

Approved 9/26/2022

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

Regular Meeting MINUTES
September 12, 2022

Attending:

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

Paul Cohen, 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.

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

PUBLIC SERVICE ANNOUNCEMENTS

Woburn Middlesex Lions Club: Childhood Cancer Awareness Month Proclamation

Vice Chair Lefebvre read the Proclamation for Childhood Cancer Awareness Month designated as September, 2022. Dr. Amy Firestein thanked the Board for its support.

George Simonian, CHS Alumni Hall of Fame

George Simonian appeared before the Board and announced that the Chelmsford High School Alumni Association is conducting its thirty-first Annual Hall of Fame Induction on October 15th at the UMass Lowell Conference Center in Lowell, MA. The program will include a social at 5:45PM, dinner at 6:30PM and the induction at 7:00PM. Inductees are Rachel Fairbanks Adaran, Class of 2010; Kenneth Chutchian, 1975; Mark Dearborn, 1986 *posthumously*; Thomas Gill, 1971; Daniel Hart, 1999; Michael McLarney 1973; Timothy McMaster 1994; Deena Patsourakos Ronayne, 2001; and John Sousa, 1984. Tickets are \$60/person and can be obtained by calling Mr. Simonian at 978-256-3100 or Terry McSheehy at 978-251-3788.

Vice Chair Lefebvre made the following announcements:

DPW Highway Division Seeking Snow Plowing Contractors for 2022-2023 Winter Season

The Town DPW Highway Division is seeking snow plowing contractors for the 2022-2023 winter season. Interested contractors can obtain plow packages at the DPW Highway Division at 9 Alpha Rd. or email mthomas@chelmsfordma.gov. Plow packages are also available on the town website at townofchelmsford.us on the main page under *News and Announcements*. All applications must be returned no later than Monday, October 24th.

International Day of Peace Celebration, September 17th, 1:00PM-4:00M

The Diversity, Equity and Inclusion Committee is celebrating Chelmsford Together International Day of Peace on Saturday, September 17th from 1:00-4:00PM on the Town Common. Enter a raffle to win one of the beautiful garden bridges on display on the Common. All proceeds to go to support the UNICEF Protect the Children of Ukraine Fund.

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Chelmsford Historical Society: Annual Farm Fair, September 17th, 12:00-4:00PM, Barrett-Byam Homestead

Chelmsford Historical Society will present its annual farm fair on Saturday, September 17th from 12:00-4:00PM at the Barrett-Byam Homestead, 40 Byam Road. Free admission includes farm animals, hayrides, tours of the homestead, live music, food, and drinks for sale and more. Rain date is Sunday, September 18th.

Chelmsford Police Department, SafetyNet Tracking Program

Chelmsford Police Department is offering free SafetyNet bracelets for locating missing persons with cognitive impairments. To take part in the program, contact Officer Mathew Fernald at mfernal@chelmsfordma.gov or by calling 978-256-2521 ext. 301; or Officer Shawn Brady at sbrady@chelmsfordma.gov or by calling 978-256-2521 ext. 275.

Fall Festival October 1st - 12:00-4:00PM

The Chelmsford Health Department will sponsor a family-friendly Fall Festival on Saturday, October 1st from 12:00-4:00PM on the Town Common. Enjoy a host of activities to get into the autumn spirit. To secure a spot as a vendor fill out an application available on the town website or contact AMcinerney@ChelmsfordMA.gov. Sponsorships of the event are encouraged. In case of rain the event will be held at the Chelmsford Center for the Arts.

Fall Festival Food Pantry Donation Request

Bring three food pantry items to the Fall Festival and you will be entered into a raffle.

Flu Vaccine Clinics: October 13th, 3:30-7:00PM, Senior Center; October 18th, 4:00-7:00PM Town Hall Gymnasium

The Board of Health is sponsoring flu vaccine clinics on October 13th from 3:30-7:00PM at the Senior Center and October 18th from 4:00-7:00PM at the Town Hall Gymnasium. Pre-registration is required at <https://home.color.com/vaccine/register/chelmsford>.

Family Celtic Night, Saturday, September 24th – 8:00-10:00PM, Chelmsford Community Center

Family Celtic Night will be held on Saturday, September 24th from 8:00-10:00PM at the Chelmsford Community Center at North Town Hall, 31 Princeton St., North Chelmsford. Admission is \$5.00/person and \$12.00 for families with children.

PUBLIC INPUT

There was no public input.

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

Common Victualler License Transfer: Chelmsford Sub Shoppe, Inc., 14 Chelmsford Street (from Chelmsford House of Pizza, Inc.)

Lucas Braganca appeared before the Board. He reported that the business has been bought and the nature of the business will remain the same as a pizza and sub shop. Even though the original seating was designated at 32 seats including stools around the counter, the actual seating of the establishment will accommodate 22 seats.

MOTION: by Vice Chair Lefebvre to approve the application for the transfer of the common victauller license from Chelmsford House of Pizza Inc. to Chelmsford Sub Shoppe, Inc. to be operated on the premises located at 14 Chelmsford St. Seconded by Board Member Dixon.
Motion carries 5-0, unanimous.

REPORTS and PRESENTATIONS

Josh Abbott, Chelmsford Firefighters Union Vice President: Removal of Deputy Fire Chief from Civil Service

Josh Abbott appeared before the Board and reviewed the PowerPoint presentation on the removal of the Deputy Fire Chief from Civil Service including the following highlights:

- History of civil service merit system to ensure hiring and promoting qualified candidates
- Acceptance into civil service
- List of Deputy Fire Chiefs who have served the Town
- How the process works
- List of 103 municipalities that currently participate in civil service
- Civil service test options
- 2022 Deputy Fire Chief's exam
 - In the event of four Captains not applying, opens up exam to lower rank of firefighters in the next two-year cycle for exams
- Parity with Police Department
- Benefits of civil service
- Closing

Mr. Abbott asked for the Board's support in opposing warrant Article 20 to remove the Deputy Fire Chief position from civil service.

In answer to Vice Chair Lefebvre's question on the 103 municipalities participating in civil service, Mr. Abbott stated that number is for full-time fire stations. Part-time stations are not included in civil service.

Fire Chief Gary Ryan stated that the posting for the civil service exam occurs every two years. We have seven captains. If four Captains do not apply to take the exam, the exam is put off for the next two-year cycle and it is next opened up to applications from the next lower rank of firefighter. Mr. Abbott stated his understanding that Chelmsford was not included in the initial sign up and that a special sign up was then scheduled for which only three captains signed up, resulting in a postponement for the next two-year cycle. Mr. Abbott offered to get data regarding scheduling and sign-up dates from Civil Service to help resolve the discrepancies and questions regarding sign up cycles. Mr. Abbott's position is that this results in a detriment to the chain of command of the fire department.

Lexy Lattimore, CCA Executive Director – Strategic Growth Plan

Lexy Lattimore, CCA Executive Director, appeared before the Board and reviewed her presentation on the FY23 strategic growth plan for the CCA including the following highlights:

- Updated mission, vision, and value statements to reflect Town mission and vision
- Elements and components of quality of life
 - Control, sense of permanence and ability to make decisions on what happens in the community
 - Health, environmental quality
 - Nature, ability to use green space
 - Wonder, a sense of playfulness and creativity and sense of belonging
 - Elements of W.E.R.C.C.
 - Enhance wellbeing
 - Encourage empathy

- Build resilience
- Support creativity
- Create connection
- 2019 strategic plan used as the roadmap for change
 - Established in 2019, showed a median age of attendees as 60 years old
 - Programming covered but operating expenses not covered
- 2022-2023 strategic plan
 - Priority #1 – Increase number of people coming through the doors
 - Partnership with Health Dept on Fall Festival in October
 - Halloween Festival
 - Friday Cabaret programming for teens
 - Town holiday prelude in December including Charlie Brown Christmas
 - Opportunities for meaningful community engagement with different groups
 - Collaboration with families on the autism spectrum
 - Healing arts highlight
 - Cancer support knitting group
 - Leadership opportunities
 - Student intern programs
 - Priority #2 – Increase marketing
 - Offering of programs in theater arts for adults and children
 - Former residents sharing professional talents, i.e. Thanksgiving homecoming
 - Priority #3 – Increase contributions
 - Increase CCA membership
 - Corporate underwriting
 - Foundation support
 - Major donors
- Logic model, theory of change and evaluation
 - Measurements of success in the short, medium, and long-term, including financial

Town Manger Cohen stated that in accordance with the Board’s directives, Ms. Lattimore will report quarterly updates.

Christine Clancy, DPW Director – Roadway Pavement Plan Update; Stormwater Fee Schedule Revision; and ARPA Projects Update

Christine Clancy, DPW Director, and Tony Repucci, Town Engineer, appeared before the Board. Ms. Clancy updated the Board on the five-year paving plan originally presented to the Board in February. Since then, adjustments to the plan have been made to coincide with schedule of work planned for the sidewalk master plan. Contracts are being procured to do sidewalk assessments of existing sidewalks and proposed opportunities around schools and businesses. A full report will be presented to the Board for work to be next spring.

Roadway Pavement Plan

Ms. Clancy reported that 9.7 miles of roadway work has been completed this year. Streets that typically take a beating during winter months like Drumhill Road have been moved up in the schedule for evening milling work this fall. A backlog of roads is being considered for full reclamation. Roads that do not receive a high volume of traffic are being considered for a pilot program of micro sealing this spring.

Mr. Repucci referenced the list of streets in the presentation and the plan for construction and costs thereof, as well as MassDOT’s municipal pavement program for Routes 4 and 40.

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Stormwater Fee Schedule Revision

Ms. Clancy reported that to meet the 2016 NPDES MSR general permitting requirements, the Town created a Stormwater Division under the DPW which is funded through a stormwater utility fee. She reviewed the current fee structure for residential and commercial properties and a revised stormwater fee structure that will take effect in January 2023. The revised structure proposes to increase the residential stormwater fee by 3% from \$60 to \$62 to accommodate for inflation and adjust the commercial tiers so that they are more in line with other average rates within the state as well as redistribute the burden more evenly across the eighteen commercial tiers.

Discussion ensued. In response to Board Member Carota's question on the number of businesses on the high end of the tier, Ms. Clancy stated that 427 out of 512 commercial businesses, or 83% of commercial properties, will see a decrease in their annual stormwater utility fee. She noted that there are still incentives for residential adjustments for catch basins or other means, as well as for businesses to reduce their impervious areas by substituting pavement with grass and other pervious materials.

Residents will be notified of the upcoming revised fee structure ahead of taking effect in January, 2023.

ARPA Projects Update

Ms. Clancy reviewed the monthly update of the Town's allocated ARPA funds, which included a status summary of each project or funding commitment, the status of the procurement or an anticipated procurement timeline, estimated project overruns, and the percent spent to date. Of the \$7.9M programmed funds, approximately \$3.6M, or 46% of projects have been procured to date. DPW is projecting potential overruns on some of the HVAC related projects given the recent bidding trends. Refinement of these projections will become available as the designs of these projects are advanced.

Town Manager Cohen stated that there is a need to fund the position of an assistant facilities director in keeping with efforts for succession planning in the department and other leaves of absence.

Paul McKinlay, Weston & Sampson Engineer: Proposal for PFAS Remediation System and Testing; North Chelmsford Water District Input

Board Member Dixon recused himself from the meeting.

Paul McKinlay, Weston & Sampson Engineer, appeared before the Board. The initial remedial system was approved by MassDEP in November of 2021 and work began on the detection of PFAS chemicals at the North Chelmsford Water District. He reviewed the map of the site and the process used to pump water into recovery wells for their ultimate treatment and removal of chemicals. During the months of July and August over 10M gallons of water have been pumped, treated, and reinfiltred, and samples consisting of non-detect parts/trillion of PFAS chemicals were supplied to MassDEP. He reviewed the specific findings and stated that overall, the remedial system had a positive impact on reduction of PFAS chemicals to below state-mandated standards.

Discussion ensued. In response to Town Manager Cohen's question on elevated levels of PFAS for some of the wells, Mr. McKinlay stated that higher levels were found in some wells and the numbers are being monitored. Elevated levels were also found at the dog park and data are being tracked as a possible secondary source of PFAS contamination. Also being tracked is the effect of the stress of the drought conditions affecting the collection of data. Also being considered is the background of the ubiquitous effect of PFAS contamination.

Bruce Harper, Superintendent of the North Chelmsford Water District, appeared before the Board. He requested that the Board consider having the Town pay for the cost of remediation. Chair Timmins responded that the responsibility for payment is not part of the discussion this evening.

Town Manager Cohen stated that a task force has been formed to determine next steps in finishing the system in terms of operation and testing for the remainder of the fiscal year. An article will be introduced at town meeting to cover the additional costs of the project in the amount of \$254K. Mr. McKinlay reviewed in detail the cost overruns encountered by Weston & Sampson during the project and the reasons for them.

Town Manager Cohen noted that the DOR is in the process of certifying free cash for the fiscal year and anticipates that \$254K will be allocated from free cash for overages.

Chair Timmins questioned whether dialogues were initiated on cost management with contractors on project management systems and controls as early indicators of cost overruns. Town Manager Cohen responded that the Town was not aware of overruns until the required breakdown and analysis. Chair Timmins suggested that when working with suppliers and subcontractors, contracts have built-in language regarding cost control and project management and possibly building into the contract a structure to share costs of overruns.

Ms. Clancy stated that, although the project was underway when she came on board, projects are monitored on a weekly basis with onsite construction meetings. She stated there was no advance knowledge of issues that would signal cost overruns on this project. Communication and frequent meetings would typically flag impending cost overruns.

Mr. McKinlay stated that the bulk of costs came from procurement chain issues and delays. Coupled with extensive labor overruns in order to adequately meet DEP deadlines, this created a bottleneck situation where critical issues were missed.

Chair Timmins noted that, in light of overruns projected because of procurement chains, that ARPA project bid documents require fixed price contract and language about sharing of overruns. Town Manager Cohen noted that all bid awards contain fixed price contracts. In the case of Weston & Sampson, this contract was based on time and materials only because of the operational time constraints. Mr. McKinlay confirmed that massive events led to the untimely submission of vendor invoices and subsequent interruption of adequate controls and budget tracking.

Board Member Dixon returned to the meeting.

SIGN WARRANT FOR THE FALL ANNUAL TOWN MEETING

Town Manager Cohen presented the warrant for the annual town meeting on October 17th and requested approval of the Board to sign the warrant.

MOTION: by Vice Chair Lefebvre to sign the warrant for the Fall annual town meeting on October 17th. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

TOWN MANAGER BID AWARDS

MacKay Library HVAC

Town Manager Cohen reported that two bids had been received and the lowest qualified bidder was Thomas E. Snowden Company in the amount of \$128K. The budget for the project is \$150,000.

Ms. Clancy reported that the estimated procurement lead time for the equipment is eighteen weeks which pushes the timeline for the project to December/January.

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MOTION: by Vice Chair Lefebvre to approve the bid award for the HVAC ventilation improvements project at MacKay Library in the amount of \$128,000. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

TOWN MANAGER REPORTS

August Sewer Flows

Town Manager Cohen reported that the flow for August was 59.44M, and as compared with last August's number of 81.06M and the previous August 73.81M, was one of the lowest in years. He has shared the data with John Potts, sewer analysis consultant, raising the issue of inflow from other sources. Ms. Clancy reported that a pilot study is being launched that will identify neighborhoods using sump pumps, and developing a program for removal from the sewer system and redirection to a separate storm drain system.

Town Manager Cohen stated that this work is being considered in light of the end of the sewer moratorium next month and the implementation of a new sewer policy.

Sewer Bank Options

Town Manager Cohen reported that he expected to put the plan in place before the end of the sewer moratorium in October. Chair Timmins confirmed that the plan would be discussed with the Planning Board at a joint meeting on Monday, September 19th. Following that meeting, public input will be invited.

Discussion ensued. Board Member Wojtas noted that flow credits for removal of extraneous inflow into the Town's water system should not include removal of inflow from sump pumps.

Littleton Road Sewer Repair Alternatives and Sewer Force Main Assessments

Town Manager Cohen stated that the report from the consultant John Potts quoted an estimated total cost of approximately \$5.3M to install relief lines on Littleton Rd. He is reviewing less costly alternatives including assistance from state funding for zero interest loans.

In looking at the root causes, the proposal is to make an assessment of the five oldest sewer force mains, i.e. Richardson Rd., Progress Ave., Katrina Rd., Southwell Field, and Kensington Rd. at a cost of \$1.1M. There is an article in the warrant for town meeting to provide funding for prevention of sewer main breaks in order to avoid the high costs of addressing an emergency sewer main break situation. Due to the age of the system, a proposal would be made to DEP to scale back or reduce inspections to the traditional camera inspection.

Treatment of Weeds in Freeman Lake

Town Manager Cohen reported that, following a discussion with Conservation Agent David Koonce, it was decided to form a committee with members of the Conservation Commission and concerned residents on the best path forward. The Commission is meeting tomorrow to discuss a more holistic approach to lake management and the need for more information about the condition of the lake. As the permitting authority in Town for treatment of the lake, the commission will lead the dialogue to discuss alternative approaches with the intention of creating a treatment program similar to Heart Pond with routine annual maintenance and spot treatment.

Completion of Downgradient Status for 1 Billerica Road

Town Manager Cohen reported that Ransom Consulting LLC has completed its study and transferred the downgradient status for 1 Billerica Rd. to the Town as the acquirer of the property. Copies of the letters were sent to the upgradient and downgradient abutter property owners and operators, including MassDEP.

Middlesex County Retirement Assessments for FY24 and FY25

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Town Manager Cohen reported that the retirement board assessment as of January 1, 2022, is \$10,538,132. The current budget will reflect a 7.55% increase and 6.57% for the following year. In keeping with the Board's wish to be apprised of upcoming budget issues, Mr. Cohen reported an increase of 8% is expected for health insurance premiums. Additionally, trash and recycling contracts are up for renewal, and several bids will be prepared for both manual and automated options. The Finance Director is preparing the capital budget requests for department heads as of October 1st.

TOWN MANAGER APPOINTMENTS

CCA Advisory Committee: Lexy Lattimore, ex-officio

MOTION: by Vice Chair Lefebvre to approve the appointment of Lexy Lattimore as an ex-officio member on the CCA Advisory Committee for a one-year term to expire on June 30, 2023. Seconded by Board Member Dixon. **Motion carries 5-0, unanimous.**

MEETING MINUTES

Select Board Regular Session Minutes August 22, 2022

MOTION: by Vice Chair Lefebvre to approve the regular session meeting minutes of August 22, 2022, as amended. Seconded by Board Member Dixon. **Motion passed 4-0-1, with Board Member Carota abstaining.**

Announcement on Determination of Releasability of Executive Session Minutes

Minutes for Release: August 22, 2022

Minutes not for Release: August 8, 2022, Segments 1 and 2

Chair Timmins reported that minutes of August 22nd were deemed to be released, and the minutes of the August 8th meeting segments 1 and 2 were deemed not to be released.

SELECT BOARD MEMBER LIAISON REPORTS AND REFERRALS

Board Member Dixon – no report.

Board Member Carota

- He received an email from Barry Jefferson of the Roberts Field Committee in praise of DPW Director Christine Clancy as an example of town department heads and committees working effectively together.

Board Member Wojtas

- Praised the Middlesex 4-H Fair ceremonies and participant displays.
- Attended Chase Bank ribbon cutting on Drumhill Rd. which is committed to working with the community.
- Praised Eagle Scout Alec Patel on achieving the highest award in scouting.
- Attended both weekend remembrance ceremonies of 9/11 and “we should never forget.”

Vice Chair Lefebvre

- Reported a large oil spill coming out of the building in the Walmart parking lot. Town Manager will follow up.

Chair Timmins

- The School Committee reports a smooth start to the school year and had a ribbon cutting for the new Center School playground. A foreign exchange program is underway with eleven Spanish students and two teachers in September and will be hosting French exchange students in October.
- Tennis Court Committee held its last meeting and is working on final recommendations.
- Conservation Commission is getting close to opening the Warren-Pohl site to the public.
- The Finance Committee is beginning its review of the town meeting warrant articles this Thursday at 6:30PM, and public comment will be invited at beginning and end of meeting.

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- Planning Board is continuing its public hearings on September 14th to include the development on 255 Princeton St., the warehouse construction on 270 Billerica Rd., as well as the garage on 150-153 Dalton and the Riverneck Rd. development.
- Joint Planning Board, Finance Committee, and Select Board meeting on September 19th to discuss MBTA communities status as well as discussion on the new proposed sewer policy.
- Vinal Square Strategic Action Plan Committee will meet on September 21st and welcomes community participation and volunteers.
- Age friendly community had a demonstration to share their enthusiasm at Friendship Park and Roberts Field for the new equipment and walking path available for enjoyment of all ages. They are hosting a declutter support group. Registration by calling Senior Center to join weekly support group 978-251-0533.

Town Manger Cohen expressed his appreciation to the Town Clerk and staff for a very smoothly run primary election.

ADJOURNMENT TO EXECUTIVE SESSION

MOTION: by Vice Chair Lefebvre to adjourn to Executive Session at 8:27PM, to return to open session, for the purpose of discussing strategy with respect to collective bargaining: Department of Labor Relations decision regarding New England Police Benevolent Association, Local 20.

Roll call vote:

Chair Timmins-Aye

Board Member Dixon-Aye

Board Member Carota-Aye

Vice Chair Lefebvre-Aye

Board Member Wojtas-Aye

Motion carries 5-0, unanimous.

RETURN TO REGULAR SESSION

Chair Timmins called the regular session of the Select Board back to order at 9:22PM.

MOTION: by Vice Chair Lefebvre to sign the warrant for the Special Town Meeting to be held on October 3, 2022. Seconded by Board Member Dixon. **Motion passed 5-0, unanimously.**

ADJOURNMENT

MOTION: by Vice Chair Lefebvre to adjourn at 9:23PM. Seconded by Board Member Dixon. **Motion passed 5-0, unanimously.**

NEXT REGULAR MEETING DATE: September 26, 2022

Respectfully submitted,

Christine Martin Barraford
Recording Secretary

Supporting documents:

- Proclamation Childhood Cancer Awareness Month 2022
- CHSAA press release 2022
- CHSAA Hall of Fame 2022

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- Snow plow contractors for 2022-2023
- 2022 day of peace
- Farm fair flyer
- CPD press release – SafetyNet tracker system
- FallFest community flyer with farmers market and CCA info 8/23/22
- Donation raffle flyer final
- 10/13/22 flu clinic flyer
- 10/18/22 flu clinic flyer Town Hall
- Committee vacancies as of 9/12/2022
- Common vic transfer Chelmsford Sub Shoppe
- Deputy Chief civil service letter local 1839
- Police Department exemption of chief and deputy chief from civil service
- Deputy Chief Civil Service Presentation by Local 1839
- CCA high level strategy FY23 9/1/22
- CCA logic model FY23 9/8/22
- SB meeting 9/9/22 road paving plan map
- SB meeting 9/9/22 road paving plan final
- 9/8/22 paving plan update
- 9/8/22 stormwater fee update
- Stormwater fee summary
- 9/8/22 ARPA update for SB
- 9/8/22 ARPA update
- 54 Richardson amend4 final rev1
- Table 1 groundwater analytical results FEB2022 rev JMR 06202022
- Figure 2 site map rev mar 2022
- 54 Richardson gw eval 8/22
- 2022 fall ATM list of warrant articles
- 2022 fall annual town meeting warrant
- Bid award MacKay HVAC
- Flow summary FY23
- Sewer flow through August 22
- Sewer bank policy September 22
- Re: Chelmsford sewer flow
- Littleton Road relief sewer Sept2022
- FW Freeman Lake
- RTNS3-36245 and 3-36246 DPS – lot 2A 1 Billerica rd. Chelmsford2
- Middlesex County retirement board assessment
- 08/22/2022 SB minutes
- Special town meeting warrant – October 3, 2022
- HO decision issued

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Town Offices, Room 200
50 Billerica Rd.
Chelmsford, MA 01824

Executive Session Minutes
September 12, 2022

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
(virtual attendance)

Chair Timmins called the Executive Session to order at 8:30 pm. The purpose of the Executive Session was to discuss Strategy with Respect to Collective Bargaining: Department of Labor Relations Decisions Regarding New England Police Benevolent Association, Local 20.

The Participants discussed the Department of Labor Relations Hearing Officer's Decision Issued September 6, 2022 for Case Numbers MUP-19-7227, MUP-19-7313, and MUP-19-7361.

Attorney Maser clarified the process for appeal should the Town decide to appeal. This process would include filing the appeal by 09/16/2022 with a supplemental brief due to the Commonwealth Employment Relations Board (CERB) in 30 days and the opportunity for the Superior Officers Union to respond. Should the decision by the CERB be unfavorable to the Town, the Town would then have the option to appeal to the State Appeals Court. Appeals to the State under Chapter 30A need to show that the decision was arbitrary, capricious, not in compliance with the law, and/or an abuse of discretion. Appeal decisions typically give deference to the DLR experts and their assessments.

Motion: Clerk Dixon motioned not to appeal the DLR Hearing Officer's decision. Vice Chair Lefebvre seconded the motion.

Board Member Carota asked for further clarification on the DLR Joint Management-Labor Committee (JLMC) process and the people participating in that process.

Attorney Maser had stated it was not required for the Board to take a formal vote on whether to appeal. Board Members Carota and Wojtas did want to take a formal vote regarding the Hearing Officer's decision and did not want to vote on the motion on the table. Board Members Dixon and Lefebvre did not withdraw the motion or the seconding of the motion.

Call for Vote: Chair Timmins called for a vote on the motion not to appeal the DLR Hearing Officer's decision.

Roll Call Vote:

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

The motion passed **5-0**.

The participants discussed the procedural steps to comply with the Hearing Officer's decision. Attorney Maser clarified that the Board did not need to repeat the vote not to appeal in Open Session but that the Board should return to Open Session as planned to sign the Warrant required for the Special Town Meeting to be held within 30 days of the decision. Other compliance procedures were reviewed and clarified.

ADJOURNMENT

Motion: Vice Chair Lefebvre motioned to adjourn the meeting to return to Open Session at 9:20pm. Clerk Dixon seconded the motion.

Roll Call Vote:

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

The motion passed **5-0**.

Respectfully submitted,

Virginia Crocker Timmins
Select Board Chair

Supporting Documents

- Commonwealth of Massachusetts Department of Labor Relations Hearing Officer's Decision Issued September 6, 2022 for Case Numbers MUP-19-7227, MUP-19-7313, MUP-19-7361