

**Selectmen's Minutes
Senior Center**

February 6, 2017

Present: Chairman Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Selectman David A. Doane, and Town Administrator Brendhan Zubricki.

Also Present:

Tina Lane, Helen Brown, Maria Burnham, Jodi Harris, Laurie Henderson, Alden Blodgett, Bob Jerin, Ellen Attridge, Ernest Nieberle, Kevin Donovan, Kristen Walker, Tom Demeo, Kristen Walker, and five others.

The Chairman called the meeting to order at 7:00 p.m. in the upstairs meeting room of the Senior Center on Pickering Street and announced that the Board would hear Public Comment. No one offered any comment.

Susan Coviello suggested that the Board cover other business while waiting for the Public Hearing to start.

A motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$350,042.53.

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 2/2/17 and 2/9/17 warrants pursuant to subsection (d) of said Section:

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ramie Reader	Reader Electric	01/11/17	\$203.50	Fire

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ernie Nieberle	Nieberle's	01/24/17	\$861.20	Police
Ernie Nieberle	Nieberle's	01/24/17	\$928.01	Fire
Ernie Nieberle	Nieberle's	02/02/17	\$167.20	Council on Aging

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's January 23, 2017, Open Meeting.

A motion was made, seconded, and unanimously voted to approve and sign the estimate provided by the Town Clerk of the Town's temporary population as of July 10, 2017.

A motion was made, seconded, and unanimously voted to approve the final draft of the Calendar Year 2017 Goals for Chief of Police.

A motion was made, seconded, and unanimously voted to appoint Keith Carter to a 3-year term on the Board of Appeals.

A motion was made, seconded, and unanimously voted to designate Daniel Bruce as Records Access Officer for the Police Department in charge of Police records.

A motion was made, seconded, and unanimously voted to approve the following Clamming Permits:

Commercial:

- Jud Lane
- Chris Maxfield
- George Mullin

Non-Resident Recreational:

- David Bogdan, Georgetown, MA, sponsored by Tim Walsh
- Mary Picariello, Boxford, MA, sponsored by Ronald Hemeon
- Philip Picariello, Boxford, MA, sponsored by Ronald Hemeon
- Christine Sullivan, Methuen, MA, sponsored by Ronald Hemeon

A motion was made, seconded, and unanimously voted by Chairman O'Donnell and Selectman Gould-Coviello to approve the following Clamming Permits (Selectman Doane abstained from voting):

Senior:

- Robert Doane

The Selectmen were reminded that there will be an informational meeting regarding the new Marijuana Regulation and Taxation Law in the cafetorium at the Essex Elementary School on Monday, February 13, 2017, starting at 7:00 p.m.

At 7:05 p.m., a motion was made and seconded, and unanimously voted to open the Public Hearing regarding a request for Alteration of Licensed Premises for Riversbend restaurant at 35 Dodge Street. The Chairman asked that anyone present for the hearing who wished to speak, raise their hand and state their name. There was no one present from the Riversbend restaurant and the Chairman asked Mr. Zubricki to briefly review the Alteration request. Mr. Zubricki said that the present alcohol license for the restaurant describes the premises as a "Full service restaurant with 98 seats, including 31 outdoor deck seats, open to the public." Mr. Bergeron is requesting that the wording in the description on the license be changed to read "Full service restaurant with 98 seats total encompassing the inside space and outside deck." The Chair asked if anyone wished to speak in favor of the wording change. No one did. The Chair asked if anyone wished to speak against the wording change.

Alden Blodgett asked if this would be an increase in seating. He was answered that it would not be an increase, just a clarification that the inside & outside seating would include no more than 98 seats, regardless of how seats were apportioned to the two areas.

Laurie Henderson asked if these 98 seats could conceivably be all outdoor seating or whether patrons could stand on the deck, possibly at a new bar on the deck. It was explained that, should this evening's request be granted, no bar could be outside and no further changes in seating could happen without the applicant coming back to the Commission again, at some other time in the future. The existing license and the current request are focused on individual tables with individual chairs and even a proposed change toward bench-style seating (which could assemble

more patrons on the deck) could be considered a new alteration of premises. It is doubtful the deck could support 98 seated people and no standing with drinks is allowed (the license anticipates 98 seated patrons). Also, only seated patrons are allowed on the lawn (with alcoholic beverages, if of age) to stroll around the grounds (while waiting for their meal to be served, for example).

Bob Jerin asked if tables/seats could be moved outside, in the area in front of the establishment. He was answered that alcohol may only be consumed in the establishment, on its deck, or on the lawn. The area in front of the establishment is not part of the licensed premises. Other Town departments would have jurisdiction over any proposed seating and operations in front of the establishment.

Ellen Attridge, Ernest Nieberle, Laurie Henderson and others expressed concern over traffic, noise and dust along Dodge St. They were concerned this change would lead to overcrowding, more noise, more cars. Ms. Henderson was especially upset over the Conservation Commission's past decision to allow cutting of trees and Mr. Nieberle expressed that he felt that the Planning Board and the Conservation Commission had failed the Town with respect to the original approval of this project on the property.

Kevin Donovan didn't think the deck could hold 98 people. It was explained that Riversbend was still subject to all building and fire codes and regulations. He was told that an engineer's certification as to the maximum occupancy loads inside and on the deck is on file with the Essex Building Inspector.

Susan Coviello was uncomfortable with the Board being put in a position to have to explain the owner's position. It was suggested the Board continue the Public Hearing until Mr. Bergeron was available to speak for himself.

Jody Harris encouraged the Board to vote no because Mr. Bergeron has not been a good business partner for the community. It is not incumbent upon the neighbors to police his actions. She believed the board shouldn't continue the Public Hearing because this date has given Mr. Bergeron the opportunity to speak. She stated that he ignores the neighbors and has extra seats at the "Café" when he's not supposed to.

Kristen Walker expressed the opinion Riversbend probably wants this seating change to have more special events on the weekends and nights.

Maria Burnham is concerned that the owner is violating Conservation Commission rules.

Lisa O'Donnell noted that the establishment has the capacity for more than 98 seats, but that is all he is permitted. The Board's only role regarding the present request is to decide about the seating as it pertains to the liquor license, and whether the exact distribution of the 98 of seats (inside versus the deck) should continue to be specifically controlled by said license. Even if

tonight's request concerning seat apportionment is approved, the upward limit of 98 seats for the entire establishment will not change.

Tom Demeo Encouraged the Board to think of this restaurant as different from the others in town due to its locale.

Jodi Harris again encouraged the Board to deny this request due to the fact that Mr. Bergeron wasn't present.

Ellen Attridge expressed the opinion that businesses don't apply for changes unless they want to change something significant in the business. She stated that Mr. Bergeron is not a good neighbor.

A motion was made, seconded, and unanimously voted to close the Public Hearing at 8:50 p.m. After much discussion, a motion was made, seconded, and unanimously voted to continue the Public Hearing until March 13, 2017 at 7:05 p.m. at the Essex Senior Center so Mr. Bergeron or his representative can be present to answer the public's concerns and questions. The particulars of the continuance were made clear to those present.

On a related matter, the Selectmen also reviewed a request from the Riversbend Restaurant at 35 Dodge Street to change the manager to Curt Bergeron. A motion was made, seconded, and unanimously voted to table this matter until Mr. Bergeron can be present to answer questions regarding his qualifications to be the restaurant's manager (likely on March 13, 2017). The original manager on the liquor license is no longer in the employ of Riversbend, but the establishment is presently closed for repairs and maintenance.

Mr. Zubricki informed the Board the he spoke to Mr. Bergeron in advance about this issue and encouraged him to attend this meeting, or to send a representative. Mr. Bergeron is currently out of town and decided not to send counsel or others to represent the business.

The next regular Board of Selectmen's meeting will take place on Monday, February 27, 2017, at 7:00 p.m. in the Senior Center, 17 Pickering Street.

7:55 p.m. Essex Housing Authority

The Housing Authority called its meeting to order, within the Selectmen's meeting.

After brief discussion, Susan Coviello moved to appoint Gregory Cooper to the EHA to fill the seat vacated by Harold Addison until elections in May, 2017. Selectman Doane seconded. By roll-call vote:

Susan Coviello – Aye
David Doane - Aye
Lisa O'Donnell – Aye

EHA board members:

Roger Tyler – Aye

Beth Cairns – Aye

Margo Hammon – Aye

Mr. Cooper may serve until the next election and then he must run in the election if he wants to continue. There are two vacancies currently on the EHA. One is to fill a vacancy for 1 year, and the other is a full 5 year term.

8:05p.m. Bill Nolan – 111 Conomo Point Road

Mr. Nolan presented changes to the residential structure located on leased property at 111 Conomo Point Road. He asked if the owner would be able to tear down the cottage and build in-kind (to the same specifications on the plans he presented) if the renovation is not feasible due to the quality of the structure of the old house, or the overall cost of renovation versus replacement. The foundation would have to be checked for structural integrity and the Conservation Commission would have to be consulted. Mr. Nolan is going to consult with FEMA to find out if he can actually lower the building, as he believes would be possible in the flood plain. The Board made clear that a cistern would not need to be added to the house since it is strictly a seasonal rental, with public water available for the time it can be occupied.

After lengthy discussion, Susan Coviello moved that the Board of Selectmen, in its capacity as Conomo Point Commissioners, approve a building renovation or in-kind replacement request made by **Cozy Cottage LLC, John G. and Richard C. True, Trustees**, to renovate the existing structure on the premises located at **111 Conomo Point Road (Map 108, Lot 76)**, subject to the following terms and conditions:

1. The work shall be done in accordance with the terms and conditions set forth in Sections 2 and 3 of Article IX and Article X of the Land Lease commencing on January 1, 2017 (the "Lease"), which terms and conditions are expressly made part of this approval.
2. The work shall include upgrade of the septic system serving the premises in accordance with the criteria of the Board of Health.
3. The newly constructed dwelling shall be considered the "Improvements" for purposes of the Lease.
4. The Lessee acknowledges that nothing in this vote is intended to convey or imply any right, title or interest in the Town's property, or any portion thereof, and that nothing herein is intended to extend the term of the Lease or to waive the Town's right of termination pursuant to Article XI thereof, and further that the Town expressly reserves the right to assert ownership of the newly constructed dwelling in accordance with Article V of the Lease.

5. The Lessee shall sign a written acknowledgment of his agreement to these conditions, which acknowledgement shall be countersigned by the Town Administrator on behalf of the Board.
6. The renovation or in-kind replacement may be completed to a lesser extent than depicted by the building envelope on the below-referenced perspective view plan, but may not exceed said envelope without seeking approval from this Board, which may be denied.

(See Building Permit Application Routing and Approval Form, under "other", and perspective and plan views dated January 30, 2017, for the specific alterations or in-kind replacement requested; all to be initialed by the Chairman.)

A motion was made, seconded, and unanimously approved to grant both Police Chief Peter Silva and Town Administrator Brendhan Zubricki three-percent merit pay for fiscal year 2018. Merit pay for the Town Clerk, the Treasurer/Collector, and the Selectmen's Assistant will be discussed at the next meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period January 21st through February 3rd, 2017, regarding the following:

Town Hall Renovations Update:

A change order is necessary for lights under the portico. Four lights, with a total cost of \$2,294 are necessary since the originally-specified lights won't fit within the rafter space, which was thought to be deeper by the designer, until the contractor actually opened the roof during construction. Two of the original four lights have been used elsewhere in the project and a credit for the other two will be negotiated. A motion was made, seconded, and unanimously voted to approve the change order.

There are 4 spaces upstairs that could be used for storage if finished interior walls are installed, along with sprinkler system extensions. One space will also house an electrical panel. Mr. Zubricki will obtain cost estimates for various permutations of work. A motion was made, seconded, and unanimously voted to allow the Chair to select the final number and configuration of spaces so long as the work is \$7,500 or less.

The Library personnel requested parking for employees to the far right of the building, which would mean putting gravel down where contractors park now. The Board decided to hold off on that until total landscaping plan is in place.

Northern Conomo Point Public Access Improvement

The bids for this project (due February 1, 2017) all came in over budget when a clerical error made by the apparent low bidder is accounted for.

The scope of the project has to be reduced because the same project cannot be rebid as originally written knowing that all bids were far higher than the available funding. The suggestion is to eliminate the continuous bench seating on the park observation deck (Town may install its own benches later), reduce the dimensions of the waterside park stone wall, replace the front park stone wall with wide curbing, and move to standard concrete work for the park walkway (instead of exposed aggregate work).

Selectmen Coviello is disappointed to have to vote on changes since some changes may detract from the aesthetics of the original design concept. She stated that she was not in favor of the changes, from a design perspective, given that the front wall makes a clear delineation between road and the park. Chairman O'Donnell discussed how some changes must be made regardless and Mr. Zubricki asked whether the suggested changes should be modified. In the end, due to the necessity of reducing cost (as opposed to a desire to change the original design), all agreed that the project should go back out to bid with the suggested changes.

Chairman O'Donnell introduced the following motion:

Whereas, only one of three base bids for the Northern Conomo Point Public Access Improvement Project was within the Town's special appropriation for the project; and

Whereas, the apparent low bidder, Campbell Construction Group, LLC, has notified the Town that said bid was submitted in error, due to a bona-fide clerical mistake that would cause the contractor serious financial harm, if honored; and

Whereas, the correct base bid amount for such bidder would have been higher than the Town's existing appropriation for the project; and

Whereas, the next lowest base bid was substantially higher than even the corrected low base bid figure, I, Lisa O'Donnell, move that the Board vote to allow Campbell Construction Group, LLC to withdraw its bid and that the Board vote to reject all other bids and cancel the procurement, on the grounds that the lowest available bid is substantially higher than available funds will allow. Further, I move that the Board authorize the Town Administrator to re-advertise the project as of February 8, 2017 with a new bid deadline of February 23, 2017, and to adjust the scope of work of the project to reduce its cost.

After the motion was made, it was seconded and unanimously voted by the Board.

Demolition of Structures at 4 and 8 Conomo Lane

Mr. Zubricki explained that this work had been put out for written responses and K&R Construction of Boxford was the low respondent at \$7,400. Asbestos abatement work is presently underway under a separate contract and demolition will occur sometime between March 15 and April 14, 2017. A motion was made, seconded, and unanimously voted to authorize Mr. Zubricki to enter into the contract with K&R Construction.

Northern Conomo Point Guidance for Future Structure Renovation/Replacement

It was decided to hold off until tenants come back to have a meeting with the neighborhood and other Town inhabitants about the Board's future guidance for structure renovation/replacement at the leased property on Northern Conomo Point.

Draft Annual Town Meeting Warrant

Minor changes to the draft warrant were discussed. According to Town Counsel, per the recently-passed Municipal Modernization Act, the rents from Conomo Point could be separated from Town funds, but then must only be used for improvements on the Point. The Board decided to lay that recommendation aside in order to maintain the maximum amount of flexibility possible with respect to the future use of rent revenue.

Brownfields Assistance/Grant for Allen Property

Mr. Zubricki explained how the head of the DEP Brownfields Program had already visited the site to better understand the issues. While private sale of the property by the court-appointed Receiver is on option, it is also possible that the Town could take the property in lieu of taxes (an action that would only be advisable if the Board is able to get much more information concerning potential hazardous waste issues on the property). Later this week, Mr. Zubricki will be meeting with technical staff from the program to get more direction on how State or Federal brownfields funding may translate to progress for that site (possibly starting with some additional site assessment to fill in present data gaps). Federal funds will probably not be approved to clean up the site if the intent is for passive use (park, parking). The intent is to get the property back on the tax rolls. However, it is possible that Federal assistance for assessment work could be approved regardless of the future use of the site.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 9:25.

Documents used during this meeting include the following: **Draft Annual Town Meeting Warrant; List of Possible Future Town Meeting Topics; Building Plans and Routing Form for 111 Conomo Point Road.**

Prepared by: _____
Vickie Cataldo

Attested by: _____
Susan Gould-Coviello