

Approved 6/6/2022

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

Regular Meeting MINUTES
May 23, 2022

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.

PUBLIC SERVICE ANNOUNCEMENTS

Veterans Agent Regina Jackson – Memorial Day Proclamation and Observance

Vice Chair Lefebvre read the Proclamation in recognition of Memorial Day on May 30, 2022. Veterans Agent Regina Jackson accepted the Proclamation with gratitude. She stated that the Parade will begin at the American Legion Post 313, 90 Groton Rd. @ 10:00AM. Girls scouts and boy scouts will assemble at 9:30AM. The parade will proceed to Vinal Square at which time the program will include a rededication of the Vietnam Veterans Memorial. All are invited to join at the North Town Hall following the ceremonies for cake and ice cream. All veterans graves in six cemeteries have been honored with a flag.

Diversity, Equity and Inclusion Committee – Pride Month Proclamation

Vice Chair Lefebvre read the Proclamation in recognition of lesbian, gay, bisexual, transgender and queer (LGBTQ) Pride Month June, 2022. Diversity, Equity, and Inclusion Committee Chair Latosha Dixon accepted the proclamation with gratitude. She also expressed appreciation for last week's listening session for the LGBTQIA+ community.

Health Department Walking Group – Second and Fourth Tuesday – 9:00AM

Vice Chair Lefebvre announced that the Health Department is sponsoring a walking group on the Bruce Freeman Rail Trail every second and fourth Tuesday at 9:00-9:30AM. Meet at the 110 Ballfields at the intersection of Fletcher St. and Chelmsford St. A new health topic is discussed along the way.

**2020 Master Plan Implementation Committee Opening for Resident or Town Meeting Rep
Deadline May 27th**

Vice Chair Lefebvre announced that the 2020 Master Plan Implementation Committee is seeking to fill one position for a resident or Town Meeting Representative. See links on the town website for further information. Letters of interest need to be submitted no later than May 27, 2022 to Evan Belansky, Director of Community Development at ebelansky@chelmsfordma.gov

Market on the Common – Saturdays – May 28th – October 9th – 1:00-4:00PM

Community Services Coordinator Jen Melanson announced that the Market on the Common will be held every Saturday from May 28 – October 9th from 1:00-4:00PM with home bakers and artisan crafts. No

Approved 6/6/2022

market on the July 4th weekend. Both farmers and crafters are being sought and may contact Jen Melanson on the town website.

Memory Café – Senior Center – June 6th at 3:00PM

You are invited to attend a Mindful Moment event sponsored by the Purple Hydrangea Consultation, Council on Aging and Booster Club on June 6th from 3:00-4:00PM at the Senior Center on 75 Groton Road. All residents and their caregivers are invited to attend.

**Listening Session Regarding Improvements around the Town Center – June 13th at 6:00PM
Chelmsford Center for the Arts**

A listening session regarding improvements around the Town Center will be held at the Center for the Arts on Monday, June 13th at 6:00PM.

PUBLIC INPUT

Danielle Koutsoufis appeared before the Board. She stated that the Select Board has opened a path forward with its proclamation of June Pride Month and referenced Attorney Haverty’s review of the Town’s flag policy. She urged the Board to consider the flying of banners and bunting and not necessarily flying a flag on the flagpole. She noted that Attorney Haverty’s letter referenced the government’s right of free speech. She stated that 10% of the population is LGBTQ, and 80% of Massachusetts voters support legalized marriage and equality. Allowing the flying of flags in June is the logical next step as well as flag flying in recognition of Armenian genocide and Irish heritage.

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

Entertainment License: Paxton 20 LLC DBA Max & Leo’s Artisan Pizza, 20 Boston Road

Bill Costa appeared before the Board. He is seeking to add an entertainment license for the purpose of providing very low volume acoustic background music on Thursday, Friday, and Saturday nights toward the end of dinner service both inside and outside in the patio area and to end at the close of business at 10:00PM.

MOTION: by Vice Chair Lefebvre to approve adding an entertainment license to the All Alcoholic Beverages license for Paxton 20 doing business as Max & Leo’s Artisan Pizza located at 20 Boston Road. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

One Day All Alcoholic Beverages License: American Legion for CHS Alumni Association, 90 Groton Road, June 25th

There was no representative in attendance. Board Member Wojtas noted that this event is usually held in August. Chair Timmins stated that if there is an additional event in August, an additional request would need to be submitted.

MOTION: by Vice Chair Lefebvre to approve the one day All Alcoholic Beverages license for a fundraiser on behalf of the CHS Alumni Association to be held on June 25, 2022, in conjunction with the block party at the parking lot of the American Legion at 90 Groton Road. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

REPORTS AND PRESENTATIONS

Chelmsford Water District Presentation

Approved 6/6/2022

Town Manager Cohen introduced Commissioner John Harrington, Superintendent Andy Reid and Todd Melanson, Environmental Compliance Officer. Mr. Reid reviewed the PowerPoint presentation on the report of the 2022 Chelmsford Water District including the following highlights:

- Drinking water week May 1-7, 2022
- District mission
- District management
- Summary of district
- Partnership with the Town of Chelmsford
- Challenges district faces
- Initiatives of the district

Mary Flanders Aicardi, UMass Boston Collins Center for Public Management Succession Planning Analysis Review and Recommendations

Mary Flanders Aicardi appeared before the Board and reviewed the PowerPoint presentation on the Collins Center report on planning analysis, review and recommendations for succession planning including the following highlights:

- Succession planning defined
- Methodology
- Structure of findings
 - Immediate, short-term, and long-term
- Summary of findings
 - Priority departments
- General recommendations
 - Assess, evaluate, and develop

Discussion ensued on the responsibilities of the Human Resources Department. The Department has one Director that serves both school, town and water district employees in the area of benefits: healthcare, unemployment, workers compensation, retiree benefits etc. Both school and town have different collective bargaining teams under the direction of the Superintendent and Town Manager.

Ms. Aicardi then reviewed the assessment for designating departments as priority 1, 2 and 3 and gave examples. The Human Resources Department was designated as priority 1 and at high risk in the succession plan. Since there was only one person in a leadership position, the recommendation was that the Town look at the organizational structure and consider short, medium, or long-term opportunities for cross training within that department and consideration of the creation of a generalist position.

The Community Services Department was designated as priority 2 and at medium risk in the succession plan. While there is not an obvious person to fill the leadership role if vacated, there are enough persons in the department to keep it running, but not with enough competencies to fill the role. The recommendation is to look at the possibilities of cross training in the areas of land use, economic planning, and conservation to bring a shared knowledge to the department.

The Building Department was designated as priority 3 and at low risk in the succession plan. There are currently staff with competencies and the recommendation is to continue education, certification of license and professional development to provide the competencies for leadership if the role is vacated.

Board Member Carota suggested that next steps include an ongoing process to review and update roles and responsibilities and provide needed training for employees. Ms. Aicardi agreed and added that every

time a position is vacated, the master succession plan be re-evaluated and tweaked as necessary to prepare for successful succession planning.

Monthly Traffic Safety Committee Report

Christine Clancy, incoming DPW Director, appeared before the Board and reviewed the PowerPoint presentation on the Traffic Committee report. Under current actions the request is being made that the Select Board approve a STOP sign on the right corner of Dayton Street at the intersection of Doral Drive. Chief Spinney appeared before the Board. He stated that this represents a safety issue for pedestrians and other vehicles.

MOTION: by Vice Chair Lefebvre to approve the erection of a STOP sign on the right corner of Dayton Street at the intersection of Doral Drive. Seconded by Board Member Dixon. **Motion passed 5-0, unanimous.**

Ms. Clancy continued her report on pending actions. The NMCOG truck traffic study report with regard to Swain Road has begun, and the NMCOG truck traffic study on Ledge Road and Groton Road will be kicked off in the next few weeks. Chief Spinney continued with completed traffic studies and resident reports of traffic violations. Generally, he reported volume of traffic and not necessarily speeding violations.

DISCUSSION ITEMS

Consideration of an Amendment to Section 6-7 Annual Audit of the Town Charter

Town Manager Cohen began the discussion on the change in language to the Town Charter as discussed at the previous meeting. In Section 6-7 the language that referred to the services of a firm that conducts audits

“for 3 consecutive years shall refrain from doing so for a minimum of 1 year before becoming eligible to conduct any future audit”

shall be replaced with

“shall change the audit team that performs the audit at least every five years.”

If the Board is in approval of the change of language, a warrant article will be prepared for Fall Town Meeting and if adopted will go to ballot in Spring, 2023.

Discussion ensued. It was the consensus of the Board that the Town Manager be responsible for bringing contract renewals forward for the Board’s approval. Board Member Carota will research where language to this effect will be added for best practices in Select Board policies and procedures and report back to the Board.

Authorize Chair to Sign Letter of Support for a \$250,000 One Stop Grant Application to Vinal Square Transportation Improvements 25% Design Plan

Town Manager Cohen reported as a housing choice community, the Town has special privileges to apply for a \$250K one stop grant for funding of the Vinal Square Transportation Improvements 25% design plan. Although the Board had endorsed the plan in January, the Board needs to authorize the Chair to sign a formal letter of support for the one stop \$250K grant.

MOTION: by Vice Chair Lefebvre to authorize the Chair to sign a formal letter of support in favor of the one stop application for Vinal Square Transportation Improvements 25% Design Plan. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

LGBTQIA+ Listening Session Follow-up

Approved 6/6/2022

Chair Timmins stated that the Board provides follow-up to listening sessions. Board Member Wojtas offered to follow up with the Diversity, Equity, and Inclusion Committee as liaison and report back to the Board.

Flag Policy Discussion

Chair Timmins stated that, in conjunction with the request of the Diversity, Equity, and Inclusion Committee (DEIC) to hang Pride Month banners on the Town Common in celebration of Pride Month, Town Counsel Haverty was asked to render his opinion on the Supreme Court decision in Shurtleff v. City of Boston as well as his opinion regarding the current proposal from the DEIC.

Town Counsel Haverty stated that his review of the Supreme Court decision on Shurtleff vs. The City of Boston provides a good template for the Town on what it needs to do when acting to allow flags or disallow doing it in a way that protects the Town's interest. He recommends that the Town's flag policy be revised if the Town intends to allow any sort of flag, bunting or banner (for any group) to be displayed on Town property.

The main point of the 9-0 unanimous Supreme Court vote was that since the City was not exercising control of the message of other groups seeking permission to fly their flags, the City was not engaging in government speech. This was a key distinction as when a municipality is engaging in government speech, it is allowed to favor messages it approves of and reject messages it does not approve. The Supreme Court noted that there was no official policy regarding flags and that the City had never previously engaged in any oversight of the messaging to determine that the City was not engaged in government speech. Since the City was not engaged in government speech, its decision to deny the request of a Christian group to fly its flag was not protected.

Discussion ensued on the current banners and buntings allowed for Fourth of July celebrations and Veterans celebrations. Town Counsel Haverty noted that these items are purchased through the Town and the fact that the Town controls 100% of the message is a key point as protected government speech. Also included would be banners for upcoming civic events, e.g., the Farmers Market and the Military Community Covenant announcing when a deployed military person has returned home.

Discussion ensued on Town Counsel advice on revising the existing flag policy. It was the consensus of the Board that Town Counsel will redraft the existing flag policy to specify what is currently allowed and accepted as government speech, e.g. Fourth of July parade flags and banners. Town Counsel will present the redraft for vote at the next meeting of the Board.

Diversity, Equity and Inclusion Committee Request to Hang Pride Month Banners on the Town Common

Discussion ensued on what constitutes a flag, including buntings and banners. The Town sponsors the Fourth of July parade each year, and businesses provide revenue for the support of the parade by purchasing Fourth of July banners. Buntings and banners fall under the definition of a flag and must be allowed under government speech. It was the consensus of the Board that pride rainbow buntings do not fall within the accepted government speech category.

MOTION: by Vice Chair Lefebvre not to allow buntings to be displayed under the Parade Committee banners around town. Seconded by Board Member Dixon. **Motion passed 5-0, unanimous.**

TOWN MANAGER'S REPORT

Fiscal Year 2023 State Operating Budget Earmarks for Chelmsford

Approved 6/6/2022

Town Manager Cohen reported that he had reached out to Senator Barrett's office and presented two requests for earmarks to the Senate for Varney Playground and the Chelmsford Center for the Arts. Because of its potential to provide for energy efficiencies toward carbon neutral status, the CCA earmark for \$100K will be brought to the Senate for vote later this week. After submission to the conference committee, the Town will be notified by July.

Massachusetts Electric Vehicle Fast Charging Station Grant Award for Chelmsford Forum

Town Manager Cohen reported the Town has been awarded a Massachusetts Electric Vehicle Incentive Program (MassEVIP) Direct Current Fast Charging (DCFC) grant of \$84,152 to install two electric vehicle charging stations to be installed at the Chelmsford Forum, designated as an easily accessible location for maximum use.

TOWN MANAGER APPOINTMENTS

Council on Aging – Carole Hunt, 3-year term exp. 6/30/2024

Council on Aging – Peter Giroux, unexpired 3-year term exp 6/30/2023

Town Manager presented the appointments

MOTION: by Vice Chair Lefebvre to approve Carole Hunt for appointment to the Council on Aging for a three-year term to expire on June 30, 2024; and Peter Giroux to the Council on Aging for an unexpired three-year term to expire on June 30, 2023. Seconded by Board Member Dixon.
Motion carries 5-0, unanimous.

SELECT BOARD MEMBER LIAISON REPORTS AND REFERRALS

Vice Chair Lefebvre – no report.

Board Member Dixon – no report.

Board Member Carota

- The Friendship Park will be closed starting on Wednesday for park improvements.

Board Member Wojtas

- Attended four ribbon cuttings:
 - o Surgery Center of Merrimack Valley, in collaboration with Lowell General and Shield MRI, provides outpatient surgery.
 - o Outdoor Pride provides landscaping and snow removal services to large areas like parking lots and malls. Appreciation for their donation to Farmers Market, Food Pantry and Habitat for Humanity.
 - o Mexican Chili on Littleton Road – great tacos.
 - o Allstate Insurance under new ownership on Parkhurst Rd.
- Library one book author Ocean Vuong presentation on Thursday at 7:00PM.
- Library book sale on June 10th and 11th in the gym behind Town Offices.

Chair Timmins:

- Vinal Square Action Committee virtual meeting on June 1 at 7:00PM – sign up for link.
- Varney neighborhood committee at 6:30PM at the Bath House.
- North Chelmsford Water District water main update project on Groton Road was awarded a grant on May 18th but will be delayed because of supply chain shortages until Spring 2023.
- North Chelmsford Water District completed carbon activate replacement on filters and detected zero levels of PFAS.

Approved 6/6/2022

ADJOURNMENT TO EXECUTIVE SESSION

MOTION: by Vice Chair Lefebvre to adjourn to Executive Session at 7:22PM, not to return to open session for the purpose of discussing strategy with respect to litigation re the Second Ave. Appeal; strategy with respect to litigation re PFAS impact on North Chelmsford Water District wells; consider the purchase of real property at 1 Billerica Road//44 Central Square; and strategy with respect to Collective Bargaining.

Chair Timmins initiated roll call vote:

Board Member Carota-Aye

Board Member Dixon-Aye

Vice Chair Lefebvre-Aye

Board Member Wojtas-Aye

Chair Timmins-Aye

Motion carries 5-0, unanimous.

NEXT REGULAR MEETING DATE: June 6, 2022

Respectfully submitted,

Christine Martin Barraford
Recording Secretary

Supporting documents:

- Memorial Day 2022 Proclamation
- Proclamation – LGBTQIA pride month 2022
- Walking group flyer 2022
- Request for resident at large or Town Meeting Rep for Master Plan Implementation Committee
- CMOTC flyer
- Mindful moment flyer
- Listening session – Town Center Improvements
- Committee vacancies as of 5/23/22
- Entertainment license – Max and Leo’s
- One day license – American Legion for CHSAA
- 2022 Chelmsford Water District report
- PowerPoint for succession planning presentation Chelmsford
- Chelmsford Succession planning report 5/19/2022
- Traffic committee update 5/23/22
- Proposed change to Town Charter section 6-7 – annual audit
- Authorize Chair to sign one stop application letter of support
- Decoration request bunting 5/11/22
- Town Counsel opinion – flag policy 5/19/22 letter to Virginia Timmins
- Earmark requests to Senator Barrett
- DCFC Governor’s letter to Town of Chelmsford
- COA application Hunt
- COA application Giroux

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

Executive Session Minutes – Segment 3
May 23, 2022

Attending Segment 3:

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

Paul Cohen, Town Manager
Paul Haverty, Town Counsel
Weston & Sampson Participants (*partial attendance*)
- Paul McKinlay, Licensed Site Professional
- Jill Murphy Ready, Geologist

Note: Supporting Documents for this meeting are available at the Town Manager’s office, 50 Billerica Road, Chelmsford MA.

Chair Timmins called the Executive Session to order at 8:06 pm. The Segments were taken out of order. The purpose of the Executive Session and the starting times of each segment were:

- Segment 3, 8:06 pm: Consider the Purchase of Real Property: 1 Billerica Road / 44 Central Square
- Segment 1, 8:56 pm: Strategy with Respect to Litigation: Second Ave Appeal
- Segment 2, 9:01 pm: Strategy with Respect to Litigation: PFAS Impact on North Chelmsford Water District Wells
- Segment 4, 9:15 pm: Strategy with Respect to Collective Bargaining

SEGMENT 3 –

CONSIDER THE PURCHASE OF REAL PROPERTY: 1 BILLERICA ROAD / 44 CENTRAL SQUARE

Weston & Sampson employees Paul McKinlay and Jill Murphy Ready provided a verbal summary of their May 19, 2022 Phase 1 Environmental Site Assessment report. The report details known contamination at the site along with recommendations and considerations.

Discussion points with the Town participants and the Weston & Sampson subject matter experts included the following:

- In May 2021 a Downgradient Property Status (DPS) was prepared for the property showing evidence that contamination impacts originated from offsite sources at the former Paramount Cleaners (20 Boston Road) and former Care Cleaners (28 Central Square). Although the Massachusetts Department of Environmental Protection would like to audit all DPS opinions they have received, MassDEP has not conducted an audit of the DPS opinion for 1 Billerica Road. There is no way to know if they ever will or on what timeline.
- It is unknown whether other property owners could claim DPS showing subsequent contamination from 1 Billerica Road. There is no known downgradient contamination originating from 1 Billerica Road to another property.
- The Underground Storage Tank (UST) was reported to have been removed from the Odd Fellows 44 Central Square property circa 1951. There is no documentation related to this UST.
- The Weston & Sampson subject matter experts stated that the risk of contaminant exposure is very low if the property is refurbished and used as a parking lot. Milling and overlaying pavement is not likely to cause any contaminant exposure. The risk of contaminant exposure manifests when

digging into the subsurface, which would also require costly removal of the excavated subsurface material.

- The Weston & Sampson participants suggested that the Town consider requesting conveyance of the DPS to the Town as part of the Purchase & Sale and that the Town request that the current property owner retain liability for environmental matters that arise in the future.

Mr. McKinlay and Ms. Murphy left the meeting at 8:34pm and did not return.

Subsequent discussion points among the Town participants included the following:

- It is unknown if the 1 Billerica Road parking lot property would be the last property under the current ownership of S-BNK Chelmsford Central LLC to sell and if the LLC entity would subsequently be dissolved. This topic was raised in the context of understanding whether there would be an entity that could potentially assume liability for future contamination issues. Even if there would be a legal entity left after the property sale, the probability that the property owner would retain liability for future environmental issues is low.
 - The Board discussed whether the property owner might be more receptive to retaining liability if the Town committed to preserve the property for parking purposes.
 - Attorney Haverty offered to look into whether there is any information available about the properties under the current LLC or whether there is any information available on any contingent liabilities in the Purchase & Sale agreements for the other three properties that have sold (Odd Fellows, Santander, and Fiske House).
- The Purchase & Sale deadline is June 2, 2022. The Board agreed to hold another Executive Session Meeting on June 2nd if needed. This was the first date that all Board members were available to meet.

Motion:

Vice Chair Lefebvre motioned to authorize Attorney Haverty to request that S-BNK Chelmsford Central LLC modify the Purchase & Sale Agreement to convey the Downgradient Property Status opinion to the Town and assume environmental liability contingent on the Town's commitment to use the property only as a parking lot. Clerk Dixon seconded the motion;

Roll Call Vote:

Board Member Carota: **Aye**
Clerk Dixon: **Aye**
Vice Chair Lefebvre: **Aye**
Board Member Wojtas: **Aye**
Chair Timmins: **Aye**

Motion passed **5-0**.

Approved & Released 6/27/2022

Respectfully submitted,

Virginia Crocker Timmins
Select Board Chair

Segment 3 Supporting Documents:

- May 19, 2022 Email from Paul Cohen to Select Board, Subject “Environmental Assessment of Town Center Parking Lot at 1 Billerica Road / 44 Central Square”
- May 19, 2022 Weston & Sampson Report “Phase 1 Environmental Site Assessment 1 Billerica Road/44 Central Square Chelmsford, Massachusetts” sent to Town Counsel Paul Haverly from Jill Murphy Ready and Paul McKinlay.