



CITY OF CHELSEA

CHELSEA PLANNING COMMISSION NOTICE OF WORK SESSION

Notice is hereby given that the Chelsea City Planning Commission will hold a Work Session on Tuesday, March 6, 2012, at 7:00 P.M. at the City Offices, 305 S. Main Street, Lower Level, Chelsea, Michigan.

The purpose of the meeting will be to discuss the following items:

- **Public Use of City Property**

Persons requiring reasonable accommodations due to disabilities in order that the meeting is accessible to them are requested to notify the Chelsea Planning Commission of such disability no later than five (5) business days prior to the date of the meeting.

George Kinzer, Chair

PLANNING COMMISSION WORKSESSION MINUTES
MARCH 6, 2012, 7:00 P.M.
CHELSEA CITY OFFICES, LOWER LEVEL
305 S. MAIN ST., SUITE 100, CHELSEA MI, 48118

Members Present: Chairman George Kinzer, Jack Garland, Darlene Stanley, Robert Stephens, Melissa Johnson, Peter Feeney, Mary Schroer, Sarah Haselschwardt, Erik Larsen

Members Absent: None

Others Present: Planning, Engineering, Zoning & Community Development Director Christine Linfield, City Councilman Rod Anderson

Meeting called to order at 7:06 p.m. by Chairman Kinzer.

The meeting opened with City Councilman Rod Anderson giving a brief history of the need for an ordinance to regulate the use of public property that is fair to all.

Mary Schroer stated that the assignment of drafting a general code ordinance is a legislative issue and should be done by the council. Ms. Schroer also distributed several copies of *“Competing Dictates of the First Amendment: Walking the Fine Line Between the Establishment Clause and Religious Free Speech”* written by Lori Grigg Bluhm, City of Troy City Attorney's Office, Troy, Michigan.

Sarah Haselschwardt mentioned that the Planning Commission's duty is to assist with zoning and land issues, not with creating policy on how city property is to be used. Ms. Haselschwardt also mentioned that she is unclear on if the issue of using public spaces should be in ordinance form or handled by a policy against discrimination.

Jack Garland asked if the draft ordinance was created by an attorney. Ms. Linfield stated that she created the draft so the Commission could be familiar with how a code ordinance is structured. Ms. Linfield also stated that any comments that the Commission had would be incorporated into the draft and then a legal review would be completed prior to the next work session.

Melissa Johnson had several issues with the draft language. Ms. Johnson reported that there are several cases being reviewed at a federal level that could have a direct impact on the draft ordinance. Ms. Johnson also stated that the intent section & local community references should be removed and put in legislative history. Ms. Johnson also mentioned being aware of the Establishment Clause when talking about the use of public spaces for religious events. Ms. Johnson also recommended adding a section to list the approval criteria including any time, place or manner restrictions as well as an appeal section period).

Discussion continued regarding the Planning Commission's preference to have ordinance language first drafted by an attorney due to the concern with First Amendment issues. Peter

Feeney mentioned that he is not an attorney and does not feel comfortable trying to draft language on an issue that has potential legal ramifications. Mr. Feeney stated that it should be drafted by an attorney that is up to date on First Amendment issues.

Ms. Linfield stated that the Planning Commission had several issues to discuss. First, does the Planning Commission feel comfortable enough to take on this assignment? Second, discuss if the issue should be handled as an ordinance or as a policy. Third, discuss if the new regulations should be structured to handle both Special Events and Displays.

Robert Stephens had concerns with allowing displays due to the potential safety issue if they fall over on someone. Melissa Johnson stated that both of these issues should be addressed together and she recommended that it be in ordinance form.

After much discussion, Chair Kinzer summarized that the consensus of the group is that the task of creating an ordinance to regulate the use of public property is a legislative issue and should be referred back to City Council. The Planning Commission also recommended that the ordinance be drafted by an attorney and that it addresses both Special Events and Displays.

Meeting was adjourned at 8:17 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christine Linfield".

Christine Linfield
Planning, Engineering, Zoning & Community Development Director

CITY OF CHELSEA

TO: Planning Commission
FROM: Christine Linfield
SUBJECT: Private Use of Public Property Ordinance
DATE: 03/2/12
CC:

Currently, the Chelsea City Code of Ordinances does not have a dedicated section to regulate non-city sponsored events on public property. This issue was discovered during the Hometown Holidays festival when a local church asked to place a live nativity scene in a downtown municipal parking lot. Because there is no ordinance to allow public use on private property, for any non-sponsored city event, their request was denied.

At the January 24, 2012 City Council meeting, it was recommend to refer the issue to the Planning Commission for discussion and input into amending the City Code of Ordinances.

After a preliminary planning discussion with Chair Kinzer, the following schedule was put into place in order to meet the May 2012 deadline set by council.

Proposed Schedule:

1. March 6, 2012 - First PC Work Session
2. April 3, 2012 - Second PC Work Session (if needed)
3. April 17, 2012 - First PC Meeting
4. May 15, 2012 - Second PC Meeting (if needed)

In order to prepare for the work session, it is important to think about the different parcels in town that are owned by the city (parks, parking lots, etc.), the different types of private uses that could be requested, and how to regulate all of them with keeping public safety in mind.

Attached you will find council packet information, council minutes, and a draft ordinance to get discussion started.



Agenda Item Summary

Meeting of: January 24, 2012

Agenda Item Title: Private Use of Public Facilities

Submitted by: John P. Hanifan

Approved for submittal:

John P. Hanifan 

City Manager

Explanation of Agenda Item: Staff was directed to research and prepare a policy and procedure to allow the use of City Property.

Type of Request (see next page for descriptions):

Resolution **Motion** **X**

If you are requesting a resolution, include your resolution statement as an attachment to this document upon submission.

Fiscal or Resource Considerations:

Does this agenda item require the expenditure of funds? **YES** **NO**

If YES, are funds budgeted? **YES** **NO**

Are staff or other resources required? **YES** **NO**

City Manager Comments/Recommendation: The City has sections in the General Code of Ordinances that allow, regulate, or prohibit various uses for parks, farmer's markets, rights of way, etc.

I have attached a few samples from various communities for council to review. My recommendation is for council to refer this issue to the planning commission for discussion and ultimately development of language to amend the General Code of Ordinances.

City Manager Recommended Form of Motion: Motion by _____ Second by _____ to refer the Private Use of Public Property to the Planning Commission for their discussion and development of language to amend the General Code of Ordinances for the Private Use of Public Property AND to recommend a Policy and Procedure, to be adopted no later than ~~May 2012~~.

Names and addresses of those to be notified:

George Kinzer, Planning Commission Chairperson

All Agenda Item Summaries and any attachments are due in the City Clerk's Office by 5:00 pm. on the Wednesday prior to the City Council meeting. If the Wednesday prior to the City Council meeting is a holiday, then the submission deadline is 5:00 pm. on Tuesday.

4. Establishment of 2012 Poverty/Hardship Guidelines

On behalf of our City assessors I would like to submit the attached guidelines and application for 2012 Hardship Exemption consideration. This information includes updated maximum income rates and asset values. Upon approval by Council, these forms will be available online and at the City Office front desk.

MOVED Albertson SECONDED Hammer to approve the resolution for the guidelines of the 2012 Hardship Exemption application. All Ayes. Motion Carried.

5. Transfer of Electric Self Insurance Funding

The City would like to request approval to make the budgeted transfer of \$20,000 from the Electric Fund Operating Cash to the Electric Fund's Self Insurance Certificate of Deposit. The City has made a conscious effort for the past five years to set aside monies specifically for the purpose of a large-scale emergency.

This issue is specific to the Electric Fund because the Electric Fund is unable to obtain cost-effective insurance coverage for the City's electric infrastructure (lines, poles, substations, transformers, etc.). Chelsea is one of a small group of communities in Michigan that owns its own electric infrastructure and this is an issue common to all.

The current balance of the Electric Funds Self Insurance Certificate of Deposit is \$295,578.80, this will increase to \$315,578.85 with the requested, budgeted transfer. While this will not replace the current infrastructure, it can assist in providing immediate funds to secure repair items and will continue to grow over time with the City's continued commitment to funding.

MOVED Holmberg SECONDED Albertson to approve the transfer of \$20,000 from the Electric Fund operating cash to the Electric Fund self-insurance certificate of deposit as budgeted. All Ayes. Motion Carried.

6. Goals and Objectives (Visioning) Work Session

To set the goals and objectives (Visioning) Work Session to Feb 6th from 6 pm to 8 pm

7. Private Use of Public Facilities

The City has sections in the General Cod of Ordinances that allow, regulate, or prohibit various uses for parks, farmer's markets, rights of way, etc.

City Council Minutes
January 24, 2012

The recommendation is for Council to refer this issue to the planning commission for discussion and ultimately development of language to amend the General Code of Ordinances.

MOVED Martinez-Kratz SECONDED Albertson to refer the Private Use of Public Property to the Planning Commission for their discussion and development of language to amend the General Code of Ordinances for the Private Use of Public Property AND to recommend a Policy and Procedure, to be adopted no later than May 2012. Six (6) Ayes, One (1) Nay. (Anderson) Motion Carried.

Staff Reports

City Manager Hanifan reported on the communication that he forwarded to City Council regarding Sylvan Township. Reported that no action has taken place from the residents from Chelsea Springs who had come to Council regarding annexation into the City.

Administrative Director Kim Garland went over the second quarter financials.

Police Chief Toth went over the police report.

Council Reports

Council Member Albertson had no report.

Draft

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CITY OF CHELSEA CODE OF ORDINANCE BY ADDING A NEW ARTICLE TO BE DESIGNATED AS ARTICLE VI, SECTION (26-116) TO REGULATE SPECIAL EVENTS.

THE CITY OF CHELSEA ORDAINS:

That the City of Chelsea Code of Ordinance is hereby amended by adding a new article, to be numbered Article IV of Chapter 26 (Streets, Sidewalks and Other Public Places), which said article reads as follows:

Section (26-116) Use of Public Property for Special Events.

(A) *Intent.* The City would like to provide the local community an opportunity to hold private events on public property by regulating the use of public parking lots, streets, right-of-way, and parks in order that they may be reasonably accessed and enjoyed by the general public, and not be usurped by commercial or special interest groups to the exclusion of the public, while preserving the health, safety and welfare of the public, remaining fully consistent with the Michigan Constitution, Michigan law, City of Chelsea Charter, and other City Ordinances, so as to assure the enjoyment of the public at large, all without undue financial costs to the City of Chelsea or its residents.

(B) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- (1) "Special Event" means a non-city sponsored event, including but not limited to a athletic event, festival, show, celebration, performance, display, seasonal event, gathering, or video or film production, but excluding residential block parties or other street right-of-way closures already covered by City Police policies for such events. Also, temporary daytime use of picnic tables and park gazebo (for events with less than 25 people) shall be exempt from this ordinance.
- (2) "Person" means an individual, corporation, partnership, association and any other recognized legal entity that resides in the City of Chelsea or is affiliated with entities in the local community.

(C) *Permitted districts.* Private use on public parking lots, streets, right-of-way, and parks shall be permitted in all zoning districts. Even those adjacent to residential districts.

(D) *Approval Required.* In order to properly provide for traffic and crowd control, street and property maintenance, ensure the protection of the public health, safety and welfare, it shall be unlawful to participate in any special event upon any City street, park or public property of the City of Chelsea

unless such activity has applied for a special events permit and is granted approval by resolution of the City Council. The application for a permit to conduct a special event shall be made to the City Clerk, in writing, by person or persons in charge of or responsible therefore. Such application shall set forth the following information:

- (1) The name, address and telephone number of the person requesting the permit.
- (2) The name and address of the organization or group sponsoring the special event.
- (3) The name, address and telephone number of the person who will act as Chairman of the special event and be responsible for the conduct thereof.
- (4) The purpose of the event and estimated number of persons to attend.
- (5) The date the event is to be conducted and the hours it will commence and terminate each day.
- (6) The layout or sketch showing the limits of the area to be used
- (7) If determined necessary by the City Manager, the filing of a certificate of insurance coverage insuring the city as an additional insured party in the amount of at least \$1,000,000.00 for public liability and property damage associated with the use.
- (8) Copies of any authorized permits required by any other governmental agency, by state law or local ordinance.
- (9) Such other information as the City may deem reasonably necessary.

(E) *Expiration.* A permit issued under the authority of this ordinance shall expire not later than 60 days from the date of approval, and shall be non-transferable and non-assignable.

(F) *Payment of Costs.* The City Council shall adopt a policy which sets forth whether or not the special event must pay for City services and to what extent such City services must be paid by the person or entity responsible for the special event. Such policy shall have the full force and effect of the ordinance, and any violation of the policy shall be deemed to be a violation of the this ordinance.

(G) *Penalties.* A violation of this ordinance or a violation of the conditions imposed in any permit granted by authority of this ordinance shall be a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than (_____) and not less than (_____).

(H) *Effective Date.* This Ordinance shall become effective (____) days after its adoption and shall be published within (____) days of its adoption by publication of a brief notice in a newspaper circulated within the City of Chelsea.