

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.

Also present: Paula Filias, Attorney Isaac Wilhelm, Walter Ewaschuk, Bradley Atkinson, William Holton, Police Chief Pete Silva, Reserve Officer candidate Nicholas Hamilton, and Officer Ryan Davis.

The Chairman called the meeting to order at 7:00 p.m. in the T.O.H.P. Burnham Library on Martin Street and announced that the Board would hear Public Comment. No one from the public offered any comment.

Chief Silva came forward to introduce Nicholas Hamilton, a candidate for the position of part-time Police officer. Chief Silva reviewed Mr. Hamilton's accomplishments, education, and employment experience. Mr. Hamilton has worked as a dispatcher for the Town for the past four months. The Selectmen were in agreement with Chief Silva's recommendation and a motion was made, seconded, and unanimously Voted to appoint Nicholas Alexander Hamilton, pending the successful completion of drug and medical screens and police training as required by the department for all candidates, to the position of part-time Police Officer. The Selectmen congratulated Mr. Hamilton and he left the meeting.

Mr. Zubricki presented his Town Administrator's Report for the period covering November 7th, 2009 through November 13th, 2009 regarding the following items:

Northern Conomo Point Planning Study: Mr. Zubricki said that the recently held Special Town Meeting has funded the ability to study recreational and residential use of the area north of Robbins Island Road at Conomo Point and asked the Selectmen how they wished to proceed on the matter. Selectman Lynch said that he would like to meet with Juliet Walker, Carolyn Britt, and Mr. Zubricki to work out the contract details for the study. He anticipates that the project could be able to commence in January.

Completion of Southern Conomo Point Subdivision Project: The Planning Board would like to amend the Town subdivision bylaws at Town Meeting before proceeding further with plans for a proposed subdivision of the area south of Robbins Island Road at Conomo Point. Selectman Lynch suggested that Mr. Zubricki and he meet with Nick Cracknell from Horsley and Witten to discuss the timing of steps necessary to effect the subdivision. The next meeting of the Conomo Point Planning Committee will be on Thursday, November 19, 2009.

Assessors' Maps Update Project: The Assessors have decided to review the scope of their map update project one more time before presenting a contract to be signed by the Selectmen for the work. Mr. Zubricki will keep the Selectmen informed.

Initial Annual Town Meeting and FY11 Budget Planning: Mr. Zubricki distributed a draft list of items to be considered for the Annual Town Meeting, along with a budget planning calendar for the Selectmen's review. Initial discussion of some of the items will begin at the next Selectmen's meeting.

Chapter 61 A Waiver of Purchase Paperwork: The attorneys processing the paperwork for the transfer of a portion of land owned by Anderson Storey to Sandy Patrican have requested that the Board sign a replacement agreement for the one that they had signed initially. The first agreement referenced the land incompletely. A motion was made, seconded, and unanimously Voted to ratify the Chairman's signature on the amended agreement.

The Selectmen decided to take no action regarding a recent inquiry from Mass Recycle to endorse the recycling of additional types of cans and bottles.

In other business, a motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$203,907.96.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the November 9th, 2009, Selectmen's Open Meeting and the Selectmen's November 9th, 2009, Executive Session.

The Selectmen agreed to re-schedule a meeting with the Playing Fields Committee to 8:00 on December 14th.

The Selectmen reviewed a letter from Holly Andrews requesting the continuance of the sidewalk on Story Street. The Safe Routes to School program has said that they will not fund the continuation of the Story Street sidewalk. The Selectmen asked Mr. Zubricki to include the continuation of the sidewalk in the capital plan for further discussion.

The Selectmen approved the recommendation of Chair Julie Scofield and a motion was made, seconded, and unanimously Voted to appoint Tamson Gardner to the Open Space Committee.

A motion was made, seconded, and unanimously Voted to reappoint Leonard Woodman to the Shellfish Advisory Commission.

The Selectmen said that they had reviewed the suggested Board of Selectmen's meeting schedule for 2010. A motion was made, seconded, and unanimously Voted to approve the proposed meeting schedule for 2010.

The Selectmen read a letter from a Conomo Point resident who was concerned about their ability to pay future rent and real estate taxes. They asked Mr. Zubricki to inform the

resident that the Water Department and the Treasurer/Tax Collector are willing to work with the resident to set up a payment schedule.

A motion was made, seconded, and unanimously Voted to approve a request from J.T. Farnham's to close between December 1st, 2009 and February 28th, 2010 for renovating and cleaning.

A motion was made, seconded, and unanimously Voted to remove the restriction on the Richdale's retail package goods store license to sell wines and malt beverages and allow beverages to be sold until 11:00 p.m.

A motion was made, seconded, and unanimously Voted to approve the following license renewals for 2010:

Antiques Licenses:

- Robert Landry, d/b/a L.A. Landry Antiques at 164 Main Street
- Robert W. Hanlon, d/b/a Walker Creek Furniture, Inc. at 57 Eastern Avenue
- Kenneth P. Monroe, d/b/a Americana at 48 Main Street
- Robert C. Coviello, d/b/a Robert C. Coviello Antiques at 155 Main Street
- Robert C. Coviello, d/b/a Main Street Antiques at 44 Main Street

Class II License:

- Stephen Monell, d/b/a Foreign Auto Enterprises at 171 Eastern Avenue

Wine and Malt Package Store License:

- Chanty, Inc., d/b/a Richdale, Peter A. Panagoplos, Manager, at 156 Main Street

Wine and Malt Restaurant License:

- Eben Creek Corporation, d/b/a J.T. Farnham's, Joseph K. Cellucci, Manager, at 88 Eastern Avenue

The Selectmen were reminded that the Cape Ann Caucus will take place on Friday, November 20, 2009 at 7:30 a.m. at the Manchester-by-the-Sea American Legion, 14 Church Street.

The Manchester Essex Rotary Club will hold the 5th Annual Green & White Pancake Breakfast on Saturday, November 21st, 2009 from 8:00 to 10:00 a.m. in the Manchester Essex Regional Middle High School dining hall. The cost of the breakfast is \$5.00, and all children and students are free of charge. Funds raised will benefit the Scholarship Fund of the Manchester Essex Rotary Club.

The Annual Turkey Trot sponsored by the Essex Lions will take place on Sunday, November 22, 2009.

The next Board of Selectmen's meeting will be held on Monday, November 30th, 2009, at 7:00 p.m. in the T.O.H.P. Burnham Public Library.

Representatives from Senator John Kerry's office will be at the Senior Center on Tuesday, December 1st, 2009, from 5:00 to 6:00 p.m. to meet with constituents.

The Annual Holiday Festival will take place on Thursday, Friday, and Saturday of December 3rd, December 4th, and December 5th.

The Cape Ann Breakfast Club will meet on Friday, December 4th, at the Gloucester House Restaurant at 7:30 a.m.

Paula Filias appeared before the Selectmen to discuss the noise being generated by the live music at the Farm restaurant which is across the street from her apartment building. Since the Farm commenced operations last April, she stated that she has lost three tenants and she is afraid that she may lose more. Ben Steele, a former Filias tenant, was present by speaker phone and related to the Selectmen the many times he complained to the Farm owners and the police. Mrs. Filias read a letter from another former tenant, Mr. and Mrs. Alonzo. A current tenant, Chris, was also present, and spoke about noise at the Farm. Mr. Ewaschuk, a neighbor abutting the Farm said that trash and bottles are still being left on his property by Farm customers. He showed the Selectmen pictures of this litter and stated that dumpsters have been left open and could attract rats. He said that Farm personnel have not been conducting daily sweeps of the area for litter as the Farm had said. Police Officer Ryan Davis recounted the times he has been called to the Farm.

Bradley Atkinson, a Farm owner, said that he had been away for a couple of weeks. Now that he has returned, he will be making sure that the doors and windows are closed when the music is playing. He has ordered new sound blockers, since the old ones are broken.

Chairman Jones read a letter from the Farm in response to a letter sent to them by the Selectmen. The Selectmen had asked the Farm to voluntarily end live music at midnight, voluntarily keep noise levels to a level that cannot be heard at a distance of 10 feet from the Western Avenue windows, and to voluntarily stop serving liquor at 12:30 a.m. and make sure that all patrons have left the area by 1:00 a.m. In their response, the Farm agreed to stop serving liquor at 12:30. They said the live music was a necessary part of their business, but would repair and/or replace window sound blockers, control bass and drum levels after 11:00 p.m., encourage residents to call if bothered, encourage bouncers to disburse crowds quickly, and keep both front doors closed.

Isaac Wilhelm, the attorney for Mrs. Filias, stated that the Selectmen should consider the past pattern of the Farm's operation. He listed the neighbors' complaints, the Board of

Health's inspection reports, the open dumpsters, the unsanitary conditions in the kitchen, the incident of underage drinking, and open containers of alcohol. Attorney Wilhelm said that the entertainment license is a privilege.

Selectman Lynch felt that each Board should regulate those things for which they were responsible. He said that he had gotten out of bed at midnight to visit the Farm in order to monitor the noise level for himself. He agreed that the sound level was very loud. Paula Filias asked if it was true that Selectman Lynch and Selectman Randall each had daughters that worked at the Farm. Chairman Jones indicated that both of the other members had publicly disclosed potential conflicts in previous proceedings. Chairman Jones entertained a motion to schedule a public hearing on November 30th to discuss the Farm's entertainment license.

Mr. William Holton of the Planning Board suggested that the establishment should have come before the Planning Board for a change of use during the initial permitting stages. Chairman Jones indicated that the use present in the new establishment was no different than the use present in the establishment which immediately preceded the Farm at this location (still a restaurant that serves food with entertainment). Mr. Holton asked about the status of the request to extend the premises on the alcohol license and the Board indicated that said request had been approved by the ABCC. Mr. Holton asked for additional discussion concerning the potential conflicts raised by Mrs. Filias.

Chairman Jones and Selectman Lynch explained the Rule of Necessity in more detail. Mr. Zubricki explained that the potential conflicts referenced had been fully disclosed at past meetings and that the Rule of Necessity had been invoked. He then elaborated on the Rule and conditions associated with it.

After further discussion, Selectman Lynch recused himself from the discussion. Selectman Randall said that he was not in favor of scheduling a hearing at this time. He said that he would like the Farm to submit a letter by noon the next day (November 17) detailing the measures that the Farm will be taking in response to the neighbors complaints. Once these measures are in place, he suggested that the police and the Selectmen should monitor the Farm and discuss the status of the situation every two weeks. In the event that the situation is not improved enough, Selectman Randall suggested that he will likely vote at a future Selectmen's meeting to hold a public hearing to discuss restricting or rescinding the Farm's entertainment license.

Chairman Jones announced that the discussion concerning the Farm was ended and that the Board would continue with other business. Chief Silva, Officer Ryan, Mrs. Filias, Attorney Wilhelm, Bill Holton, Walter Ewaschuk, Bradley Atkinson, and the Filias tenant Chris left the meeting.

At 8:31 p.m., citing the need to discuss the value of real property, litigation, and the deployment of security devices, 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 moved to Executive Session.

The Board returned to Open Session at 8:50 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.