet required standards.

Town Manager Cohen stated that he attends departmental weekly meetings to discuss all active projects and to vet and assess needs and to communicate in real time across departments and to signoff on the permitting process. Ms. Clancy gave examples of specific projects that required the input from all departments.

DISCUSSION REGARDING SELECT BOARD'S CIVIC ENGAGEMENT GOAL

Chair Timmins began the discussion on the Town Manager and Select Board goal as follows:

9a Civic engagement – collaboration

Identify and begin implementation of ways to improve Select Board communication and collaboration with boards and committees with focus on how the Select Board and Town Manager can better support them.

Following discussion, it was the consensus of the Board to send a written questionnaire to the chair of boards and committees as follows:

1. Do you feel your board or committee is valued?
2. How can the Select Board and Town Manager better support your board/committee?
3. Please provide any other feedback to the Town Manager or Select Board.
4. Feel free to reach out to any Select Board member or Town Manager with questions.
5. Please submit written input by the end of February.

9c Youth/young adults. Evaluate options for increasing engagement with youth and young adults in our community and implement as appropriate.

Chair Timmins reported that she had previously been in contact with Superintendent Lang regarding a point of contact in the Chelmsford Public Schools and that he had suggested waiting until the second half of the school year. Vice Chair Lefebvre reported that he has been invited to address the high school civics class on Wednesday. Following discussion, it was the consensus of the Board that he will ask the faculty member for their recommendations regarding appearing before the Board or another point of

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contact. Chair Timmins will respond to the resident expressing an interest in providing input and will reach out to Dr. Lang for his recommended point of contact.

DISCUSSION REGARDING MASSACHUSETTS BROADBAND INSTITUTE DIGITAL EQUITY PLANNING PROGRAM

Board Member Wojtas reported that NMCOG is strongly encouraging all communities in the region to participate in a technical assistance program sponsored by the Massachusetts Broadband Institute that better positions communities for more than \$1 billion already earmarked for digital equity in Massachusetts: the Municipal Digital Equity Planning Program. An overall evaluation of broadband access both geographically and demographically will be conducted and listening sessions set up to address the needs for providing the infrastructure, services and training aimed at reducing the digital divide and better position communities to compete for and program existing or forthcoming digital equity state and federal funds. A point person would be assigned to provide specific town-wide information.

Discussion ensued. Town Manager Cohen stated that this initiative is an example of the professional leadership of NMCOG to engage communities to work together regionally to provide broadband equity. Notwithstanding its concern that the project not present a workload burden to already “overstretched” employees, the consensus of the Board was in favor of supporting the program for its overall benefit to residents.

MOTION: by Vice Chair Lefebvre to support the proposed Digital Equity Planning Program, and designate NMCOG as the program consultant. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

DISCUSSION ON LEGISLATIVE PRIORITIES FOR JANUARY 23RD SELECT BOAD MEETING

Chair Timmins presented the legislative priorities that will be discussed at the January 23rd meeting as follows:

- NMCOG traffic study
- State legislature budget cycles
- Sewer and water constraints, PFAS
- Chapter 70 funding and calculation
- Chapter 90 funding
- Unrestricted general government aid
- How the 4% state income tax surcharge will be allocated
- Loss of auxiliary police as a result of police reform
- Additional state housing requirements
- Mental health programs

Following discussion, it was the consensus of the Board to add the home rule petition for removing the Deputy Fire Chief position from civil service and directly addressing and expanding on the Town’s infrastructure problem as it relates to the additional state housing requirements, including MBTA communities.

TOWN MANAGER REPORTS

Town Manager Cohen reported on the following matters.

Citizen Petition Warrant Articles for Spring Annual Town Meeting

The deadline for submission of citizen petition warrant articles passed last Tuesday, and there were no additional petitions filed. However, additional required information has not yet been submitted by Mary Donovan on her petition for a pet cemetery.

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Attorney General's Office Approval of the 2022 Fall Annual Town Meeting Warrant

The Attorney General's office has approved warrant articles Articles 21, 22 and 23 voted at the fall annual town meeting that will subsequently be posted as the Town's official bylaws.

Old Fellows Building Brook Walk Easement

Work continues on the Brook Walk easement.

December Sewer Flows

December's flow showed an increase consistent with December historically showing a heavier flow.

Economic Development Bill Earmarks

The Town is awaiting more information on how economic development funds can be used.

NMCOG Call for Concepts

Community Development Director Evan Belansky will be submitting the following concepts for consideration to NMCOG by the January 20th deadline.

- Assistance with updating the housing production plan.
- Assistance with compliance with MBTA communities housing production.
- Assistance with environmental sustainability to address climate change.

Discussion ensued on the data submitted on the tree canopy across the town. Town Manger Cohen will attend the upcoming Tree Committee meeting to adequately address the need for tree preservation.

Lowell Five Cent Savings Bank's Donation to Public Safety

The Lowell Five Cents Savings Bank has donated \$3,000 for public safety initiatives and the amount will be split between police and fire departments.

TOWN MANAGER APPOINTMENTS

Conservation Commission: Peter Spawn, unexpired three-year term exp 6/30/2023

MOTION: by Vice Chair Lefebvre to approve the appointment of Peter Spawn to the Conservation Commission for an unexpired three-year term to expire June 30, 2023. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

MEETING MINUTES

Select Board Joint Meeting with School Committee and Finance Committee Minutes 12/12/2022

MOTION: by Vice Chair Lefebvre to approve the minutes of the Select Board joint meeting with the School Committee and Finance Committee of December 12, 2022. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

Select Board Regular Meeting Minutes 12/19/2022

MOTION: by Vice Chair Lefebvre to approve the Select Board regular meeting minutes of December 19, 2022. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

Announcement of Determination of Releasability of Executive Session Minutes

Minutes for Release: December 19, 2022

Minutes not for Release: December 5, 2022. Segments 1 and 2

MASSACHUSETTS MUNICIPAL ASSOCIATION (MMA) RESOLUTION AND VOTING DELEGATE

MOTION: by Board Member Dixon to nominate Board Member Wojtas as the MMA voting member. Seconded by Vice Chair Lefebvre. Board Member Wojtas accepted the nomination. **Motion carries 5-0, unanimous.**

VOTING DELEGATE FOR MIAA ANNUAL MEMBERS BUSINESS MEETING

MOTION: by Vice Chair Lefebvre to nominate Board Member Wojtas as the voting delegate for the MIAA annual members business meeting. Seconded by Board Member Dixon. Board Member Wojtas accepted the nomination. **Motion carries 5-0, unanimous.**

SELECT BOARD MEMBER LIAISON REPORTS AND REFERRALS

Board Member Dixon – no report.

Board Member Carota – no report.

Vice Chair Lefebvre – no report.

Board Member Wojtas

- Ribbon cutting and samples at Craic Hot Sauce in North Chelmsford.
- Becky Herrmann, Library Director for twenty-one years, has passed. An amazing woman who always challenged her staff to “find a way to yes” will be missed.

Chair Timmins

- Board of Assessors reminds residents that in the tax bills that have been sent there are property tax exemption guidelines for FY2023. Exemption forms must be received in the Assessors Office not later than April 15th.
- Board of Assessors is encouraging residents to review their tax bills and if needed requests for abatements must be filed with the Assessors Office no later than February 1st. For guidance contact the office at 978-250-5220 or Frank reen at freen@chelmsfordma.gov.
- Board of Health is providing walk-in flu shots every Tuesday from 4:00-6:00PM or call to make an appointment.
- Board of Health is conducting free Narcan training on February 7th at two sessions, the first at 1:00PM and the second at 6:00PM. For more information consult the health department website and Facebook page. Narcan is used for saving those suffering from overdoses of opioids and all attendees will receive Narcan free of charge. Registration at www.chelmsfordma.gov and class sizes are limited. For more information contact the health department at 978-250-5241.
- Planning Board public hearings on January 11th will include the proposed subdivision at 264 Groton Road and continued public hearings for warehouse proposal at 270 Billerica Road and building addition at 250 Apollo Drive.
- Conservation Commission is conducting monthly conservation walks around the Town reservations. Conservation walks will held at 9:00AM on a given Saturday morning at a given site parking lot and members of the public are invited to join for approximately 45-60 minutes. The schedule is forthcoming.
- Vinyl Square Strategic Action Plan Committee invites the public to attend its next meeting on January 10th at 7:00PM. This is a hybrid meeting at Town Hall and Zoom access.

ADJOURNMENT

MOTION: by Vice Chair Lefebvre to adjourn to Executive Session at 8:06PM, not to return to open session, to discuss strategy with respect to collective bargaining with a) the Police Patrol Officers Union; and b) the Firefighters Union. Seconded by Board Member Dixon.

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Roll Call Vote:
Chair Timmins, aye
Vice Chair Lefebvre, aye
Clerk Dixon, aye
Board Member Carota, aye
Board Member Wojtas, aye
Motion carries 5-0, unanimous.

NEXT REGULAR MEETING DATE: January 23, 2023

Respectfully submitted,

Christine Martin Barraford
Recording Secretary

Supporting documents:

- Envision 2050 survey
- 2023 ATE open seats
- Committee vacancies as of 1/9/23
- Sts. Vartananz one day license
- Chelmsford off-premises liquor license quota as of 12/20/22
- Off premises liquor license locations
- SB policy 3-4.1 mixed use package store licenses
- Table 1 groundwater analytical results December 2022
- Figure 4 GW elevations August 2022
- Draft sewer capacity credit transfer policy – January 9, 2023
- Civic Engagement goal
- 221213 digital equity one pager
- 221213 digital equity summary document
- MAPC digital equity report
- Potential Legislative priorities
- No citizen petition warrant articles
- Chelmsford Fall Town Meeting zoning articles approved
- Central Village Brook walk plan set
- Brook Walk easement cost estimate
- Sewer Flow summary FY23
- Sewer flow through December 22
- NMCG call for concepts
- Lowell Five donation letter
- Conservation Commission application – Spawn
- 12/12/2022 triboard minutes draft
- 12/19/22 SB minutes draft
- MMA annual business meeting resolution
- MMA annual business meeting voting procedures
- Packet 1 MIIA PC and MIIA Inc 2023 final 12/16/22

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

Executive Session Minutes
Segment 1 (Bargaining Police Patrol Officers)
January 9, 2023

Attending:

Virginia Crocker Timmins, Chair
Kenneth Lefebvre, Vice Chair
George Dixon, Clerk
Patricia Wojtas, Board Member
Mark Carota, Board Member

Paul Cohen, Town Manager
Brian Maser, Labor Counsel (by Zoom)

Chair Timmins called the Executive Session to order at 8:12 pm. The purpose of the Executive Session segments and start times were:

- Segment 1, 8:12 pm: Strategy with Respect to Collective Bargaining with the Police Patrol Officers Union
- Segment 2, 8:21 pm: Strategy with Respect to Collective Bargaining with the Fire Fighters Union

Segment 1:

Discuss Strategy with Respect to Collective Bargaining with the Police Patrol Officers Union

Attorney Maser and Manager Cohen reviewed the parameters of the Memorandum of Agreement signed by the Town and the Union on December 27, 2022 and ratified by the Union. Specific elements of the MOA clarified included the following.

- Article 5, Voluntary Dues Deduction from Wages, Item c: The content in the deleted paragraphs had requirements to pay agency fees if an officer does not join the Union.
- Article 13, Compensation, Item a: In Year 1, the hourly wage in each step was increased by \$1. A 2.5% increase was then applied for all steps. In Years 2 and 3, a flat 2.5% increase was applied for all steps.
- Article 16, Call in Pay, Item a: The change from 3 hours of pay to 4 hours of pay is for Overtime call backs.

The Board members agreed to ratify the MOA with a formal vote at the Board's January 23, 2023 Open Session meeting.

Respectfully submitted,

Virginia Crocker Timmins
Select Board Chair

Segment 1 Supporting Documents:

- *Memorandum of Agreement By and Between the Town of Chelmsford and the Chelmsford Police Patrolman's Association, Fraternal Order of Police, Lodge 110 dated December 27, 2022*