

Selectmen's Minutes

February 5, 2007

Present: Chairman Jeffrey D. Jones, Selectman Mark Lynch, and Selectman A. Raymond Randall, Jr.

Also Present: Town Administrator Brendhan Zubricki

Chairman Jones called the meeting to order at 7:00 p.m. in the T.O.H.P. Burnham Library and announced that the Board would hear Public Comment. No one present offered any comments.

Pam Stone, the Town's Animal Health Inspector, appeared before the Board to discuss her ideas regarding the creation of an animal control officer/dog officer. Ms. Stone said that she felt that the Town By-laws regarding dogs needed to be rewritten to clearly state the rules in a way that could be easily understood by the residents. She said that the person chosen for the position would need to have a vehicle in which to transport the stray animal to a designated place where the animal could be left and cared for until picked up. There should be a person in authority that would be responsible for collecting any fines that might be due. She said that in her 28-year experience, people were always against paying fines and usually refused to do it. She also stated that in her experience it is generally dogs owned by the same people who continually have issues. She said that most people care responsibly for their animals. The Selectmen thanked Ms. Stone for presenting them with new information to consider.

Chairman Jones entertained a motion at 7:15 p.m. to open a Public Hearing regarding the issuance of a liquor license to Suzanne Offenberger. The motion was moved, seconded, and unanimously Voted. Present were Suzanne Offenberger and Attorney Wood. The Chairman asked if there was anyone present to speak against the granting of a liquor license. There was no one. The Chairman then asked if there was anyone present to speak for the license. Suzie Offenberger presented a brief synopsis of her efforts to bring her restaurant at 112 Main Street back up to acceptable inspection standards after her lessee had been foreclosed on at the end of 2006. Both the Building Inspector and the Fire Inspector had contacted the Office of the Selectmen to say that all the required work has been completed. Ms. Offenberger intends to find a buyer for the property and would like to apply for a liquor license that could be transferred to the buyer at the sale. She has completed all the paperwork and requirements for an all alcohol liquor license application. However, she does not plan to operate the restaurant as a business. The Alcoholic Beverages Control Commission (ABCC) will not issue a license to someone who is not operating a business. Such a license is called a "pocket license" and is illegal in Massachusetts. A motion to close the public hearing was made, seconded, and unanimously Voted. After a discussion, a motion was made, seconded, and unanimously Voted to continue the hearing until 7:15 p.m. on Monday, April 9, 2007. At that time, Ms. Offenberger expects that she will have completed all the necessary repairs and will be able to decide to either run the business herself, lease the business, or have a prospective buyer in place.

At 7:30 p.m., the Finance Committee arrived to discuss a draft of the FY08 operating budget and the FY08 capital project requests. Present were Finance Committee members:

Gordon Martin, Ed Lafferty, Jeff Soulard, David Burbridge, Andrew Briggs, and Town Accountant, Roxanne Tieri. Chairman Martin presented the Finance Committee's budget analysis and explained that they had had to cut or defer some items. The first tier of cuts or deferrals are capital items and include the paving of Cogswell Road, the police SUV, the truck for the Shellfish Warden, library shelving, tennis courts and a youth center. The second tier included reductions in the following municipal operating budget items: the Selectmen's dues/memberships, Town legal expense, and the Police Department. The second tier also included deferred funding of the proposed animal control officer, GIS support from MAPC, the community survey, Town record preservation, the Board of Health nurse, and emergency preparation. The Committee plans to use FY06 Free Cash to fund \$50,000 to bridge the FY07 wastewater budget and \$15,000 to replenish the FY07 Reserve Fund after that fund was tapped for the grease trap at the Elementary School. The possibility of charging additional fees for Youth Commission activities to offset the EYC budget was discussed. Chairman Martin said that the amounts needed to fund North Shore Vocational School and the Manchester Essex Regional Middle/High School will probably not be known until sometime in March.

Mr. Zubricki mentioned that the warrant for the upcoming Special Town Meeting will probably include articles to fund police part-time labor and removal of contaminated soil from the Grove Cottage from Free Cash.

The Finance Committee presented a draft for a revision to By-law 2-4.5 which deals with "Financial Reports to Committees".

Mark Hall, a resident of Spring Street, appeared to speak to the Selectmen about the storage of items on the deck and in the parking lot of the Coviello antiques store at 44 Main Street. Also present were Susan and Robert Coviello and Sue Lufkin, a Dodge Street resident. Mr. Hall said the Planning Board had approved Mr. Coviello's request to build a deck in July, 1990, with the restriction that it was not to be used to store furniture. In August, 1990, Mr. Coviello was reminded of the restriction. In September, 1990, the Planning Board agreed to lift the restriction. In August, 1993, Planning Board members agreed to speak to Mr. Coviello about displaying items on the sidewalk. In December, 1993, Board members agreed to write a letter to Mr. Coviello about the items on the sidewalk. Mr. Hall produced copies of the minutes from the appropriate Planning Board meetings. He went on to say that he thought it was a violation of a Town By-law to store items outside as well as a violation of what the Planning Board originally granted. Mr. Hall was also concerned about the shortage of parking in Town. After some discussion, the Selectmen and Mr. Hall agreed that the Building Inspector would be contacted to review the situation and to issue an opinion as to whether or not the situation is in violation of the Town By-laws or the Planning Board's decision.

At 8:20 p.m., Ed Howard, a Main Street store owner, appeared to discuss his ideas for a long term planning committee with the Selectmen. Mr. Howard had written a letter to the Selectmen expressing his concern that the Town was slowly and gradually losing its pleasant New England originality. He suggested that a long term planning committee be formed to research the Town's needs and to formulate goals such as more parking, river

walks, park benches, plantings, street lighting, etc. He also felt that the services of a professional city planner would be invaluable. The Selectmen agreed with Mr. Howard, but said there is no money available at present to fund a professional planner. They expressed interest in a Long Term Planning Committee and agreed to advertise for people interested in serving on the Committee. It was agreed that the deadline for submitting letters of interest would be Thursday, February 22, 2007. The Selectmen advised Mr. Howard to solicit anyone he thought might be interested. The Selectmen were optimistic that once the committee was formed and operational, that a way could be found to achieve some of its goals either by grants or donations.

A motion was made, seconded, and unanimously Voted to sign the weekly warrant in the amount of \$48,958.60.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes of the January 22nd, 2007 Selectmen's meeting and the minutes for the January 22nd, 2007 Executive Sessions I, II, and III.

Brendhan Zubricki presented his Town Administrator's Report for the period covering January 20th through February 2nd regarding the following items:

Salvage of School Fixtures/Equipment Prior to Demolition: Mr. Zubricki reported he had distributed a list of salvageable items from the High School building in Manchester to Town Department heads and that there was strong interest in many of the items on the list. The Selectmen asked Mr. Zubricki to convey that interest to the school officials.

Essex County Retirement Board Group Upgrade: Mr. Zubricki said that by making some changes to the job descriptions and job titles, the dispatchers may be moved from retirement Group 1 to Group 2. The Town will be assessed the same amount whether the changes are made or not. A motion was made, seconded, and unanimously Voted to make the required changes that would allow the dispatchers this added benefit so long as official information on the required changes that is expected from the Retirement Board are relatively simple and do not affect other employment aspects. Mr. Zubricki will present the official information to the Board for further review as necessary once the Town receives it.

Sewer By-law Special Act: Mr. Zubricki reported that Chairman Jones had signed a letter to Senator Bruce Tarr and Representative Verga supporting their proposed legislation to strengthen the Town's sewer by-laws. A motion was made, seconded, and unanimously Voted to ratify the Chairman's signing of the letter.

Comcast Cable Franchise Renewal License: Mr. Zubricki announced that he expected to receive the final draft of the cable franchise contract this week and that he would prepare it for signature at the next Board of Selectmen's meeting.

Letter of Support for Essex Shipbuilding Museum Grant: Mr. Zubricki presented a letter of support for the Essex Historical Society and Shipbuilding Museum's efforts to obtain a

grant to continue the restoration work on the *Evelina Goulart*. Subsequently, a motion was made, seconded, and unanimously Voted to approve and sign the letter of support.

Mr. Zubricki asked if the Selectmen had had a chance to review his goals for the coming year and if they had any suggestions to make. Chairman Jones suggested that in the future, they would like to receive information on potentially sensitive issues as early as possible. Selectman Lynch said that he would like to keep the agendas for the meetings at a manageable length. It was agreed that the Chairman would decide on the items to be placed on the agenda.

Mr. Zubricki reminded the Selectmen that they had agreed to discuss Police Chief Silva's potential 0% to 3% merit increase. Selectman Lynch said he was surprised that the part-time police budget was \$100,000. The Selectmen agreed that the Chief had met his stated goals. However, they felt that budget maintenance should be added to his goals for next year. The Chief should prepare a reasonable budget and he should maintain it as closely as possible or be able to justify any departures. A motion was made, seconded, and unanimously Voted to award the Chief a 3% merit increase based on the accomplishment of his goals. The Board asked Mr. Zubricki to contact Chief Silva to inform him about his merit increase and to underscore the importance of budget formulation, management, monitoring, and reporting over the coming calendar year with regards to the Chief's next performance evaluation in January of 2008.

It was announced that Officer Ryan Davis will be graduating from the Police Academy on February 8th at 7:00 p.m. in Reading, MA. The Selectmen agreed to have the Chairman send him a letter of congratulations.

A motion was made, seconded, and unanimously Voted to approve the appointment of Michael Davis to the Board of Appeals for a 3-year term commencing 2/1/07.

A motion was made, seconded, and unanimously Voted to approve the appointment of Richard Carter as an Alternate to the Board of Appeals for a 2-year term commencing 2/1/07.

The Selectmen reviewed a letter from the Massachusetts Motorcycle Association. Chief Silva is the designated Safety Officer and is in favor of their request to have a motorcycle safety awareness week. A motion was made, seconded, and unanimously Voted to proclaim the month of April as a motorcycle safety awareness period, to allow the placement of a sign 2' x 8' announcing the awareness period (at a location to be chosen by Chief Silva), and to designate Chief Silva as the official Town contact for coordinating the program with the MMA.

Selectman Randall presented information about a program called Training Intervention Procedures (TIPS). This training program is designed to prevent intoxication, underage drinking and drunk driving. Selectman Randall is in favor of making this program a requirement for Town liquor license applicants. The other Selectmen agreed and a motion

was made, seconded, and unanimously Voted to add the successful completion of the TIPS training course as a requirement for anyone applying for a liquor license.

A motion was made, seconded, and unanimously Voted to approve and sign permission to allow the American Lung Association to pass over Essex roads for their charity bicycle event.

A motion was made, seconded, and unanimously Voted to designate April 15th – April 21st, 2007 as Holocaust Awareness Week and to sign the Holocaust Remembrance Day Proclamation – 2007.

A motion was made, seconded, and unanimously Voted to approve and sign documents from Wachovia Securities replacing Nancy Swallow with Virginia Boutchie as the authorized representative for the Town.

The Chairman entertained a motion to approve the One-Day Auction Permit for R.A. DiFillipo d/b/a R.A. DiFillipo Auctions for use on March 6, 2007, between the hours of 8:30 a.m. and 10:30 p.m. within the confines of 125 Main Street. The motion was moved, seconded, and unanimously Voted.

Mr. Zubricki reviewed the request from Senator Tarr to list municipal budgetary priorities and presented a list to the Selectmen for their consideration. The Selectmen were in agreement regarding Mr. Zubricki's list.

Mr. Zubricki explained that, based on an industry standard formula, the Town would be able to spend up to \$1,000,000 for repairs to the Town Hall without triggering ADA requirements. The market value of the Town Hall is approximately 1.1 million. However, the replacement value is estimated at 5.6 million.

Selectman Randall said that Senator Tarr had asked him to report any unfunded mandates that he was aware of to the Senator's office. No one was aware of any to report.

The Chairman entertained a motion to hold a Special Town Meeting on March 12, 2007. The motion was moved, seconded, and unanimously Voted. Subsequently, a motion was made, seconded, and unanimously Voted to open the Warrant for the Special Town Meeting.

Mr. Zubricki reviewed a draft of the Articles to be included on the Special Town Meeting Warrant and recommended that the Selectmen approve them. The Articles have been approved by Town Counsel. A motion was made, seconded, and unanimously Voted to add the Articles as listed to the Warrant for the Special Town Meeting.

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet in said Essex at the Essex Elementary School on Monday, March 12, 2007 at 7:30 p.m. and there and then to act on the following Articles, viz:

ARTICLE 1

To see if the Town will vote to accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, restoration and rehabilitation of historic resources, the acquisition, creation and preservation of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, land for recreational use and community housing that is acquired or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy against real property; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; or to take any other action relating thereto.

ARTICLE 2

To see if the Town will vote, pursuant to the provisions of G.L. c.44B, §5, to amend the General By-laws by inserting a new section, Section 2-23, entitled "Community Preservation Committee" to read as follows:

2-23 COMMUNITY PRESERVATION COMMITTEE

2-23.1 ESTABLISHMENT.

There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to the provisions of G.L., c.44B, §5. The composition of the Committee, the appointing authority and the term of office for the Committee members shall be as follows

- (1) One member of the Conservation Commission as designated by the Commission;

- (2) One member of the Historical Commission as designated by the Commission;
- (3) One member of the Planning Board as designated by the Board;
- (4) The Public Works Director, whose responsibilities include the duties of the Board of Park Commissioners established under G.L. c.45, §2, or his designee;
- (5) One member of the Housing Authority as designated by the Authority;
- (6) One member of the Board of Selectmen or the Board's designee;
- (7) One additional member as designated by the Board of Selectmen.

Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

Should any of the officers and commissions, boards, or committees who have appointing authority under this by-law be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

2-23.2 *DUTIES.*

(1). The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Department of Public Works, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

(2). The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, preservation, restoration and rehabilitation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the acquisition, creation, preservation and support of community housing and for the rehabilitation or restoration of such open space,

land for recreational use and community housing that is acquired or created as provided in G.L. c.44B. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3). The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(4). In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of the following purposes: (a) open space (not including land for recreational use); (b) historic resources; and (c) community housing.

2-23.3 REQUIREMENT FOR A QUORUM AND COST ESTIMATES.

The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B. The Committee shall not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the Committee's anticipated costs.

2-23.4 AMENDMENTS.

This by-law may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of G.L., c.44B.

2-23.5 SEVERABILITY.

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

2-23.6 EFFECTIVE DATE.

Provided that the Community Preservation Act is accepted at the 2007 Annual Town election, this by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, §32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments;

or take any other action relating thereto.

ARTICLE 3

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Finance Committee's Reserve Fund for fiscal year 2007; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Police Department's Part-Time Labor budget line for fiscal year 2007; or take any other action relating thereto.

ARTICLE 5

To see if the Town will vote to appropriate a sum of money for sewer construction debt issuance fees and costs and a sum of money for sewer construction debt service interest for fiscal year 2007, and to fund said appropriations by transfer from available funds or borrowing; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of purchasing buoys and for providing maintenance and equipment for the 22-foot Harbormaster's boat (Boston Whaler); or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purchase and maintenance of computerized reporting equipment and software for the operation of the Town ambulance service; or take any other action relating thereto.

ARTICLE 8

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of tendering to the Commonwealth of Massachusetts an accumulated balance not previously tendered for the issuance of firearms permits; or take any other action relating thereto.

ARTICLE 9

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of removing contaminated soil from beneath the basement slab of the cottage at the Centennial Grove, and for associated permitting,

environmental compliance, technical oversight, and any other related items; or take any other action relating thereto.

And you are hereby directed to serve this Warrant by posting attested copies; one at the Post Office, one at the Town Hall, and one at the Essex Elementary School, in said Essex, fourteen days at least before the time for holding said meeting.

Given under our hand this 5th day of February, two thousand seven.

Jeffrey D. Jones, Chairman

Attest: _____
Constable

Mark W. Lynch

Date: _____

A. Raymond Randall, Jr.

BOARD OF SELECTMEN
TOWN OF ESSEX

A motion was made, seconded, and unanimously Voted to close the Warrant. And finally, a motion was made, seconded, and unanimously Voted to sign the Warrant.

Next, Mr. Zubricki presented a draft of the Articles to be included in the Annual Town Meeting Warrant for May 7, 2007. The Selectmen reviewed each of the Articles and offered their comments.

At 9:40 p.m., citing the need to discuss collective bargaining strategy with the American Federation of State County and Municipal Employees union (AFSCME), the Chairman entertained a motion to hold a Roll Call Vote to move to Executive Session. The Chairman said they would return to regular session later and invited Town Administrator Brendhan Zubricki to attend. The motion was moved, seconded, and per a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to regular session at 9:55 p.m. and were reminded of the following items:

The MERSD School Committee will hold a Budget Hearing on Tuesday, **February 6 @ 7:30 p.m.**, in Room 25, at the Manchester Essex Regional Middle/High School.

There will be a School Committee Meeting on Wednesday, **February 7 @ 7:00 p.m.**, in Room 25, at the Manchester Essex Regional Middle/High School.

The Selectmen will approve the FY08 Operating Budget, including wage & salary changes on or about March 15.

On or about March 15 the Annual Town Meeting Warrant will close.

There being no other business before the Board, a motion was made, seconded, and unanimously Voted to adjourn the meeting.

Prepared By: _____

Attested By: _____