

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

Also Present: Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham, and Gloucester Daily Times Correspondent Kristen Greico.

Chairman Lynch called the meeting to order at 7:00 p.m. in the T.O.H.P. Burnham Public Library and announced that the Board would hear Public Comment.

Michael Matheson, Keith Woodman, and Robert Fitzgerald appeared before the Board in their capacity as members of the Shellfish Advisory Board. The Advisory Board had met earlier in the evening and had agreed to ask the Selectmen to increase the per tide digging limit from 180-200 pounds to 240 pounds. They also reported that they would like to open the winter flats on Monday, January 7<sup>th</sup>, 2008, and said that they are in favor of having a second Deputy Shellfish Warden appointed as a backup measure. The Selectmen said they would consider their recommendations and review them with the acting Shellfish Warden, Steve Hartley. The Advisory Board left the meeting.

There was no one else present to offer any public comment.

Max King did not appear for his 7:05 appointment to speak about his Eagle Scout project.

Brendhan Zubricki presented his Town Administrator's Report for the period covering September 15<sup>th</sup> through September 28<sup>th</sup>, regarding the following items:

Personnel Board Meeting: Mr. Zubricki reported that the Personnel Board had met on September 26<sup>th</sup> and had approved the description of the newly proposed position for a Public Health Nurse. They also agreed that the Wage & Salary Scale for FY08 should be amended to include the Nurse's hourly wage and recommended that it be presented at the Special Town Meeting. Mr. Zubricki offered a letter of resignation from Personnel Board member Jeff Brewer. Mr. Brewer will be moving out of Essex in the near future. A motion was made, seconded, and unanimously Voted to accept Mr. Brewer's resignation. Mr. Zubricki said that there is a person interested in filling the vacancy left by Mr. Brewer and that that person will be submitting a letter of interest for the Selectmen's review.

Appointment of New Council on Aging Member: Mr. Zubricki presented a letter from Roger Lander, the Chairman of the Council on Aging, requesting that Sally Dort be appointed to fill the vacancy on the Council left by Georgeanne Lane. A motion was made, seconded, and unanimously Voted to appoint Sally Dort to the Council on Aging pending favorable completion of a CORI check.

Review of Past Dog Order: Mr. Zubricki updated the Selectmen on the status of the restraining order involving two dogs residing on Harry Homans Drive. One of the dogs

has died recently as the result of a car accident and the remaining dog is very docile. He said that a dog training professional has been working with the dog to retrain it and asked the Selectmen to consider modifying their order to say that a fence is not required and that the dog will be allowed to be outside in the owner's yard on a tie-out and off the property on a leash. A motion was made, seconded, and unanimously Voted to modify the order according to Mr. Zubricki's suggestion. Mr. Zubricki said that he would notify the parties involved of the Selectmen's decision.

Alleged Un-permitted Gravel Pit Complaint: Mr. Zubricki said that he has received a complaint alleging that there is an un-permitted gravel pit operating in the vicinity of Laurel Lane. The Selectmen authorized Mr. Zubricki to further investigate the allegation.

Special Town Meeting, November 5, 2007: Mr. Zubricki presented a draft warrant for the proposed Special Town Meeting to be held on November 5<sup>th</sup>, 2007. The Selectmen agreed to review the draft before their next meeting, at which time the warrant will be finalized.

At 7:15 p.m., Chairman Lynch announced the continuation of the Public Hearing regarding an All Alcohol Restaurant License being sought by Susie Offenberger for her restaurant on Main Street. Ms. Offenberger appeared before the Selectmen to say that she has no buyers for the restaurant and asked for a further extension until the first of next year. At that time, if there are still no buyers, she will make a decision regarding the operation of the restaurant. There was no one else present to offer any comments and the Selectmen agreed to continue the hearing to Monday, January 7<sup>th</sup>, 2008 at 7:15 p.m. Ms. Offenberger left the meeting.

In other business, a motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$639,354.34.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the September 17<sup>th</sup>, 2007 Selectmen's meeting.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the September 17<sup>th</sup>, 2007 Selectmen's Executive Session.

A motion was made, seconded, and unanimously Voted to approve the use of Centennial Grove by the Youth Commission for its Annual Town-Wide Halloween Party on Saturday, October 27<sup>th</sup>, 2007 between the hours of 4:30 p.m. and 7:00 p.m. (Rain date 10/28.)

A motion was made, seconded, and unanimously Voted to approve the use of the Town Hall grounds by the Youth Commission and the Cape Ann Chamber of Commerce for their annual Holiday Festival on Thursday, November 29<sup>th</sup>, between the hours of 6:00 and 7:00 p.m. and on Friday, November 30<sup>th</sup>, between the hours of 4:30 and 7:00 p.m. (Rain

date for Friday is Sunday, 12/2.) The Selectmen signed the parade permit request to Mass Highway.

A motion was made, seconded, and unanimously Voted to approve the reallocation of FY07 HOME funds to HAWC for its Rental Subsidy Program.

A motion was made, seconded, and unanimously Voted to approve a line item transfer of \$500 from Street Lighting to Dog Officer Expense to pay boarding costs for a stray dog.

A motion was made, seconded, and unanimously Voted to approve the appointment of Peggy Duff and Katrina Haskell to the Essex Cultural Council. The Selectmen signed the appointment cards.

Steve Hartley appeared before the Selectmen to discuss suggested additional guidelines regarding the new Shellfish Warden. Mr. Hartley said he has been in contact with the Division of Marine Fisheries regarding the State requirements for posting closed clam flats. In the past, signs posted on the flats have disappeared within a few days. Mr. Hartley said that the State has no rigid requirements regarding the posting. He suggested that a map showing and naming all the clam flats be given to each clammer when he receives his clamming permit from the Town. The maps could also be laminated and posted in key areas. Clammers could then call the clamming hotline maintained by the Shellfish Warden to hear a message designating which flats are open or closed.

Mr. Hartley said that there are at least 7 places in Town where clammers can put their boats in the River and it is difficult to patrol every area to make sure that clammers are not digging more than their daily limit. He said that the dealers who buy the clams from the diggers are required by the State to keep itemized daily records of their purchases. He suggested that it would be more productive to review dealers' records available from the State and check who might be selling more than their daily limit.

Mr. Hartley agreed to go with Mr. Zubricki to the Division of Marine Fisheries to request an updated map of the Essex clam flats and to discuss other shellfishing concerns such as increasing the daily limit up to 240 pounds. Mr. Hartley left the meeting.

Mr. Malloy, a resident of Gloucester, arrived for his scheduled interview for the position of Shellfish Warden. The Selectmen were in receipt of his letter of interest and asked questions regarding his experience in the industry and in enforcement matters. Currently Mr. Malloy works the third shift at Gorton's packing plant and is a commercial clammer during the day. Mr. Malloy left after the interview.

The Selectmen reviewed a request to support the Homeowners and Bank Protection Act of 2007 and decided to take no action at this time.

A motion was made, seconded, and unanimously Voted to approve the following licenses retroactively:

One-Day Entertainment License:

- Essex Historical Society and Shipbuilding Museum for use on Friday, September 28, 2007 between the hours of 7:00 and 10:00 p.m. within the confines of the Waterline Center at 66 Main Street.

One-Day Wine and Malt License:

- Essex Historical Society and Shipbuilding Museum for use on Friday, September 28, 2007 between the hours of 7:00 and 10:00 p.m. within the confines of the Waterline Center at 66 Main Street.

Mr. Muniz arrived at 8:00 p.m. for his interview for the Shellfish Warden position. Mr. Muniz is a new resident of Essex and is currently an arborist at Harvard University. He said he has a college degree and is willing to learn all he can about the shellfish industry. He hoped that the Deputy Shellfish Warden would be available to train him and show him the ropes. After the interview, Mr. Muniz left the meeting.

Chairman Lynch said that he was at a recent meeting of the School Building Committee with the Manchester Conservation Committee where someone had made a statement that the Essex Board of Selectmen were in favor of having the official Manchester Essex school tennis courts behind the Essex Town Hall. Since the Selectmen have never voiced an opinion regarding the tennis courts, Chairman Lynch felt that it is necessary to clarify the Selectmen's position by sending a letter to the Manchester Conservation Commission relative to the school tennis courts. Subsequently, a motion was made to ask Mr. Zubricki to write a letter to the Manchester Conservation Commission saying that the Essex Selectmen have no jurisdiction over the tennis courts behind the Essex Town Hall and that the School Building Committee should direct all inquires to the Essex Board of Public Works. The motion was seconded and unanimously Voted.

The Selectmen were reminded of the next Board of Selectmen's meeting at 7:00 p.m. Monday, October 15<sup>th</sup>, 2007 in the Library.

Chairman Lynch, Selectman Randall, and Mr. Zubricki will be attending the Cape Ann Caucus on Friday, October 19<sup>th</sup>, 7:30 a.m., at JR'S Route 22.

The Selectmen were also reminded of the Clam Fest to be held on Saturday, October 20<sup>th</sup>, 2007 and the Chapter 40 b Workshop to be held on Monday, October 22<sup>nd</sup>, 2007 in the Senior Center @ 7:00 p.m.

At 8:20 p.m., the Selectmen interviewed Mr. Knovak, a resident of Essex, for the position of Shellfish Warden. Mr. Knovak worked for thirty years as a teacher and has been a regular clammer since his retirement from teaching. He has been clamming since the 1970's. Mr. Knovak left the meeting after the interview.

Citing the need to discuss strategy with respect to collective bargaining, real property, and pending litigation, the Chairman entertained a motion to move to Executive Session. He said that the Board would be returning to Open Session at or before 8:40 p.m. to

interview the remaining candidate for the position of Shellfish Warden and to conduct other business. He invited Town Administrator Brendhan Zubricki to attend the Executive Session. The motion was seconded, and per a unanimous Roll Call Vote the Board moved to Executive Session at 8:25 p.m.

The Board returned to Open Session at 8:37 p.m.

Mr. Paul Thistlewood appeared to be interviewed for the Shellfish Warden opening at 8:40 p.m. Mr. Thistlewood is currently working for the Division of Marine Fisheries at the Shellfish Purification Plant in Newburyport and has been digging clams since 1980. Mr. Thistlewood left the meeting following the interview.

After some discussion of the four candidates for Shellfish Warden position, a motion was made, seconded, and unanimously Voted to offer the job to Mr. Thistlewood pending reference checks and a drug and medical screening.

Mr. Zubricki said that the Police Chief has some new candidates for appointment to the Department that he would like to introduce to the Selectmen. Since the Police Chief is going to be away, he has asked if it would be OK for Sergeant Francis to introduce them at the next BOS meeting. The Selectmen agreed that Sgt. Francis could introduce them. The Chief has also reported that he is still pursuing the idea of a regional lockup, but that there will now be 9-month delay. In the meantime he is exploring alternative lockup solutions. He is also continuing to meet with the ad hoc committee that is investigating solutions regarding the lack of enough usable space at the Town Hall, Fire Department, and Police Department.

Mr. Zubricki reported that the Department of Public Works has helped the School Department to find the water leaks at the Elementary School and that now it is the School Department's responsibility to hire someone to repair them.

At 9:00 p.m., Chairman Lynch entertained a motion to open the Public Dog Hearing concerning the alleged attack of a dog owned by Mr. and Mrs. Ramsey of Rocky Hill Road resulting in the death of a dog owned by Mr. and Mrs. Peterson of Pine Ridge Road. The motion was moved, seconded, and unanimously Voted. Chairman Lynch explained how a public hearing is conducted and asked those persons present who were interested in speaking at the hearing to raise their right hands and 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. The following people so swore: Pam Stone, Jay Ramsey, Julia and Dave Peterson, Spencer Peterson, Martha Hoar, Tina Estes, Rob Steach, Jim Albani, Patrick Sanford, Rolf Madsen, John Shields, Yvonne Ramsey, Brian Shields, and Joe Dasilva.

The Chairman asked to have anyone interested in speaking against the Ramsey dog, Daisy Mae, to speak first. Mr. Peterson read a statement recounting the attack and the subsequent death of his 10-pound dog. Mr. Peterson has spent almost \$8,000 dollars

trying to save his pet who was attacked in his own yard. Jim Albani, a neighbor, spoke and expressed his concern for the safety of small animals and children. Pam Stone, the Animal Health Inspector, and Rob Steach, the Dog Control Officer, spoke next. Ms. Stone said that she is aware of other attacks by Daisy Mae. Records of quarantine from other attacks are on file with the State. Both Ms. Stone and Mr. Steach said that it is the nature of this particular breed of dog to hunt small animals and that restraint will only frustrate the animal and make him more determined to hunt. For that reason, Mr. Steach recommended banishment of Daisy Mae.

Both Mr. and Mrs. Ramsey spoke about the gentle disposition of Daisy Mae. However, they did acknowledge that Daisy Mae was responsible for the death of the Peterson's dog and that Daisy Mae had attacked Mr. Madsen's and Ms. Estes' dog in the past. The Ramseys were supported by neighbors John Shields, Patrick Sanford, and Brian Shields. Chairman Lynch read a letter from Ron and Margaret Hemeon, also neighbors, requesting that the dog not be euthanized.

Tina Estes and Rolf Madsen spoke about a previous attack on their dog by Daisy Mae and indicated that they thought the Ramseys might restrain Daisy Mae after that attack. (The Ramseys did not choose to restrain her.) Martha Hoar spoke in favor of restraining dogs in Town.

Chairman Lynch asked if anyone else wished to speak. No one did.

A motion was made, seconded, and unanimously Voted to close the public hearing, after which, the Selectmen discussed the situation. Subsequently, a motion was made, seconded, and unanimously Voted that, based on evidence presented at the hearing, Daisy Mae constitutes a nuisance to the community by virtue of a vicious disposition and the Selectmen find and order that Daisy Mae be permanently banished from the Town of Essex no later than ten days from the date of the hearing. The dog is not to be allowed off the Ramsey property prior to the banishment and is to be physically restrained at all times while on the Ramsey property. Chairman Lynch told the Ramseys that they have the right to appeal the decision in District Court. Failure to comply with the Board's decision will result in the Town taking legal action and/or confiscation of the dog. Those present for the public hearing left the meeting.

There being no other business before the Board, a motion was made, seconded, and unanimously Voted to adjourn the meeting at 10:05 p.m.

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

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