

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

**December 19, 2011**

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

The Chairman called the meeting to order at 6:30 p.m. in the T.O.H.P. Burnham Library and announced that the Board would hear Public Comment. No one from the public was present to offer any comment.

In other business, a motion was made, seconded, and unanimously voted to approve and sign the weekly warrant in the amount of \$95,969.44.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the December 5<sup>th</sup>, 2011, Selectmen's Open Meeting and the December 5<sup>th</sup>, 2011, Selectmen's Executive Session.

A motion was made, seconded, and unanimously voted to open the warrant for the Annual Town Meeting to be held on May 7, 2012, and for the Selectmen's Assistant to release her typical call for Warrant articles and departmental reports, with associated deadlines.

The Chairman announced that the quarterly Department Head meeting will be held on January 30, 2012.

The Selectmen reviewed the 2012 Renewal Certification for the Alcoholic Beverage Control Commission. It was noted that Lewis Oyster House of Essex had failed to submit their renewal package by the November 30, 2011 deadline (received December 2, 2011). The ABCC has stipulated that anyone failing to submit their package by the deadline must begin the application process again as if applying for a new license. Efforts to contact someone at the restaurant, even an answering machine, have been unsuccessful. A motion was made, seconded, and unanimously voted to approve and sign the renewal package. A second motion was made, seconded, and unanimously voted to approve and sign the renewal for Lewis' restaurant outside of a Selectmen's meeting, if the ABCC decides to allow them to renew their license without going through the initial application process. The manager for Lewis' will also be required to take alcohol training as stipulated in the Town's alcohol regulations.

A motion was made, seconded, and unanimously voted to certify to the ABCC that the Town's temporary increased resident population is estimated to be 3,714 as of July 10, 2012.

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

**Antiques License Renewals:**

- A.P.H. Waller, Joshua's Corner at 2 Southern Avenue
- David Neligan, David Neligan Antiques at 38 Main Street
- Donna-Lee Young Rubin, Ruby Manor Antiques & Fine Arts at 144 Main Street
- Nicholas & Barbara M. Zakas, Zakas Antiques at 149 Western Avenue
- Ellen Neily, Ellen Neily Antiques at 157 Main Street
- Daniel W. Horne, Antiques and Oriental Goods at 144 Main Street

**Class II License Renewals:**

- John Heath, Essex Falls Auto Body at 1 Moses Lane
- Paul Russell, Gullwing Service Co., Inc., d/b/a Paul Russell and Company at 106 Western Avenue
- Steven Pascucci, Cape Ann Auto Body, Inc. at 19 Grove Street
- Stanley E. Collinson, III, Wheelworks, Inc., d/b/a Gaybrook Garage at 152 Western Avenue
- Charles F. Coles, Jr. & Mark Gallagher, Dynamic Auto Brokers at 14 Laurel Lane
- Eric Holdsworth, Portside Auto at 166 Eastern Avenue

**Common Victualler's License Renewal:**

- Stephen Gersh, Manager, Essex Conference & Recreational Center at 1 Conomo Point Road
- Clifford Amero, Manager, Essex River Cruises & Charters at 35 Dodge Street
- Nelson H. Emmons, Manager, Village Market at 1 Martin Street

**Innholder's License Renewal:**

- Stephen Gersh, Manager, Essex Conference & Recreational Center at 1 Conomo Point Road

The Selectmen were reminded that the next Board of Selectmen's meeting will take place on Monday, January 9<sup>th</sup>, 2012, at 7:00 p.m. in the T.O.H.P. Burnham Library on Martin Street.

At 6:37 p.m., citing the need to discuss the lease of real property at Conomo Point, the Chairman entertained a motion to move to Executive Session. He stated that discussing this matter in Open Session would be detrimental to the Town's negotiating position and invited the Town Administrator and Town Counsel to attend the session. The Chairman said that the Selectmen would be returning to Open Session. The motion was moved, seconded, and by unanimous Roll Call Vote, the Board moved to Executive Session upstairs in Mr. Zubricki's office.

The Board returned to Open Session in the Library at 7:25 p.m. and Mr. Zubricki began his presentation of his Town Administrator's Report for the period December 3<sup>rd</sup>, 2011 through December 16<sup>th</sup>, 2011, regarding the following:

Second Summer Camp Changing Facility: Mr. Zubricki reminded the Selectmen that the YMCA has said that they would like to have a second changing facility at Centennial Grove to use

during summer camp since the existing facility is too small to accommodate all the children. The YMCA is willing to provide the labor, but the cost of materials is estimated at between \$2,500 and \$3,000. A motion was made, seconded, and unanimously voted to pay for the materials.

Long Term Planning Committee Review of Downtown Planning Report: Mr. Zubricki said that the LTTPC had no comments to make regarding the Downtown Planning Report. The Selectmen said that they would review the suggested signage in the report in order to advise local businesses who would like to advertise their sponsorship of local pocket parks by placing signs at the parks.

Town Administrator's Performance Review and Goal Setting: Mr. Zubricki reminded the Selectmen that it is time again for his annual review. The Selectmen will fill out rating sheets based on last year's goals and forward them to the Chairman, who will meet with Mr. Zubricki for the review. Mr. Zubricki had also listed his recommended goals for calendar year 2012 in his report for the Board's consideration.

Selectman Gould-Coviello said that she would handle the Town's Treasurer/Tax Collector's performance review.

Southern Conomo Point Definitive Subdivision Plan Approval Modification: Mr. Zubricki reported that Town Counsel has recommended that the Selectmen officially petition the Planning Board to amend their recent approval of a subdivision plan for southern Conomo Point. A new public hearing has already been scheduled for 8:00 p.m. on January 4, 2012, to discuss the matter. A motion was made, seconded, and unanimously voted to approve the *letter to the Planning Board* requesting that they amend certain aspects of the southern Conomo Point subdivision plan, primarily the list of properties that had been cited as having a year-round privilege in the Seasonal Cottage Sub-District.

Northern Conomo Point Subdivision and Zoning Project: Mr. Zubricki said that the Conomo Point Planning Committee had met recently to discuss the planning for subdivision and zoning of northern Conomo Point. The CPPC is in favor of Horsley Witten performing Task 1, but has said that they may want to rewrite some of the other tasks in the contract to align the work with present waterfront access planning goals. It is possible that this will require additional funding for the present contract with Horsley Witten. It is also possible that the CPPC will recommend a separate access planning scope beyond what the Horsley Witten project will provide.

Town Hall Steam Boiler Failure: Mr. Zubricki said that the larger of the two boilers that provide heat for the Town Hall is failing. Foxhill has tried to repair it a number of times, but the leak continues to get bigger. Temporary sealants are presently keeping the unit functioning. They have been unable to find spare parts for the boiler as well. A motion was made, seconded, and unanimously voted to authorize Mr. Zubricki to solicit the services of a mechanical engineer well versed in public procurement who can assess the existing conditions and make recommendations on either repairs to the present system or on a replacement system. Mr. Zubricki will also install

a warning light that can be seen from outside the Town Hall by the Police that will indicate if or when temperatures inside fall below a certain level.

Draft Fiscal Year 2013 Selectmen's Budget Request Package, Revised Draft of Selectmen's Fiscal Year 2013 Capital Plan Update, and Draft List of Topics for Annual Town Meeting Warrant: Mr. Zubricki briefly presented an over-view of the proposed items for the *Selectmen's 2013 budget*, the *2013 Capital Plan*, and possible *topics for the coming Annual Town Meeting*. The Board will discuss these documents in depth at their next meeting.

Robert Doane, William Liberti, Dan Mayer, Lester Burbridge, and Ed Richter joined the meeting.

Chairman Jones said that he would entertain a motion to approve a written request for the transfer of the leasehold for the property at 12 Town Farm Road (Map 19, Lot 40) from Lester Burbridge and Jesse Walker to Daniel Mayer with the caveat that the lease expires by its term on December 31, 2011, and that nothing in this vote shall be construed as an extension of said lease; and further, that nothing in this approval is intended to convey or imply any right, title or interest in the subject property, or any portion thereof that was not already held by Jesse Walker and Lester Burbridge. The motion was moved, seconded, and unanimously voted. Mr. Mayer signed a bridge lease for 12 Town Farm Road. Mr. Mayer and Mr. Burbridge thanked the Selectmen and left the meeting.

Chairman Jones also said that he would entertain a motion to approve a written request for the transfer of the leasehold for 12 Robbins Island Road (Map 19, Lot 62) from Carol and John Lucey, Jr. to William Liberti with the caveat that the lease expires by its term on December 31, 2011, and that nothing in this vote shall be construed as an extension of said lease; and further, that nothing in this approval is intended to convey or imply any right, title or interest in the subject property, or any portion thereof that was not already held by Carol and John Lucey, Jr. The motion was moved, seconded and unanimously voted. Mr. Liberti signed a bridge lease for 12 Robbins Island Road, thanked the Selectmen, and left the meeting.

Next, the Chairman said that he would entertain a motion to approve a written request for the transfer of the leasehold for the property at 10 Town Farm Road (Map 19, Lot 38) from Edwin F. Richter, Jr., Margaret T. Richter, and Edwin F. Richter III to Robert & Ida Doane with the caveat that the lease expires by its term on December 31, 2011, and that nothing in this vote shall be construed as an extension of said lease; and further, that nothing in this approval is intended to convey or imply any right, title or interest in the subject property, or any portion thereof that was not already held by Edwin F. Richter, Jr., Margaret T. Richter, and Edwin F. Richter III. The motion was moved, seconded, and unanimously voted. Mr. Doane said that he would like to add his three children to the lease for this property and that he would send a letter to that effect to the Selectmen so that a Bridge Lease could be prepared reflecting all of the names on the lease. The Chairman moved that the Board countersign the Bridge Lease for the property at 10 Town Farm Road (Map 19, Lot 38) outside of a Selectmen's meeting, subject to receipt of two signed originals from all lessees before December 31, 2011, and confirmation by the Town

Administrator that the signed originals received have not been altered from their original form, and that any appropriate cover letter from the Selectmen that is recommended by Town Counsel also be signed outside of a Selectmen's meeting. The motion was seconded and unanimously voted. Mr. Doane and Mr. Richter thanked the Selectmen and left the meeting.

In other Conomo Point business, a motion was made, seconded, and unanimously voted to extend the submission deadline and accept a signed bridge lease that was received on December 6, 2011, from Kathleen Simpson.

Selectman Gould-Coviello said that the Board had received a written notice of an intra-family assignment of the leasehold for 28 Cogswell Road (Map 19, Lot 12) for the removal of G. Walter Johnson, the deceased father and husband of Torey and Sara Johnson, 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, she moved 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 G. Walter Johnson and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was seconded, and unanimously voted.

Selectman O'Donnell said that the Board had received a written notice of an intra-family assignment of the leasehold for 171 Conomo Point Road (Map 24, Lot 9) for the removal of Deborah Earl, the wife of Sefton Earl, from lease. Pursuant to Paragraph 7 of the Lease, the Conomo Point Commissioners do not have discretion to approve or deny such assignments. Therefore, she moved 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 Deborah Earl and also that this acknowledgement does not affect the lease expiration date of December 31, 2011. The motion was seconded, and unanimously voted.

Regional School District Tentative Budget: Mr. Zubricki reported that there had not been a quorum of the School Committee present at the recently scheduled public hearing of the proposed school budget. As a result, the hearing will likely have to be rescheduled. The Board asked Mr. Zubricki to follow up with the Superintendent regarding the matter.

Quarterly Report: Mr. Zubricki said that he had prepared this quarter's report to the Department of Environmental Protection. A motion was made, seconded, and unanimously voted to forward the report to the appropriate people.

Modification of Alcoholic Beverage Licensing Regulations: The Selectmen said that they are in agreement and a motion was made, seconded, and unanimously voted to approve the Town's ***revised alcohol regulations***. The requirement for managers to receive annual, in-person training has been relaxed and managers may now get the training online, with in-person training only required every 5 years.

Conomo Point Informational Flyer and Forum: The Selectmen said that they would like to meet with the Finance Committee before their joint participation at the Conomo Point Forum scheduled for January 17, 2012. Mr. Zubricki agreed to contact FinCom Chair Jeff Soulard to set up an appointment.

Mr. Zubricki said that he has been working on a suitable bridge contract with Code Red. A motion was made, seconded, and unanimously voted to authorize the signature of a contract outside of a Selectmen's meeting once Mr. Zubricki, Town Counsel, and Code Red reach an agreement regarding the language in the contract.

Mr. Zubricki reported that the Town's insurance carrier, *MIIA*, *has offered to guarantee* a 0% increase in health insurance for FY2013 and no more than a 2.5% increase for FY2014. A motion was made, seconded, and unanimously voted to accept MIIA's offer.

Mary Ellen Drew, the leaseholder for the property at 13 Town Farm Road joined the Selectmen's meeting. The Chairman said that he would entertain a motion to approve a written request for the transfer of the leasehold for the property at 13 Town Farm Road (Map 19, Lots 41 and 42), from Mary Ellen Drew to Leah Maher with the caveat that the lease expires by its term on December 31, 2011, and that nothing in this vote shall be construed as an extension of said lease; that nothing in this approval is intended to convey or imply any right, title or interest in the subject property, or any portion thereof that was not already held by Mary Ellen Drew; that Ms. Maher may sign and return bridge leases between now and December 31, 2011; that, should said bridge leases be executed, Ms. Maher shall be allowed to sublet the premises to Ms. Mary Ellen Drew; and that any appropriate cover letter from the Selectmen that is recommended by Town Counsel after receiving signed bridge leases be authorized for signature outside of a Selectmen's meeting. The motion was moved, seconded, and unanimously voted. Ms. Drew thanked the Selectmen and left the meeting.

Mr. Zubricki said the Leah Maher has changed her original decision not to sign her bridge lease (Map 24, Lot 45) and has emailed him a copy of the signed lease to be followed by the originals in the mail. She has also asked to be assigned the leasehold for the property currently leased by Mary Ellen Drew (Map 19, Lots 41 and 42)(see above). After some discussion, the Chairman moved that the Board countersign the Bridge Lease for the property at 120 Conomo Point Road (Map 24, Lot 45) outside of a Selectmen's meeting, subject to confirmation by the Town Administrator that the signed emailed copy received has not been altered from its original form and subject to receipt of two signed originals from the lessee before December 31, 2011, and that any appropriate cover letter from the Selectmen that is recommended by Town Counsel also be signed outside of a Selectmen's meeting. The motion was seconded and unanimously voted.

Mr. Zubricki reviewed with the Selectmen and Town Counsel the proposed cover letters to be sent with the countersigned bridge leases to the leaseholders. Town Counsel left the meeting.

Vanessa Johnson from the Essex County Greenbelt, and members of the Soginese Realty Trust: Peter and Betsy Madsen and John and Sarah Cushing joined the Selectmen's meeting. Ms.

Johnson handed out a *map showing the location of land held by the Soginese Realty Trust* on which the Selectmen had previously granted a *conservation restriction*. The State has asked that the restriction be amended to qualify for certain tax benefits. She said that the Town's Conservation Commission voted to recommend the proposed amendment at their last meeting. Following Ms. Johnson's presentation, a motion was made, seconded and unanimously voted to approve and sign *the amendment*. Ms. Johnson, acting as notary, witnessed the Selectmen's signatures on the documents. She said that she would forward a copy of the completed filing to the Selectmen for their records. Mr. and Mrs. Madsen, Mr. and Mrs. Cushing, and Ms. Johnson left the meeting.

The Board proceeded to make motions, to sign cover letters, and to sign the Bridge Leases as set forth in the **attached** Town Administrator's Recommended Motions and Cover Letter for Conomo Point Bridge Leases, December 19, 2011, as amended, which became known as the "Official Voting Package".

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:15 p.m.

Documents used during this meeting include the following:

*Letter to the Planning Board*  
*Selectmen's 2013 Budget*  
*2013 Capital Plan*  
*Topics for the coming Annual Town Meeting*  
*Revised Alcohol Regulations*  
*MIIA Guarantee*  
*Map showing the location of land held by the Soginese Realty Trust*  
*Conservation Restriction*  
*Conservation Restriction Amendment*

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

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