

Chelsea, Massachusetts, November 28, 2011

A Regular meeting of the Chelsea City Council was held. The meeting was held at the Chelsea City Hall located at 500 Broadway, Chelsea Massachusetts. The following were in attendance: Councilors, Vega-Torres, Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, and Brown. Councillor Bishop arrived at 7:14 P.M. Councillor Barton was absent. One vacancy. President of the Council, Councillor Vega-Torres presided over the meeting. The meeting opened at 7:00 P.M.

The public speaking portion of the meeting opened at 7:05 P.M.

No one came forward to speak and it was closed at 7:06 P.M.

The minutes of the City Council meeting dated November 14, 2011 were approved at the request of Councillor Brown under suspension.

Communications from City Manager:

The following communication was read from the City Manager Jay Ash. A motion from Councillor Hatleberg to accept and file was adopted under suspension.

The Honorable City Council  
City Hall  
Chelsea MA 02150

Re: Donations-In Memorium

Dear Honorable City Council:

The Chelsea Senior Center has received donations from various individuals in memory of member(s) who have passed.

Donations in the amount of \$605.00 have been received to date. These funds will be used for the general activities and support of senior member programs.

I have drafted a proposed order to approve the donation. I respectfully request that the Council take appropriate action on this matter.

Thank you for your consideration,  
Jay Ash  
City Manager

The following communication was read from City Manager Jay Ash. A motion from Councillor Hatleberg to accept and file was adopted under suspension.

The Honorable City Council  
City Hall

Chelsea MA 02150

Re: Donation-Family  
The Annual Chelsea Family Literacy Day

Dear Honorable City Council:

The Chelsea Public Library celebrates National Family Month through its sponsorship of Chelsea Family Literacy Day.

A family donation of \$50.00 has been received to support Chelsea Family Literacy Day. These funds will be reserved to support Literacy Day expenses.

As you may know, the 6<sup>th</sup> Annual Chelsea Family Literacy Day was held on Saturday, November 5<sup>th</sup>, 2011 from 11:00 A.M. to 2:00 P.M. This year's event tallied 775 confirmed participants!

I have drafted a proposed order to approve the donation. I respectfully request that the Council take appropriate action on this matter.

Thank you for your consideration.

Jay Ash  
City Manager

The following communication was read from City Manager Jay Ash. A motion from Councillor Hatleberg to accept and file was adopted und suspension.

Honorable City Council  
Chelsea City Hall  
500 Broadway  
Chelsea, MA 02150

Re: CIP Reprogramming Request  
City Yard Partial Roof Replacement

Ladies and Gentlemen of the Council:

In FY2012 Capital Improvement Plan, the City Yard Partial Roof Replacement Project was funded in the amount of \$105,000, based upon estimates generated for this type of roof replacement. The DPW City Yard roof replacement was prioritized due to persistent roof leaks in the office area, but was limited to only this office area.

The project specifications and plans were placed out for bids this summer, and the most competitive bid exceeded the estimated cost. The higher than expected cost is attributed to an unknown condition requiring some steel installation, and general escalation of costs. The scope of the project remains the same, but additional funding of approximately \$48,000 (including contingency) is needed.

The CIP Committee seeks your authorization to transfer funds appropriated for other projects to FY'12 City Yard Roof Replacement Project to address this shortfall;

FY 08 Vinyl Sign Cutter Equipment Funds-The equipment purchase is completed at a cost less than originally budgeted (\$40,000). The remainder balance of \$10,440.72 is proposed for transfer to CIP'12 City Yard Partial Roof Replacement Project:

FY'11 City Hall Roof Snow Guards-The project construction is complete at a cost less than originally budgeted (\$40,000). The remainder balance of \$10,440.72 is proposed for transfer to CIP'12 City Yard Partial Roof Replacement Project;

FY'11 City Hall Roof Snow Guards-The project construction is complete at a cost less than originally budgeted (\$50,000). The substantial savings is the result of a modified design that required less invasive roof modifications to accommodate a simpler snow guard system. The system has been found to be equally effective. The remainder balance of \$37,501.00 is proposed for transfer to CIP'12 City Yard Partial Roof Replacement Project.

The Committee requests Council vote to appropriate the unexpended proceeds of the above loan projects in the amount of \$37,501.00 and \$10,440.72 to pay cost of FY'12 City Yard Partial Roof Replacement Project.

The request to transfer/appropriate the unexpended balance will ensure that sufficient funds are available to undertake and complete the project, including a modest contingency.

I respectfully request that the Council take action on these matters.

Sincerely,  
Jay Ash  
City Manager

The following communication was read from Cit Manager Jay Ash. A motion from Councillor Hatleberg to accept and file was adopted under suspension.  
The Honorable City Council  
City Hall  
Chelsea, MA 02150

Dear Council:

As you may recall, Attorney General Martha Coakley negotiated a \$7.5 million settlement with Wheelabrator Technologies regarding the latter's violations of environmental laws at their Saugus and North Andover facilities. As a result and because we are a user of the Saugus facility, Chelsea received a one-time, \$131,000 award, in July 2011.

In June, and after consultation with Council President Marilyn Vega-Torres, I asked Council to consider use of the funding for Summer Jobs. Council appropriated funds for the Summer Jobs for Youth Program in the amount of \$55,000, with the result that 40 additional jobs were generated at local organizations.

At the time, I suggested but did not effectuate that you appropriate:

- i) funds in the amount of \$8,000 to cover an anticipated shortfall in a grant that provides for the Chelsea Senior Center's bi-lingual program/Latino outreach coordinator. That coordinator helps the Senior Center by promoting, creating and maintaining programs, especially those geared toward our Non-English speaking members. Those past include ESL and Civics in Action (teaches immigrant seniors about current and past events in America), and the coordinator organizes Latino parties, provides outreach to Latino seniors in the community, performs translations, and assists in all other matters programs. Census results have indicated that our senior population has reduced and thus a grant tied to that indicator has been reduced. Providing the requested funding, therefore, will allow for these multi-cultural services to take place for another year. We will then take the year to examine ways of supporting those efforts in the future, and
- ii) funds for the acquisition of one of the two F550 medium duty trucks provided in the FY'12 CIP. By making the purchase out of this one-time funding, the City would not incur the debt and associated interest costs on the \$68,000 piece of equipment that we had intended on acquiring through general obligation debt.

I hope you will agree that these planned expenditures are one-time expenditures that are appropriate for the use of this one-time revenue.

The planned allocation of the AG Wheelabrator settlement remainder amount (\$131,000-55,000=76,000) has been adjusted to reflect current conditions in the following manner:

Chelsea Senior Center's bi-lingual program/Latino outreach coordinator - \$4,000. The grant cut was less than reported, and actual award amount requires only this gap funding to keep the position fully funded.

DPW Equipment- The planned purchase of one (1) F550 medium duty truck has been deleted in favor of replacing a ) an as yet to be determined piece of City Yard equipment, in the amount of \$72,000. (DPW has already ordered the other two truck purchases planned for in the FY12 CIP)

Procedurally, what I would ask Council to consider is to withdraw \$76,000 from our certified Free Cash (FY'12) in order to allow the funds to be encumbered for expenditure by mid-year.

For your information, the \$131,000 award has been received (July) as unanticipated revenue and would be counted as part of our Free Cash balance that would be certified as our FY'13 Free Cash balance (in October, 2012). The current expenditures would replace the appropriation out of our current (FY'12) Free Cash.

Two readings are required for these expenditure requests.

Thank you for your consideration of this request. I am grateful to you for your potential action and grateful to Attorney General Coakley for her work on this matter.

Sincerely,  
Jay Ash  
City Manager

New Business:

The following order was introduced by Councillor Hatleberg. Councillor Hatleberg moved the order to a second reading under suspension.

Be it ORDERED by the City Council of the City of Chelsea, as follows;

Pursuant to Section 3-5 of the City of Chelsea, Ordinances, and pursuant to Chapter 44 ss 53A of the Massachusetts General Laws, the City Council hereby accepts the gift to the City of Chelsea Library to support the National Literacy Day projects in the amount of \$55.00.

The following order was introduced by Councillor Hatleberg. A motion from Councillor Hatleberg moved the order to a second reading under suspension.

Be it ORDERED by the City Council of the City of Chelsea, as follows:

Pursuant to Section 3-5 of the City of Chelsea Ordinances, and pursuant to Chapter 44 ss 53A of the Massachusetts General Laws, the City Council hereby accepts the gift to the City of Chelsea Elder Affairs Department to support senior member programs and projects in the amount of \$605.00.

The following Ordinance amendment was introduced by Councillor Bongiovanni. A motion from Councillor Bongiovanni to move the Order to a second reading was adopted under suspension.

**WHEREAS**, the City Council for the City of Chelsea adopts ordinances to protect the health, safety, and welfare of all residents of the City of Chelsea; and,

**WHEREAS**, the City of Chelsea's Police Department has seen increasing issues regarding the enforcement of drag racing throughout the city and related quality of life crimes especially those involving accidents and a threat to public safety; and

**WHEREAS**, the Chelsea City Council has determined that such criminal activity has an adverse impact on the safety and welfare of all residents of the City of Chelsea;

**WHEREAS**, the City Council of the City of Chelsea acknowledges the difficulty of catching violators and recently learned that the Chelsea Police Department intends to install cameras to monitor and apprehend persons in the act of criminal activity; and;

**WHEREAS**, after a public hearing, the City Council of the City of Chelsea has determined that criminal penalties would act as a better deterrent to curtail the ongoing problem of persons drag racing in the City;

**NOW, THEREFORE, BE IT ORDERED**, by the City Council of the City of Chelsea, as follows:

That a petition to the Great and General Court, accompanied by a bill for the enactment of a special law relative to public safety within the City of Chelsea, be filed with an attested copy of this Order, be and is hereby approved under Clause (1) of Section 8 of Article 2 of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that the Great and General Court enact a special law relative to health, safety and welfare of residents of the City of Chelsea, in a form substantially the same as follows:

Notwithstanding any general or special law, city charter provision, or local ordinance to the contrary:

**AND BE IT FURTHER** Ordained that the Revised Code of Ordinances of the City of Chelsea as amended, be it further amended and adopted as follows:

An Ordinance Amending Chapter 2 of the Chelsea Code  
of Ordinances regarding Public Safety

**Section X-XX. DRAG RACING**

**A. PURPOSE**

The purpose of this ordinance is to protect the health, safety, and welfare of the general public from the nuisance, crime, accidents and negative health effects created by drag racing within the community. The City Council of the City of Chelsea has determined that drag racing constitutes a threat to public safety, is a public nuisance and increases criminal activity. The City Council of the City of Chelsea has further found that the cost related to enforcement against the increased criminal activity is burdensome to city resources and creates a negative impact on the community as a whole.

**B. IMPOUNDMENT OF MOTOR VEHICLE.**

Notwithstanding Section 17B of Chapter 90 of the General Laws or any other general or special law to the contrary, the State Police and the Chelsea Police Department may impound any motor vehicle used in the City of Chelsea by an owner or operator to accelerate at a high rate of speed in competition with another operator, whether or not there is an agreement to race, whether or not there is increased noise from skidding tires or amplified noise from racing engines, so-called drag racing, until such time as a forfeiture hearing can be heard in the manner set forth in Sections C and D of this ordinance..

**C. FORFEITURE**

(1) The following items shall be subject to forfeiture:

- (a) Any motor vehicle used or intended to be used to violate Section 17B of Chapter 90 of the General Laws or used to facilitate a violation of said Section 17B of said Chapter 90 in the City of Chelsea, but no forfeiture under this act shall extinguish a perfected security interest held by a creditor in a motor vehicle at the time of filing of the forfeiture action; and
- (b) any money, negotiable instrument, securities or other thing of value furnished or intended to be furnished in exchange for violating said Section 17B of said Chapter 90 or for facilitating a violation of said Section 17B of said Chapter 90 in the City of Chelsea.

(2) The following exemptions shall apply:

- (a) no motor vehicle used as a common carrier in the transaction of business as a common carrier shall be subject to forfeiture, unless the owner or other person lawfully in charge of such motor vehicle consented to or participated or intended to participate in the violation or facilitation of a violation of Section 17B of Chapter 90 of the General Laws:
- (b) no motor vehicle used or intended to be used to violate said Section 17B of said Chapter 90 or to facilitate a violation of said Section 17B of said Chapter 90 shall

be subject to forfeiture by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such motor vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, the commonwealth or any state; and

- (c) no motor vehicle shall be subject to forfeiture unless the owner knew or should have known that such motor vehicle was used or intended to be used to violate or to facilitate a violation of said Section 17B of said Chapter 90.

#### **D. CIVIL ACTION**

The Suffolk County Superior Court shall have jurisdiction under any action brought pursuant to this act.

The City may petition the Superior Court in the name of the city in the nature of a proceeding in rem to order forfeiture of a motor vehicle, money or other things of value subject to forfeiture under Section C (1) (a) and (b) of this ordinance. Such proceeding shall be deemed a civil suit. Any person claiming a right in the property subject to forfeiture shall have the right to claim a trial by jury, but if such right is not claimed, the right to a trial by jury shall be waived. In all such suits where the property is claimed by any person other than the City, the City shall have the burden of proving the existence of probable cause to institute the action, and any such claimant shall then have the burden of proving that the property is not forfeitable pursuant to Section C. The court shall order the city to give notice by certified mail to the owner of the motor vehicle, moneys or other things of value and to other persons who appear to have an interest therein, and the court shall promptly hold a hearing on the petition. Upon motion of the owner of said motor vehicle, moneys or other things of value, the court may continue the hearing on the petition pending the outcome of any criminal trial related to the violation of Section 17B of Chapter 90 of the General Laws, and upon a finding of not guilty, the court shall dismiss the forfeiture petition. At such forfeiture hearing the court shall hear evidence and, if no jury has been requested, make findings of fact and conclusions of law, and shall thereupon issue a final order, from which the parties shall have such right of appeal as is provided by law. In all such suits where a final order results in a forfeiture, said final order shall provide for disposition of the motor vehicle, moneys or other things of value by the City in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency; or by sale at public auction or by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and the balance thereof shall be deposited in the general fund of the City pursuant to Section 53 of Chapter 44 of the General Laws and shall be appropriated to the police department.

#### **E. PENALTIES**



Whoever violates section 17B of Chapter 90 of the General Laws in the City of Chelsea shall, in addition to forfeiture of the motor vehicle as set forth in Section C, also be punished by a fine of not less than \$500 nor more than \$1,000, and the registrar shall suspend such operator's license for a period of not less than 60 days. A Subsequent violation shall be punished by a fine of not less than \$2,000 nor more than \$5,000 and a suspension of such license for a period of not less than 6 months.

**F. EFFECTIVE DATE**

This act shall take effect upon its passage.

The following orders was introduced by Councillor Hatleberg. A motion from Councillor Hatleberg moved the orders to a second reading under suspension.

Be it ORDERED by the City Council of the City of Chelsea, as follows;

Pursuant to Section 3-5 of the City Ordinances, and pursuant to Chapter 44 ss 53A of the Massachusetts General Laws, the City Council hereby accepts the gift to the City of Chelsea Elder Affairs Department to support senior member programs and projects in the amount of \$605.00.

Be it ORDERED by the City Council of the City of Chelsea, as follows;

Pursuant to 3-5 of the City of Chelsea Ordinances, and pursuant to Chapter 44 ss 53A of the Massachusetts General Laws, the City Council hereby accepts the gift to the City of Chelsea Library to support the National Literacy Day projects in the amount of \$50.00.

Ordered, that the Chelsea City Council authorize the appropriation of \$41,000.00 from Free Cash to the FY 2012 Department of Public Works Streets and Sidewalks-Capital Outlay Vehicle Acquisition Account 0142258-580000.

ORDERED, that the Chelsea City Council authorize the appropriation of \$4,000.00 from Free Cash to the FY 2012 Elder Affairs Department-Salaries Account 0154151-510200.

ORDERED, that the Chelsea City Council authorize the appropriation of \$31,000.00 from Free Cash to the FY2012 Department of Public Works Structures and Grounds-Capital Outlay Vehicle Acquisition Account 0147058-580000.

AN ORDER TRANSFERRING PROCEEDS OF A BORROWING THAT NO LONGER NEEDED TO COMPLETE THE PROJECT FOR WHICH THEY WERE ORIGINALLY BORROWED, TO PAY COSTS OF AN ALTERNATIVE CAPITAL PROJECT, AS AUTHORIZED BY CHAPTER 44, SECTION 20 OF THE GENERAL LAWS.

Ordered, that in accordance with Chapter 44, Section 20 of the General Laws, the sum of \$37,501.00 representing the unexpected portion of the \$50,000.00 borrowed under the Fiscal Year 2011 Capital Improvement Plan for the purpose of installing roof snow guards at City Hall Account 55401103-583000, but which is no longer needed to complete that project, is hereby transferred to pay roof replacement costs for the FY'12 City Yard Roof Replacement (partial replacement) Project-Account 55401205-583000.

AN ORDER TRANSFERRING PROCEEDS OF A BORROWING THAT ARE NO LONGER NEEDED TO COMPLETE THE PROJECT FOR WHICH THEY WERE ORIGINALLY BORROWED TO PAY COSTS OF AN ALTERNATIVE CAPITAL PROJECT, AS AUTHORIZED BY CHAPTER 44,SECTION 20 OF THE GENERAL LAWS.

Ordered, That in accordance with Chapter 44, Section 20 of the General Laws, the sum of \$10,440.72 representing the unexpended portion of the \$40,000.00 borrowed under Fiscal Year 2008 Capital Improvement Plan for the purpose of purchasing signage equipment-Account 55308017-583100, but which is no longer needed to complete that project, is hereby transferred to pay roof replacement costs for the FY'12 City Yard Roof Replacement (partial replacement) Project-Account 55401205-583000.

A moment of silence was conducted for the passing of Chester Pawlak, at the request of Councillor Bishop. A moment of silence was conducted for the passing of John Casino Jr. at the request of Councillor Robinson.

The meeting adjourned at 7:25 P.M.

Respectfully submitted,

Paul G. Casino  
Clerk of the Chelsea City Council