

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: Michael March, Mr. and Mrs. Filias, Attorney Isaac Wilhelm, Walter Ewaschuk, Bradley Atkinson, Noah Goldstein, Ryan Cox, William Holton, Deputy Harbormaster Barry DuMoulin, Police Chief Pete Silva, Reserve Officer candidate Jim Romeos, Gloucester Times Reporter Jonathan Phelps, and several other members of the public.

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.

Michael March, a resident of 3 Southern Avenue and an abutter of property owned by William Allen, said that he would like to inquire as to the status of the cleanup of the Allen property that is being conducted by the court appointed receiver. Mr. March said that he continues to be assaulted by noxious fumes coming from the Allen chimney and the property is still cluttered with trash. A neighbor from across the street said that the fumes coming from the Allen property have also permeated her house. Both the neighbor and Mr. March questioned whether the burning of unknown materials was a fire hazard and/or a Board of Health issue. The Selectmen agreed that the property continues to be a problem. However, they said that they feel that some progress has been achieved in the last five years. Unfortunately, the receiver has expended all the funds available and is now seeking alternative sources of cash to fund the completion of the clean-up process. The Selectmen advised Mr. March to call the Fire Department and the court appointed receiver, Attorney Cuffe, for answers to his questions. Mr. March and two neighbors left the meeting.

Chairman Jones made the following public statement: "Tonight, it is important to clarify the record concerning the Selectmen's past discussions relative to the Farm Bar and Grille. On each occasion where formal action was contemplated by the Board of Selectmen, each of two Board members with potential conflicts of interest made formal disclosures for the record concerning those potential conflicts. On each such occasion, the Chairman invoked the Rule of Necessity and the business at hand was discharged by the Board."

"Recently, at our November 16, 2009 meeting, those members did not make identical disclosures when the establishment was discussed informally but did reference the formal disclosures that were clearly made on the record in the past. Identical formal disclosures were not made since the Board did not contemplate any formal or official action and no such action was taken. Had we intended to take formal action, I would have invoked the Rule of Necessity."

Selectman Lynch announced that he would like to declare that he no longer has a potential conflict of interest with respect to the Farm Bar and Grille because his immediate family member no longer works there, and that he intended to participate fully in all matters coming before the Board of Selectmen relative to the Farm establishment.

Selectman Randall responded that given the fact that Selectman Lynch no longer has a potential conflict of interest with respect to the Farm Bar and Grille and given that he (Selectman Randall) continues to have a potential conflict of interest with respect to that establishment, he thereby recused himself from any further discussion unless and until he no longer has a potential conflict of interest.

Chairman Jones thanked both Selectmen and stated that there was no need to invoke the Rule of Necessity. He said that he and Selectman Lynch would participate in matters involving the Farm Bar and Grille.

It was reported that there have been a couple of incidents at the Farm since the last Board of Selectmen's meeting.

Selectman Lynch then moved that the Board hold a hearing to consider the renewal and/or modification and/or suspension and/or revocation of the Farm Bar and Grille's weekday entertainment license for the balance of calendar year 2009 and for the upcoming calendar year 2010, based upon numerous complaints that the license is adversely affecting the public health and/or safety and/or order, under the auspices of Section 183a of Chapter 140 of the General Laws, on December 16th, 2009 at 7:30 p.m., at the Essex Senior Center, if available, and that, in accordance with said statute, the licensee be notified in writing at least ten days prior to the hearing date. The motion was seconded and both Chairman Jones and Selectman Lynch voted in favor of the motion.

A further motion was made, seconded, and unanimously Voted to ask Town Counsel to conduct the public hearing regarding the Farm's entertainment license on December 16th.

Mr. and Mrs. Filias, their Attorney Isaac Wilhelm, Walter Ewaschuk, Bradley Atkinson, Noah Goldstein, Ryan Cox, William Holton and others left the meeting.

Police Chief Silva came forward to present part-time officer Jim Romeos and review his many accomplishments. Mr. Romeos is a candidate for the Randolph Police Academy which is starting on December 7. The training will be for a period of twenty weeks. The Selectmen congratulated Mr. Romeos and he left the meeting.

Chief Silva introduced Deputy Harbormaster Barry DuMoulin to the Selectmen. Mr. DuMoulin has 23 years experience operating vessels for the Coast Guard. He has since switched over to marine safety. Currently he operates the Massachusetts off-shore LNG facility. As the Deputy Harbormaster, he has been working on sorting out the mooring situation. He has divided the project into three phases. The first phase includes identifying the many unmarked moorings and either removing them or finding their owners, identifying the unused moorings, and working with the people on the waiting list to find them moorings. The second phase of the project is enforcement: making sure that the moorings are valid, are appropriately marked, and have current stickers. The third phase is the creation of spreadsheets to track time, equipment, and costs. This year they

have also started making spot checks on Chebacco Lake to make sure that people have the correct equipment and are operating their boats safely. Chief Silva, Harbormaster Assistant Westley Burnham, and Deputy Harbormaster DuMoulin won the Golden Shackle Award this year for the competition that was held to determine the best Harbormaster on the North Shore. The Selectmen also discussed the co-existence of kayakers and motor boats on the River with Mr. DuMoulin. Mr. DuMoulin reported that there are 72 people on the mooring waiting list and he is actively working with the people on the list to find places for them in the River. They have been able to create two transient moorings for use by occasional visitors to the area. A fee of \$25 per day is charged for use of the mooring. Ted Marshall has been helping to pull old moorings out and identify others. The reconfiguration of the Town Landing has created space for docking several dinghies. The Selectmen thanked Mr. DuMoulin for his report.

Chairman Jones said that he had an order for a new police cruiser in the amount of \$32,050. Thirty-five thousand dollars was recently voted at the November 9th Special Town Meeting for a new cruiser. A motion was made, seconded, and unanimously Voted to approve the order for the cruiser.

Chairman Jones entertained a motion to accept a gift to the Essex Police Department from Joyce and Albert Stewart in the amount of \$100.00. The motion was moved, seconded, and unanimously Voted.

Mr. Zubricki presented his Town Administrator's Report for the period covering November 14th, 2009 through November 27th, 2009 regarding the following items:

Commencement of EPBA Collective Bargaining: Mr. Zubricki announced that the police contract will up for renewal shortly. Selectman Lynch will be representing the Selectmen on the negotiation team. Mr. Zubricki said he will call the EPBA representative to schedule a date for preliminary discussion, probably sometime in December or January.

Town Building Committee Update: Mr. Zubricki reported that the Committee is finishing up the preparation of the RFQ for a designer to assess the Committee's recommendation to the Selectmen. The RFQ does not include the subdivision of the proposed John Wise Avenue property from the Spring Street cemetery property. That part of the project will need to be reviewed by Town Counsel. A motion was made, seconded, and unanimously Voted to have Mr. Zubricki ask Town Counsel to perform a full review and to outline the process for splitting the land off to the Board of Selectmen for general use from the land under the custody of the Board of Public Works.

At 7:52 p.m., citing the need to discuss the deployment of security devices, the Chairman entertained a motion to move to Executive Session. He said that the Board would be returning to Open Session and asked Chief Silva and Mr. Zubricki to attend. Barry DuMoulin and Gloucester Times Reporter Jonathan Phelps left the meeting. 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 8:00 p.m. Chief Silva left the meeting and Jonathan Phelps rejoined the meeting.

In other business, a motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$620,474.39.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the November 16th, 2009, Selectmen's Open Meeting and for the November 16th, 2009, Executive Session.

Town Clerk Vacancy Advertisement: Mr. Zubricki distributed the final copy of the advertisement for the Town Clerk's position. A motion was made, seconded, and unanimously Voted to approve Mr. Zubricki's placement of the ad in the Beacon to appear the beginning of January, as well as free placement on the Town Clerks' Association website, and the local paper. The job listing will also be posted locally.

Assessors Mapping Project Contract: Mr. Zubricki said that he recently met with the Assessors, a mapping contractor, and a local resident who has experience in mapping to review the scope of work included in the proposed contract. The Head Assessor will be completing his review of the contract shortly. A motion was made, seconded, and unanimously Voted to approve signature of the mapping contract outside of a Board of Selectmen's meeting as soon as it is completed. Mr. Zubricki recommended that map annotation showing fire call boxes and fire hydrants be included in a separate contract to be executed at a later date. The estimated cost of the second contract is \$15,000 and he will add the second contract to the other budget items for later discussion. There is no economy of scale to combine both contracts.

Completion of Centennial Grove Restoration: The site visit at Centennial Grove to review the completion of the punch list items has been rescheduled for Monday, December 7th. The last of the movie crew will be leaving on Friday, December 11th. A motion was made, seconded, and unanimously Voted to authorize the signature of a third extension of the contract between the Town and the movie people for a portion of the month of December containing the same terms and conditions as the previous contracts.

FY11 Accounting Software Support Contract Increase: Mr. Zubricki reported that the vendor for the accounting software support has agreed to consider less than their standard 5% increase in the new contract for the coming year if the Selectmen send a letter requesting a reduction. A motion was made, seconded, and unanimously Voted to approve the signature on the prepared letter.

FY11 Capital Budget Request: Mr. Zubricki generally reviewed each of the items on the draft of the capital budget with the Selectmen. The proposed capital budget will be finalized at the next Selectmen's meeting for discussion with the Finance Committee.

Preliminary Annual Town Meeting and Budget Discussion: Mr. Zubricki drew the Selectmen's attention to the list of items that he had prepared for the next Annual Town Meeting. Selectman Randall asked Mr. Zubricki to assign priority ratings to the items on his list. Mr. Zubricki will check to find out when a joint meeting to review the School Budget is planned.

Execution of the Continuity of Operations Plan: Mr. Zubricki reported that all of the departments have approved the proposed plan as written. A motion was made, seconded, and unanimously Voted to approve the Continuity of Operations Plan. Now that the plan has been created and agreed to by all concerned parties, Mr. Zubricki will proceed with crafting the steps for implementation and the eventual testing of the plan.

A motion was made, seconded, and unanimously Voted to sign a letter of commendation to the Board of Public Works regarding the actions of employees during a recent failure of equipment at the Water Plant.

The Selectmen considered a request from Tom Shea's to close for repairs and renovations beginning Monday, January 4th, 2010 through Tuesday, January 19th, 2010. A motion was made, seconded, and unanimously Voted to grant the request.

Acting in their capacity as Conomo Point Commissioners, the Selectmen reviewed a window replacement building permit for 114 Conomo Point Road. A motion was made, seconded, and unanimously Voted to approve the request and the permit was annotated to reflect the Selectmen's approval.

Reporter Jonathan Phelps left the meeting.

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

Antiques License Renewals for 2010:

- Alexander Westerhoff at 18 Eastern Avenue
- Joseph Danna, d/b/a Conomo Point Antiques at 166 R Eastern Avenue
- William S. Friend, d/b/a Friendship Antiques at 55 John Wise Avenue
- Channing Howard, d/b/a Howard's Visual Merchandise at 165 Eastern Avenue

All Alcohol Restaurant License Renewals for 2010:

- Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille, Allen W. Matthews, Manager, at 63 Eastern Avenue
- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue
- Driftwood of Essex Inc., d/b/a Lewis Oyster House of Essex, John Broderick, Manager, at 234 John Wise Avenue
- Essex Fortune Palace, Inc., Fang Liaw, Manager, at 99 Main Street

- Greenbow Corporation, d/b/a Tom Shea's Restaurant, David R. Brown, Manager, at 122 Main Street
- BN FARM, LLC, d/b/a The Farm, Bradley Atkinson, Manager, at 233 Western Avenue
- The Red Barrel, Inc., Joyce I. Wood, Manager, at 171 Eastern Avenue
- Towne Landing, Inc., d/b/a Periwinkles, Thomas L. Guertner, Manager, at 74 Main Street
- Windward Grill LLC, d/b/a Windward Grille, Timothy Kennefick, Manager at 109 Eastern Avenue
- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Lawrence D. Woodman, Manager, at 125 Main Street
- Woodman's Incorporated, d/b/a Lobster Pool, Stephen B. Woodman, Manager at 119 Main Street
- Village Restaurant of Essex, Inc., Kevin Ricci, Manager, at 55 Main Street

All Alcohol Package Store License Renewals for 2010:

- Chebacco Liquor Mart Inc., John D. Chisholm, Manager, at 201 Western Avenue
- CPM Investment Group Inc., d/b/a Essex Wine & Spirits, Vincent Marano, Manager, at 91 Main Street

Auction Permit:

- Peter Coccoluto for use on Thursday, December 10, 2009, between the hours of 11:00 a.m. and 10:00 p.m. within the confines of 125 Main Street

Automatic Amusement Device License Renewal for 2010:

- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue

Class II License Renewal for 2010:

- John Heath, Essex Falls Auto Body at 1 Moses Lane

Common Victualler's License Renewal for 2010:

- Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille, Allen W. Matthews, Manager, at 63 Eastern Avenue
- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue
- Chebacco Liquor Mart Inc., John D. Chisholm, Manager, at 201 Western Avenue
- CPM Investment Group, Inc., d/b/a Essex Wine & Spirits, Vincent Marano, Manager, at 91 Main Street
- Joseph and Sally A. DiGennaro, d/b/a Schooner's Market, Joseph DiGennaro, Jr., Manager, at 121 Eastern Avenue

- Driftwood of Essex Inc., d/b/a Lewis Oyster House of Essex, John Broderick, Manager, at 234 John Wise Avenue
- Essex Fortune Palace, Inc., Fang Liaw, Manager, at 99 Main Street
- MAIA LLC, d/b/a Dunkin Donuts, Roy Serpa, Manager, at 127 Main Street
- BN FARM, LLC, d/b/a The Farm, Bradley Atkinson, Manager, at 233 Western Avenue
- Greenbow Corporation, d/b/a Tom Shea's Restaurant, David R. Brown, Manager, at 122 Main Street
- The Red Barrel, Inc., Joyce I. Wood, Manager, at 171 Eastern Avenue
- Towne Landing, Inc., d/b/a Periwinkles, Thomas L. Guertner, Manager, at 74 Main Street
- Windward Grill LLC, d/b/a Windward Grille, Timothy Kennefick, Manager at 109 Eastern Avenue
- Woodman's Incorporated, d/b/a Lobster Pool, Stephen B. Woodman, Manager at 119 Main Street
- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Lawrence D. Woodman, Manager, at 125 Main Street
- Village Restaurant of Essex, Inc., Kevin Ricci, Manager, at 55 Main Street

Municipal Street License Renewal for 2010:

- Robert A. Marquis, d/b/a Coastal Visits at 121 Eastern Avenue

Sunday Entertainment License Renewal for 2010:

- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Lawrence D. Woodman, Manager, at 125 Main Street

Weekday Entertainment License Renewal for 2010:

- Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille, Allen W. Matthews, Manager, at 63 Eastern Avenue
- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue
- Greenbow Corporation, d/b/a Tom Shea's Restaurant, David R. Brown, Manager, at 122 Main Street
- Towne Landing, Inc., d/b/a Periwinkles, Thomas L. Guertner, Manager, at 74 Main Street
- Windward Grill LLC, d/b/a Windward Grille, Timothy Kennefick, Manager at 109 Eastern Avenue
- Woodman's Incorporated, d/b/a Lobster Pool, Stephen B. Woodman, Manager at 119 Main Street
- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Lawrence D. Woodman, Manager, at 125 Main Street

Wine and Malt Package Store License Renewal for 2010:

- Joseph and Sally A. DiGennaro, d/b/a Schooner's Market, Joseph DiGennaro, Jr., Manager, at 121 Eastern Avenue

One-Day Wine and Malt License Renewal for 2010:

- Joshua's Corner Antiques, Cape Ann Chamber of Commerce for use on Saturday, December 5th, 2009, between the hours of 5:00 and 9:00 p.m. within the confines of 4 Southern Avenue.
- Alexander Westerhoff Antiques, Cape Ann Chamber of Commerce for use on Saturday, December 5th, 2009, between the hours of 5:00 and 9:00 p.m. within the confines of 18 Eastern Avenue.
- Andrew Spindler Antiques, Cape Ann Chamber of Commerce for use on Saturday, December 5th, 2009, between the hours of 5:00 and 9:00 p.m. within the confines of 163 Main Street.
- Silly Goose Toys, Cape Ann Chamber of Commerce for use on Saturday, December 5th, 2009, between the hours of 5:00 and 9:00 p.m. within the confines of 166 Main Street.

Selectman Randall abstained from voting for the Farm's All Alcohol Restaurant License renewal for 2010 and their Common Victualler's License Renewal for 2010. All the other licenses were Voted for unanimously and the Farm's two license renewals were both voted for by the Chairman and Selectman Lynch.

The Selectmen were reminded that their next meeting will be with the Manchester Board of Selectmen on Monday, December 7th, 2009, in Manchester to view a presentation by the Playing Fields Committee.

The Board of Selectmen will meet again on Monday, December 14th, 2009, at 7:00 p.m. at the **Senior Center** on Pickering Street.

The Selectmen were also reminded that 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.

Selectman Lynch said that he is hoping to schedule a meeting of the Conomo Point Sub-Committee for sometime this month.

At 8:25 p.m., citing the need to discuss pending litigation and the value of real property, the Chairman entertained a motion to move to Executive Session. He said that the Board would not be returning to Open Session and invited 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 8:30 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.