

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

**December 5, 2011**

Present: Chairman Jeffrey D. Jones, Selectman Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, and Selectmen's Assistant Pamela J. Witham.

Also Present: Town Assessors Richard Cairns and Barry Ewing.

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. No one offered any comment.

The Chairman entertained a motion to open a Public Hearing to adopt a Residential Factor for the Town. The motion was moved, seconded, and unanimously voted. The Chairman asked Head Assessor Richard Cairns to present an opening statement and Mr. Cairns explained the reasons for adopting a residential factor and how it works. Mr. Cairns said that the Board of Assessors is recommending the adoption of a residential factor of 1 (one), a single tax rate. The Chairman asked if anyone else wished to comment and no one did. A motion was made, seconded, and unanimously voted to close the hearing. Mr. Cairns reported that the Assessors have to wait for the Department of Revenue to approve the Town's assessed values before the tax rate can be set. The values were sent to the DOR two weeks ago and he expects approval within the next week. A motion was made, seconded, and unanimously voted to adopt a residential factor of 1 (one). A second motion was made, seconded, and unanimously voted to authorize an electronic sign-off on the levy limit when the final information becomes available. Mr. Cairns and Mr. Ewing thanked the Selectmen and left the meeting.

John Amirault and Mary Ellen Drew, leaseholders at Conomo Point, joined the meeting.

Mr. Zubricki began his presentation of the Town Administrator's Report for the period November 26, 2011 through December 2, 2011:

Route 133 Project Wrap Up: Mr. Zubricki announced that both he and Selectman O'Donnell will be meeting with MassDOT staff tomorrow to review the shoulder width issue for the Route 133 Reconstruction Project. Chairman Jones and Selectman Gould-Coviello were in favor of changing the traffic lines between the Village Restaurant and the causeway bridge and decreasing the pocket park boundary, if necessary, to create a wider area for parking on the Village Restaurant side of Main Street. The Board authorized Selectman O'Donnell to approve all changes necessary to achieve the desired result. Selectman Gould-Coviello asked Mr. Zubricki to ascertain that the sidewalk in front of the Catholic Church was ADA compliant for handicap access. Mr. Zubricki said that the Post Office owner will be repairing the Post Office parking lot to correct a drainage problem.

Planning Board Decision Regarding Southern Subdivision: The Planning Board will be deciding on their recommendation to approve or disapprove the plan to subdivide southern Conomo Point on Wednesday. Chairman Jones and a representative from Horsley Witten will be at their meeting to answer any questions that may come up during the decision process. The plan is expected to be approved with certain conditions.

Conomo Point Forum: An informational forum regarding Conomo Point is being planned for Tuesday, January 17<sup>th</sup>, 2012, in the cafetorium at the Essex Elementary School. The Selectmen intend to discuss their position on the future use of Conomo Point, the calendar of steps to transition from the present use to a future use, and their ideas on public access planning. The Selectmen agreed that they would like to send out an informational flyer to be mailed with the tax bills at the end of December. Selectman Gould-Coviello said she would work with Mr. Zubricki after receiving input from the Conomo Point Planning Committee to draft the flyer. Mr. Zubricki will share the draft flyer with the Board members to incorporate comments.

Conomo Point Planning Committee Chair Mark Lynch joined the meeting and the Selectmen reviewed their discussion regarding Conomo Point.

Contract for Development of Northern Zoning and Subdivision: Mr. Zubricki reported that the Horsley Witten Group has agreed to a contract to develop a plan for subdivision and zoning of northern Conomo Point. Task 1 of the contract will be a plan of existing conditions. The remaining tasks will be more completely defined in the future. The total contract price is for \$59,800 and \$21,000 of the contract price is allocated towards Task 1. A motion was made, seconded, and unanimously voted to approve and sign the ***contract with the Horsley Witten Group*** in the total amount of \$59,800.

The Selectmen will meet with the Conomo Point Planning Committee at the Senior Center on Tuesday, December 6, 2011, at 7:30 p.m.

Mark Lynch left the meeting.

Fiscal Year 2013 School District Budget Discussion: Mr. Zubricki said that he had attended an initial school budget meeting with school officials, Selectman Gould-Coviello, and Finance Committee Chair Jeff Soulard. The Selectmen are posted to attend the presentation of the tentative school budget that is being planned for Wednesday, December 14<sup>th</sup>, 2011 in the MERMHS auditorium starting at 7:00 p.m. and there will also be a public forum to discuss the budget at the Essex Elementary School on January 24, 2012.

John Amirault and Mary Ellen Drew left the meeting.

Revised Draft of FY13 Capital Planning Budget Update: Mr. Zubricki reviewed the revisions that he had made to the draft of the ***FY13 Capital Budget***. He will revise further for the next meeting.

Mr. Zubricki requested permission to paint his office and said that he would personally buy the paint and supplies needed, chose the color, and provide the labor on his own time. A motion was made, seconded, and unanimously voted to grant permission to paint Mr. Zubricki's office.

Board of Public Works members Paul Rullo, Scott DeWitt, and Brian Feener, and Superintendent Paul Goodwin joined the Selectmen to discuss renewal of the Town's solid waste contract. Covanta has offered a 10-year contract at a very reasonable rate that would go into effect at the end of the current contract. The BPW would like to ask to increase the fees for the transfer station stickers and they are thinking about only opening the transfer station three days a week instead of four. A motion was made, seconded, and unanimously voted to authorize Mr. Zubricki and Mr. Goodwin to work towards a contract agreement with Covanta.

Superintendent Paul Goodwin reported that he has almost reached agreement on a contract to provide new accounting software for the Water Plant. A representative from the software firm will be at the Water Plant tomorrow to review the features of the new software with the Town Accountant and the Water Department Clerk.

The BPW members and Mr. Goodwin left the meeting.

Revision of Training Requirements, Alcoholic Beverage Licensing: Mr. Zubricki reviewed the draft revisions he had made to the training requirement for alcoholic beverage licensing, based on suggestions from the Selectmen. The revisions, if approved, would apply to next year's renewal licensing and Mr. Zubricki will bring those to the Board for a vote at the next meeting.

Conomo Point Parking Signage: Mr. Zubricki exhibited the revised *parking signs for Conomo Point*. A motion was made, seconded, and unanimously voted to approve the revised parking sign designs and Mr. Zubricki said that he would place the order for the new signs.

In other business, a motion was made, seconded, and unanimously voted to approve and sign the weekly warrant in the amount of \$199,931.72.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the November 28<sup>th</sup>, 2011, Selectmen's Open Meeting and the November 28<sup>th</sup>, 2011, Selectmen's Executive Session.

A motion was made, seconded, and voted (with Selectman Gould-Coviello abstaining) to approve the request for renewal of antiques licenses for

- Robert Coviello, Robert C. Coviello Antiques at 155 Main Street,
- Robert Coviello, Main Street Antiques at 44 Main Street.

A motion was made, seconded, and unanimously voted to approve the following Licenses:

All Alcohol Restaurant License Renewal:

- Allen W. Matthews, Manager, Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille at 63 Eastern Avenue

- Thomas L. Guertner, Manager, Towne Landing Inc., d/b/a Periwinkles at 74 Main Street
- Stephen B. Woodman, Manager, Woodman's Incorporated, d/b/a Lobster Pool at 119 Main Street
- Stephen B. Woodman, Manager, Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub at 125 Main Street
- Joyce I. Wood, Manager, The Red Barrel, Inc. at 171 Eastern Avenue

**All Alcohol Package Store License Renewal:**

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

**Antiques License Renewal:**

- Channing Howard, Howard's Visual Merchandise at 165 Eastern Avenue
- Edwin M. & Laura B. Howard, Howard's Flying Dragon Antiques at 136 Main Street
- Andrew Spindler Roesle, Andrew Spindler Antiques at 163 Main Street
- Dana Guarnera, Ro-Dan Antiques at 69 Main Street
- Michael Bider, Bider's Antiques, Home, Camp & Cottage at 67 Main Street
- Vincent W. Caravella, The Scrapbook at 34 Main Street
- James P. Lower, New England Joinery at 85 Southern Avenue

**Auction Permit:**

- Michael March, Blackwood March Antiques, for use on Tuesday, January 3, 2012, between the hours of 4:00 and 11:00 p.m. within the confines of 125 Main Street.

**Common Victualler's License Renewal:**

- Allen W. Matthews, Manager, Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille at 63 Eastern Avenue
- Lisa Norris, Manager, Blue Marlin, Inc., d/b/a Marlin Market at 63 Eastern Avenue
- Thomas L. Guertner, Manager, Towne Landing Inc., d/b/a Periwinkles at 74 Main Street
- Stephen B. Woodman, Manager, Woodman's Incorporated, d/b/a Lobster Pool at 119 Main Street
- Stephen B. Woodman, Manager, Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub at 125 Main Street
- Peter A. Panagoplos, Manager, Chanty, Inc., d/b/a Richdale at 156 Main Street
- Amy Ahearn, Manager, Down River Ice Cream Corporation at 241 John Wise Avenue.
- Joyce I. Wood, Manager, The Red Barrel, Inc. at 171 Eastern Avenue

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

Sunday Entertainment License Renewal:

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

Weekday Entertainment License Renewal:

- Allen W. Matthews, Manager, Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille at 63 Eastern Avenue
- Thomas L. Guertner, Manager, Towne Landing Inc., d/b/a Periwinkles at 74 Main Street
- Stephen B. Woodman, Manager, Woodman's Incorporated, d/b/a Lobster Pool at 119 Main Street
- Stephen B. Woodman, Manager, Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub at 125 Main Street
- Joyce I. Wood, Manager, The Red Barrel, Inc. at 171 Eastern Avenue

Wine and Malt Package Store License Renewal:

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

A motion was made, seconded, and unanimously voted to approve an ***additional contract with Patriot Properties, Inc.*** in the amount of \$3,600.00.

Mr. Zubricki said that Charlene Fryou had sent a fax copy of her signed bridge lease on November 30<sup>th</sup> and the original had arrived in the mail afterwards. A motion was made, seconded, and unanimously voted to extend the deadline for the submission of this lease.

The Selectmen reviewed a letter from Mary Ellen Drew and a motion was made, seconded, and unanimously voted to grant an extension until December 15, 2011 to Mary Ellen Drew for submitting her bridge lease.

Mr. Zubricki reported that Cynthia Carco Van Hamersveld had been in Holland and has asked for an extension to sign her bridge lease. A motion was made, seconded, and unanimously voted to extend the submittal deadline until December 15, 2011 for Cynthia Carco Van Hamersveld.

Mr. Zubricki reported that he has been unable to reach Kathleen Simpson or Mr. and Mrs. Lucey regarding their decision on whether or not they are signing their bridge leases. He said that out of 123 leases, only 11 have said they are not signing bridge leases to date.

Selectman Gould-Coviello said that the Board had received a written notice of an intra-family assignment of the leasehold for 136 Conomo Point Road (Map 24, Lot 38) for the addition of Samuel A. Cushing, the son of Sarah R. Cushing, to the leasehold. Because Sarah R. Cushing is

a tenant at will, Selectman Gould-Coviello entertained a motion that the Selectmen acknowledge said assignment with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Sarah R. Cushing; that the Commissioners consider this change as falling under Paragraph 7 of the standard Conomo Point lease that expires December 31, 2011 even though the leaseholder is a tenant at will and that the leaseholders, as assigned, shall defend, hold harmless, and indemnify the Commissioners from any person or party challenging the validity of the assignment; and also, that this acknowledgement does not extend the tenant at will relationship beyond the date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

Selectman Gould-Coviello said that the Board had also received a written notice of an intra-family assignment of the leasehold for 163 Conomo Point Road (Map 24, Lot 13) for the addition of Sarah R. Cushing, the daughter of Margaret E. Ridge, to the leasehold; for the removal of Charles K. Ridge (deceased) and Margaret E. Ridge from the leasehold; and the correction of a name of one of the leaseholders. Because Margaret E. Ridge and James B.L. Lane are tenants at will, Selectman Gould-Coviello entertained a motion that the Selectmen acknowledge said assignments with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Charles K. Ridge, Margaret E. Ridge, or James B.L. Lane (otherwise known in the original leasehold as F. James Lane); that the Commissioners consider these changes as falling under Paragraph 7 of the standard Conomo Point lease that expires December 31, 2011 even though the leaseholders are tenants at will and that the leaseholders, as assigned, shall defend, hold harmless, and indemnify the Commissioners from any person or party challenging the validity of the assignment; and also, that this acknowledgement does not extend the tenant at will relationship beyond the date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

The Chairman said that the Board had received a written notice of an intra-family assignment of the leasehold for 40 Robbins Island Road, Map 19, Lot 70, for the addition of Dana Pratt, Andrew Pratt, and Jonathan Pratt, sons of Judson and Perry Pratt, to the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, the Chairman entertained a motion that the Selectmen acknowledge said assignments with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Judson and Perry Pratt and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

Selectman O'Donnell said that the Board has received a written notice of an intra-family assignment of the leasehold for 23 Middle Road, Map 24, Lot 28, for the removal of Phyllis G. Smith, the deceased wife of Clinton B. Smith, Jr. from the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, Selectman O'Donnell entertained a motion that the Selectmen

acknowledge said assignment with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Phyllis G. Smith, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

Chairman Jones said that the Board had received a written notice of an intra-family assignment of the leasehold for 111 Conomo Point Road, Map 19, Lot 92, for the addition of Joanne Smith and Jolinda Smith, the wife and daughter of Kirk W. Smith, to the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, the Chairman entertained a motion that the Selectmen acknowledge said assignments with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Kirk W. Smith, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

Selectman O'Donnell said that the Board has received a written notice of an intra-family assignment of the leasehold for 94 Conomo Point Road, Map 19, Lot 47, for the removal of Helen R. Kelley, the deceased wife of Paul T. Kelley from the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, Selectman O'Donnell entertained a motion that the Selectmen acknowledge said assignment with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Helen R. Kelley, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

Selectman O'Donnell said that the Board has received a written notice of an intra-family assignment of the leasehold for 6 Robbins Island Road, Map 19, Lot 59, for the removal of Robert A. Schuiteman, the deceased father of Laura L. Collins from the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, Selectman O'Donnell entertained a motion that the Selectmen acknowledge said assignment with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Robert A. Schuiteman, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

The Chairman said that the Board had received a written notice of an intra-family assignment of the leasehold for 29 Middle Road, Map 24, Lot 4, for the removal of James C. Jones, Janet W. Jones, and Sarah Jones, the father, mother, and sister of Beth Jones Moginot, from the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, the Chairman entertained a motion, contingent upon written verification from the three parties in question that each party intends to be removed

from the lease, that the Selectmen acknowledge said assignments with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by James C. Jones, Janet W. Jones, and Sarah Jones, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

Selectman Gould-Coviello said that the Board is aware of an intra-family leaseholder change for the leasehold for 5 Cogswell Road, Map 19, Lot 49, for the removal of Wilhelm Appeltofft, the deceased husband of Jean A. Appeltofft from the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, Selectman Gould-Coviello entertained a motion that the Selectmen acknowledge said change with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Wilhelm Appeltofft, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

The Chairman said that the Board had received a written notice of an intra-family assignment of the leasehold for 100 Conomo Point Road, Map 19, Lot 57, for the removal of Patricia C. Dolph, the mother of Mary Jane Given, Patricia Fallon and Sarah Mahan, from the lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, the Chairman entertained a motion that the Selectmen acknowledge said assignment with the disclaimer that this acknowledgement is not intended to convey or imply any right, title or interest in the subject property, or any portion thereof, that was not already held by Patricia C. Dolph, and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was moved, seconded, and unanimously voted.

At 8:55 p.m., citing the need to discuss the leasing of real property at Conomo Point, the Chairman entertained a motion to move to Executive Session. He stated that discussion of this matter in Open Session would be detrimental to the Town's negotiating strategy. He invited Town Administrator Brendhan Zubricki to attend the Executive Session and said that the Board would be returning to Open Session. The motion was moved, seconded, and following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 9:07 p.m.

A motion was made, seconded, and unanimously voted to offer a bridge lease for the property at 5 Beach Circle (Map 19, Lot 100) to the current leaseholders, Kristine and John True, contingent upon Mr. and Mrs. True signing a side agreement for cleanup of the property and removal of a greenhouse from land owned by Steve Kelley. Both the lease and the side-agreement have a signing deadline of December 15, 2011 and are required to be executed simultaneously. The bridge lease contains a special reference to the side agreement.



The Selectmen were reminded that the next Board of Selectmen's meeting will take place on Monday, December 19<sup>th</sup>, 2011, starting at 6:30 p.m. in the T.O.H.P. Burnham Library on Martin Street.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting.

Documents used during this meeting include the following:

*Contract with the Horsley Witten Group*  
*FY13 Capital Budget*  
*Parking Signs for Conomo Point*  
*Additional Contract with Patriot Properties, Inc.*

Prepared by: \_\_\_\_\_  
Pamela J. Witham

Attested by: \_\_\_\_\_  
Lisa J. O'Donnell