

## Selectmen's Minutes

May 21, 2007

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

Also Present: Town Administrator Brendhan Zubricki, Town Treasurer/Collector Virginia Boutchie

The Chairman 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. The Town Treasurer/Collector reported that she has been working to implement procedures for administering the Community Preservation Act into the current software system. The Community Preservation Act was passed at the Annual Town Meeting and requires a lot of record keeping and reporting regarding the billing, collecting, and using of CPA funds. Mr. Zubricki said that he will be working with Ms. Boutchie to note any issues that are encountered as the Act is implemented and the Selectmen will appoint in the future, two members of the Community Preservation Act Committee to oversee the program.

There was no other public comment.

A motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$79,484.28.

David Lane and his mother appeared before the Board to request a waiver of the student clamming permit application deadline. After a brief discussion, the Chairman entertained a motion to waive the deadline. The motion was moved, seconded, and unanimously Voted. Another motion was made, seconded, and unanimously Voted to approve a student clamming license for David Lane.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes of the May 7<sup>th</sup>, 2007 Board of Selectmen's meeting.

The Selectmen reviewed a letter from the Hurlburts of 2 Hardy's Lane detailing their efforts to correct the behavior of their dog. The Selectmen had recently sent the Hurlburts a cautionary letter after a dog complaint was filed with the Police alleging that their dog had bitten a man who was walking near Hardy's Lane. The Selectmen are pleased that the dog owners are working hard to re-train their dog and guard against future incidents.

The Selectmen were presented with a Disclosure of Appearance of Conflict of Interest from Michael Davis, a member of the Zoning Board of Appeals, in reference to a pending Appeals Board case. The Selectmen discussed the nature of the conflict and a motion was made, seconded, and unanimously Voted to approve Mr. Davis' involvement in the case. The Selectmen agreed that they did not perceive a conflict of interest problem.

A motion was made, seconded, and unanimously Voted to approve the use of Centennial Grove by the Friends of the Council on Aging for a barbeque on Thursday, June 21<sup>st</sup>, between the hours of 11:00 a.m. and 2:30 p.m.

A motion was made, seconded, and unanimously Voted to grant permission to the Cub Scouts Essex Pack 100 to use Centennial Grove for their end of year campfire on Friday, June 15<sup>th</sup>, between the hours of 5:00 and 8:00 p.m., contingent upon the approval and guidance of the Fire Chief.

A draft memo to all boards and committees regarding the non-scheduling of meetings following a Town Meeting was reviewed. The Selectmen approved the memo's distribution.

A motion was made, seconded, and unanimously Voted to sign the Small Business Proclamation proclaiming June 4<sup>th</sup> through June 8<sup>th</sup>, 2007 as Small Business Week and naming Ronald and Robin Pydynkowski of Cape Ann Tree Service this year's Small Business Persons of the Year from Essex. The award will be presented on Thursday, June 7<sup>th</sup> at 5:00 p.m. at the Village Restaurant at a reception honoring Ronald & Robin Pydynkowski. There will also be a Small Business Luncheon on Friday, June 8<sup>th</sup>, at noon at the Gloucester House Restaurant.

The Selectmen were reminded that Chief Silva will be on vacation from May 20<sup>th</sup> through May 27<sup>th</sup>, 2007 and they were provided with a number to reach him at in case of an emergency.

At 7:15 p.m. the Chairman entertained a motion to open the Public Hearing for a Liquor License application by Susie Offenberger for her property at 112 Main Street that had been continued to this date. The motion was moved, seconded, and unanimously Voted to open the hearing. They reviewed a letter from Attorney David Wood requesting a further continuance of the hearing for two months. Ms. Offenberger is currently in the process of completing extensive refurbishment of the building's foundation and pilings. A motion was made, seconded, and unanimously Voted to continue the hearing to July 16<sup>th</sup>, 2007 at 7:15 p.m. in the T.O.H.P. Burnham Library.

Brendhan Zubricki presented his Town Administrator's Report for the period covering May 5<sup>th</sup> through May 18<sup>th</sup>, regarding the following items:

Town Website Improvement: The Selectmen discussed the possibility of using volunteer website professionals to improve and maintain the Town website. It was noted that a long-term maintenance commitment would be needed from the individuals making any improvements since the site has to be continuously updated. Alternatively, the Selectmen asked Mr. Zubricki to research companies providing website design and maintenance and to obtain pricing for services provided by these companies.

Approval of 10-Acre Conservation Easement: Town Clerk Sally Soucy appeared before the Selectmen to witness and notarize their signatures on the Turtleback Road

Subdivision's 10-Acre Conservation Easement which has previously notarized signatures of the Conservation Commission and Mr. Van Wyck. The document will now be forwarded to the Secretary of Environmental Affairs by Mr. Van Wyck's attorney for signature.

COOP Implementation Framework and Timeline: Mr. Zubricki presented a draft of the Continuity of Operations Plan for the Town of Essex and a timeline with benchmarks for implementation that he has been writing for review and discussion by the Selectmen. The Selectmen suggested investigating the advantages and costs of using an off-site data storage provider for the Town's computer network and expressed satisfaction with the progress of the plan.

Selectman Randall reported that Peter Phippen, the Town representative to the Massachusetts Area Planning Council, has offered to provide information and advice to the Long-Term Planning Committee.

The Board reviewed the Boston Metropolitan Planning Organization Ballot for municipal seats on the MPO. The deadline for voting is May 22<sup>nd</sup> and the MPO will not accept faxed or emailed ballots. The Board decided not to submit a ballot to the MPO.

The Selectmen noted that the Conservation Commission is holding a public hearing regarding the required Cross Island septic service upgrades on Tuesday, May 22<sup>nd</sup> at 8:45 p.m. The Board of Health is also holding a public hearing relative to that topic on Thursday, May 24<sup>th</sup> at 7:00 p.m.

The Selectmen reviewed the Treasurer/Tax Collector's request for an FY08 salary review. Based on the Selectmen's observation of the outstanding job that the Treasurer/Tax Collector has done, a motion was made, seconded, and unanimously Voted to approve the Treasurer/Tax Collector's request for the maximum amount available in her salary range.

The Selectmen also reviewed the Selectmen's Assistant's FY08 salary. Based on the Selectmen's Assistant's past performance, a motion was made, seconded, and unanimously Voted to increase the FY08 salary to \$46,992.

The Selectmen were reminded of the Essex Division Meeting of the Cape Ann Chamber of Commerce on Tuesday, May 22<sup>nd</sup>, at 8:00 a.m. at the Cape Ann Golf Club. Selectman Randall and Town Administrator Brendhan Zubricki are planning to attend.

At 7:30 p.m. the Chairman entertained a motion to open the public hearing concerning two complaints received about a dog owned by Tiffany Harder, a Wareham resident who is a frequent visitor to 5 Beach Circle at Conomo Point. The motion was moved, seconded, and unanimously Voted. The Chairman asked anyone present who wished to speak at the hearing to raise their right hand and to solemnly swear or affirm that the testimony to be given in this matter will be the truth, the whole truth, and nothing but the truth. Ms. Harder and her friend, the sub-letter of 5 Beach Circle, so swore. The

Selectmen reviewed a letter submitted from Robert Marsolais, a resident of Conomo Point who was bitten by the dog. Ms. Harder owns two dogs. The one that has been biting people and exhibiting aggressive behavior is a Jack Russell terrier and the other dog is a pug-beagle mix. Ms. Harder stated that the dogs are usually penned, but on occasion, they do get out. After everyone had had a chance to speak both for and against, a motion was made, seconded, and unanimously Voted to close the hearing. A further motion was made, seconded, and unanimously Voted, due to the Board's finding that the Jack Russell terrier has a vicious disposition, to order the dog be restrained by a permanent chain or tether or confined within an enclosure whenever the dog is outside of the house on the premises and must be on a lead when being walked off of the property. The Selectmen also suggested training school for the dog. Mr. Zubricki was asked to write a letter to Ms. Harder and the two complainants confirming the decision of the Board to be sent by both regular mail and certified, return receipt requested mail.

Mr. Zubricki resumed his Town Administrator's report.

Discussion Relative to Public Health Nurse: The Selectmen discussed the Board of Health's request for a Town appointed Public Health Nurse and asked Mr. Zubricki to invite the Board of Health and the Finance Committee to meet with them in August to discuss the steps necessary for the creation of such a position. They asked that the Board of Health prepare a cost/benefit analysis, as well as a report detailing the advantages and services that the nurse would provide to the Town in advance of the meeting for everyone's review.

Participation on the Regional Operations Center Committee: At the Annual Town Meeting, the Town had voted to support the Town's exploration of a Regional 911 Dispatch Center and it is necessary to appoint a representative from the Town to serve on the committee that will study the issue. Mr. Zubricki recommended Police Chief Peter Silva as the most logical choice for that appointment. A motion was made, seconded, and unanimously Voted to appoint Chief Silva as the Town's official representative to the Regional 911 Dispatch Center Study Committee.

Discussion Relative to Dog Officer Appointment: Mr. Zubricki suggested that the Selectmen begin interviewing candidates for the Dog Officer position that was funded at the Annual Town Meeting. He said that he has three possible candidates: one from Essex and two from neighboring towns. The Selectmen requested that he set up appointments for the candidates at their next meeting and that he contact the Town's Animal Health Inspector for ideas concerning interview questions.

Additional Gas fitting Work at the Essex Elementary School: Mr. Zubricki reported that the contractor who has been working at the school has recommended some additional work to remove old, unused gas lines. Both the Consulting Engineer, Kelly Whalen, and the Assistant Superintendent, Judy Mulligan, have reviewed the recommendation and are in favor of it. Ms. Mulligan has provided written confirmation to the Town Administrator that the School District will pay for the change order, not to exceed \$10,000. However, it is the Selectmen that need to approve and sign the change order. A motion was made,

seconded, and unanimously Voted to approve and sign the change order authorizing A Unique Service Organization to complete the additional work at the Elementary School for the lump-sum price of \$9,500.00.

Chebacco Task Force: Mr. Zubricki said that he has attended two meetings of the newly formed Chebacco Task Force. At the last meeting, the Task Force had developed five action items and a time-line to deal with the flooding issues at Chebacco Lake caused by an increased beaver population. One of the action items is the use of prisoners and/or volunteers to breach all of the dams along the entire alewife's run to the Lake. Since the issue is a complex one involving many different facets, the Army Corps of Engineers may be enlisted to help with the development and implementation of a complete plan for the area. In addition, the effectiveness of spot permits and 1-year blanket permits for trapping will be evaluated for different times of the year. Mr. Brophy is the Town's designated trapper of beavers and while he has a few traps of his own, he does not have enough to accommodate the scope of this project. Mr. Zubricki recommended that the Town spend \$2,000 to purchase some traps. There are two kinds of traps. One kind, called a Bailey trap, may be used during the official trapping season and the other, a conibear trap, is for use during the rest of the year with a special permit. A motion was made, seconded, and unanimously Voted to approve a request to the Finance Committee to transfer \$2,000 from the Reserve Fund to Town Property Expenses to pay for the acquisition of beaver traps.

Community Preservation Act Committee: The Act, which was passed at the Annual Town Election, involves a Community Preservation Committee Bylaw that must be reviewed and approved by the Attorney General before the bylaw can be implemented. The Board of Selectmen will be responsible for the appointment of two of the seven committee members: A Selectman or designee and one additional at-large member. After some discussion, the Selectmen agreed that the appointments could go to Virginia Boutchie, the Town's Tax Collector/Treasurer and a member of the Finance Committee. Selectman Lynch asked Mr. Zubricki to check with the Town of Manchester-by-the-Sea regarding their progress in implementing the CPA in their town. Actual appointments will be made after the Attorney General's approval of the bylaw is obtained.

Allen Property Cleanup: Mr. Zubricki reported that the torte case has been denied. The case may now go to the Supreme Judicial Court. It is the considered opinion of Town Counsel that it is unlikely that the Supreme Judicial Court will take the case. Also, the Board agreed that the Receiver should begin proceedings to attach property in Ipswich owned by Mr. Allen to provide funding for completion of the cleanup project in Essex.

School Emergency Management Planning Grant: Mr. Zubricki has received a request for a Partner Agreement signed by the Selectmen from a woman in Gloucester who is coordinating a collaborative Federal grant for school crisis planning on Cape Ann. Mr. Zubricki presented his edited version of the Agreement for the Selectmen's review, approval, and signature. A motion was made, seconded, and unanimously Voted to approve and sign Mr. Zubricki's draft of the Partner Agreement.

At 8:00 p.m. the Chairman entertained a motion to open a public hearing regarding a recent incident at Centennial Grove involving dogs belonging to Catherine and Meredith Palmer, a resident of 5 DeSoto Road, that had exhibited aggressive behavior that was threatening to both other visitors to the Grove, to other dogs, and to the Essex Police Department. The motion was moved, seconded, and unanimously Voted to open the hearing. Those present for the hearing included Catherine and Meredith Palmer; their attorney, Bill Lundregan; neighbors Barbara Connelly, Marsha Cressey, and Elizabeth Ewing; complainants Roger Broom and Judith Lawson; and Police Officer Thomas Shamshak. Chairman Jones asked everyone present who wished to speak at the hearing, to raise their right hand and to solemnly swear or affirm that the testimony to be given in this matter will be the truth, the whole truth, and nothing but the truth. Everyone present to give testimony so swore. Officer Shamshak recounted his and Officer Fournier's participation in the incident at the Grove. (The officers' written account of the incident had already been filed with the Board.) Following, Attorney Lundregan spoke for Mr. and Mrs. Palmer. Mrs. Palmer presented a letter signed by several of her neighbors attesting to the good behavior of her dogs, as well as a photo taken that morning of the two golden retrievers. Mr. Palmer spoke about his involvement in the incident. The Palmer neighbors spoke in favor of the Palmer dogs. Judith Lawson also spoke about the event and stated that she and her dogs had been threatened by the Palmer dogs. The Palmer dogs had left scratches on Ms. Lawson's car where she had sought refuge from the animals and called the Police. The Chairman asked if there was anyone else who wanted to speak, either for or against. There being no-one who wished to speak further, a motion was made, seconded, and unanimously Voted to close the hearing. Each Selectman then stated his views regarding the actions of Mr. Palmer on the day of the incident. The Board found that the Palmer golden retrievers constitute a nuisance because they have a vicious disposition. Subsequently, a motion was made by Selectman Lynch, seconded by Selectman Randall, and unanimously Voted to order the Palmer dogs to be restrained by means of suitable leads/leashes and under the direct control of Mr. or Mrs. Palmer whenever they are off of the Palmer premises within the Town of Essex. Mr. Zubricki was asked to write a letter to Mr. and Mrs. Palmer and the parties involved in the incident confirming the decision of the Board to be sent by both regular mail and certified, return receipt requested mail.

Mr. Zubricki said that he has talked to the Department of Public Works Superintendent regarding permanent signs to be placed at Centennial Grove. The old sign, which had incorrectly allowed dogs to be at the Grove, had been discovered knocked down and broken and is currently stored in the basement of the Town Hall. According to the existing Town Bylaws, dogs are not allowed in any Town Parks at any time, leashed or unleashed. Concern has also been expressed about the excessive amount of dog waste at the Grove, especially now that the Youth Summer Program is about to begin. It was agreed that a sign prohibiting dogs from the Grove would be put up and that changing the dog bylaw needed to be discussed to perhaps allow dogs at the Grove during the fall and winter as long as strict guidelines were observed.

In other business, Mr. Zubricki said he has not heard back from the Planning Board regarding their recommendation of a candidate for appointment to the Department of Public Works Board.

Citing the need to move to Executive Session to discuss collective bargaining issues with the Teamsters Local 42, possible litigation and real estate issues concerning Conomo Point, and a request for an easement over Town land abutting Centennial Grove Road, the Chairman entertained a motion to hold a Roll Call Vote. The Chairman announced that the Board would return to regular session following the Executive Session. The motion was made, seconded, and per a unanimous Roll Call Vote, the Board moved to Executive Session at 9:03 p.m. Town Administrator Brendhan Zubricki was invited to attend.

The Board returned to regular session at 9:30 p.m.

A motion was made, seconded, and unanimously Voted to send a letter to the Department of Environmental Protection relative to the June 30, 2007 milestone described in the Conomo Point Plan.

Mr. Zubricki reported that the Department of Public Works would like to remove some debris and refuse from Centennial Grove and had asked if a dumpster could be rented with funds from the Grove Revolving Fund. The Selectmen approved the idea and a motion was made, seconded, and unanimously Voted to pay for the dumpster rental from the Grove Revolving Fund.

In other business, the Board discussed the annual reorganization of the Board. The Selectmen agreed and a motion was made, seconded, and unanimously Voted to appoint Mark W. Lynch as Chairman of the Board of Selectmen. A second motion was made, seconded, and unanimously Voted to appoint A. Raymond Randall, Jr. as Clerk of the Board of Selectmen.

The Selectmen were reminded of the first meeting of the Long-Term Planning Committee on Wednesday, May 23<sup>rd</sup>, 2007 at 7:00 p.m. in Room 11 at the Essex Elementary School on Story Street.

The Selectmen were also reminded of the School Committee meeting on Wednesday, May 30<sup>th</sup>, 2007 at 7:30 p.m. at the Manchester Essex Regional Middle High School.

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

Prepared By: \_\_\_\_\_  
Pamela J. Witham

Attested By: \_\_\_\_\_  
A. Raymond Randall, Jr.