

Present: Chairman Jeffrey D. Jones, Selectman Mark W. Lynch, Selectman A. Raymond Randall, Jr., Town Administrator Brendhan Zubricki, and 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 on Martin Street and announced that the Board would hear Public Comment. No one offered any comments.

A motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$637,917.30.

Mr. Zubricki presented his Town Administrator's Report for the period covering September 12th, 2009 through September 25th, 2009, regarding the following items:

Essex Summer Program Board of Directors: Mr. Zubricki reported that he has contacted two people who have experience running summer day camps to ask their opinion regarding the benefits of having a Board of Directors to administrate a summer youth program. Neither person has ever seen such a program in use. Mr. Harnish thought that the use of a board may put the program at risk, by subjecting it to certain State rules and requirements from which the program is currently exempt. The Selectmen are still interested in creating an advisory committee to provide guidance for the summer program and asked Mr. Zubricki to contact Jesse Yurwitz, Tricia Soulard, Annie Cameron, Liz Mulry, and Jeff Coccoluto to see if they would be interested in serving on the advisory committee.

Annual Heating Oil Contract: Mr. Zubricki said that he had solicited bids to supply heating oil to the Town Hall for this coming heating season. One company had responded with a bid of twenty-two cents per gallon above the Journal of Commerce index that is in effect on the day that oil is delivered. The bid is two cents per gallon higher than the price that the Town paid last year. A motion was made, seconded, and unanimously Voted to award the contract to the sole bidder, Fox Hill Oil Company, to commence October 31, 2009 and continue through October 30, 2010.

Route 133 Task Force Meeting and Update: Mr. Zubricki reported that he and Selectman Lynch, along with some of the Business Leaders, had met recently with MassHighway officials to view the downtown construction area. After the visit, the Task Force would like the Selectmen to ask MassHighway if MassHighway could verify that the design will allow a large tractor trailer truck to access the restaurant for deliveries; and also, if they would be willing to partially replace a paved zone in front of the restaurant with seeded loam and granite curbing. Mr. Zubricki had prepared a letter expressing these concerns to MassHighway on behalf of the Selectmen. A motion was made, seconded, and unanimously Voted to approve the letter and Chairman Jones signed the letter.

Mr. Zubricki said that he has had an inquiry from MassHighway asking to change the construction work day schedule from 7:00 a.m. to 3:00 p.m. to 6:00 a.m. to 2:00 p.m. After some discussion about the impact on businesses and people leaving for work in the

morning, etc., the Selectmen asked Mr. Zubricki to say that they would like to keep the same schedule for the time being.

Mr. Zubricki said that MassHighway is also asking if the Selectmen would mind if the work on the seawall was postponed from this year until next Spring or Fall. The Selectmen were OK with postponing the work until next year in the off-season.

Mr. Zubricki said that National Grid has informed him that they will need to shut off power to about 700 properties in Town in order to move power lines in the work area to temporary poles across the street. If they shut the power off during daylight hours, National Grid expects to only need about 4 hours to move the power lines. If they shut the power off during darkness, it will take considerably longer. The Selectmen decided on October 19 as a likely date to shut the power off. Chairman Lynch said that he will represent the Chamber of Commerce Route 133 Task Force and will work with Mr. Zubricki and National Grid to organize the power shut-down. A motion was made, seconded, and unanimously Voted to authorize Selectman Lynch to make the final decision regarding the timing of the power shut-down.

Mr. Zubricki said that it has come to his attention that construction workers have been parking their cars in parking areas reserved for business customers. The Selectmen asked Mr. Zubricki to mention the problem to the Resident Engineer and the Project Manager at MassHighway.

Overall Town Planning Consultant Update: Mr. Zubricki reported that he had met with Carolyn Britt last week to review her progress to date and distributed an update prepared by Ms. Britt, along with a draft of Mr. Zubricki's annotations and comments. The Planning Board has been unable to meet with Ms. Britt and has requested an extension until the end of the year. Everyone was in agreement regarding the extension. Ms. Britt is strongly recommending the creation of zoning overlays or zoning districts for the Town in addition to trying to clarify existing definitions in the bylaws, but has not had much interest from the Planning Board for the concept. The Selectmen asked Mr. Zubricki to ask Ms. Britt to continue to develop the idea without input from the Planning Board.

Selectman Lynch and Mr. Zubricki are scheduled to meet with Juliet Walker to discuss planning needs for Conomo Point.

Ms. Britt is working on a final draft of a Permitting Guide for the Town and will be sending it to the Board of Appeals for final approval soon.

The Selectmen were in agreement that Ms. Britt only needs to prepare one master report for their review, rather than several short ones with duplicate information.

Ms. Britt has found several available grants that may be helpful to the Town. One is from Massachusetts Downtown Initiative in the amount of about \$10,000 that could be used to help with some of the ideas being developed by the Long Term Planning Committee in their Village Initiative for the downtown area. She is also recommending a Historic Planning Grant. Selectman Randall asked Mr. Zubricki to inform the Chairman of the Long Term Planning Committee about the grants mentioned by Ms. Britt.

Installation of Treasurer/Collector Department Replacement Doors: Mr. Zubricki said that he has received quotations for replacing the door to the Treasurer/Collector's Office and the door to Treasurer/Collector's Clerk's Office. The lowest bid is in the amount of \$4,015. The new doors will try to match the existing interior, will have a windowed upper portion, and a small shelf to serve as a counter when the top part of the door is opened. A motion was made, seconded and unanimously Voted to approve the expenditure from the Luther Burnham Fund in the amount of \$4,015.

Potential Town Hall Temporary Office Space: Mr. Zubricki recently consulted with Joseph Walker, an architectural designer who helped the Town with the new Senior Center, regarding the reclaiming of space on the stage of the Town Hall for potential use as office space. Mr. Zubricki presented a floor diagram illustrating how the space could be utilized using Mr. Walker's suggestions. He said that the next step would be to talk to the Building Inspector about the proposed plan. After the Building Inspector's comments have been integrated into the plan, the next step would be to check with the Massachusetts Historical Commission and the Essex Historical Commission to make sure that the proposed changes would be allowed. And finally, the last step will be the solicitation of quotes. The Selectmen were in favor of the project and asked Mr. Zubricki to proceed as planned.

At 7:30 p.m., the Chairman entertained a motion to open the continuation of the Public Hearing regarding The Farm restaurant.

Selectman Lynch said that he must disclose that his daughter is employed by The Farm as an ice cream server and that she may have a direct financial interest in the Board's consideration of this matter. Selectman Lynch wished to publicly disclose this potential conflict of interest on the record and stated that the fact that his daughter is employed by The Farm will not in any way affect his consideration of this matter.

Selectman Randall also announced that he must disclose that his step-daughter is employed by The Farm as a wait-person and that she may have a direct financial interest in the Board's consideration of this matter. Selectman Randall said he would like to publicly disclose this potential conflict of interest on the record and stated that the fact that his step-daughter is employed by The Farm will not in any way affect his review of this matter.

Chairman Jones said that because of the Disclosures just made, he found that the Board would be unable to act on this matter because it will lack the number of members required to take an official decision if Selectman Lynch and Selectman Randall are disqualified due to the potential financial interests of their immediate family members. Therefore, because the Board of Selectmen is the only body of the Town that can decide on this matter, Chairman Jones moved that the Board invoke the Rule of Necessity and allow Selectman Lynch and Selectman Randall to participate in this matter. The motion was seconded and Voted unanimously.

A motion was made, seconded, and unanimously Voted to open the continuation of the public hearing regarding the request by BN FARM, LLC, d/b/a The Farm, to alter their premises to include a recently fenced-in area in their licensed premises to serve alcohol. Joining the meeting were Bradley Atkinson and Noah Goldstein, the owners of the

business; Police Chief Peter Silva; Mr. Ewaschuk, an abutter; Jim Haskell, an Essex resident who is a wholesaler of alcohol; and Christian Peyla, an abutter.

The Chairman asked whether anyone wanted to offer any comments. Christian Peyla said that he lives directly across from the restaurant at 234 Western Avenue and also operates his business out of his residence. He said that he would like to speak for the extension of the Farm's licensed premises. Jim Haskell also spoke in favor of the establishment. Walter Ewaschuk spoke against the Farm's request and said there has been no improvement since the initial hearing on August 24th. Chief Silva reported that there has been only one reported incident since August 24th. Noah Goldstein said that he spoken to Sergeant Francis and will be scheduling an appointment with the Chief to talk about ways to address public safety concerns. These comments were followed by each of the Selectmen stating their opinions regarding the Farm's operation, as well as the reasons why their opinions are as they are. Mr. Zubricki said that he had asked the Building Inspector for an update on the status of the property. Inspector Sanborn had informed him that there is still no occupancy permit for the building and that he had returned the plan that the owners of the business had submitted as having insufficient information. The owners have not re-submitted an amended application, nor have they submitted a building permit application for the fence that they erected. Mr. Goldstein said that they are working on the applications and are planning to see the Building Inspector soon.

No one had any additional comments to offer and a motion was made, seconded, and unanimously Voted to close the hearing. The Selectmen discussed their findings and a motion was made and seconded to grant the request by the owners of The Farm to extend their licensed premises to include the fenced area in the backyard contingent upon The Farm complying with all permitting requirements and licensing requirements of all Town boards, departments, and officials, including, but not limited to, the Board of Health, the Building Inspector, the Fire Department and the Licensing Board. Selectman Lynch and Selectman Randall voted in favor of the motion. Chairman Jones voted against the motion. The motion was passed.

Chief Silva, Mr. Atkinson, Mr. Goldstein, Mr. Peyla, Mr. Haskell, and Mr. Ewaschuk left the meeting. The Board resumed discussion of certain items included in Mr. Zubricki's Town Administrator's report.

Preliminary Subdivision Plan Clarifications: Mr. Zubricki reviewed Town Counsel's response to the questions that were raised at a recent joint meeting between the Planning Board and the Selectmen regarding the proposed subdivision of a part of Conomo Point. The Selectmen said that they would inform the Planning Board of Town Counsel's response to their questions at the joint meeting scheduled for October 7th, 2009.

Inventory of Essex Youth Commission Property: Mr. Zubricki said that the Youth Director had opened the storage container at Centennial Grove. She will need assistance to perform an inventory of the items inside since the container is solidly packed with items. Everything will have to be emptied out and then repacked. The Youth Director did make an inventory of the Youth Commission items that are stored on the stage at the Town Hall and Mr. Zubricki distributed a copy for the Selectmen's review.

Mr. Zubricki said that Mr. Harnish has finished his administrative audit of the Youth Program and approved the final draft of the binder that the Youth Director has been working on that contains the policies and procedures followed by the Summer Youth Program. The Youth Director will now finish indexing the handbook and make copies.

Quarterly Report: A motion was made, seconded, and unanimously Voted to approve the distribution of the Quarterly Report for October 1, 2009.

Potential Special Town Meeting: Mr. Zubricki said that the Town Clerk, Rolf Madsen and David Lane can be available for a proposed Special Town Meeting on Monday, November 9, 2009. A motion was made, seconded, and unanimously Voted to hold a Special Town Meeting on November 9, 2009, at 7:30 p.m. in the Essex Elementary School. It was agreed that the previously scheduled Board of Selectmen's meeting for November 2 would be cancelled and a new meeting scheduled for November 9 at 6:30 p.m. in the Teachers' Lounge at the Essex Elementary School.

Chairman Jones said that the Playing Fields Committee would like to meet with the Selectmen to offer an update at one of the Selectmen's meetings in November. November 16th and November 30th still have openings for appointments and the Chairman will check with the Committee as to which date is preferable.

A motion was made, seconded, and unanimously Voted to open the warrant for the November 9th, 2009 Special Town Meeting. Mr. Zubricki reviewed with the Selectmen a list of potential articles to be included on the STM warrant and a list of articles that will be deferred to the next Annual Town Meeting in May 2010.

The Selectmen agreed that it is time for another update from the Finance Committee and a joint meeting was tentatively scheduled for 8:00 p.m. on Monday, October 19th, 2009, contingent upon the Finance Committee's availability.

Order of Succession and Delegation of Authority: Mr. Zubricki presented a revised version of the order of succession and delegation of authority contained in the Town's Continuity of Operations Plan based on advice received from Town Counsel.

In other business, a motion was made, seconded, and unanimously Voted to approve and sign the minutes for the September 14th, 2009, Selectmen's Open Meeting and the September 14th, 2009, Selectmen's Executive Session.

At Mr. Zubricki's recommendation a motion was made, seconded, and unanimously Voted to designate the following positions as "Special Municipal Employees" in accordance with the State Conflict of Interest Law (M.G.L. Ch. 268A) to supplement existing positions so designated:

Animal Control Officer/Dog Officer	Council on Aging Clerk
Board of Appeals Clerk	Harbormaster Deputies
Board of Assessor's Backup Clerk	Planning Board Clerk
Centennial Grove Attendant	Poll Workers
Conservation Agent	Recycling Center Attendant
Conservation Commission Clerk	Town Property Custodian

Mr. Zubricki asked that the Selectmen confirm the Town's acceptance of § 32A of Chapter 166 of the Massachusetts General Laws which allows the Electrical Inspector to do work in the community in which he inspects as long as the Assistant Electrical Inspector inspects his work and § 32A also allows firefighters and ambulance workers to hold more than one appointed position with the Town. Chairman Jones moved that the Board vote to confirm its acceptance of § 32A of Chapter 166 of the General Laws; to confirm, pursuant to the final paragraph of § 20 of Chapter 268A of the General Laws, its exemption of the Town's firefighters and ambulance workers from the provision in § 20 of Chapter 268A of the General Laws that prohibits persons from holding more than one appointed position with the Town. The motion was seconded and unanimously Voted.

A motion was made, seconded, and unanimously Voted to appointment Mr. Zubricki as Town liaison to the State Ethics Commission.

Acting in their capacity as Conomo Point Commissioners, a letter from Mrs. Riggs of 42 & 43 Robins Island Road requesting permission to have 2 dead trees cut down between her lot and Roger King's lot at 41 Robins Island Road was considered by the Selectmen. Superintendent Goodwin had inspected the site earlier in the week and is in agreement that the trees should be removed. A motion was made, seconded, and unanimously Voted to approve the request.

The Selectmen reviewed a request for window replacement from a tenant at Conomo Point and a motion was made, seconded, and unanimously Voted to approve a building permit for window replacement at 85 Conomo Point Road.

At the request of the Council on Aging a motion was made, seconded, and unanimously Voted to approve the Chairman's signature on the State standard contract form for the formula grant for the Council on Aging.

Chairman Jones agreed to serve as a judge during the Clam Fest which is scheduled for October 24th, 2009.

A motion was made, seconded, and unanimously Voted to approve the allocation of North Shore HOME Consortium FY2009 HOME funds to Help for Abused Women and Children (HAWC) for its Rental Subsidy Program.

The Selectmen reviewed a note from Lex Towle resigning from the Town Building Committee. A motion was made, seconded, and unanimously Voted to accept the resignation of Lex Towle from the Town Building Committee. The Selectmen signed a letter of appreciation to Mr. Towle for his past service on the Town Building Committee. After a discussion, a motion was made, seconded, and unanimously Voted to drop the vacant seats on the Town Building Committee.

The Selectmen signed a letter of appreciation to Julie DePaolis for her participation on the Town Building Committee.

The Selectmen were reminded that the next Board of Selectmen's meeting will be held on Monday, October 5th, 2009, at 7:00 p.m. at the T.O.H.P. Burnham Public Library.

The Cape Ann Emergency Planning Team Meeting for Elected Officials will take place on Thursday, November 12th, 2009 at 7:00 p.m., at a place to be announced. Mr. Zubricki asked if any of the Selectmen would be interested in attending the meeting with him and everyone declined. Mr. Zubricki said that the team is starting to develop a good rapport among the members now that they are getting to know each other and how each other handle and react to situations.

Mr. Zubricki reported that the movie company will not be giving the boathouse that was constructed for the movie to a Lake resident.

Mr. Zubricki reviewed the ethics law for municipal workers and volunteers.

Mr. Zubricki said that he had received a note from Annie Cameron, a resident of Pickering Street, expressing safety concerns regarding the entrance to Chebacco Terrace from Pickering Street which used to be locked except for emergency vehicles, but has recently been opened to any and all traffic. Other residents have also expressed concerns. The Selectmen have no jurisdiction over the Essex Housing Authority, the entity that controls the Pickering Street entrance and the Chebacco Terrace complex. The Selectmen asked Mr. Zubricki to develop a letter to the Housing Authority for the Chairman's signature, expressing their concerns about the Pickering Street entrance and asking the Authority to consider closing the entrance again, except for emergency vehicles.

The Selectmen discussed MassHighway and asked Mr. Zubricki to ask MassHighway if they could work on the seawall at the same time that they work on the reconstruction of the roadway. The Selectmen said that they would like the construction crew to adhere to the decision to keep one lane of traffic open at all times during the construction project.

At 8:55 p.m., citing the need to discuss the value of real property and strategy with respect to litigation, the Chairman entertained a motion to move to Executive Session. He said that the Board would not be returning to Open Session and asked Mr. Zubricki to attend. The motion was moved, seconded, and per a unanimous Roll Call Vote, the Board move to Executive Session.

The Board returned to Open Session at 9:03 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.