

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

March 7, 2011

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

Also Present: Keith Woodman; Dean Rossi; Community Preservation Committee members Virginia Boutchie, Wallace Bruce, Diane Polley, Richard Ross, and Kurt Wilhelm; Town Clerk Christina Wright; Finance Committee Chair Jeff Soulard; Conomo Point Leaseholders Mark Osburn and Judd Pratt; Conomo Point Planning Committee Chair Mark Lynch and members John Bediz, Susan Coviello, and Jim Witham; Planning Board member Andrew St. John; Annie Cameron of Pickering Street; and, Kimberly Smith of 138 Conomo Point Road.

At 7:00 p.m., the Chairman called the meeting to order in the T.O.H.P. Burnham Library and announced that the meeting was being recorded and that the Board would hear Public Comment.

Dean Rossi came forward and submitted a *written request* to have the Executive Session minutes for March 22, 2011 released to the public. Chairman Randall said that he would review the minutes in question to see if they were no longer sensitive and let Mr. Rossi know if they could be released. Mr. Rossi thanked the Selectmen and left the meeting.

Keith Woodman came forward and said that he did not have the \$300 application fee for the renewal of his commercial shellfishing license and would like to have a waiver to postpone payment of the fee for 15 days. Subsequently, a motion was made, seconded, and unanimously voted to allow Mr. Woodman to defer payment of the application fee for fifteen days. Mr. Woodman thanked the Selectmen and left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve an expenditure of \$676.89 from the Luther Burnham Fund to Timothy Lane for repair of the upstairs sink at the Town Hall.

A motion was made, seconded, and unanimously voted to approve and sign the weekly warrant in the amount of \$198,372.39.

Selectman O'Donnell said that she would like to make an adjustment to the minutes for the Selectmen's February 28th, 2011 Open Session to insert the word "one" after the word "people" and before the word "who" in the first sentence regarding the discussion with Mr. Knovak. A motion was made, seconded, and unanimously voted to approve and sign the minutes for the February 28th, 2011, Selectmen's Open Meeting as amended by Selectman O'Donnell. A motion was made, seconded, and unanimously voted to approve the February 28th, 2011, Selectmen's Executive Session minutes.

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

One-Day Entertainment License:

- Jane Schwerdtfeger and Tom McMahon, Wedding, for use on Saturday, June 4th, 2011, from 1:00 to 8:00 p.m. within the confines of the Cottage at Centennial Grove.

One-Day Wine and Malt License:

- Jane Schwerdtfeger and Tom McMahon, Wedding, for use on Saturday, June 4th, 2011, from 1:00 to 8:00 p.m. within the confines of the Cottage at Centennial Grove.

Antiques License:

- Daniel W. Horne, d/b/a Antiques and Oriental Goods at 144 Main Street.

At 7:05 p.m., the Chairman asked if there was anyone present from National Grid and no one responded. The Chairman entertained a motion to open a Public Hearing based on a request from National Grid to install an underground conduit on Island Road. The motion was moved, seconded, and unanimously voted. The Chairman asked if anyone wished to speak and Mr. Zubricki read a **letter from John Guerin**, the representative from Barred Rock Realty Trust, an abutter of the site for the proposed conduit. Mr. Guerin said that he was unable to make tonight's meeting, but said that the trust is in favor of the conduit and hopes that the Selectmen will approve it. If the Selectmen do not approve the conduit, Mr. Guerin asked that the hearing be continued to a time when he would be able to attend. The Chairman asked if there were any other comments or questions and there were none. A motion was made, seconded, and unanimously voted to close the hearing. A motion was made, seconded, and unanimously voted to approve the **request for the underground conduit** and the Selectmen signed the papers and were witnessed by Town Clerk Christina Wright. Christina Wright left the meeting.

The Selectmen reviewed a **letter of resignation from Paul Doucette**, Deputy Chief of the Essex Fire Department and asked that a letter of appreciation be prepared for presentation to Mr. Doucette.

A motion was made, seconded, and unanimously voted to approve and sign the application for use of the Centennial Grove Cottage for their wedding and reception by Jane Schwerdtfeger and Tom McMahon on Saturday, June 4th, 2011 as previously approved by this Board at their meeting on September 27, 2010.

The Selectmen reviewed a **letter from John L. O'Brien, Jr.** from the Massachusetts Southern Essex District Registry of Deeds, regarding his attempt to recover Community Preservation fees charged by the Mortgage Electronic Registration System that were supposed to be passed through to cities and towns. He is asking for a letter of support to Attorney General Martha Coakley and is asking her to launch an investigation into the matter and to initiate a lawsuit to recover the CPA funds for the cities and towns. Mr. Zubricki agreed to prepare a letter of support to the Attorney General for the Board's consideration.

The Selectmen reviewed a **letter from the DEP to the Conservation Commission** praising them for saving the DEP thousands of dollars and time during a recent situation regarding the violation and enforcement order at 11 Patriots Landing. Due to the Commission's expert handling of the

situation, the DEP did not have to get involved and the homeowner was saved a considerable amount of money in penalty fines. The Chairman of the Commission then coincidentally entered the room and Chairman Randall thanked the Commission and its' agent for this work.

A motion was made, seconded, and unanimously voted to approve and forward a ***request to the Finance Committee*** from the Department of Public Works for an additional \$20,000 for snow removal for FY2011.

At 7:15 p.m., members of the Community Preservation Committee (Virginia Boutchie, Wallace Bruce, Diane Polley, Richard Ross, and Kurt Wilhelm) came before the Selectmen. The members of the Committee made, seconded, and unanimously voted to open their annual public informational hearing regarding the needs, possibilities, and resources of the Town. There was no public comment or questions and a motion was made, seconded, and unanimously voted to close the hearing. The members reviewed the ***proposed FY2012 budget*** and a motion was made, seconded, and unanimously voted to approve the budget as proposed. Kurt Wilhelm announced that he would be resigning from the Committee after this meeting and that the Historical Commission would appoint another person to serve as representative to the Community Preservation Committee. Mrs. Boutchie asked for volunteers from the Committee to act as Chair of the Committee and no one stepped forward to serve. There being no other business before the Committee, a motion was made, seconded, and unanimously voted to adjourn the meeting at 7:26 p.m. The Selectmen thanked the members of the Committee and Virginia Boutchie, Wallace Bruce, Diane Polley, Richard Ross, and Kurt Wilhelm left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period covering February 26th, 2011 through March 4th, 2011, regarding the following items:

Summer Camp Services Contract: Mr. Zubricki said that the YMCA of Ipswich has signed the contract to provide, manage, and operate a summer youth program at Centennial Grove. A motion was made, seconded, and unanimously voted to sign the contract on behalf of the Town. Mr. Zubricki said that the YMCA would like to call the program Camp Dory and that he will be announcing the summer program on the Town's website and posting links there to more information regarding the program and employment possibilities. The YMCA has agreed to favor employment of Essex residents at the program. They have also asked permission to place a sign on Town land at the corner of Western Avenue and Centennial Grove Road to help direct the public to the camp. A motion was made, seconded, and unanimously voted to approve the placement of the sign.

At 7:30 p.m., Chairman Randall announced that the Board would continue the weekly discussion regarding Conomo Point. Mr. Zubricki began by reviewing the proposed "Conomo Point Articles" on the May 2nd, Annual Town Meeting Warrant. It is anticipated that the ATM will take two nights and that the first night will be devoted to the Conomo Point Articles. Some of those present felt that the market rental rates needed to be better defined in the Article 2 and discussion also included how the rate would be determined. Mr. Zubricki said that he would discuss the matter with Town Counsel and an appraiser.

Annie Cameron said that she would like to see the negotiation of bridge leases at Conomo Point handed over to a sub-committee to be appointed by the Selectmen. After some discussion, Mrs. Cameron said that she would send the Selectmen an email regarding her thoughts on the matter and left the meeting.

Mr. Zubricki continued his review of the Conomo Point Articles and said that Articles 8 and 9, although dealing with Conomo Point, needed to be included with the other financial articles and would likely be addressed on the second night of Town Meeting.

Mr. Zubricki read the *Planning Board's recommendation* regarding Article 1, the proposed Southern Conomo Point Zoning District. Mr. Zubricki said that the Planning Board Chair had asked who would be presenting Article 1 at Town Meeting. It was agreed that BOS Chair Randall, CPPC Chair Lynch, and Planning Board Chair Drake would discuss the matter and decide on the best person to present the article.

Selectman O'Donnell said that the Selectmen have completed three of the four scheduled site visits with landscape architect firms. The next step will be to draft a scope of services and ask the firms to submit a proposal with visuals that can be displayed at Town Meeting.

Mark Lynch said that the Conomo Point Planning Committee will continue to work on their white paper, a statement of their position regarding the proposed future of Conomo Point. Once the paper is finalized, the Committee will turn their attention to drafting a Frequently Asked Questions about Conomo Point document. The Committee will be meeting this coming Thursday.

Chairman Randall thanked everyone for coming and for offering their comments. Jeff Soulard, Mark Osburn, Judd Pratt, Mark Lynch, John Bediz, Jim Witham, and Andrew St. John left the meeting.

Mr. Zubricki resumed his Town Administrator's report.

"Grandfathered Health Plan" Status, PPACA: Mr. Zubricki said that the Town may opt to elect "grandfather status" regarding its health plan which would enable the Town to be eligible for certain options for a period of time which would end on or before 2014. After discussing the advantages for opting or not opting, a motion was made, seconded, and unanimously voted to NOT opt for grandfather status.

Manchester Essex Regional School District Apportionment: Mr. Zubricki said that he has received the figures from the school district regarding the apportionment and that they match his independent calculations.

Proposed Date Extension: Mr. Zubricki reported that he has not heard any response to the letter sent to the DEP regarding the request to extend the deadline stipulated in the Final Judgment.

Chairman Randall asked Mr. Zubricki to ask Town Counsel to press for a timely response from the DEP.

Draft Annual Town Meeting Warrant: Mr. Zubricki continued his review of the proposed *articles for the warrant* based on changes suggested during the last Selectmen's meeting and the provision by the Planning Board of the draft for the Open Space Residential Development Article. The warrant now contains 36 articles and will be finalized and signed at the March 21st Board of Selectmen's meeting.

On another matter, Mr. Zubricki said that he would like to recommend that the Selectmen consider approving a 2% market rate adjustment to the salary of the Selectmen's Assistant for FY2012, in addition to the 1% Cost of Living increase previously voted for non-union employees. Chairman Randall and Selectman Jones acknowledged and thanked the Selectmen's Assistant for doing a great job and a motion was made, seconded, and unanimously voted to approve the addition of the 2% increase in FY2012 for the Selectmen's Assistant.

Mr. Zubricki reported that Chairman Randall had completed his annual review of Mr. Zubricki's performance based on the collected feedback of all the Selectmen, and the Selectmen now needed to decide on his merit increase. Chairman Randall said that Mr. Zubricki has accomplished all of the goals that were set for him this past year. The Selectmen and the Selectmen's Assistant stated that they have continued to serve in their positions due to Mr. Zubricki's capable and even-tempered management and guidance regarding the many, varied issues that come to the Selectmen's office for resolution. A motion was made, seconded, and unanimously voted to approve Mr. Zubricki's merit increase of 3%.

A motion was made, seconded, and unanimously voted to sign an acknowledgment letter of appreciation for Jeremy Harold Pratt for his achievement of the prestigious honor of Eagle Scout. Jeremy Harold Pratt's Eagle Scout Court of Honor will be held on Saturday, April 2, 2011, at 11:00 a.m. at the First Congregational Church of Essex and Selectman O'Donnell agreed to make the presentation.

The Selectmen were reminded that the next Board of Selectmen's meeting will take place on Monday, March 14th, 2011, in the T.O.H.P. Burnham Library on Martin Street, and that the principal item on the agenda will be a public hearing to investigate allegations that certain holders of Essex commercial shellfishing licenses do not reside in Essex.

At 9:40 p.m., citing the need to discuss pending litigation, the lease of real property, and negotiations with non-union personnel, the Chairman entertained a motion to move to Executive Session. He stated that discussing these matters in Open Session would be detrimental to the Town's litigating strategy, detrimental to the Town's lease negotiating strategy, and detrimental to the Town's negotiations with non-union personnel. He said that the Board would be returning to Open Session and invited Mr. Zubricki to attend. Susan Coviello and Kimberly Smith left the meeting. Following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 10:00 p.m. Kimberly Smith rejoined the meeting.

Mr. Zubricki reminded the Selectmen that Town Counsel had sent a letter to the leaseholder of record, Carrie Rafferty, for the property at 153 Conomo Point Road (Map 24, Lot 17), informing her that the Town had received a letter from the new lawyers in charge of her mother's estate, asserting that transfer of the lease for 153 Conomo Point Road was erroneously transferred to Mrs. Rafferty based on false documents. Town Counsel's letter stated that unless the Town received a letter from the estate acknowledging Mrs. Rafferty's right to the property or a court injunction, the Selectmen will vote to revoke the transfer to Mrs. Rafferty on March 7th and transfer the lease back to the estate of Judith Foley. As of today, neither Town Counsel nor the Selectmen's Office have received any communication from Mrs. Rafferty. Mr. Zubricki said that Town Counsel had sent the letter to Mrs. Rafferty by certified mail and has a signed receipt of delivery. Consequently, a motion was made, seconded, and unanimously voted to revoke the Selectmen's transfer of the lease for 153 Conomo Point Road (Map 24, Lot 17) on March 20, 2006, and to return the lease for the property to the Estate of Judith Foley. Ms. Smith thanked the Selectmen for returning the lease for the property to the estate and the Selectmen thanked Ms. Smith. Ms. Smith left the meeting.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:07 p.m.

Documents used during this meeting include the following:

Written Request from Dean Rossi for Release of Executive Minutes
Letter from John Guerin
Request for the Underground Conduit
Letter of Resignation from Paul Doucette
Letter from John L. O'Brien, Jr.
Letter from the DEP to the Conservation Commission
Request to the Finance Committee for \$20,000 for Snow and Ice
Proposed FY2012 Budget for the Community Preservation Committee
Planning Board's Recommendation for the Southern Conomo Point District
Articles for the Warrant

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell