

Chelsea, Massachusetts February 28, 2022

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 02150. The following Councilors were present: Councilors Robinson, Taylor, Lopez, Avellaneda, Brown, Vidot, De Jesus, and J. Garcia. Councilor Vega Maldonado arrived at 7:20 p.m. Absent were Councilors Recupero and T. Garcia. Council President Avellaneda presided over the meeting. The meeting opened at 7:00 p.m.

PUBLIC HEARING:

A continued Public Hearing regarding proposed Eminent Domain Temporary Easement Taking on Broadway was held. A copy of the Home Rule Petition can be found at the Chelsea City Council Office, 500 Broadway #306 Chelsea, MA 02150.

No one came forward to speak and the public hearing closed at 7:05 p.m.

PUBLIC SPEAKING:

The public speaking portion of the meeting opened at 7:06 p.m.

No one came forward to speak and it closed at 7:07 p.m.

C/B
ACCEPTED AND FILED
SUSPENSION

APPROVAL OF CITY COUNCIL MINUTES:

The City Council Minutes dated February 14, 2022 were approved at the request of Councilor Brown under suspension.

COMMUNICATIONS FROM CITY MANAGER:

The following communication was read from City Manager Thomas G. Ambrosino. A motion from Councilor J. Garcia to accept and file was adopted under suspension.

The Honorable Chelsea City Council
Chelsea City Hall
500 Broadway
Chelsea, Massachusetts 02150

Re: Legal Action Against Northeast Metropolitan Regional Vocational School District

Dear Councilors:

I am writing in response to the recent City Council Order requesting that the City explore legal action against the Northeast Metropolitan Regional Vocational School District (the "District") regarding the costs of the new school, the City's share of costs and/or the District's admissions process. With respect to each issue, it is my opinion and the opinion of the City Solicitor, that the City does not have any viable legal case at the moment, and we strongly recommend against legal proceedings.

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CITY CLERK'S OFFICE
CHELSEA, MA

Regarding the costs of the school and the City's share, any legal effort to contest these figures is precluded by the express language of both the state statute governing school building debt for regional school districts and the inter-municipal agreement establishing the Northeast Metropolitan Regional Vocational School District. Specifically, the District followed to the letter the statutory process for incurring debt for the purpose of constructing a new school. When a member of any regional school district wide vote determined by a majority of those voting. See M.G.L. c. 71, &16(n). That is exactly what occurred here. Further, the way that capital debt is shared across the District, proportionally based solely upon enrollment, is set out explicitly in the inter-municipal agreement that established the District more than 50 years ago. So, there is no basis to challenge the debt or the cost-sharing.

As for the admissions process, that is a matter within the purview of the Department of Elementary and Secondary Education ("DESE"). Last Summer, DESE did change its regulations governing the admissions policies that promote equitable access. DESE has committed publicly to closely monitoring these changes during the 2021-2022 school year, and has threatened to intervene in cases of non-compliance, including requiring a lottery for admission if it deems that a vocational-technical school has not improved upon equity in admissions.

Although the City of Chelsea could step ahead of DESE, file a lawsuit and seek to prove that the admissions policy of the Northeast Metropolitan Regional Vocational School District violates certain federal and/or civil rights laws, notwithstanding that DESE has found no such violation as of yet, both the Solicitor and I believe that such action is not prudent at the present time. The better approach is to allow DESE to continue its oversight and monitoring of the situation. The City always has the option to pursue litigation in the future if it subsequently believes DESE'S efforts have been ineffective and Chelsea's residents are being denied admission due to unfair practices.

Although, I do not recommend legal action at this time, I feel obligated to point out that the Council could consider the alternative of withdrawal from the District. For the reasons set forth below, I also recommend against this option.

The inter-municipal agreement establishing the District includes a procedure if any member wishes to withdraw from the District. Under the terms of the agreement a municipal member may withdraw with the affirmative vote of 2/3rds of the members. However, it is highly unlikely that 8 of the 12 members of the District would voluntarily agree to a withdrawal by Chelsea given Chelsea's required share of this school building project.

If Chelsea were to seek withdrawal via the language of the contractual inter-municipal agreement and be unsuccessful, it could conceivably pursue Special Legislation to seek withdrawal without the consent of the remaining members. In one recent circumstance involving the Town of Worthington, the Massachusetts Legislature allowed exactly that to occur (Chapter 97 of the Acts of 2014), and the Massachusetts Appeals Court upheld this legislation action despite claims for the regional school district that this involved an unconstitutional impairment of contract rights. *Kennedy vs. Commonwealth* 92 Mass. App. Ct 644 (2018). Just keep in mind that this matter with the Town of Worthington did not involve a new school building project, and that factor could make the Legislature more hesitant to allow withdrawal over the objection of other District members.

However, even if the Legislature were amenable, I do not recommend this course of action because I think the situation for elected officials would be untenable once the new school opens. Remember, our goal in opposing the new facility was necessary. But, with our efforts unsuccessful, we are now faced with a situation where this new state of the art, luxurious school building will become a reality.

If Chelsea withdraws now from District, we still need to find an alternative option for our students seeking vocational-technical training. Undoubtedly, we would secure a less expensive alternative than the Northeast Metropolitan Regional Vocation School District with its costly new building. But, it will also mean that our residents choosing this vocational option for their children will be sending them to some significantly lesser facility with fewer programming option. At that point, I expect Chelsea parents would feel a great sense of dissatisfaction and inequity given that their neighbors would have access to a new state of the art high school, but enrollment in that new high school for their own children would be prohibited. Rather than trying to defend that difficult reality, it seems to me the City is better served finding a creative financial solution to absorb the annual debt service payments for the new building.

The following communication from City Manager Thomas G. Ambrosino was read. A motion from Councilor Vidot to accept and file was adopted under suspension.

The Honorable Chelsea City Council
Chelsea City Hall
500 Broadway
Chelsea, Massachusetts 02150

Re: Crosswalk at John Ruiz Park

Dear Councilors:

I am writing in response to the recent City Council Order requesting a new crosswalk from 148 Washington Avenue to John Ruiz Park

The DPW has agreed to include construction of this crosswalk as part of its work for the 2022 construction season. To ensure that the crosswalk is ADA accessible, the work necessarily will include some sidewalk alteration. We expect that sidewalk work throughout the City will commence by early Summer.

Sincerely,
Thomas G. Ambrosino
City Manager

The following communication was read from City Manager Thomas G. Ambrosino. A motion from Councilor Robinson to accept and file was adopted under suspension.

The Honorable Chelsea City Council
Chelsea City Hall
500 Broadway
Chelsea, Massachusetts 02150

Re: Notice of Waiver Intent

Dear Councilors:

Pursuant to the Administrative Code Section 1.12.02, I am writing to notify you of my intention to hire Mr. Ted Costigan, 26 Montgomery St., Unit 3, Boston, Massachusetts as Chief Assessor and to grant him a waiver from the residency requirement set forth in the Administrative Part IV, Section 1.12.01. Mr. Costigan's start date is expected to be Monday, March 14, 2022. This position has been

vacant for almost two years, and there have been no qualified Chelsea candidates for the position. A copy of Mr. Costigan's resume is attached.

In accordance with Section 1.12.02, I request that you provide me with any comments on the proposed waiver within seven days.

Sincerely,
Thomas G. Ambrosino
City Manager

COMMUNICATIONS AND PETITIONS TO THE COUNCIL:

A copy of a communication was read from Superintendent Dr. Almi Abeyta regarding Bunker Hill Scholarship Program. A motion from Councilor Vidot moved to accept and file and refer it to the sub-committee on Conference under suspension.

A copy of a communication was read from Parking Clerk Jeannette Cintron White regarding Items from Traffic & Parking Commission on February 1, 2022. A motion from Councilor Robinson to accept and file was adopted under suspension.

SECOND READINGS

The following communication from City Manager Thomas G. Ambrosino with regards to appointments to Boards and Commissions was read for the second time. A motion from Councilor Vidot to affirm the appointments by roll call passed 9-0-2-0. Voting yes were Councilors Robinson, Taylor, Lopez, Vega Maldonado, Avellaneda, Brown, Vidot, De Jesus and J. Garcia. Councilor Recuperero and T. Garcia were absent.

The Honorable Chelsea City Council
Chelsea City hall
500 Broadway
Chelsea, Massachusetts 02150

Re: Appointments to Boards and Commissions

Dear Councilors:

Pursuant to Section 4-2 of the Charter of the City of Chelsea, I am writing to recommend the following individuals to Boards and Commissions in the City.

For re-appointment to the Board of Health, Ms. Corrina Culler, 55 Eleanor ST. Chelsea, for a new three-year expiring on February 25, 2025.

For re-appointment to the Council of Elder Affairs, Mr. Jaimie Santos, 14 Bloomingdale St. Apt. #726, Chelsea, to a new three-year term expiring on February 25, 2025.

For re-appointment to the Licensing Commission, Emily Cherniack 183 Congress Ave. #2, Chelsea, for a new three-year term expiring on February 25, 2025.

For re-appointment to the Planning Board, William (Tuck) Willis, 88 Marginal St. Chelsea, for a new three-term expiring on February 25, 2025.

For appointment to the Planning Board, Sarah Elizabeth Neville, 40 Eleanor Street, Chelsea, for a three-year term expiring in 2025.

For re-appointment to the Zoning Board of Appeals, Janice Tatarka, 100 Boatswain's Way #306, Chelsea and Arthur Arsenault, 75 Garland St. Chelsea, for new three-years expiring on February 25, 2025.

I respectfully request your approval of these appointments. Copies of all resumes are attached.

Sincerely,
Thomas G. Ambrosino
City Manager

NEW BUSINESS:

The following order was introduced by Councilor Vega Maldonado. A motion from Councilor Vega Maldonado to adopt under suspension was adopted.

Request, that the City Manager instruct DPW to reposition the previously approved handicap sign on 40 Carmel Street, due to the sign being on an electric pole and not visible.

The following order was introduced by Councilors Vega Maldonado and Vidot. A motion from Councilor Vidot to adopt under suspension and amend to put in place (near) instead of (at). It was adopted under suspension.

Request, that the Traffic and Parking Commission look into the placement of speed tables to be located near Franklin Avenue.

The following order was introduced by Councilor Vidot. A motion from Councilor Vidot to adopt under suspension was adopted.

Request, that the City Manager instruct DPW to replace old signage and make signs more visible on Franklin Avenue, between Spruce and Forsyth Street.

The following order was introduced by Councilor Robinson. A motion from Councilor Robinson to adopt under suspension was adopted.

Request, that the City Manager update the City Council on the Quiet Zone project.

The following order was introduced by Councilor Robinson. A motion from Councilor Robinson to adopt under suspension was adopted.

Request, that the City Manager update the City Council on the Market Basket property plans.

The following Order was introduced by Councilor Avellaneda. A motion from Councilor Vidot to adopt under suspension was adopted.

Request, that a Sub-Committee on Conference be scheduled to provide the ARPA Committee feedback and main priorities.

The following Order was introduced by all members of the City Council. Councilor Robinson moved to adopt by roll call. The roll call passed 8-0-3-0. Voting yes were Councilors Robinson, Taylor, Lopez, Vega Maldonado, Avellaneda, Brown, Vidot, De Jesus, and J. Garcia. Councilors Recupero, T. Garcia and Brown were absent.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

CITY OF CHELSEA

ORDER OF TAKING

At a regularly convened meeting of the City Council of the City of Chelsea (the "City") held on this 28th day of February, 2022, it was voted and ordered as follows:

The City Council of the City of Chelsea, duly elected, qualified, and acting as such, on behalf of the City and by virtue of and in accordance with this City Council Order; the provisions of Massachusetts General Laws, Chapter 79 and Chapter 82, Sections 21-24 of the General Laws, and any and every other power and authority hereunto enabling it in any way, hereby takes, for all purposes for which public ways are used, including, without limitation, for the purpose of undertaking the Upper Broadway Reconstruction Project (the "Project"), the following interests in, on and shown more particularly on a plan entitled Plan and Profile of Broadway in the City of Chelsea, MA PS&E Preliminary Right of Way Plans," dated January 4th, 2022 and prepared by Weston & Sampson, and to be recorded with the Suffolk Registry of Deeds (the "Plan"), as set forth more particularly below:

1. Permanent easements in, on and under the parcels of land shown in the Plan as "Parcel X-SW-1, X-SW-2, X-SW-3, X-SW-4, X-SW-5, X-SW-6, X-SW-7, X-SW-8" (collectively, the "Permanent Roadway Premises") for any and all purposes for which public ways are used in the City of Chelsea, together with attendant customary uses, including, without limitation, for the purposes of installing, constructing, improving, inspecting, operating, maintaining, repairing, removing, replacing, relocating and/or abandoning in place rights of way, sidewalks, shared use paths, walkways, ADA-compliant ramps, guardrails, support or retaining walls, signs, drains, utilities (including water and sewer), and any and all other structures, appurtenances and/or facilities related or incidental thereto;
2. Permanent easements in, on and under the parcels of land shown on the Plan as "Parcel X-PUE-1", the "Permanent Utility Premises", for the purpose of installing, constructing, improving, inspecting, operating, maintaining, repairing, removing, replacing, relocating and/or abandoning in place utilities within the Permanent Utility Premises and all appurtenances related thereto, including, but not limited to, guy wires, anchors, bolts, poles, conduits, telephone lines and wires (including overhead wires), and for any and all purposes and uses incidental thereto, including, without limitation, grading, regrading, landscaping, loaming and seeding and removing, replacing and relocating structures and improvements;
3. Temporary construction easements in, on, over, under and along the parcels of land shown on the Plan as "Parcels X-TE-1, X-TE-8 through X-TE-11, X-TE-14 through X-TE-18, X-TE-21, X-TE-

22, X-TE-24 through X-TE-26, X-TE-28, X-TE-33, X-TE-34, X-TE-37, X-TE-38, X-TE-40, X-TE-42 through X-TE-45, X-TE-50 through X-TE-56, X-TE-58 through X-TE-61, X-TE-64, X-TE-66, X-TE-67, X-TE-69 through X-TE-73, X-TE-76 through X-TE-84, X-TE-87, X-TE-90 through X-TE-92, X-TE-96 through X-TE-107, X-TE-109, X-TE-111, and X-TE-116 (collectively, the “Temporary Easement Premises”) for the purpose of undertaking the Project, including, without limitation, grading land, constructing, operating, improving, maintaining, repairing, replacing, relocating, realigning and/or reconstructing slopes of excavation and/or embankments and/or driveways, sidewalks, parking areas, retaining walls, stone walls, posts, fences, flagpoles, landscaping, loaming, planting trees, seeding, paving and/or erosion control, which temporary easements shall terminate automatically three (3) years from the date on which this Order of Taking is recorded with the Suffolk Registry of Deeds, without the necessity of recording any instrument with said Deeds. Nothing in this paragraph shall affect the permanent easements acquired by the City hereunder. The Temporary Easements are shown on a plan on file with the City of Chelsea labeled as Plan and Profile of Broadway in the City of Chelsea, MA PS&E Preliminary Right of Way Plans,” dated January 4th, 2022 and prepared by Weston & Sampson.

The City shall have the right to enter upon and pass over the permanent Roadway Premises, the Permanent Utility Premises, and the Temporary Easement Premises (collectively, the “easement Premises”) from time to time, by foot, vehicle, or heavy equipment, for any and all purposes stated herein and uses necessary or incidental thereto, including, without limitation, using and temporarily storing, as needed, construction equipment, materials or other incidental items within the Easement Premises for the purposes set forth herein. No temporary or permanent buildings, structures or other objects shall be constructed, installed or placed upon the Permanent Roadway Premises and the Permanent Utility Premises and, for the duration of the temporary easements, within the Temporary Easement Premises that unreasonably interfere with the rights taken hereunder. The City may assign such easements to or authorize use of such easement areas by any utility company.

The taking includes the right of the City to remove any buildings, structures, objects, utilities and/or vegetation (including trees and shrubs) now or hereafter located within the Easement Premises whenever their removal shall be necessary to exercise the rights taken hereunder and/or for the purposes set forth herein. Utilities and related facilities located within the Easement Premises that are owned by private utility companies and easements held by private utility companies are not taken.

The parcels of land subject to said easements are owned or supposed to be owned and/or formerly owned by the parties listed in Exhibit A, which parties are hereinafter collectively referred to as Owners. If in any instance the name of any Owner is not correctly stated, the names of the supposed Owners being given as of this Order of Taking, it is understood that in such instance the land referred to is owned by an Owner or Owners unknown to us.

The amount awarded as damages to the other Owner or Owners of the parcels in accordance with the provisions of G.L. c. 79, §6, as amended, and to any other person or corporation having an interest therein, is set forth on Exhibit A attached hereto and incorporated herein, but which shall not be recorded with the Suffolk Registry of Deeds.

Betterments are not to be assessed under this taking. This vote allows the City Manager to execute any and all documents related to this Order of Taking and the process described herein.

[Signature Page Follows]

IN WITNESS WHEREOF, we, the duly elected and authorized members of the Chelsea City Council
have hereunto set our hands and seals on this 28th day of February, 2022.

The meeting adjourned at 7:35 P.M.

Respectfully submitted,



Paul G. Casino
Clerk of the Chelsea City Council

CLERK'S OFFICE
CHELSEA, MA
2022 MAR 10 P 2:44