

Chelsea, Massachusetts November 14, 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. The following were in attendance: Councilors Bongiovanni, Cortell, Washington, Hatleberg, Maronski, Robinson, and Brown. Councilors Bishop and Barton arrived at 7:07 P.M. Councillor Vega-Torres was absent. One vacancy. Councillor Bongiovanni presided over the meeting. The meeting opened at 7:00 P.M.

Prior to the start of the regular meeting the following promotions and appointments to the Chelsea Fire Department and Police Department were conducted.

Rony Gobin, 30 Summit Avenue, Chelsea, Permanent Fire Lieutenant.

Wayne Ulwick, 5 Woodman Way, Newburyport, Permanent Fire Captain.

John C. Bower, 15 Nevada Street, Winthrop, Permanent Sergeant Police Department.

Edward Conley, 20 Park Street, North Reading, Permanent Police Lieutenant.

Carlos R. DelCompare, 287 Washington Street, Woburn, Police Officer.

Than N. Chung, 45 Jefferson Avenue, Chelsea, Police Officer.

Stephen Garcia, 210 Webster Avenue, Chelsea, Police Officer.

David E. Batchelor, 38 County Road, Chelsea, Police Officer

The Public Hearing regarding the Minimum Residential Factor, Classification, and the Residential Exemption was opened to the public at 7:35 P.M.

City Manager Jay Ash explained the policy to the Councilors.

Teresa Czeripica, 21 Prospect Street, spoke in favor of the new tax rate proposed.

The Public Hearing closed at 7:38 P.M.

The Public Speaking portion of the meeting opened at 7:39 P.M.

No one came forward to speak and that portion of the meeting closed at 7:40 P.M.

The minutes of the City Council meetings dated October 17, 2011 and October 24, 2011 were approved at the request of Councillor Robinson under suspension.

Communications from City Manager:

The following communication was received from City Manager Jay Ash. A motion from Councillor Hatleberg to accept and file was adopted under suspension. It was also referred to the Sub-Committee on Conference at the request of Councillor Hatleberg.  
Councillor Marilyn Vega-Torres, President  
City Council  
Chelsea, Massachusetts 02150

Dear Council President Vega -Torres,

I have received a notice that you intend on holding a subcommittee meeting on November 21<sup>st</sup> on matters involving the Chelsea Housing Authority. I look forward to attending that meeting. I write to ask you to include another matter on the agenda for that subcommittee meeting, or for you to schedule another subcommittee meeting that evening or anytime before your regularly scheduled meeting on November 28<sup>th</sup>.

As you may be aware, I have proposed several reforms that are aimed to prevent a repeat of the pay scandal at the CHA. Those reforms that are aimed to prevent a repeat of the pay scandal at the CHA to the City Council and all other interested parties; calling upon the CHA to post board notices and meeting minutes on the web; adopting a City regulation that requires that all board appointments undertake two seperate votes, thus allowing for Councilors and other interested parties more time to review and comment on appointments; encouraging the City Council to hold a subcommittee meeting before that second vote to conduct interviews of potential candidates prior to their vote, and including CHA board members in the City's annual board training on ethics and rules that is provided to all municipal boards overseeing City operations.

As you can see, two of these proposed reforms would directly require Council action to implement. Council may certainly take the necessary time to determine if these reforms should be implemented for all appointees. I do believe it is important though, for Council to follow these reforms for the next set of appointees to the CHA Board. With this in mind, I would hope that Council would consider holding a subcommittee meeting to review my recommendations for appointment to the CHA Board. You may wish to do that on the 21<sup>st</sup> or at another time. I anticipate filing my recommendations with Council by Friday, November 18<sup>th</sup>.

The CHA currently does not have a board in place. I have inquired to the CHA as to when they anticipate requiring an official action of the new board to be appointed. If Council was to support the concept of requiring two votes for board appointments, and based upon Council's current schedule, those votes could take place on November 28<sup>th</sup> and December 5<sup>th</sup>. However, if the CHA requires a constituted board prior to December 6<sup>th</sup>, I would respectfully request that Council conduct a special meeting to allow for the two votes and accommodate the CHA need. Learning the date by which the CHA will have a need is critical to us to ensure that we are providing the CHA with the board

members it needs to conduct its business, which obviously impacts all the residents of housing. I will certainly keep you informed on what I learn.

For your information, a separate process is required for two additional City appointments to the CHA Board, those being the union member and the housing authority tenant. I have initiated that process, but do not anticipate that it will conclude prior to December 5<sup>th</sup>. I will also keep you informed on that.

Sincerely,  
Jay Ash  
City Manager

The following communication was received late from the City Manager Jay Ash. A motion from Councillor Hatleberg to read the late communication was approved. Councillor Hatleberg then moved to accept and file the communication under suspension. The Honorable City Council  
City Hall  
Chelsea, Massachusetts 02150

Dear Honorable City Council:

As part of the Administration's FY'12 budget review last spring, we had discussions about my desire to add an extra set of financial/auditing eyes to our finance team. Although the position was not funding in the final version of the FY'12 budget, there was a general agreement that we could revisit this request in the fall. With the fall upon us, and with an even stringer desire to ensure the integrity of our financial processes, I wish to notify you that it is my intention to request at your next meeting such a hire.

Additionally, there are several additional matters for which I will be making recommendations for supplemental appropriations. Those matters include supplements to our Safe and Successful Youth Initiative and expansion of the Everett Avenue Infrastructure Project, both having just received State funding through our advocacy efforts and those of our State elected officials. Furthermore, there will be at least two School requests and several smaller requests from a variety of municipal departments. As you know, each of these matters will require two votes of Council.

I write to notify you of these general matters in advance of those upcoming meetings to aid you in your scheduling review. I am available either in a subcommittee meeting prior or after the November 28<sup>th</sup> meeting or during that very meeting to discuss the justification and impacts of stronger Free Cash results and the one-time receipt of an extra round of local aid lead me to operations and maintain our strong financial base.

Sincerely,  
Jay Ash  
City Manager

Communications and petitions to the Council:

A copy of a communication was received from City Councilors, Former City Councilors and the Executive Director of the Chelsea Collaborative regarding the Chelsea Housing Authority. A motion from Councillor Hatleberg to accept and file was adopted under suspension.

A copy of a communication was received late from the Interim Executive Director of the Chelsea Housing Authority Albert R. Ewing. Councillor Robinson moved to have the Communication read under suspension. Councillor Robinson then moved to accept and file the late communication under suspension.

New Business:

The following order was introduced by Councillor Bongiovanni. A motion from Councillor Robinson adopted the order under suspension.

ORDERED, that a sub-committee on conference be held to discuss the Chelsea Housing Authority.

The following order was introduced by Councillor Hatleberg. A motion from Councillor Hatleberg to adopt by roll call passed 9-0-1-1. Voting yes were Councilors Bongiovanni, Cortell, Washington, Bishop, Hatleberg, Maronski, Robinson, Barton, and Brown. Councillor Vega-Torres was absent. One vacancy.

ORDERED, that the Chelsea City Council accept the 20% residential exemption for Fiscal Year 2012.

The following order was introduced by Councillor Bongiovanni. A motion from Councillor Hatleberg to adopt under suspension was adopted.

ORDERED, that the Chelsea City Council hold a public hearing on the subject of the Drag Racing Ordinance.

The following order was introduced by Councillor Hatleberg. A motion from Councillor Hatleberg to adopt by roll call passed 9-0-1-1. Voting yes were Councilors Bongiovanni, Cortell, Washington, Bishop, Hatleberg, Maronski, Robinson, Barton, and Brown. Councillor Vega-Torres was absent. One vacancy.

ORDERED, that the Chelsea City Council accept the Minimum Residential Tax Factor for FY2012.

The following order was introduced by Councillor Bongiovanni. Councillor Hatleberg moved the order to a second reading 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 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 that \$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.

A moment of silence was conducted for the passing of James Birdgett.at the request of Councillor Brown.

The meeting adjourned at 8:10 P.M.

Respectfully submitted,

Paul G. Casino  
Clerk of the Chelsea City Council