

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

Also Present: Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham.

The Chairman 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. There was no public comment.

Mr. William J. Mitchell, Jr., of 19 Pickering Street, appeared before the Selectmen to request a waiver of the deadline to apply for a clamming license (March 5th, 2007) and possibly a waiver of all or part of the fee since there is only a small part of the year remaining before new applications and fees will be required. Mr. Mitchell has lived in town all his life and was laid off from Varian last August. He used to clam twenty years ago and still knows a lot of the Essex clammers. A motion was made, seconded, and unanimously Voted to waive the license deadline and to waive the entire fee. Mr. Mitchell was asked to see the Town Clerk to obtain an application form to be signed by the Selectmen tonight and to obtain his bed certificate from the State. Once he has the State Certificate, the Town Clerk will issue a clamming license. Mr. Mitchell thanked the Selectmen and left the meeting.

Brendhan Zubricki presented his Town Administrator's Report for the period covering December 15th through January 4th, regarding the following items:

Proposed Shellfish Regulations Changes: Mr. Zubricki reported that he and Shellfish Warden Paul Thistlewood have a 10:00 a.m. appointment with the Division of Marine Fisheries in Gloucester tomorrow, January 8, 2008. He asked if any of the Selectmen would like to accompany them. They will be discussing ways in which the Division may offer technical assistance to the Town regarding proposed changes to the Town's Shellfish Rules and Regulations, as well as the possibility of creating new maps defining the Essex shellfish beds. None of the Selectmen will be able to attend and Mr. Zubricki said that he would keep them informed of developments.

Coolidge Trust Easement Verification: Mr. Zubricki said that Town Counsel is recommending that the Town initiate a further title search to make sure that the easement is still operative. And also, that the Town ask for a letter from the developer's attorney verifying clear and marketable title to the lot in question and stating that the Town may rely absolutely on the attorney's opinion. Town Counsel advised asking the developer to pay for the cost of the title search and to approve the issuance of the opinion letter from his attorney. If the easement is still valid, it only provides for a 40-foot-wide road and not

for a 44-foot-wide road as required in the Town's current Subdivision Rules & Regulations. The Selectmen approved Town Counsel's recommendations and asked Mr. Zubricki to instruct her to proceed with her recommendations.

Alternative Backup Server Location Scenario: Mr. Zubricki reported that the Town of Tewksbury has not to date provided comments on a draft Agreement he transmitted to that town during the summer of 2007 to provide reciprocal emergency backup server locations. In the meantime, he has learned that a resident, who is CEO of a major technology firm, has facilities in Wakefield, Massachusetts and Manchester, New Hampshire and has offered to house a backup server for the Town at either facility. The Selectmen discussed the advantages and disadvantages of each location and decided to choose the Manchester location. Mr. Zubricki said that he would inform the resident of the Selectmen's choice and ask for a recommendation regarding the type of system that would operate best at the Manchester location. Mr. Zubricki will also work on an appropriate written agreement.

In other business, a motion was made, seconded, and unanimously Voted to approve the expenditure of \$92.85 and \$32.00 to Keane Fire & Safety Equipment from the Luther Burnham Fund to pay for inspection and maintenance of the Town Hall's fire extinguishers.

A motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$58,887.79.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the December 17th, 2007 Selectmen's Open Meeting.

The Selectmen reviewed a letter of interest from Dr. David M. Driscoll regarding the vacant position on the Board of Health. The Selectmen have all met Dr. Driscoll and it was decided to forward the letter to the Board of Health for their consideration in case they may want to meet with Dr. Driscoll. The Selectmen asked Mr. Zubricki to arrange for the Board of Health to meet with the Selectmen at their next meeting on January 28th to vote on the matter.

The Selectmen reviewed a letter from four members of the Council on Aging (Roger Lander, Evelyn Hickey, Gloria Story, and Arlene Pizzo) requesting to be more informed about the Scouts' scheduling at the Senior Center and asking that the Senior Center Committee meet more often. It was decided to refer the letter to Warren Grant, the Chairman of the Senior Center Committee, for his opinion on the matter.

At 7:15 p.m. the Chairman announced the continuation of the public hearing regarding the request for a liquor license for the restaurant located at 112 Main Street owned by Susie Offenberger. Since neither Ms. Offenberger, her attorney, nor anyone else was present to speak on the matter, it was decided to continue the hearing until 7:15 p.m. on March 10th in the T.O.H.P. Burnham Public Library and to inform Ms. Offenberger of the rescheduling.

Robert A. Marquis, a resident of 10 Lufkin Point Road, had submitted a letter to the Licensing Board requesting a Municipal Street License to operate a sightseeing motor bus approximately 22 feet in length and seating 20 – 25 people, that would pass twice daily over Essex roads from May through October. He is doing business as Coastal Visits and is preparing a welcoming/orientation center at his property at 121 Eastern Avenue which will also include a souvenir shop. Mr. Marquis needs approval from the Town, before he can obtain approval from the State for the sightseeing bus. The Board of Selectmen's Office had informed Mr. Marquis that the fee for the annual license is \$40.00. Mr. Marquis had questioned the Town's authority to charge a fee and limit the license to one year. Mr. Zubricki has since verified with the State that the \$40.00 fee is correct and that the license must be renewed annually. A motion was made, seconded, and unanimously Voted to grant a Municipal Street License to Mr. Marquis to operate a sightseeing motor bus approximately 22 feet in length and seating 20 to 25 people twice daily over the approved route from May through October pending receipt of the \$40.00 fee. Mr. Zubricki agreed to contact Mr. Marquis and inform him of the Selectmen's decision.

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

One-Day Auction Permit:

- LA Landry for use on Tuesday, January 29th or Wednesday, January 30th, 2008 (Rain date), between the hours of 2:00 and 9:00 p.m. within the confines of 125 Main Street.

Annual Common Victualler's License Renewal:

- Clifford Amero d/b/a Essex River Cruises & Charters at 35 Dodge Street.

Annual Antiques License Renewal:

- Eric Villa d/b/a Prado Antiques at 163 Main Street.

The Selectmen were reminded of the following meetings:

- The Conomo Point Planning Committee will be meeting on Wednesday, January 9th, 2008 at 7:30 p.m. at the T.O.H.P. Burnham Public Library.
- The Playing Fields Committee will meet at 7:30 p.m. on Thursday, January 10th, 2008 in the Senior Center on Pickering Street.
- The Massachusetts Municipal Association's Annual Business meeting will take place on Friday and Saturday, January 11th and 12th in Boston. Selectman Randall and Town Administrator Zubricki will be attending.
- Chairman Lynch and Selectman Jones will be attending the Breakfast Club meeting at The Elks at Bass Rocks at 7:30 a.m. on Friday, January 11th, 2008 sponsored by the Cape Ann Chamber of Commerce.

- American Guest Readers Day at the Essex Elementary School will take place on Tuesday, January 15th, 2008. The Selectmen were requested to R.S.V.P. to Sue Hardy at 978-768-7324.
- The Cape Ann Chamber of Commerce will hold its 86th Annual Dinner Dance on Saturday, January 16th, 2008 at the Tavern on the Harbor in Gloucester starting at 6:30 p.m. Tickets are \$85.00 per person. The Selectmen were requested to R.S.V.P.
- The Cape Ann Chamber of Commerce Evening Business Exchange will take place on Thursday, January 17th, 2008 from 5:00 – 7:00 p.m. at CB Fisk, Inc. on Kondelin Road.
- The Cape Ann Emergency Planning Team meeting will be held on January 25th, 2008 from 8:30 a.m. to 10:00 a.m. at the Senior Center. The Town will be hosting this meeting.

At 7:30 p.m., members of the Essex Housing Authority appeared before the Selectmen to discuss the vacancy left by Mr. Butler. Those present included Superintendent Al Utenis, Beth Cairns, Diane Polley, Chairman Gloria Story, and Glenn Boutchie. Also present was Harold Addison of 1 Grove Street. Two letters of interest for the position had been received: one from Harold Addison and one from Sally Rich of Water Street. Both candidates are viewed as being highly qualified for the position. After some discussion, Selectman Randall made a motion to appoint Harold Addison to the Essex Housing Authority to fill Mr. Butler's seat which expires in 2008. The motion was moved and seconded. A Roll Call Vote was held with the following results:

BOS Chairman Lynch – Aye
Selectman Randall – Aye
Selectman Jones – Aye

Beth Cairns – Aye
Diane Polley – Nay
Gloria Story – Aye
Glenn Boutchie – Aye

The Selectmen congratulated Mr. Addison on his appointment to the Housing Authority. The Housing Authority members and Mr. Addison left the meeting. The Selectmen agreed that a letter would be sent to Sally Rich thanking her for her interest.

Mr. Zubricki briefly updated the Selectmen regarding the status of the budget for legal expenses. He estimates that by the end of FY08, an additional amount of \$25,000 will be needed to fund FY08 expenses. The Selectmen asked Mr. Zubricki to send a memo to Jeff Soulard, the Chairman of the Finance Committee, informing him that it is anticipated that a line item transfer will be needed to fund FY08 legal expenses.

Members of the Planning Board: Chairman Scottie Robinson, Mike Cataldo, and Bill Holton; and Building Inspector Bill Sanborn appeared before the Board of Selectmen to discuss the proposed creation of a residential/agricultural overlay district on the north end

of town and the resulting by-law changes. Selectman Jones recused himself from the discussion since his home falls within the proposed district. Also present were Peter Kellerman of 94 John Wise Avenue and Jane Adams of 4 Belcher Street. The overlay district was conceived by a group of north end residents. It has been reviewed by the Planning Board, the Open Space Committee, and by Town Counsel. The purpose of the district is to preserve the scenic beauty and open space of that area and to exclude commercial development. The Planning Board consists of 7 members. At a recent Planning Board meeting with 6 members present, 5 voted in favor of supporting the district. It is anticipated that the resident group will seek to add a petition article to the next Annual Town Meeting Warrant to obtain town approval of the overlay district if the Selectmen do not voluntarily place the article on the warrant. The Planning Board said that they will support the resident group at the Town meeting and sees this as a first step towards achieving zoning in Town. The Open Space Committee will also lend their support and it is hoped that the Selectmen will as well. The two Selectmen will consider the matter further.

In a related matter, the Building Inspector reported on the status of the Pallazola property. Town Counsel had opined that the conditions imposed by the special permit issued after the original site plan review are enforceable. The Pallazolas have chosen not to comply with those conditions and have not applied for changes to the original site plan. They have had over two years to apply for a building permit to alter the building and ask for a change of use. They have paved a driveway that was supposed to be gravel and have extended that paved driveway into a protected buffer zone. The Selectmen suggested that the Conservation Committee be consulted regarding the buffer zone. After some discussion, it was decided that Town Counsel would write a letter for the Building Inspector to the Pallazolas citing the existing violations and giving the Pallazolas 30 days to come into compliance or to seek an amendment to the original conditions. Otherwise, it was also agreed that a cease and desist of the entire business should be issued. Mr. Zubricki said that he would need a list of the violations to give to Town Counsel as well as a list of the remedial options available to the Pallazolas.

Planning Board Chairman Robinson said that they have engaged Horsley & Whitten to review the proposed Open Space Residential Development bylaw and the site plan review bylaw. They have also asked Horsley & Whitten to submit a bid proposal for a complete review of the Town's existing bylaws.

Board of Selectmen Chairman Lynch said that Manchester officials will be calling Mr. Zubricki to explore the concept of sharing the services of a part-time planner between the two towns. The planner would be able to help with, among other things, a review and analysis of the existing bylaws.

Mr. Zubricki updated the Planning Board on the progress that Town Counsel has made in reviewing the Coolidge Trust.

The Planning Board members and the Building Inspector left the meeting along with Mr. Kellerman and Ms. Adams.

Police Chief Pete Silva appeared before the Board to discuss his annual performance review. He handed out copies of his goals and achievements over the past year to the Selectmen. Chairman Lynch asked the Chief about the status of his budget to date. Chief Silva said that he has been working to stay within his budget, but that there are a couple of areas that may end the year with a shortage. He is hoping to fund those shortfalls with excess funds from other areas of his budget. His new mooring map and program is coming together and he has been able to create some additional moorings. The waiting list currently has around 60 names on it. A big improvement from previous years. The Selectmen said that they are extremely pleased with the Chief's progress. A motion was made, seconded, and unanimously Voted to award a merit increase of 3% to the Chief for his accomplishments in Calendar Year 07.

There followed a discussion of the Chief's proposed goals for CY08. Number one on his list is to begin the process for certification of the Police Department. In order to achieve certification, there are about 151 points that must be met. The Chief feels confident that he can earn at least half of those points over the next year and has found the money in his budget to pay for the \$1000 fee that is required to start the certification process. Other items on the Chief's list include finding storage for police equipment, etc.; formulating a procedure for officer evaluations that does not conflict with union regulations; and implementing the services of Triad to provide benefits to the Town such as Senior IDs and elementary school programs. The Selectmen said that in the future they would like the Chief to present them with quarterly progress reports regarding his goal achievements and the status of his budget. The first report will be due on March 31st. Town Counsel will have to review any officer evaluation procedures that are proposed to make sure there are no conflicts with the union. The Chairman said he would work on the Chief's goals for discussion with the Selectmen at the next Selectmen's meeting and afterwards will inform the Chief of their wishes. Chief Silva thanked the Selectmen and left the meeting.

Draft of Annual Town Meeting Warrant: Mr. Zubricki presented the revised draft of the proposed warrant for the next Annual Town Meeting. The Selectmen promised to review it and make comments at their next meeting.

Chairman Lynch said that he would like to have a rehearsal presentation of the articles for the Annual Town Meeting with all the parties involved on the Saturday before the meeting is to occur. This would familiarize everyone with the articles and allow them to assess any deficiencies in their presentations, so that corrections could be made before the actual meeting.

Completion of Town Administrator's review: The Selectmen commended Mr. Zubricki on his achievements over the last year and expressed satisfaction with the work he has accomplished both in achieving his goals and in dealing with unforeseen situations. A motion was made, seconded, and unanimously Voted to award Mr. Zubricki a 3% merit increase based on his excellent goal achievement.

Final FY09 Selectmen's Budget Request Package: Mr. Zubricki stated that he has been working on the Selectmen's Budget request for FY09. He said that he would like to increase the Selectmen's Assistant's salary to the top of the range. The Selectmen agreed and thanked the Assistant for her great work this past year. Mr. Zubricki reviewed other items on the budget request and the Selectmen were in agreement concerning the suggested amounts to request. The Chairman said that he would check into the procedure, cost, and maintenance of putting out greenhead traps on the marsh. Mr. Zubricki said that he will wait to include the cost of living allowance increase in the budget until after the union negotiations are settled, if possible.

The Selectmen said they are working to draft a rating form that can be used to assess the qualitative aspects of the Town Administrator's performance. The Town Administrator pointed out that this form may not relate well to his position. The Essex Town Administrator's role is not like other managerial positions where the manager directs others to perform needed tasks, but more of an operations position where he perceives a need and personally moves to address it. The Selectmen said that it would be helpful to them to have the form and that the form would not be used to influence any merit increases earned by the Town Administrator (merit would still be granted on the basis of goals being met). Chairman Lynch will work with the goals Mr. Zubricki presented in the past for further discussion of those goals and the form at the next meeting.

Chairman Lynch reported that he has met with the Treasurer/Collector recently to discuss her achievements and goals. Based on her fine performance in executing her position, her willingness to assist others, and the need to bring her salary in line with other treasurer/collectors in comparable Massachusetts towns, he strongly recommended that the Selectmen agree to increase her salary for FY09 up to a maximum amount of \$62,000 which will include the possibility of a 2% merit increase. A motion was made, seconded, and unanimously Voted to increase the Treasurer/Collector's salary as recommended by the Chairman.

The Selectmen said that they are considering asking the Treasurer/Collector and the Police Chief to begin providing them with quarterly reports regarding the status of their budgets and goal achievements.

In other business, Mr. Zubricki said that Charles Burnham, a resident and member of the Conomo Point Planning Committee, has obtained and given him a copy of a lawsuit involving residents of Little Neck in Ipswich. The Selectmen were not in favor of asking Town Counsel to review it in connection with the situation at Conomo Point at this time.

Mr. Zubricki reported his findings regarding an informal assertion by an individual that the Town of Essex has an unusually high number of residents who have contracted breast cancer via a septic system to drinking water hormonal pathway. Mr. Zubricki said that the statement is not supported by the State Department of Public Health Massachusetts Cancer Registry's most recent town-specific statistics. That report found that Essex did not have a statistically higher-than-predicted incidence of cancer patients for any type of cancer covered by the report (which included breast cancer). Mr. Zubricki also indicated

that the specific pathway suggested by the statement did not appear to be supported by the report either. Mr. Zubricki noted that he would pass along his findings to the Board of Health through the Board's Administrator since that Board is presently reviewing the topic in a more comprehensive fashion and may find the information useful.

Citing the need to discuss strategy with respect to real estate matters, Chairman Lynch entertained a motion for the Board to move to Executive Session. He said that the Board would be returning to Open Session only to adjourn and invited the Town Administrator to attend. The motion was moved, seconded, and per a unanimous Roll Call Vote, the Board moved to Executive Session at 10:05 p.m.

The Board returned to Open Session at 10:10 p.m.

There being no further 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.