

**Town of Chelsea
Board of Selectmen
Meeting Minutes
Chelsea Elementary School
February 22, 2012**

Public Hearing:

Ordinance Prohibiting the Sale and Use of Fireworks and Consumer Fireworks

I. Call to Order

Linda Leotsakos, Selectboard Chairperson, called the public hearing to order at 5:32 PM. In attendance were Selectboard members: Linda Leotsakos, Mike Pushard and Ben Smith. Also present were Scott Tilton and 8 residents. The purpose of the public hearing was to discuss the proposed ordinance. Linda turned the discussion over to Ben Smith, Chair of the Ad Hoc committee that drafted the ordinance.

II. Comments on the proposed Ordinance Prohibiting the Sale and Use of Fireworks and Consumer Fireworks

Ben Smith acknowledged committee members, who were present at the hearing and then included the other members of the committee, Ed Tobias, Joe Mills and Palmer Sargent. Palmer came to the meeting after Ben's opening comments. Linda added that Ed Tobias had called her and regretted that he could not be at the meeting due to a family commitment. Ben said the committee was in agreement on the ordinance. They considered the differing sides of the issues. The committee did not want to be anti-business. There were the public safety concerns. At this time, the committee decided to prohibit fireworks at the outset as this could be revisited later.

Ben Smith then provided an overview of parts of the ordinance. This ordinance addresses both the sale of fireworks and the use of consumer fireworks. The ordinance, which is modeled on Augusta's ordinance, includes enforcement and penalties/fines. The ordinance includes a preemptive measure. Enforcement will be handled by the Code Enforcement Officer, Gary Quintal, unless the Board identifies someone else such as the Kennebec Sheriff's Department or State police. Ben asked both Peter Hanson and Maria Jacques if they had some added comments.

Peter Hanson said Ben had covered the areas. He reiterated the committee's discussion on the sale of fireworks. He also mentioned the presentation by Steve Marson, business owner and licensed fireworks operator, who appeared before the committee. Peter explained that the law's requirements for the sale of fireworks are extensive using the sprinkler requirements as an illustration, and therefore for a business to locate to Chelsea would be expensive and probably impractical. As Ben previously stated, Peter reiterated the

committee did not want to be anti-business. Peter also discussed banning the use of consumer fireworks and that Steve Marson explained how they are fired off and the potential impact of any angle.

Maria Jacques agreed with Peter's comments and added that what was allowed as fireworks was shocking. This convinced her that the ban was appropriate.

Ben Smith then opened the hearing to public comments and questions. Deb Sanderson, Chelsea resident and area State House Representative, who co-sponsored the State law, asked Ben about the preemptive measure. Ben referred to the injunction provisions at Section VI.C. This provision allows the town to take action on a threatened violation after the passage of the ordinance. Deb asked if the town could act now and Ben confirmed the ordinance is proposed and the provision would only apply after the ordinance was passed.

Deb Sanderson also had a prepared statement, which she read, and said she would send the whole statement to the Town Manager. This is a summary of her comments. She cosponsored the State legislation. She was taking a position of neither for nor against the proposed ordinance. She emphasized that you cannot legislate personal safety. She provided other examples of sources of personal injury including playground related injuries, ATV accidents, water related accidents, sports related injuries, animal bites and others. She stated that firework injuries have gone down and attributed that to the legalization of consumer fireworks coupled with increased safety and consumer knowledge. The Maine law provides local control pointing out that the standards for selling fireworks must be met. She acknowledged that there had been some injuries in the past. Injuries do occur to children from sparklers. Injuries can occur from fireworks but the Governor, Fire Marshall and others think it can be done safely. She recognized, perhaps later, the ordinance could be changed. She added that banning fireworks might create a bigger problem. She stated safety is a consideration.

Barbara Skehan asked if the ordinance prohibits firework shows. Ben Smith responded no.

Judy Williams shared information about liability and responsibility for damages as the result of contacts she had made with both her personal insurance company and the State Bureau of Insurance. Both entities said that at this time the whole matter is not fully resolved and would likely require civil action for restitution for any damages.

Scott Tilton, Town Manager, said the Code Enforcement Officer would have the authority to seize fireworks and raised safety concerns. Linda then added that perhaps the town could consider a part-time constable like Randolph. Deb Sanderson asked if the ordinance banned possession of fireworks and Ben Smith explained that goes outside the town's authority.

Palmer Sargent, member of the committee, added that from the presentation by Steve Marson he learned about the depth of the fireworks and was appalled.

Mike Pushard said he did not know the scope of the fireworks until recently. He was on the fence because of some concerns. Who would enforce this? He pointed out that the town may want to contract with the Sheriff's Department if the ordinance passes. It needs real enforcement. Linda Leotsakos agreed that we might want more authority. She included things like disturbing the peace and causing a disturbance.

Maria Jacques added that regarding sale of fireworks one concern is our Fire Department is a voluntary Department and at times coverage is limited.

In response to a question about whether a resident could have fireworks at a party, Ben Smith pointed to Section V, Fireworks are prohibited for personal use except for lawful displays by a licensed individual. Deb Sanderson also asked if the committee considered a permit process such as limiting the size etc. Ben stated they talked about it including how to distinguish between the sizes of fireworks, who would issue permits, any zoning issues (Chelsea has no zoning currently), and as a result there were too many concerns about all the questions therefore it was decided just ban fireworks outright.

III Adjournment

Linda Leotsakos adjourned the hearing at 6:15 PM

Regular Meeting

I. Call to Order

Chairperson Linda Leotsakos called the meeting to order at 6:30 PM. Selectboard members present included Linda Leotsakos, Michael Pushard, and Benjamin Smith. Scott Tilton, Town Manager, was present along with 5 residents and members of the public. Linda Leotsakos presented an item that needed to be added to the agenda under Legal Issues.

- Ben Smith moved to amend the agenda to add to Legal Issues E - Approve Quit Claim Deed – Dean Ouelette. Mike Pushard seconded the motion. There was no further discussion. The vote was unanimous.

II. Consent Agenda

- A. Approve Payroll Warrant #38 in the amount of \$5,468.03.
- B. Approve Accounts Payable Warrant #37 in the amount of \$175,442.94.
- C. Approve Accounts Payable Warrant #39 in the amount \$2,426.22.
- D. Approve Board of Selectmen Meeting Minutes of February 8, 2012.

All Items A through D were included in the packets available to attendees at the meeting.

- A motion was made by Ben Smith to accept the Consent Agenda items A through D as presented. Linda Leotsakos seconded the motion. Discussion of items included below. Mike Pushard abstained from the vote because Warrant #37

included a payment to the Snowmobile Club. Both Ben Smith and Linda Leotsakos voted in the affirmative.

Linda Leotsakos asked about Warrant #39. Scott Tilton, Town Manager, explained that the expense is to purchase software to do Road Survey and will provide a town roads inventory. It is a one-time license fee and will be used to help determine budget projections for future yearly road maintenance.

Mike Pushard asked about Warrant #37 Uniform Stipend- Fire Department. Scott explained that it was for some shirts and hats the firemen had paid for themselves but the collected payments had to go to the provider and are passed through this account to make one payment to the provider.

III. Public Comments on Items not part of the Agenda

Judy Williams reminded attendees of a RSU meeting 7:00 PM next Wednesday, February 29th at the Chelsea School for Chelsea residents to discuss proposed uses of the school for the Superintendent's Office and student programs. Linda Leotsakos added that there is also a Finance meeting at 5:00 PM, which is open to the public.

IV. Scheduled Items

A. Old Business

1. Chelsea Auditor Selection

Scott Tilton told the Board the town received two bids: RHR Smith & Co. - \$36,000 and Runyon Kersteen Ouelette - \$65,050. Scott recommended contracting with RHR Smith and Co. He said the contract would be for 2012 with an annual renewal. The contract contains an escape clause for cause and an escape clause for without cause after a 14-day notice.

- Linda Leotsakos moved to accept the bid and approve the Auditing Contract with RHR Smith & Co. The bid was a 5-year period (2012 through 2016) each year at \$7,200 with an annual renewal. Mike Pushard seconded the motion. After discussion (see below), the vote was unanimous.

Linda Leotsakos asked Scott if there was any way to tighten the timeframes for receiving the audit findings. Scott read the specific timeframes in this contract. Linda agreed that it appeared to be covered.

Mike Pushard said the past year was difficult and believes things will settle down and they will get more information. He added the auditors had been tied up for the past year and a half.

Ben Smith said the five-year term is good and it is a better rate and saves money. He was concerned with getting out of the contract with equitable compensation payment and suggested they work on the language to tighten it up to limit the equitable compensation to just the years audited. Scott read the contract language again and Ben Smith added clarifying language for years in which services are performed.

Linda Leotsakos said this Board should not encumber future Boards. Scott Tilton wanted the Board to know there may be some costs beyond the contract because he was having the auditor assist the town staff with functions outside the scope of the contract but he is trying to limit those costs. These functions include school fund balance reconciling and other accounting activities. Therefore, he will budget for more than the \$7,200. The past year had higher auditing costs for various reasons.

2. Set Date and Time for 2012 Annual Town Meeting and Election

The voting day for municipal officials will be June 12th maybe at 1 of the Fire Stations. The town has to have the second part, which is the annual meeting, within 14 days. The school has been contacted about the availability of the school for the meeting.

- Linda Leotsakos moved that the Board set June 21st at 6:30 PM for the continuation of the town meeting. Ben Smith seconded the motion. There was no discussion, comments or questions. The vote was unanimous.

3. 2012 Computer Support Services RFP

Scott Tilton brought to the Board an RFP for computer support Services (included in the meeting handouts). He needs to determine costs for budgeting purposes. The Board determined this did not need a vote. Linda thought this was a wonderful idea to get this information back. No other comments.

4. Community Development Block Grant Options

The town had received some materials regarding Community Development Block Grants (CDBG) that help towns address certain needs through available block grants. Linda Leotsakos talked with Craig Hitchings who was very helpful. However, there is more that needs to be done. Linda Leotsakos and Scott Tilton identified some areas like the Chelsea Cemetery, the Food program, and some family assistance programs. Linda said the town needs to appoint a small group citizens to identify areas, either for this year or future years, where the town can apply for block grants to help meet some of its needs. Linda was looking to the Board for approval to go ahead and have Scott convene some citizens to look at CDBG and maybe other grants and do a town needs assessment. Scott could serve as a resource. Ben Smith also offered to help. Mike Pushard was ok with the idea. Linda was clear she did not want to spend tax money at this time. There were no other comments. No other action taken at this time.

5. Review and Discussion of Chelsea Revaluation Bids

Scott Tilton recommended that the Assessors should review the bids at a Board of Assessors meeting. He suggested they review all the bids then select perhaps 2 or 3 to meet with at a later date, and then select one to work with pending the town approval of the funds for the revaluation. Mike Pushard asked if they could limit meeting with bidders to just a few. The sense from the Board was that they could. The Board decided to discuss this item further down the agenda under Legal Issues – Assessors' Workshop. No further discussion or action here.

B. New Business

1. Review the Proposed Fire Department Service Billing Ordinance

Scott Tilton presented a proposed Fire Department Billing Ordinance (included in the meeting handout package). Scott discussed the circumstances under which a Fire Department may bill for costs of the Department for services rendered for non-town services such as a car on fire on RT. 9. This draft ordinance defines the services, fees and billing procedures the Chelsea Fire Department could use to bill for such a service. Linda Leotsakos had previously asked if a voluntary Department could use this. Scott would like an attorney to review. Linda also asked if this could be approved at a town meeting but Scott would prefer a referendum vote for the June 12th ballot.

- Ben Smith moved to consider this proposed ordinance for addition to the June 12th Warrant. Mike Pushard seconded the motion. After discussion, see below, the vote was unanimous.

Mike Pushard asked specific questions as to the limitations of this ordinance- vehicular vs. home. Linda Leotsakos responded there is already a way to bill for improper or illegal burning. Mike agreed with the ordinance and that it is the right way to go.

Public comments: Ted Gardner asked where the money received would go: to the General Fund, new equipment etc. Scott Tilton responded that the funds should be directed to Fire Department Revenues. Skip Skehan thought the costs/fees were a little light and should be reviewed and increased. He suggested the revenue go to the Reserve Account. Scott says Shawn Ramage, Fire Chief, favors the adoption of this ordinance.

2. Discuss Town Road Discontinuances

Scott Tilton presented to the Board a list of possible roads to be considered for discontinuance. He told the Board there is a provision which may require payment for damages if the road is moved from a public to a private road. Linda Leotsakos asked what the next step would be. Scott said the next step could be contacting MDOT. Linda asked if this is something for the Road Committee to consider. Scott explained that it was on this agenda tonight for discussion only. The Board needs to gather more information. Scott mentioned the town would also need to vote to approve the discontinuance. Ben Smith said there should be a preliminary discussion in order to hear citizens' concerns and issues.

- Linda Leotsakos moved that Scott follow-up with and get the recommendations of the Road Committee on the question of road discontinuances. Ben Smith seconded the motion. There was no further discussion.

3. Town Meeting Warrant Article Allowing for Sanding of Private Roads in Emergency

Scott Tilton informed the Board of an issue regarding icy private ways that may be too icy for rescue vehicles to use. There is a mechanism for a Town Manager as the Road Commissioner to authorize the sanding of private ways as needed. The Fire Chief has the phone number for the town's contractor so that he can call to have the public roads sanded as needed but cannot do this for the private ways. Linda Leotsakos and Ben Smith both had concerns about this request. Mike Pushard expressed that it has been icy this year and we could be sanding some areas often. Ben stated that authorizing sanding can be very controversial and could place the Town in a difficult situation. Linda asked if there was a way that the Road Commissioner could deem a road impassible and thus notify the residents and potentially bill them for the sand. Mike responded, while well intended, it could not be done. Both Linda and Ben suggested the Road Committee explore a possible ordinance to address this issue.

Public comments:

Carol Belanger said some would let their roads go. She recalls Shawn Ramage has sent letters to residents about these conditions informing them the Fire Department will not be able to respond due to unsafe conditions. Ben Smith wondered if the residents did anything as a result.

Ted Gardner asked if the Fire Chief deems a road impassible does the Department have to respond. Linda Leotsakos then stated that we need some action. Ben Smith agreed to look into what can be done with an ordinance to address this issue. He will report back at a future meeting. No other action was taken at this time.

4. Town Report Dedication and Front Cover

The Board had a discussion of possibilities for the front cover and the dedication of the annual report. Suggestions included the school and whether there should be one person or a group of people recognized for their service. No final decision was made but the Board members will come back with a recommendation at the next meeting.

5. Use of Town Office by Republican and Democratic Committees

Scott Tilton reported to the Board both the Republican and Democratic committees want to use the Town Office for meetings. Scott was seeking the Board's approval. The Board members asked several questions about who would have access, who would have keys, which areas would be used particularly with regard to materials in those areas. Some areas need to be restricted.

- Ben Smith moved to authorize the Town Manager to permit the Democratic and Republican town committees to use the Town Office for scheduled committee meetings. Mike Pushard seconded the motion. There were no further comments. The vote was unanimous.

6. 2013 Summer Grounds Mowing RFP

Scott Tilton is preparing for the summer season and had prepared an RFP for a 2013 mowing contract. Mike Pushard suggested and offered as an alternative donating the use of his equipment to the town that then would have a resident do the mowing to reduce the overall costs with the understanding that he gets the equipment back every week to service it. Members of the Board stated that if the person was a town employee there would be some costs and they were also concerned about damage to the equipment. They appreciated the offer. Linda Leotsakos suggested they start with the RFP to see what they get back for information.

Public comments:

Ted Gardner stated it might be cheaper to do as a contract versus Mike's suggestion.

Linda Leotsakos asked Scott Tilton to send out the RFP. No other action needed to be taken at this time.

V. Legal Issues

A. Approve and Sign the March 27, 2012 Special Town Meeting Warrant

Scott Tilton told the Board 6 people have submitted papers for the Charter committee.

- Ben Smith moved to authorize a Special Town Meeting Warrant for a Referendum Vote and Special Meeting. Mike Pushard seconded the motion. There were no other comments. The vote was unanimous.

B. Winter Road Maintenance Over Expenditure

Scott Tilton was notifying the Board that by law, we are not allowed to over spend without the town's permission. Based on expenditures to date and anticipated expenditures, Scott informed the Board that the town is getting close to over drafting the Winter Roads budget. Scott included in the handout package the anticipated expenditures for plowing, sweeping, electricity, and an estimated amount of salt and sand. Based on projections, there will not be enough allocated money to cover these costs. The town can go over budget by up to 15% but requires Town Meeting approval. The 15% level is \$22,507. The projected shortfall is \$16,337 so the 15% would cover this shortfall. Scott was asking as the Road Commissioner for approval.

- Linda Leotsakos made a motion authorizing Scott to exceed the Winter Roads budget by up to 15% if needed. Ben Smith seconded the motion. Scott clarified what he intended to do. The town has to approve the overdraft at a town meeting. He is proposing the town approve transferring funds from the Summer Roads account to cover this but it has to be approved by the town residents. Scott

explained the possible impact of the Board's approval. Ben Smith then raised the question whether this could be added to the warrant for the March 27 Special Town Meeting or if a separate Special Town Meeting for this issue should be scheduled. Mike Pushard agreed. Therefore Ben Smith withdrew his second on the motion and without a second on the motion, the motion failed.

- After further discussion of the pros and cons of a Special Town meeting and the content of a warrant for a Special Town Meeting, Ben Smith moved that the Board authorize the Town Manager to set a Special Town Meeting for March 7th at 6:30 PM at the school to authorize the transfer of up to \$22,507 from the Summer Roads account to the Winter Roads account. Mike Pushard seconded the motion. The Board voted unanimously after public comments.

Public Comments:

Ted Gardner asked if there was any way to address this with the contractors. Members of the Board agreed that a contract was a contract.

C. Schedule Board of Assessors' Workshop

Linda Leotsakos informed the other members that March 5th is the last day of the 185-day period for abatement applications. There are a few items already that need to be addressed and they need to schedule a meeting but she wanted to wait until the abatement period ended so that they could finish all abatement requests at that time. They agreed to a Board of Assessors meeting for March 5 and March 12th. These will be a meetings followed by a workshop.

D. Discussion of Developing Ordinances for Town Meeting Vote

The Board members and Scott Tilton discussed several ordinances, which are in various stages of development or at the approval process. These include:

- Building Code Ordinance – needs a public hearing
- Culvert ordinance – approved for the June Town meeting
- PACE – approved for the June Town Meeting.
- Motor vehicle ordinance/junkyard ordinance to help Code Enforcement Officer – needs action
- Ordinance on storage of Garbage and Junk – needs action
- Tax Relief for Military Deployment – Scott Tilton will develop an ordinance for future reviewing

The Board was mixed on the support of the last suggested ordinance. The Board also recognized the Planning Board has concern with some of these ordinances and therefore discussed possible next steps to take regarding these ordinances. The Code Enforcement Officer supports both the Motor Vehicle and the Storage Ordinances. The Town Manager will ask the Planning Board to consider these ordinances at their upcoming meeting. Scott and the Board discussed other possible ordinances but the Board decided not to add any other ordinances to the list at this time.

E. Approve Quit Claim Deed- Dean Ouelette

Linda Leotsakos presented the circumstances regarding this particular property. There was a lien on the property and the property is now being sold. The town will receive the back due taxes and the town needs to release the liens. The Manager reported that this property had received a 1994 CDBG loan of \$13,500 which was also being paid back and a mortgage deed discharge would need to be filed in the Registry of Deeds

- Ben Smith Moved to approve the Quit Claim Deed. Mike Pushard seconded the motion. There was no further discussion. The vote was unanimous.

VI. Written Communications

A. Kennebec County Sheriff Office Report for Calendar Year 2011

The handout material included a report from the Kennebec County Sheriff Department showing the number of calls from Chelsea the Sheriff's Dept. responded to. There were 943 calls for various different reasons. Mike Pushard explained that this is only half of the activity as the Sheriff's office and the State Police split the coverage for Chelsea every two weeks.

VII. Verbal Communications

- A. **Town Manager Report** – No report
- B. **Department Reports** – No reports
- C. **School Department** – No report other than the previous mentioned upcoming meeting February 29th.

D. Board of Selectmen Comments and Reports

Mike Pushard mentioned he approached AC Towing about a trailer that he felt for safety reasons was too close to the road and it has been moved.

Mike Pushard and Ben Smith both agree the Board needs to have an Executive session in the future to deal with some legal and litigation issues pending or anticipated.

VIII. Executive Session

There was no Executive Session

IX. Adjournment

Ben Smith moved to adjourn the meeting. Linda Leotsakos seconded the motion. The vote was unanimous. The meeting adjourned at 9:10 PM.

Approved by the Chelsea Board of Selectmen on March 14, 2012.

Linda Leotsakos

Michael Pushard

Benjamin Smith

