

Chelsea, Massachusetts, December 5, 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 Mass. The following were in attendance: Councilors Vega-Torres, Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, Barton, and Brown. Councillor Bishop was absent. Council President Vega-Torres presided over the meeting. The meeting opened at 7:00 P.M.

The Public Hearing regarding the proposed Ordinance on Drag Racing opened at 7:04 P.M.

No one came forward to speak and it was closed at 7:05 P.M.

The Public Speaking portion of the meeting opened at 7:06 P.M.

No one came forward to speak and it was closed at 7:07 P.M.

Communications from City Manager:

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

Marilyn Vega-Torres, President
Chelsea City Council
City Hall,
500 Broadway
Chelsea, MA 02150

Dear Councillor Vega-Torres:

In accordance with Section 6-149 of the General Code of the City of Chelsea, I am submitting for the Council's review and endorsement a Petition for a new layout plan for Everett Avenue and Spruce Street. The City has been planning infrastructure improvements to the area around the former Mystic Mall-now Mystic Center-to support the redevelopment of that commercial center, the development of the FBI headquarters on the former Emerald Block, and the construction of the new Hotel on Beach Street. Over the past couple of years, the City has reviewed and approved plans for the first stages of the redevelopment, which included demolition of the central portion of the mall, the relocation of the Market Basket to a new and greatly expanded building, and the re-tenanting of the former supermarket anchor building.

The City has been awarded \$1 million grant to under take infrastructure improvements on Everett Avenue between the commuter rail tracks and Arlington Street. The improvements which are designed to improve traffic flows in the area, as well as support the further redevelopment of the area, will include the widening of Everett Avenue, the reconfiguration of the Everett Avenue/Spruce Street intersection, and the replacement of underground utilities. These improvements are estimated to cost \$1.9 million.

The land needed to widen Everett Avenue, and eventually Spruce Street, and to reconfigure the Everett/Spruce intersection will be acquired through donations and/or takings. The land required for the roadway widening project is owned by 1) Demoulas Supermarkets, Inc. (the owners of the Mystic Center) and 2) the Patriot Park Condominiums. The City is engaged in active negotiations with both entities and expects to conclude shortly, when I will return to the Council for its review/approval of the acquisition. In the meantime, I request that you advance the roadway widening petition for a hearing before the Traffic Commission.

In accordance with the law cited above, the process for approving the widening of the roadway layout involves an

- 1) endorsement of the alteration of the right-of-way layout by the Planning Board at a public meeting.
- 2) a public hearing on the alteration of the layout by the Traffic Commission, and
- 3) Council vote (following the Traffic Commission hearing-likely to be held in January) of approval of the layout and acceptance of the donation of land.

The Planning Board voted to endorse the layout at its November 29, 2011 meeting (such endorsement attached).

I request that the Council act to accept this Petition and then move the matter to a public hearing before the Traffic Commission.

I have prepared an Order moving this Petition to the Traffic Commission for your consideration.

In addition, Demoulas Supermarkets, Inc. has pledged to donate up to \$400,000 toward roadway construction project costs, and up to \$100,000 to cover project construction administration costs. A copy of the donation authorization from RMD, Inc., the Agent for Demoulas Supermarkets, Inc. is attached.

I have enclosed a plan of the roadway layout (widening) plan for Everett Avenue and Spruce Street. For the purpose of clarification, while Spruce Street is not included in this phase of roadway improvements, we ask that Council include, when final action is considered following the Traffic Commission hearing (expected in January), that the endorsement include Everett Avenue layout AND Spruce Street layout (i.e. widening), as the layouts are dependent on each other and it is anticipated that the City will include the improvements to that roadway in a grant request to the State in the future.

As always, I am available to address questions from the Council.

Thank you for your time and consideration.

Sincerely,
Jay Ash

City Manager

The Honorable City Council
City Hall
Chelsea, Massachusetts 02150

Dear City Council:

As you know, the School Department is not allowed to accumulate Free cash. In some instances, the School Department's positive balances revert back to the City and can have the effect of increasing the City's Free cash position. As you also know, the City is required to spend a minimum level each year on education in order to qualify for Chapter 70 State Aid to Schools. If, in some years, the School Department spends less than was appropriated, it is possible that we could spend under that minimum amount, which then requires the City to spend more in coming years to catch up and get back to minimum school spending targets.

The possibilities as described above did take place in FY'11. The School Department budget was under-spent. Instead of going on a last minute spending spree to avoid monies reverting back to the City, the School Department took the fiscally prudent action of restraining itself from such a spending spree. The result was to pump-up our Free Cash by appointment \$976,000, while also creating a gap in the minimum amount we are required to spend in order to remain in good standing and therefore eligible for the next Chapter 70 award. That gap is still being determined by State reviewers and is believed to be in excess of the following appropriation request.

I am recommending that Council take action to appropriate \$475,300 from Free Cash to the School Department salary line. In effect, I am requesting that Council direct money that the City's Free Cash line would not have received had the School Department spent down its balances on things like buying extra supplies and return a portion of that Free Cash to help ensure that the School Department maintains its current staffing levels. Furthermore, this request is a second financial action in that we are required to increase our school spending anyway in order to meet our minimum school spending needs. Should action not be taken on this request, two likely outcomes would be layoffs and/or programmatic cuts in the School Department and an increased gap amount generating an out-of-compliance warning from the State on minimum school spending.

By the way, I should add that under-spending on schools is not atypical, either here or in many other communities. Due to the various factors involved in funding and spending cycles, municipalities are generally allowed to be within 5% of the minimum when we have more than the minimum school requirement as well.

As an appropriation order, this matter requires two readings. Your timely action on this appropriation request would be appreciated, as are your continued support of the School Department and responsible stewardship of the City's overall finances.

Sincerely,
Jay Ash
City Manager

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

The Honorable City Council
City Hall
Chelsea MA 02150

Re: Donation-Chelsea Kiwanis Club
The Annual Chelsea Family Literacy Day

Dear Honorable City Council:

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

A donation of \$150.00 has been received to support Chelsea Family Literacy Day from the Chelsea Kiwanis Club. These funds will be reserved to support Literacy Day expenses.

As you may know, the 6th Annual Chelsea Family Literacy Day was held on Saturday, November 5th, 2011 from 11:00A.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.

Sincerely,
Jay Ash
City Manager

The following communication was received late from the City Manager. There were no objections to have it read. After the reading Councillor Hatleberg moved to accept and file under suspension.

The Honorable City Council
City Hall
Chelsea, Massachusetts 02150

Dear City Council:

The City vehicle provided to the Director of Inspectional Services was involved in an accident caused by another driver last month, and the City's insurance carrier has reported the automobile as a total loss. The insurance value of the 2000 Ford Taurus is \$3,250.

The City has received its options and recommends the purchase of a hybrid vehicle, however, we are reviewing our options with regard to the model, delivery schedule and cost.

A secondary vehicle used only for in-city DPW use was temporarily assigned to the Director after the accident, but last week was taken out of service following multiple failures.

I am recommending that Council take action to appropriate \$32,750.00 from Free Cash to the Inspectional Service Department capital line. The insurance proceeds for the residual value of the damaged automobile will be used to fund the balance of the automobile cost.

As an appropriation order, this matter requires two readings. Your timely action on this appropriation request would be appreciated.

Sincerely,
Jay Ash
City Manager

Second Readings:

The following Order was introduced by Councillor Hatleberg and read for the second time. A motion from Councillor Hatleberg to adopt by roll call passed 9-0-1-1. Voting yes were Councilors Vega-Torres, Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, Barton, and Brown. Councillor Bishop was absent. One vacancy.
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 Order was introduced by Councillor Hatleberg and read for the second time. A motion from Councillor Hatleberg to adopt by roll call passed 9-0-1-1. Voting yes were Councilors Vega-Torres, Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, Barton and Brown. Councillor Bishop was absent. One vacancy.
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 \$50.00.

The following appropriation orders were all introduced by Councillor Hatleberg and read for the second time. A motion from Councillor Hatleberg to adopt all of the orders by one roll call passé 9-0-1-1. Voting yes were Councilors Vega-Torres, Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, Barton, and Brown. Councillor Bishop was absent. One vacancy.

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.

ORDERED, that the Chelsea City Council authorize the appropriation of \$41,000.00 from Free Cash to the FY2012 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 FY2012 Elder Affairs Department-Salaries Account 0154151-510200.

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 \$37,501.00 representing the unexpended 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 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 the 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, hereby transferred to pay roof replacement costs for the FY'12 City yard Roof Replacement (partial replacement) Project-Account 55401205-583000.

The following Ordinance proposal was introduced y Councillor Bongiovanni and read for the second time. Councillor Bongiovanni moved to adopt the Ordinance as amended by roll call. The roll call passed 9-0-1-1. Voting yes were Councilors Vega-Torres, Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, Barton, and Brown. Councillor Bishop was absent. One vacancy.

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 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.

New Business:

The following order was introduced by Councillor Vega-Torres. A motion from Councillor Hatleberg referred it to a second reading under suspension.

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

That the Council accept the Petition for the Construction, layout, alteration, etc, from the City Manager for review and, in accordance with Section 6-149 of the General Code of the City of Chelsea, move the matter to a public hearing before the Traffic and Parking Commission.

The following order was introduced by Councillor Vega-Torres. A motion from Councillor Hatleberg referred it 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 two gifts in the form of a donation of up to \$400,000 Dollars for the construction costs of the Everett Avenue Roadway Project and up to \$100,000 Dollars for the administration costs for the construction from Demoulas Supermarkets, Inc.

The following order was introduced by Councillor Hatleberg. A motion from Councillor Hatleberg referred it 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 project in the amount of \$150.00 from the Chelsea Kiwanis Club.

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

ORDERED, that the Chelsea City Council authorize the appropriation of \$475,300.00 from Free Cash to the Fiscal Year 2012 School Department Salaries series, for a Fiscal Year 2012 School Department revised appropriation from \$63,941,678.00 to \$64,416,978.00 for a net increase of \$475,300.00.

The following order was received late and introduced by Councillor Hatleberg. No objections by the City Council to have it read. Councillor Hatlebeg then moved the order to a second reading under suspension.

ORDERED, that the Chelsea City Council authorize the appropriation of \$32,750.00 from Free Cash to the Fiscal Year 2012 Inspectional Services department-Acquisition of Vehicle-Account 0124058-584000.

The following order was introduced by Councillor Robinson. A motion from Councillor Robinson moved the order to the Sub-Committee on Conferance under suspension.

ORDERED, that the following amendment Charter be enacted:

Section 4-2

To be added at the end of the second paragraph:

If the Notice of Appointment is filed after the City Council has recessed for longer than thirty (30) days, then the appointment, if not acted upon, shall become effective the day after the next scheduled City Council meeting.

Section 6-1

To be added at the end of second paragraph:

If the Notice of Proposed Administrative Order is filed after the City Council has recessed for longer than thirty (30) days, then the Order shall become effective, if not acted upon, the day after the next scheduled City Council meeting.

The following order was introduced by Councillor Brown. A motion from Councillor Brown referred the order to the Sub-Committee Conference under suspension.

ORDERED, that the following amendment to the Charter be enacted;

Section 7-3

(b) Insert the word “elected” before the word incumbent.

In conflict with state law M.G.L. c.54 Sec. 41

Section 2-4

Change the following at the end of the first sentence “act to fill said vacancy” to “the President of the Council shall call a meeting of the Committee on Conference to determine the procedure to fill the vacancy.

Change the end of the third sentence as follows: delete “shall at its discretion choose an individual, who may be the defeated candidate,” to “shall call for written presentations and interview all eligible persons.”

The meeting adjourned at 7:30 P.M.

Respectfully submitted,

Paul G. Casino
Clerk of the Chelsea City Council