

**Town of Chester
Board of Selectmen Meeting
Thursday, August 25th, 2011
Municipal Complex
Approved Minutes**

I Preliminaries

1.1 Call to Order

Chairman Landau called this meeting of the Town of Chester Board of Selectmen to order at 7:09pm.

1.2 Roll Call

Selectmen present:

Jack Cannon
Joe Castricone
Joseph Hagan
Stephen Landau
Michael Weider

Members of the Public present, at various times:

Rich Antoine, Fire Chief
Aaron Berube, Police Sergeant
Bill Burke, Police Chief
Patrick Connelly
Marianne Duffy, Finance Department
Jeff Geary
Karen Geary
Cynthia Herman
Andy Higham
Rhonda Lamphere
Tim Loveless, Police Officer
Patricia Martin, Administrative Assistant
Nicholas McLennan, Police Officer
Chuck Myette
Michael Oleson, Road Agent
Bob Pepper
Bryan Remillard
Matt Rittenhouse, Tri-Town Times
Carolyn Scott
Leroy Scott
Steve Tunberg, Emergency Management
Gary Van Geyte
Kevin Wunderly, Fire Lieutenant

And other persons unknown to the Recording Secretary

48

1.3 *Pledge of Allegiance*

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Chairman Landau led the attendees in the Pledge of Allegiance.

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1.4 *Additions and Deletions*

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56 An appointment with Town Counsel Michael Tierney was added, about LeClair's and a letter from Sarah Kirn (DES); an appointment with Fire Chief Antoine, Police Chief Burke, and Steve Tunberg was added, about dams; two non-public sessions were added, both on Reputation.

58

1.5 *Public Comment*

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62 Cynthia Herman stood and was recognized. She wished to follow up on her comments of last week. She reported that she had met with Fire Chief Antoine who had been extremely helpful, and hopefully had a satisfactory resolution to her fireworks issue. Chairman Landau suggested that she contact Administrative Assistant Martin about getting on the agenda for a future meeting.

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66 As no other members of the public wished to speak, Public Comment was closed at 7:18pm.

68 **II. Old Business**

70 2.1 *Approval of Minutes*

72 This subject was not addressed tonight.

74 2.2 *Attorney Michael Tierney - LeClair's*

76 Attorney Tierney appeared before the Board to discuss LeClair's junkyard. A letter has been received from Sarah Kirn of DES about taking the property by tax lien in order to start the cleanup and be eligible for grants. Phase I has been completed; Phase II cannot begin unless the Town owns the property.

80

82 Selectman Weider has concerns about taking the property; if the Town became the landowners, they could be obliged to take on liability. Attorney Tierney agreed; there are ways to minimize the liability, but not totally eliminate it. Apparently the EPA will only offer a "covenant not to sue" insofar as known contamination is involved. Vice-Chairman Cannon stated that the Town has no level of certainty about the existing contamination. Attorney Tierney stated that the EPA always keeps the option to sue open in case, for example, the Town were to clean up the property and sell it for a profit; the EPA would want a share of that profit. He thinks it's unlikely that the Town would make a profit off of the property, but there is no possibility of an agreement with the EPA not to come after them.

88

90 Should the Town decide to take the property, they need to follow RSA 80 (Collection of Taxes) to the letter.

92

94 Attorney Tierney suggested that the Town put up a fence immediately to secure the property, even
96 though they do not own it; the Supreme Court has approved this action. Anyone who goes on the
98 property without the Town's permission can be removed and civilly or criminally charged. The
LeClairs can be on the property but are not allowed to perform any action there; he or she alone can
live there unless the Health Officer decides it's unsafe for human habitation. At that point the
Town, or DES, can condemn and raze the residence.

100

Apparently there has been no activity on the property since PSNH disconnected the electricity and
removed the meters/wiring.

104 Chairman Landau stated that it will cost the Town ~\$10k to erect a fence. Selectman Weider would
like to erect the fence, as the property is an attractive nuisance, and try to recover the cost from
106 the LeClairs. He opined that DES should "step up" if they want to use Chester as a model. Vice-
Chairman Cannon does not want to take on the risk or cost, but agrees that in that case, nothing will
108 be resolved.

110 Chairman Landau stated that the Town has liens on all LeClair properties, and asked if they should
consider going ahead with a Sheriff's Sale on some of the other properties in order to raise funds
112 for the fence. Vice-Chairman Cannon stated that there was no money in this year's budget for the
fence, so either it waits until next year, or funds are raised from a Sheriff's Sale. Attorney
114 Tierney pointed out that whatever the property sells for, the LeClairs would be entitled to ~\$125k
for a Homestead Exemption, and the auctioneer would need to be paid; anything remaining would
116 belong to the Town, and be subtracted from the \$892k that the LeClairs owe Chester.

118 The Attorney General has never filed criminal charges against the LeClairs; PSNH could, for
stealing electricity.

120

Selectman Weider moved to approve a Sheriff's Sale on the Danbury property, and any other
122 properties the LeClairs own, other than Fremont Road in Chester; Selectman Castricone seconded
the motion. The vote was unanimous in the affirmative; so moved.

124

Attorney Tierney recommended that Danbury be the first property sold. He departed the meeting
126 at 7:47pm.

128 *2.3 Dump Road*

130 Mr. Remillard appeared before the Board to discuss Dump Road. Chairman Landau stated that the
Board had received a letter from Town Counsel, and would be giving him a cleaned-up copy by
132 Monday. He confirmed that it would clear up the classification of the road.

134 Mr. Remillard departed the meeting at 9:08pm.

136 *2.4 Raises for Town Employees*

138 Vice-Chairman Cannon would like to address this subject expeditiously; Selectman Weider would

140 prefer to bring Department Heads in to determine merit rather than straight percentages.
141 Selectman Castricone agreed that raises should be performance-based. Vice-Chairman Cannon
142 agreed, provided that the Department Heads do the judging, not the Board. Road Agent Oleson
143 stood and was recognized. He suggested that the Board use last year's reviews. Chairman Landau
144 suggested that the Department Heads be asked to attend next week's meeting.

144

III. New Business

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3.1 Employee Health Insurance Broker

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The brokers did not attend tonight's meeting.

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3.2 Agricultural Commission Appointments

152

153 Bob Pepper, Patrick Connelly, Jeff Geary, Karen Geary, Patricia Martin, Chuck Myette and Gary Van
154 Geyte appeared before the Board to be appointed to the Agricultural Commission, which was voted
155 into existence at this past May's Town Meeting.

156

The positions are:

158

Bob Pepper, Chair

160

Gary Van Geyte, Vice Chair

Chuck Myette, Treasurer

162

Jeff Geary, member

Patrick Connelly, member

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Karen Geary, alternate member

Pat Martin, alternate member

166

This commission has no budget. The Selectmen thanked the members for volunteering.

168

169 Chairman Landau moved to appoint Bob Pepper, Gary Van Geyte, Chuck Myette, Jeff Geary, and
170 Patrick Connelly as full members and Karen Geary and Patricia Martin as alternate members to the
171 Agricultural Commission for three-year terms to expire on May 31st, 2014; Vice-Chairman Cannon
172 seconded the motion. The vote was unanimous in the affirmative; so moved.

174 The newly appointed members should contact Town Clerk Barbara Gagnon to be sworn in. They
175 departed the meeting at 7:22pm.

176

3.3 Bid Opening - Fire Department Ladder Truck

178

179 Although this bidding period was July 19th - July 26th, 2011, bids were held unopened until now in
180 order to have a full board present. The item being bid for is a 1985 C-Grade 100' Ladder Truck.
181 The minimum bid was \$5,000.

182

The one bid that was received was for \$5,100.

184

186 Vice-Chairman Cannon moved to award the truck to the bidder; Selectman Hagan seconded the motion. The vote was four in favor with Selectman Weider abstaining; so moved.

188 The winning bidder will be notified tomorrow; Fire Chief Antoine will work with him.

190 3.4 *Bill Burke, Police Chief - Policy Change Employee Questions*

192 Police Chief Burke and Police Officer Loveless appeared before the Board with some questions about the policy changes on earned time and health insurance. Officer Loveless stated that he is the primary Firearms instructor for the Town as well as the Field Training officer. He has eight years experience, three of those in Chester.

196 Officer Loveless stated that in his opinion earned time was a benefit for working odd hours. He asked what the payment percentages would be, should an employee go out on Short Term (STD) or Long Term (LTD) Disability. Selectman Weider confirmed that STD and LTD would be offered to all full time employees, and the Town would pay 100% of the premiums.

202 STD

- 66.6% of one's weekly salary, to a maximum of \$900/week, not taxed
- 204 ● 1 day waiting period for an accident (not at work, which would be covered under Workers' Comp)
- 206 ● 8 day waiting period for an illness

208 LTD

- 45% of one's weekly salary, not taxed
- 210 ● 180 day waiting period

212 An employee can use vacation time for the waiting period. Health insurance premiums are not taken out of the STD/LTD payments, but the employee will need to make those costs up after s/he returns to work. No funds are paid into Retirement during STD/LTD.

216 Officer Loveless stated that his concern was that if he went out on disability, he would only be getting 66.6% or 45% of his pay; if he were able to use earned time, he would be getting 100%. The Board pointed out that this would be true - but only for as much earned time as he had available; after it ran out, he would be getting nothing. Vice-Chairman Cannon pointed out that some of the Town's employees had gone out for major medical issues, and the Town had continued to pay their salaries, even though they were not at work. This was the right thing to do, but not a wise business decision. Chairman Landau stated that the Board of Selectmen only had a right to sign a contract for up to one year without the approval of the Legislative Body; if they were paying a sick person's salary, and the person continued sick for over a year, they would have to go to Town Meeting to get approval. Selectman Weider stated that Earned Time was an unfunded liability.

226 There was some discussion about the "sick time" and "vacation time" designations; Police Chief
228 Burke did not like the term "sick time", because it felt dishonest to use "sick time" when one was not really sick, but if it was not used, it might be lost. Vice-Chairman Cannon suggested using the
230 term "personal time" instead. Marianne Duffy from the Finance Office stood and was recognized.

232 She clarified that an employee may not carry over vacation time without approval of the Board, but that s/he may carry over 96 hours of sick or personal time from year to year.

234 Police Sergeant Berube joined the group at the Meeting Table at this point. He stated that he
236 realizes that the Board is trying to make things equal among all employees, but since the Police
Department are the only ones who work nights and weekends, it's not fair. He also stated that the
238 Police Officers are concerned that they would be losing their accrued earned time, expressed
dismay that health insurance premiums had gone up, stated that nobody knew for sure how much
240 vacation time they had, and opined that the Town was not acting in a "pro-employee" fashion. Vice-
Chairman Cannon assured him, and any who might be listening, that no accrued earned time would be
242 lost; he also noted that the Town's annual health insurance premium had gone up from \$248k last
year to \$315k this year. The Health Insurance Committee had reviewed the Town's existing policy
244 as well as others, and had decided against changing, as the other choices did not have as good
coverage as the existing policy. Ms. Duffy was asked to determine how much vacation time each
246 employee had consumed, as of January 1st, and report back to the Board. Ms. Duffy asked, for
clarification purposes, if employees could use their accrued earned time. The response was that of
248 course they could, but the Board would encourage them not to use it before they use their vacation
time, as the earned time is "money in the bank".

250 There was some discussion about what parts of the Personnel Policy Manual needed changing or
clarifying; these included the vacation accrual, carry-over of sick time, and whether these benefits
252 were counted from the Calendar or Fiscal Year. It was noted that there was no intent to hurt
people, whether they be employees or residents.

254 It was unclear if earned time was paid out of the Police Budget or the Separation Budget. Police
256 Chief Burke asked if the earned time funds were earning interest for the employees; they are not.
The Town has already funded the liability 50%; next year they plan to ask for the remaining 50%,
258 and pay the funds out in July of 2012. Rhonda Lamphere stood and was recognized; she stated that
the money is in a Capital Reserve Fund, and is earning interest, but the interest is going to the
260 Town, not the employees.

262 Officer Loveless stated that 12% of his pay was going to the State for retirement, and now his
family health insurance had gone up from \$40/week to \$90/week; as a result, he was making
264 \$1.25/hour less than last year, for a total of \$4,700 less a year. He stated that he needed to work
additional jobs in order to make ends meet.

266 Selectman Weider stated that the Town's insurance and salaries were still being looked at by
268 brokers, who would be coming in during the next two weeks. Vice-Chairman Cannon stated that
nothing would change until the Town could figure out how to pay employees equitably for living and
270 working in Southern New Hampshire. Chairman Landau noted the issue that currently 38 houses in
Town were under foreclosure, but the Town funds its budget on property taxes.

272 Andy Higham stood and was recognized. He stated that he makes \$15/hour, and if it had not been
274 for his Health Insurance, he would be paying the CMC bill from his recent health problem until he
passed away. That said, he is now working 4.65 hours out of each week to pay for the difference in
276 his Health Insurance premium. He would like the Board to meet with the employees.

278 Officer Loveless asked if there was any timeline for employee raises. Vice-Chairman Cannon stated
that this subject was on tonight's agenda, and that they would be retroactive.

280
282 Office Loveless departed the meeting at 8:54 pm. Police Chief Burke remained at the meeting
table; Fire Chief Antoine and Lieutenant Wunderly joined him.

284 Lieutenant Wunderly asked about snow days. He stated that Town employees get a paid day off
when it snows, while Police Department employees have to come in and get paid time and a half. He
286 would like Fire Department employees to be included in the latter scenario. Vice-Chairman Cannon
stated that this issue would be addressed during the policy review.

288
290 This subject was concluded at 8:57pm.

292 3.5 *Hurricane Irene - Dams*

294 Steve Tunberg joined Police Chief Burke, Fire Chief Antoine, Lieutenant Wunderly, and the Board
at the meeting table to discuss preparations for Hurricane Irene.

296 Vice-Chairman Cannon stated that there was likely to be flooding, and should the Fire Department
open the dams now? Wason Pond was especially important, but North Pond and Edwards Mill Dam
298 could be affected as well. Fire Chief Antoine stated that the Fire Department planned to open the
dams a moderate amount tomorrow, and the rest of the way on Saturday; they will be monitored
300 throughout the storm. He noted that this is standard procedure.

302 It was stated that Jeff Adler and Shawn Patenaude of DuBois & King had recommended that
Wason Pond not be lowered any more than 12" Fire Chief Antoine stated that the boards were
304 already out of the North Pond Dam.

306 Mr. Tunberg stated that Fire Chief Antoine was the lead person for any emergencies. Chester
Academy will be the shelter, should it prove necessary. Police Chief Burke noted that cancellations
308 had already begun.

310 These safety department employees departed the meeting at 9:07pm.

312 3.5 *Bill Burke, Proposed Non Public*

314 This will take place at the conclusion of the public meeting tonight.

316 **IV. Selectmen's Business**

318 4.1 *Roundtable*

320 *Selectman Weider:*

- 322 ● He provided the Selectmen with proposed new Building Inspector and Fire Department fee
schedules for them to review and discuss at a subsequent meeting. Chairman Landau asked

that they be posted; a public hearing will be necessary.

324

Chairman Landau:

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- He has an attorney's letter for the Board to review; this is a legal matter.

328

Vice-Chairman Cannon:

- Nothing to report.

330

Selectman Castricone:

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- There is a problem with the Highway Garage hot air furnace; it is a warranty issue, and needs to be replaced. Road Agent Oleson suggested replacing it with a propane furnace rather than oil.
- The tanks at the Municipal Complex are at 70% in preparation for the weekend.

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336

Selectman Hagan:

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- Nothing to report.

340

4.2 Public Comment

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As no other Members of the Public wished to be heard, Public Comment was closed at 9:17pm.

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4.3 Non-Public Session

346

Vice-Chairman Cannon moved that the Board go into Non-Public Session for three items: one item under RSA 91-A:3 II (a), Public Employees, with Police Chief Burke, and two items under RSA 91-A:3 II (c), Reputation. Selectman Castricone seconded the motion. The vote was unanimous in the affirmative; so moved.

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350

The Meeting Room was closed at 9:22pm. Police Chief Burke remained in the meeting room.

352

Selectman Hagan received a page and was obliged to depart the meeting at 9:35pm.

354

Police Chief Burke departed the meeting room at 9:52pm.

356

The Meeting Room was reopened at 10:09pm.

358

Vice-Chairman Cannon moved that the Board come out of non-public session; Selectman Weider seconded the motion. The vote was four in favor with Selectman Hagan absent; so moved.

360

362

Chairman Landau moved that the minutes to the first non-public session with Police Chief Burke, on Public Employees, be sealed for three months; Vice-Chairman Cannon seconded the motion. The vote was four in favor with Selectman Hagan absent; so moved.

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366

Chairman Landau moved that the minutes to the second non-public session, on Reputation, be sealed for an indefinite period; Vice-Chairman Cannon seconded the motion. The vote was four in favor with Selectman Hagan absent; so moved.

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370 Chairman Landau moved that the minutes to the third non-public session, on Reputation, be sealed
for an indefinite period; Vice-Chairman Cannon seconded the motion. The vote was four in favor
372 with Selectman Hagan absent; so moved.

374 **V. Adjournment**

376 Chairman Landau moved to adjourn the meeting; Selectman Castricone seconded the motion. The
vote was four in favor with Selectman Hagan absent; so moved. The meeting was adjourned at
378 10:11pm.

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Respectfully Submitted,
382
Debra H. Doda