

**Selectmen's Minutes
T.O.H.P. Burnham Library**

November 1, 2010

Present: Chairman A. Raymond Randall, Jr., Selectman Jeffrey D. Jones, Selectman Lisa J. O'Donnell, Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham, Bill Bradford, and Mark Lynch.

The Chairman called the meeting to order at 7:00 p.m. and announced that the meeting is being recorded and that the Board would hear Public Comment.

Mr. Bradford, a long-time member of the Lions Club, came forward to discuss the placement of the ship's wheel monument that the Lions had financed and given to the Town in the 1980's. The original site planned for the monument had been a piece of land on the causeway, owned at that time by the Paglia's, but at the last minute the Paglia's had decided not to grant permission to place it there. Woodman's agreed to allow it to be placed next to one of their buildings on the causeway and it was there for many years before being moved to its present location by the Shipbuilding Museum. Now that the Paglia heirs have agreed to license that piece of their land on the causeway to the Town for a pocket park to be known as Paglia Park in honor of Louis and Eva Paglia, Mr. Bradford said that he and a group of Town's people would like to see the monument moved to this site. The Selectmen said that currently the Town has engaged the services of a professional planner to work with the Selectmen and the Long Term Planning Committee to coordinate a design plan for all the proposed pocket parks in Town. In addition, the Paglia's have stipulated, as part of their agreement with the Town to allow the land to be used as a park, that the park must be dedicated to the memory of their parents. The Selectmen said that the planner will be preparing two designs for this site: one coordinating with the spar pond owned by Ed Perkins and one not referencing it. If the Paglia's do not want the monument on their property, the monument may be part of another proposed pocket park by the Shipyard Museum or it may be placed on the spar pond site. Mr. Bradford thanked the Selectmen and left the meeting.

The Selectmen reviewed a *contract and scope of services agreement with the Massachusetts Cultural Council* in the amount of \$3,870. A motion was made, seconded, and unanimously Voted to approve the contract and the Chairman signed the document. The Town Clerk Christina Wright was present to witness the signature, but upon examination of the documents, it was found that a witness was not required. Christina Wright left the meeting.

A motion was made, seconded, and unanimously Voted to approve a *recommendation from Peggy Duff*, Chair of the Essex Cultural Council, to appoint Jenny Harkness to the Essex Cultural Council for a term of three years.

In other business, a motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$650,001.48.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the October 18th, 2010, Selectmen's Open Meeting and the Selectmen's October 18th, 2010, Executive Session.

A motion was made, seconded, and unanimously Voted to appoint Robert Coviello to the Centennial Grove Committee as the representative from the Long Term Planning Committee.

A motion was made, seconded, and unanimously Voted to replace Mark McKenna with Richard Ross on the Centennial Grove Committee as the representative from the Finance Committee.

Shellfish Advisory Commission member Leonard Woodman came before the Selectmen to say that he has received a couple of reports regarding clammers digging on the closed winter flats. Mr. Zubricki said that anyone seeing someone digging in the wrong place should call him and report it so that he can contact the Shellfish Constable and have him take care of it. Mr. Zubricki agreed to alert the Shellfish Constable about people digging on closed flats. Mr. Woodman said that the Commission will be meeting on November 9th and that one of the items that will be discussed will be choosing a flat to be set aside for digging only by recreational diggers. The SAC will be meeting with the Selectmen on November 15th to make recommendations on the designated flat and other items. Mr. Zubricki said that he would keep Mr. Woodman informed. Mr. Woodman thanked the Selectmen and left the meeting.

Mr. Zubricki presented his Town Administrator's Report for the period covering October 16th, 2010 through October 29th, 2010:

E-mail Archiving Solution: Mr. Zubricki reported on his recent conversation with an e-mail archiving company. For \$300 per month, the company would provide a better method for unlimited storage, indexing, and recovery/restoration of all Town email. The Selectmen agreed that the system currently in use is adequate for the Town's needs at this time, for a fraction of the cost.

Rte. 133 Reconstruction Project bimonthly Update and Monthly Meeting: A National Grid sub-contractor will begin utility pole move work at the end of November, rather than at the beginning of the month. MassDOT's resident engineer said that this timing will better suit his schedule and will allow Marchesi to wrap up their part of the reconstruction for this season. National Grid needs to complete the repositioning of utility poles before the construction process begins again next year so that the construction schedule is not delayed. Mr. Zubricki said that everyone at the monthly update had discussed ways to deal with traffic delays that will occur next year when the reconstruction process begins in earnest. Detours via Pickering Street and Apple Street,

and especially the use of night work were considered. The contractor is not obligated to utilize night work which costs the contractor more money and the Selectmen asked Mr. Zubricki to find out if Senator Tarr could perhaps influence the contractor and/or MassDOT to consider using it.

Northern Conomo Point Planning Final Report: Mr. Zubricki said that the final draft from Taintor & Associates has been posted on the website for review and he has agreed to provide comments to Taintor by this Wednesday. The Selectmen had reviewed Mr. Zubricki's initial comments on the report and had no further comments themselves. Mark Lynch of the Conomo Point Planning Committee said he would get comments to Taintor by Wednesday. The Selectmen reviewed the invoice that was submitted by Taintor for the balance of their contract money and a motion was made, seconded, and unanimously Voted to approve payment of this invoice.

Sidewalk Improvements - Western Avenue and Martin Street: Selectman O'Donnell reported on a forum that she had attended regarding two proposed sidewalk projects to be funded with Chapter 90 funds. There was no feedback for the first project that proposes to install a sidewalk along Western Avenue between the entrances to County Road. On the second proposal, which consists of improving the sidewalk on Martin Street between Main Street and Pickering Street, residents voiced concerns about harming the trees that are currently growing in that area. The Selectmen were in favor of rebuilding the sidewalk as planned and purchasing new trees, similar in size to the old ones, to be planted, with permission from the Westons, on the Weston property at the corner of Pickering Street. The new trees may be purchased with donations.

Shellfish Regulations: The Selectmen reviewed a *letter from an Essex resident* and commercial clammer regarding perceived inequities in the Essex Shellfishing Regulations. Since the Selectmen have not received comments from anyone else on this matter and since Town Counsel had articulated his reasoning, they decided to take no further action at this time.

Antiques Store License: Mr. Zubricki reviewed a *letter from an alleged antiques store owner* stating that he is not conducting business at the address on Martin Street, but was using that address as a warehouse. After some discussion, the Selectmen asked Mr. Zubricki to ask Mr. Martin to remove all signs stating hours of business and all open or closed signs. No items may be displayed outside the building at any time. They also asked Mr. Zubricki to ask the police to monitor the building to make sure that a business is not being conducted at the site. The Town may issue a fine of \$50.00 for each infraction. The cost of an annual antiques license is \$50.00, but Mr. Martin said he is not interested in applying for one.

Entertainment License: Mr. Zubricki reported that the restaurant that had a sign out advertising entertainment has removed that sign, perhaps as a result of the certified letter that was sent recently explaining that an entertainment license is needed for live or recorded music. No further action was contemplated by the Selectmen.

Conservation Land: Mr. Zubricki stated that a complaint had been received regarding a contractor parking his equipment on a piece of land on Cogswell Court that was conservation land. Upon investigation, it was determined that the land appears to belong to a private land trust and not the Town of Essex. Mr. Zubricki has contacted the sole surviving member of the trust, who has said that the trust doesn't exist anymore, but that she is still the rightful owner of the property. She has expressed an interest in donating the property to the Town for house lots and said that she will be contacting a member of the Town Building Committee to discuss the matter with him. Mr. Zubricki said that before any action is taken, the Town would have to verify that the trust no longer legally exists and that she is the rightful owner of the property. The Selectmen were not in favor of incurring legal expense regarding this matter.

Seaport Bond Bill Funding: Mr. Zubricki reported that funding for the feasibility study for the proposed downtown boardwalk will not be available until FY12 and he is still waiting for the package from the Seaport Bond Council regarding the procedures to follow now that the Town has been awarded the grant.

Finance Committee Chair Jeffrey Soulard joined the meeting.

Draft Special Town Meeting Motions: Article 1 on the Special Town Meeting Warrant requests a sum of \$50,000 for a feasibility study to test proposed solutions to the Town's shortage of adequate space for the Fire and Police Departments, the Town Offices, and the Library. Jeff Soulard reported that the Finance Committee will not be supporting this request at Town Meeting. He said that the FinCom will be asking for an over-ride this year and there is no guarantee that it will be voted. If it is not, the Town will need to have reserves to help with funding for schools, etc. The FinCom recognizes the importance of the study and it is on their priority list, but they are not in favor of funding it at this time. Mr. Zubricki said that he will verify whether the Town can request an extension from the firm that was awarded the feasibility contract.

Town Counsel Gregg Corbo joined the meeting and the Selectmen said they would like to discuss the article requesting special legislation for exemption from Chapter 30b of the Massachusetts General Laws in regards to Conomo Point. Chairman Randall has requested that Senator Bruce Tarr be present at the Special Town Meeting to talk about the need for Chapter 30b exemption and the Town Moderator has asked that Senator Tarr also describe the special legislation process and that Town Counsel talk about the legal process involved. Senator Tarr is also working on coordinating a meeting with the Department of Environmental Protection. Mr. Zubricki said that he had a conversation with Mr. Ferris of the DEP recently and that Mr. Ferris is agreeable to having further discussions. Mr. Ferris said that Essex has fulfilled all the requirements set by the DEP to date and that Essex has solved 95% of the Town's wastewater problem. The remaining 5% is attributed to Conomo Point. Mr. Ferris said that there is new technology available now that may be helpful in solving the Conomo Point wastewater problems. Mr. Lynch asked Mr. Zubricki to inform the tenants at Conomo Point about the technology. The

tenants are considering hiring a firm to perform a waste water study of the area. Mr. Zubricki advised that the tenants should wait for the Town to meet with the DEP before the study is commissioned in order to capitalize on the suggestions from the DEP and include points that are important to the DEP.

Jeff Soulard said that the Finance Committee still has questions concerning the future of Conomo Point and the actual impact to the Town financially depending on which solution the Town chooses to pursue. A discussion followed concerning how to arrive at fair market values for the rental properties that would be acceptable to all parties and the use of deed restrictions to maintain seasonality.

Mr. Zubricki reviewed adjustments to the time-line for the conversion of Conomo Point including petitioning the legislature for 30b relief in November, receiving relief by special legislature from 30b by early May, and the addition of filing a definitive sub-division plan.

Jeff Soulard and Mark Lynch left the meeting.

Board of Public Works members Paul Rullo and Brian Feener and Superintendent Paul Goodwin joined the Selectmen to discuss the Town's snow and ice policy. Mr. Zubricki reviewed a *recent communication from Kopelman and Paige* concerning liability for removing snow and ice from public buildings. After some discussion, it was agreed that the Town will continue with a part-time person to be responsible for removing snow and ice from the Senior Center and the Town Hall, with the provision that if that does not prove satisfactory, the Town may have to hire a contractor. The Fire Department takes care of snow removal from the Fire Station and the DPW handles the Water Filtration Plant and the DPW Barn.

Mr. Goodwin, Mr. Rullo, and Mr. Feener left the meeting.

At 9:05 p.m., citing the need to discuss the value of real property in the Symmes case and at Conomo Point, pending litigation on the Gloucester Waste Water case, the Records Breach case, and the Foley/Smith case, and collective bargaining with AFSCME, the Teamsters, and the EPBA, the Chairman entertained a motion to move to Executive Session. He stated that discussing these matters in Open Session would have a detrimental effect on the negotiating, litigating, and bargaining positions. Chairman Randall invited Town Counsel Gregg Corbo and the Town Administrator to attend the Executive Session and said that the Board would be returning to Open Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 10:17 p.m. Town Counsel had previously left the meeting.

The Selectmen were reminded that there will be a Special Town Meeting, beginning at 7:30 p.m., at the Essex Elementary School on Monday, November 15, 2010. Prior to that the Selectmen will be meeting at 6:30 p.m. in the Teacher's Lounge.

Mr. Zubricki said that he would like to discuss how much money should be requested in the article on the Special Town Meeting Warrant to augment this year's legal budget. After some discussion and evaluation of the cases that are still pending, the Selectmen were in agreement that \$85,000 should be requested.

Mr. Zubricki resumed his review of the *draft articles* that will be voted at the coming Special Town Meeting on November 15th. Mr. Zubricki said that in addition to not recommending the article funding a town building feasibility study, the Finance Committee is also not recommending the article for a "reverse 911" contractor, the article for a new police cruiser, the article to add a sum of money to the DPW's grounds maintenance and expense budgets, and the article funding a fishing dock at Centennial Grove.

Mr. Zubricki reported that the owners of The Farm Restaurant had been notified of an outstanding personal property tax bill from a previous owner of the restaurant and have refused to pay it. The Selectmen were not inclined to incur legal expense in pursuing the matter.

Mr. Zubricki said that Ed Perkins has contacted him again regarding the seawall that MassDOT is rebuilding. Mr. Perkins is concerned about the placement of rip-rap and has said that he may report MassHighway to the Army Corps of Engineers if a solution is not found. The Selectmen said that they would support Mr. Perkins if he would like additional help from them.

Mr. Zubricki said that the Town Administrator of Manchester is having a meeting next Tuesday to discuss health care and the possibility of switching to GIC. Mr. Zubricki will be unable to attend, but FinCom Chair Soulard may be there or send a representative and the Selectmen are invited.

Mr. Zubricki reminded the Selectmen that the Planning Board would like them to attend their November 17th meeting to discuss going forward with preliminary sub-division plans for Conomo Point before May and will then discuss the definitive plan as soon as the zoning bylaw amendment has been approved by the Town and the State. The Selectmen would like more information on the discussion in order to be prepared for the meeting. Chairman Randall said that he would ask Chair Kim Drake for more information on what the Planning Board would like to discuss.

There being no further business before the Selectmen, a motion was made, seconded, and unanimously Voted to adjourn the meeting at 10:40 p.m.

Documents used during this meeting:

*Contract and scope of services agreement with the Massachusetts Cultural
Council
Recommendation from Peggy Duff
Letter from an Essex resident
Letter from an antiques store owner
Recent communication from Kopelman and Paige
Draft articles*

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell