

Selectmen's Minutes
Town Hall Stage Conference Area

July 17, 2017

Present: Chairman Lisa J. O'Donnell, Selectman Andrew C. Spinney, Town Administrator Brendhan Zubricki, and Selectmen's Assistant Pamela J. Witham.

Also Present: Virginia Antell, Curt and Lindsay Bergeron, Alden Blodget, Lee Bresnahan, Helen Brown, Ryan Davis, Hayes Demeule, Jodi Donovan, Kevin Donovan, Rachel and Rob Fitzgibbon, Jodi Harris, Gerard Hayward, James Henderson, Lori Henderson, Jud Lane, Tina Lane, Mark Lynch, George Mullin, Kevin Oyer, Paul Pennoyer, Amy Reilly, James Riley, Jr., Christina St. Pierre, and others.

The Chairman called the meeting to order at 7:00 p.m. in the Town Hall stage conference area on the second floor at 30 Martin Street and announced that the Board would hear Public Comment. Jodi Harris asked if she would be allowed to offer comment later in the evening during the Board's discussion regarding a request from a local restaurant for an Annual Weekday Entertainment License. Chairman O'Donnell said that that discussion was not a public hearing and said that she would listen to comments now during public comment. Jodi Harris and Jodi Donovan offered comments regarding the request. At 7:15 p.m., the Chairman said that the Board would interrupt public comment to meet with the Treasurer/Tax Collector.

Treasurer/Tax Collector Virginia Antell came before the Selectmen to request that they vote to refund the Water Note in the amount of \$77,000.00. A motion was made, seconded, and unanimously voted to that effect and the Selectmen signed the documents, which were notarized by Christina St. Pierre. Virginia Antell left the meeting.

The Chairman said that public comment would continue until the dog hearing scheduled for 7:30 p.m. Alden Blodget, Rachel Fitzgibbon, Gerard Hayward, Lori Henderson, and Kevin Oyer offered their comments. All expressed a desire to have stricter regulations in place regarding noise. The Riversbend Restaurant had been granted a One-Day Entertainment License for Essex River Race Day. Those offering comment, who were mostly residents of Water Street, Eastern Avenue, Spring Street, and Orchard Road, agreed that the sound level of the music that day was overwhelming; and, although the license was issued for use between noon and 3:00 p.m., the residents said that the music began earlier. Comments were also made about increased traffic and congestion.

At 7:30 p.m., George Mullin, Animal Control Officer Amy Reilly, Assistant Animal Control Officer Hayes Demoule, Officer Ryan Davis, and Mr. James Riley, Jr. joined the Selectmen. A motion was made, seconded, and unanimously voted to open a hearing regarding a dog complaint filed against a dog owned by George Mullin. The Chairman asked Town Administrator Brendhan Zubricki to review events to date. Three years ago, a hearing had been held regarding the Mullin dog, Buddy, after an order to restrain the dog via tie-out, hardscape fence, or invisible dog fence had been issued because of several complaints. At that time, the Board had voted to rescind the order, based on Mr. Mullin's assurances that he would control Buddy, and the Animal Control Officer followed their instructions and rescinded the order. Mr. Zubricki read the letter that was sent to Mr. Mullin at that time stating that the dog would be

given one last chance and the order would be reinstated in the event of another complaint. Recently, two complaints had been filed by Mr. Riley, and the Animal Control Officer (ACO) had issued another order to restrain the dog, providing the same options as the 2014 order. Mr. Zubricki read the ACO's letter to Mr. Mullin and Mr. Mullin's written response requesting a hearing. The Chairman then asked everyone present who wished to comment to raise their hand and swear to tell the truth. Officer Davis, George Mullin, ACO Reilly, and Mr. Riley raised their hands and swore to tell the truth. ACO Reilly also reviewed events leading up to her issuance of the recent order. She was followed by James Riley, Jr., who described his two encounters with Buddy on County Road, resulting in his making a formal complaint about both incidents to the Police. Officer Davis, read the complaint Mr. Riley had filed with him and listed past complaints about Buddy from previous years. Mr. Riley stated that Buddy gave chase in the first incident, but he had enough distance between him and Buddy to outrun Buddy. Mr. Riley stated that in the second incident, Mr. Mullin's son was walking with the unleashed dog on County Road when the dog began to chase him, at which time Mr. Riley wielded a knife to defend himself, but the son called the dog back before it engaged with him. The Chairman then asked Mr. Mullin for his comments regarding the complaints and the order. Mr. Mullin presented a *letter from his neighbor, Mrs. Nickerson*, attesting to the fact that Buddy is a great, sweet dog who plays with her 2-year old daughter. Mr. Mullin said that he does not walk Buddy on a leash, since the dog is trained to respond to verbal commands. Following Mr. Mullin's comments, Assistant ACO Demeule joined the hearing at the table and was sworn in. She said that she had responded to a recent Police complaint and had attempted to locate and verify the dog's owner. However, after calling the number on the ACO's records and visiting the listed residence with no responses, she had left a message for ACO Reilly, who then verified that the owner was Mr. Mullin and sent the order. The Chairman asked Mr. Mullin whether his dog actually chased after Mr. Riley on either of the two occasions. Mr. Mullin stated that he did not witness the first incident and stated that his son was involved in the second incident, during which his son did have to call the dog back to him. A motion was made, seconded, and unanimously voted to close the hearing. Following a short discussion by the Selectmen, the Selectmen agreed that they were inclined to not rescind the restraining order issued against the dog, Buddy, by ACO Reilly. Mr. Zubricki said that he would check the Town's Animal Control bylaw for the correct wording of a motion that would be made to this effect later in tonight's meeting. Officer Davis, ACO Demeule, George Mullin, Mr. Riley, and ACO Reilly left the meeting.

Curt Bergeron and Lindsay Bergeron joined the Selectmen to discuss their request for an annual weekday entertainment license for the Riversbend Restaurant at 35 Dodge Street. Mr. Zubricki said that the Bergerons had submitted a simple request for weekday (Monday through Saturday) entertainment license and the Selectmen had asked for more information. Mr. Zubricki read a letter from Mr. Bergeron which requested entertainment any day of the week in accordance with the Town noise ordinance, listed the type of music to be provided, and had an attached map showing where on the property the entertainment would be located. The map provided was not marked and Mr. Bergeron indicated that he intended to place the entertainment next to the deck on the far, left corner. Mr. Zubricki noted that the Town does not have a noise ordinance. Following the discussion of Mr. Bergeron's intentions, the Selectmen agreed that they were inclined to limit an entertainment license, if approved, to indoor use only. Mr. Bergeron said that

he wanted one for outdoor entertainment. The Selectmen decided to take the matter under advisement and confer with Town Counsel regarding their options in this matter. The Bergerons and Mr. Blodget left the meeting.

Mr. Zubricki reported that he had checked the Animal Control Bylaw and provided the Selectmen with the correct wording for their intended motion. Therefore, a motion was made, seconded, and unanimously voted to affirm the restraining order issued by the Town's ACO against the dog, Buddy, owned by Mr. George Mullin of County Road.

The Chairman asked if there was any more public comment regarding the Riversbend Restaurant. James Henderson and Mr. Donovan felt that there should be a public hearing regarding the drafting and implementation of a Town noise ordinance. The Chairman read a *letter from Ernest T. Nieberle, Jr.* No one else wished to speak.

All present left the meeting, except for the Selectmen, the Town Administrator, the Selectmen's Assistant, Mark Lynch, Paul Pennoyer, Tina Lane, and Jud Lane.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period June 24th through July 14th, 2017, regarding the following:

Oyster Reef Research in Essex Bay: Mr. Zubricki reported on a recent meeting that he had attended concerning a research project seeking to determine the beneficial effect, if any, of the propagation of oysters in relation to coastal resiliency and stabilization of the degradation of the marsh. Mr. DeRosa of DeRosa Environmental and a Northeastern University student are spearheading the project, and they will be working with the Conservation Commission, the Shellfish Constable, and the Harbormaster. Mr. Zubricki will introduce them to members of the Army Corps of Engineers. The Corps is working on a study in the Essex Bay area regarding various mitigation techniques that might be used to successfully deal with sea level rise using green techniques. The Board was in favor of this new oyster research.

Mark Lynch left the meeting.

Concerning Conomo Point matters, Paul Pennoyer joined the Selectmen at the table to review his letter suggesting that members be appointed to the Conomo Point Planning Committee, which now has no membership. The Chairman explained that the final elements of the northern Conomo Point waterfront park are being put in place and now it is time to turn and focus on other needs of the Town, such as the replacement/renovation of the Memorial School and Essex Elementary School and an adequate public safety building. Mr. Pennoyer thanked the Selectmen for considering his letter and left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the July 20, 2017, FY2017 weekly warrant in the amount of \$70,014.31 and the July 20, 2017, FY2018 weekly warrant in the amount of \$271,100.87.

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 7/13/17 warrant pursuant to subsection (d) of said Section.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ernie Nieberle	Nieberles	06/24/17	\$ 503.01	Police Dept
Ernie Nieberle	Nieberles	06/24/17	\$ 45.70	Fire Dept

A motion was made, seconded, and unanimously voted to approve an MGL Chapter 44 Sec 33B transfers in the amount of \$1,800.00 to Harbormaster Buoys from Deputy Harbormaster.

A motion was made, seconded, and unanimously voted to approve an MGL Chapter 44 Sec 33B transfers in the amount of \$1,200.00 to Transfer Station Trash Contract from Transfer Station Coordinator.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's June 26, 2017, Open Meeting and Executive Session.

A motion was made, seconded, and unanimously voted to ratify the approval of the settlement of the case of the City of Beverly vs. the Essex County Sheriff, et al., Essex Superior Court C.A. No. ESCV2015-00350A.

A motion was made, seconded, and unanimously voted to approve a request from the Essex Elementary PTO to pass over Essex roads during their annual Happy as a Clam 5k Road Race/Walk on Friday, September 15, 2017, between the hours of 5 and 7 p.m.

A motion was made, seconded, and unanimously voted to approve a request from Essex County Greenbelt to pass over Essex Roads during their annual Tour de Greenbelt bicycle event on Saturday, September 16, 2017, starting at 9:00 a.m.

After review, a motion was made, seconded, and unanimously voted to approve a *job description for the Council on Aging position of Outreach Coordinator*, in the Selectmen's capacity as Personnel Board. Mr. Zubricki also informed the Selectmen that the Council on Aging offered the part-time position of COA Director to Kristin Crockett and she has accepted their offer.

A motion was made, seconded, and unanimously voted to approve the recommendation from the Finance Committee and appoint Michael Flynn to the Finance Committee. The Selectmen signed the appointment card.

A motion was made, seconded, and unanimously voted to appoint the following persons to a 3-year term on the Essex Cultural Council:

- Janet Carlson
- Donna Ceglia
- Rob Fitzgibbon
- Robyn Kanter

The Selectmen signed the appointment cards.

A motion was made, seconded, and unanimously voted to approve a request from the Italian Community Center to hold their annual summer outing at Centennial Grove on Saturday, August 26, 2017, between the hours of 12:00 noon and 5:00 pm. The Chairman signed the application and the parking pass.

Chairman O'Donnell reviewed her first draft of a Request for Proposals for visual Renderings of Two Public Safety Building Options. She said that she would like to continue refining the draft with Mr. Zubricki. The finalized request for proposals will be distributed to three firms and their responses will be reviewed and the most appropriate firm chosen to perform the renderings.

Mr. Zubricki reported that Carol and Harlan Wendell had requested the use of the Town field on Sumac Road for overflow parking for a special family event on Friday, July 21, from 6 to 9:30 p.m. The Board agreed with Mr. Zubricki that he will consult with the Conservation Commission and Town Counsel regarding the request. A motion was made, seconded, and unanimously voted to authorize approval of the request pending a favorable response from the Commission and Town Counsel.

The Board reviewed a letter from Maureen Woodman and Paul Kelley requesting resident stickers for two of their father's grandchildren who are not residents, but visit their grandfather and assist in his care at Conomo Point. The Board was in agreement and the resident stickers were denied. Mr. Zubricki will inform Maureen Woodman of the Selectmen's decision and suggest that the grandchildren park in their grandfather's driveway or at one of their Conomo Point friends' properties.

Mr. Zubricki said that he had received a request from a non-resident to expand the existing non-resident parking area at Conomo Point. Mr. Zubricki said that Police Chief Silva, in concert with Superintendent Goodwin, had originally defined the bounds of the non-resident parking area on Conomo Point Road, based on a number of considerations. He asked the Board if they would like him to ask the Chief and the Superintendent to reconsider their decision and the Board was in agreement that they did not wish to change the present designation.

The Selectmen reviewed Town Counsel's opinion regarding the standing policy for opening of mail in the Selectmen's Office. All mail sent to the Selectmen's Office is deemed a public record, with few exceptions. Those present were in agreement with Town Counsel's opinion and the standard policy of the staff opening all mail that arrives in the Selectmen's Office will continue. Individuals wishing confidentiality may send email or regular mail to the Selectmen at home, although anything relating to Town business is still considered a public record.

The Selectmen were excited to consider the offer of a gift from Arlene Taliadoros of a 24" x 36" picture, printed on canvas, which was taken by Mrs. Taliadoros of the "new" old Town Hall. A motion was made, seconded, and unanimously voted to accept the offer and a letter of thanks will be prepared for their signatures.

Chairman O'Donnell said that she had not had time to research possible plans to build chimney swift boxes on Town property and the matter was postponed until the July 31st meeting.

The Selectmen reviewed a request by the Animal Control Officer to post caution signs regarding stranded marine animals at the Town Landing and at Front Beach on Conomo Point (the signs to be provided by NOAA). The Selectmen were in agreement and a motion was made, seconded, and unanimously voted to only approve the placement of one sign at Front Beach.

A motion was made, seconded, and unanimously voted to approve the following requests for permits and licenses:

Non-Resident Recreational Clamming Permit and Waiver of Deadline:

- John Schroeter, Byron Center, MI, sponsored by Dawn Burnham

Student Shellfishing Permit and Waiver of Application Deadline:

- Devin DePaolis

One-Day Entertainment License:

- Italian Community Center of Beverly, Victor Capozzi, for use on Saturday, August 26, 2017, between the hours of 12:00 noon and 5:00 p.m., within the confines of Centennial Grove.

One-Day Wine and Malt License:

- Italian Community Center of Beverly, Victor Capozzi, for use on Saturday, August 26, 2017, between the hours of 12:00 noon and 5:00 p.m., within the confines of Centennial Grove.

Mr. Zubricki said that there was no need for an Executive Session tonight, since he had not received any new information.

The Selectmen were reminded that their next regular Board of Selectmen's meeting will take place on Monday, July 31, 2017, at 7:00 p.m. in the Town Hall Stage Conference Area on Martin Street.

Mr. Zubricki and the Board resumed discussion of key items from his Town Administrator's Report:

Formation of Economic Development Committee: Mr. Zubricki reported that both he and Town Planner Matt Coogan had solicited comments from the Cape Ann Chamber of Commerce and the Merchants Group, respectively, in addition to working with the Strategic Planning Committee regarding the creation of an Economic Development Committee. Matt had developed a memorandum incorporating everyone's recommendations for the new committee. The Board reviewed the memorandum and agreed. Mr. Zubricki will inform the Strategic Planning Committee of the Selectmen's approval of their proposal for formation of the EDC. The SPC will now seek to recommend seven individuals meeting the criteria specified in the memorandum, for appointment to the new committee in September.

Reconstitution of Essex Youth Commission: Mr. Zubricki reported that he had become aware of five people who are interested in serving on a reconstituted Youth Commission, and a motion was made, seconded, and unanimously voted to appoint Christina Bruce, Stacie Capotosto, Steve MacDonald, Paul Pennoyer, and Jess Yurwitz to the Commission. Their first objective will be to work to develop a position description to be approved by the Personnel Board (Selectmen) for a Director or Program Coordinator.

On a related note, Mr. Zubricki said that the school is now ready to work with the YMCA to provide after-school programs for students at the school.

Further Discussion of Final Town Hall/Library Renovation Change Orders: Mr. Zubricki reviewed the current budget status of the Town Hall/Library Renovation Project. He said he now has a cost estimate for Library exterior lighting and Library outlets and data drops. Following a short discussion, a motion was made, seconded, and unanimously voted to approve a change order to provide the exterior lighting and the outlets and data drops. It was also agreed to seek estimates from another contractor to straighten the light posts, replace the lattice on the Library ramp, and apply galvanic paint to a vent pipe.

Further Review of Scope of Services, Centennial Grove Master Plan: Mr. Zubricki said that he would start work on a draft scope of services for a Request for Proposals for the Master Plan for Centennial Grove, since the Selectmen did not have any further input. Chairman O'Donnell will assist.

Consideration of Future Fixed-Price Electricity Supply Rate: Mr. Zubricki reported that Constellation is recommending that the Town lock-in electricity rates for the years 2019 through 2022. Rates are currently at a 5-year low, but are expected to rise again in the near future. A motion was made, seconded, and unanimously voted to authorize the Chairman to work with the Constellation representative and Mr. Zubricki to take advantage of the best lock-in rate at this time.

Fiber Optic Municipal Area Network (FMAN) Update: Mr. Zubricki reported that he is still working with Verizon on a mutually acceptable agreement. Verizon would like the Town to give up its existing rights to hang wires on utility poles and Town Counsel has advised against it. National Grid has not provided any feedback on the Town's plan for the FMAN to date.

Suggestions for Memorial Bench Donation at Conomo Point Park: Mr. Zubricki reported that he has not heard from Nina Fletcher or the Wendells regarding the type of memorial bench they would each like to donate for placement at Conomo Point. He had suggested that she look at the benches on the causeway. Selectman Spinney suggested that she also look at the benches on the boulevard in Gloucester. Mr. Zubricki will continue to coordinate.

Development of Policy for Dinghy Tie-up to New Conomo Point Float: Mr. Zubricki said that the new ramp and float will be installed this week at the new park. At present, Mr. Zubricki will

post signs prohibiting unattended tie-up at the float. The Board agreed to postpone discussion on a policy for dinghy tie-up until the next meeting.

In addition, Mr. Zubricki said that the benches for the waterfront project will be delivered this week. The DPW will uncrate them and bolt them in place. He also reported that the grass that was planted at the site was a complete failure and the contractor has to replace it.

Repair of Cracks and Scour on Original Conomo Point Park Seawall: Mr. Zubricki said that he had asked Mark Haskell to provide an estimate for repairing the cracks and scour on the waterfront park seawall and Mr. Haskell had offered to complete the work for \$2,500. A motion was made, seconded, and unanimously voted to contract with Mr. Haskell for repair of the original seawall at the northern Conomo Point waterfront park.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:40 p.m.

Documents used during this meeting include the following:

Letter from Mrs. Nickerson

Letter from Ernest T. Nieberle, Jr.

Job description for the Council on Aging position of Outreach Coordinator

Prepared by: _____
Pamela J. Witham

Attested by: _____
Andrew C. Spinney