

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

March 14, 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: Officer Rob Gilardi; Officer Michael French; Town Clerk Christina Wright; Town Counsel Gregg Corbo; Conomo Point Planning Committee members Charles Burnham, Susan Coviello, Jim Witham, and Chair Mark Lynch; and various members of the public including Cliff Ageloff, Robert Amero, Attorney David Babson, Attorney John Guerin, Michael Matheson, Corey Matthews, David Earl, Sefton Earl, Anton Bila, Julian Balili, Deborah Maffeo, Dan Doane, Steve Hemeon, Michael Jacobs, Philip Jacobs, Ed Lane, Matt Lane, Philip MacDougall, Steven MacDougall, Rocco Manzi, Timothy Marshall, Shepherd Means, Dean Rossi, Attorney David Smith, Mark Whitman, and Keith Woodman.

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

Michael Matheson of 19A Whipple Woods, Gloucester, came before the Board to express concern that someone had told him that his name was on a list of non-resident people who were allegedly illegally digging clams in Essex that Town Officials were showing to others. Both the Chairman and the Town Administrator acknowledged that letters had been received about non-resident clambers and the Selectmen had scheduled tonight's public hearing to investigate the allegations. Letters had been sent to people on the list regarding the hearing and Mr. Matheson said that he had not received a letter. Mr. Zubricki verified that none of the complaint letters had been released to any party other than the Board of Selectmen.

Attorney John Guerin said that he would like to object to tonight's public hearing as a witch hunt initiated by anonymous letters. Ed Lane agreed with Mr. Guerin. Town Counsel responded that the hearing was in order and the Selectmen have the right to seek additional information or clarification regarding any allegations that may come to them.

Chairman Randall asked Corey Matthews to come forward. Mr. Matthews of 125 Apple Street requested a waiver of the deadline for filing his application for a commercial shellfishing license since he was out of town and missed the deadline. A motion was made, seconded, and unanimously voted to accept Mr. Matthews' license application for consideration pending a successful review as to its contents.

Mark Whitman of 8 Lufkin Street, came forward to also request a waiver of the filing deadline for his commercial shellfishing license application, and a motion was made, seconded, and

unanimously voted to accept Mr. Whitman's license application for consideration pending a successful review as to its contents.

The Selectmen reviewed a letter from John MacDonald, who is away travelling and could not be at tonight's meeting, requesting a waiver of the deadline for filing an application for a commercial shellfishing license. A motion was made, seconded, and unanimously voted to accept Mr. MacDonald's license application for consideration pending a successful review as to its contents.

Chairman Randall entertained a motion to open a public hearing regarding certain Commercial Shellfish Licenses held by persons alleged to be non-residents. The motion was moved, seconded, and unanimously voted. Chairman Randall read a *notice of hearing* which was sent to twenty people informing them that allegations had been received by the Selectmen stating that each of the people did not qualify as Essex residents for the purposes of obtaining a license under the definition contained in the Town's Shellfishing regulations. Mr. Zubricki read the nineteen names that were included on the three letters received by the Selectmen. (One of the original twenty people had voluntarily surrendered his license prior to this meeting.) Chairman Randall asked anyone wishing to speak at this public hearing to stand, raise their right hand, and swear to tell the truth during the course of the hearing. Several people in the room repeated the oath and swore to tell the truth. Town Counsel made an opening statement regarding the procedure to be followed for tonight's hearing.

Mr. Zubricki said that the people would be called in alphabetical order and that the first person to be interviewed would be Robert Amero. Mr. Amero came forward. He stated his name and said he lived at 14 Summit Street in Gloucester. Mr. Zubricki said that two complaints had been received regarding Mr. Amero. Mr. Amero acknowledged that he does live in Gloucester now and that he had not applied for a new shellfishing license. The Chairman asked if anyone wished to speak for or against Mr. Amero. There were no comments.

Mr. Zubricki asked Artan Bila to come forward and said that he had been named in one complaint. Mr. Bila of 23 Story Street came forward with his wife and two children. Mrs. Bila acted as interpreter since Mr. Bila does not speak English very well. Mrs. Bila said that her husband had not filed an application to renew his shellfishing license this year and had no plans to harvest clams under the remainder of his expiring license. Mr. Zubricki said he had no questions to ask.

Julian Balili came before the Selectmen and stated his name and address as 3 Story Acres. Mr. Zubricki said that one complaint had been received regarding Mr. Balili. Mr. Balili presented his excise tax bill showing his address as 3 Story Acres and Debbie Maffeo, the owner of 3 Story Acres, said that Mr. Balili does reside at that address. The Chairman asked if anyone present had any comments for or against Mr. Balili and no one spoke.

Mr. Dan Doane was asked to come forward and he stated that he lived with his parents at 10 Prospect Street. Mr. Doane was named in two complaints and said that he does spend some time

in Ipswich at his girlfriend's. He estimated he stays in Essex 299 days per year. The Chairman asked if anyone present wished to speak for or against Mr. Doane and no one offered any comment.

David Earl was called next and said he now lives at 7 Harry Homans Drive. Mr. Zubricki said that there were two complaints received against Mr. Earl. Mr. Earl said that he has a condo in Danvers that is an investment property and that it is not his primary residence. The Chairman asked if anyone wished to comment regarding Mr. Earl and no one asked to speak.

Sefton Earl came before the Selectmen and stated that he lives at 171 Conomo Point Road for 184 days of the year. The address is a seasonal residence at Conomo Point. Mr. Earl lives in Woburn for the remainder of the year. Mr. Earl is included on the most recent street census compiled by the Town Clerk, but said that he does visit his wife in Woburn from time to time during the summer.

Steve Hemeon was next and he said that he resides at 50 Eastern Avenue. Mr. Zubricki said that Mr. Hemeon was listed on three of the complaints. Mr. Hemeon said that he has some property in Maine and that he also spends some time in Ipswich at 24 Fellows Road. The Chairman asked if anyone wished to speak for or against Mr. Hemeon and no one did.

Matt Jacobs came forward next and stated that he lives at 245 Western Avenue, Unit #1. Attorney Dave Smith of Ouellette & Smith at 127 Eastern Avenue, Suite 1, in Gloucester, said that he was representing Matt Jacobs, as well as 5 other persons who live at 245 Western Avenue. Mr. Zubricki said that Mr. Jacobs was mentioned in 2 of the complaints received by the Selectmen. Mr. Zubricki said that according to the Assessors' information, the apartment building that Mr. Jacobs lives in only contains 1 and 2 bedroom apartments. However, the lease that Mr. Jacobs supplied to the Town Clerk says that Mr. Jacobs and two other people are sharing a 3-bedroom apartment. Mr. Jacobs could not explain why the Assessors information is incorrect. Mr. Jacobs is listed in the current street census. When the Chairman asked if anyone wished to speak either for or against Mr. Jacobs, Michael Jacobs, Rocco Manzi, and Ed Lane stepped forward to say that they supported Mr. Jacobs.

Matt Jacobs' brother, Michael Jacobs stepped up with his attorney, David Smith, and stated that he lives at 245 Western Avenue, #4. Mr. Zubricki said that Michael's name appears on one complaint received by the Selectmen. Mr. Jacobs exhibited several documents with his name and address on them, including an electric bill and cancelled checks. Mr. Jacobs' brother Matt, Rocco Manzi, Phil MacDougall and Steve MacDougall all said they were in support of Mr. Jacobs.

George Lane was next on the list and Ed Lane said that his father was in Florida, recovering from a knee operation and that he would be representing his father. Mr. Zubricki said that Mr. Lane had been named in two complaints and said that the Selectmen's office had received a letter from George Lane authorizing Ed as his representative. George Lane is on the current street census listing for 1 Coral Hill where he resides from April 15 through November 30th every year.

For the remainder of the year, he lives in Florida. Mr. Lane is an Essex registered voter and has a handgun permit listing 1 Coral Hill as his place of residence.

Matthew Lane came forward with his attorney David Babson and stated that he lives at 1 Coral Hill. Mr. Zubricki said that Matt had been listed on three of the complaints received by the Selectmen. Matt is also listed on the current street census for 1 Coral Hill which he said he owns with his brother, Ed Lane. Matt said that his wife and two children live at 16 Gee Avenue in Gloucester and that he visits them from time to time during the year. He said that he does not have a license to carry a handgun.

Attorney David Smith came forward with his client, Philip MacDougall, who stated that he lives at 245 Western Avenue. Mr. Zubricki said that 2 complaints listed Mr. MacDougall. Mr. MacDougall is on the current street census and displayed several documents with his address on them, including a rental agreement, checks, and bills. He stated that the address on his car registration and the address on his tax returns is listed as 245 Western Avenue. Steve MacDougall, Mike Jacobs, Matt Jacobs, and Rocco Manzi verified that Phillip MacDougall lives at 245 Western Avenue.

Steve MacDougall, represented by Attorney Smith, came forward and said that he lives at #4, 245 Western Avenue. Mr. Zubricki said that 1 complaint had been received regarding Mr. MacDougall. Mr. MacDougall is included in the current street census, and had a letter from his landlord, as well as numerous documents showing his address. Phillip MacDougall, Mike Jacobs, and Rocco Manzi said they supported Mr. MacDougall.

Rocco Manzi, also represented by Attorney Smith, came forward and stated that he lives at #1, 245 Western Avenue. Mr. Zubricki said that 1 complaint had been received by the Selectmen. Mr. Manzi is listed on the current street census and also has a rental agreement and several documents verifying his address. Mr. Manzi did not know why the Assessors information said there were only 1 and 2 bedroom apartments at 245 Western Avenue, since his apartment has 3 bedrooms. Matt Jacobs, Philip MacDougall, Steve MacDougall, and Mike Jacobs verified Mr. Manzi's address.

Timothy Marshall was next on the list, and Attorney Smith informed the Selectmen that Timothy was unable to be at the hearing because he was working. Mr. Zubricki said that there was one complaint against Mr. Marshall and that he is listed on the current street census. Attorney Smith presented various documents showing Mr. Marshall's address which was also attested to by Matt Jacobs, Rocco Manzi, Mike Jacobs, Phillip MacDougall, and Steve MacDougall.

Shepherd Means came before the Selectmen and said that his address was 21 County Road, but he now lives at 4 Cobblestone Lane in Gloucester. He surrendered his current license to the Selectmen and said he would like to retract his renewal application for a license. The Selectmen thanked him and he left the meeting.

William Pascucci was next on the list and Mr. Zubricki said there are two complaints against Mr. Pascucci. Mr. Pascucci was not present and had not submitted an application.

Tom Prentiss was also not present and had not submitted an application for a commercial license.

Dean Rossi, the last person on the list, and his attorney David Babson came forward. Mr. Zubricki stated that Mr. Rossi was named on three of the complaints received by the Selectmen. Mr. Rossi said that he lives with his mother at 22 Eastern Avenue and that he is in the process of purchasing his mother's house. He acknowledged that his name and his wife's name both appear on a mortgage and a homestead document for a property in Gloucester at 7 Larose Avenue. The signed mortgage document states that the Gloucester property is their primary residence. Mr. Rossi said that he has no children and does not have a firearm permit.

That concluded the information gathering and Chairman Randall asked for a motion to close the hearing. A motion was made, seconded, and unanimously voted to close the hearing. The Selectmen said that they would now review the information collected on a case by case basis as follows:

Robert Amero did not file a renewal application for his license and a motion was made, seconded, and unanimously voted to take no action regarding the complaint received by the Selectmen.

Artan Bila has also elected not to file a renewal application and a motion was made, seconded, and unanimously voted to take no action regarding the complaint.

A motion was made, seconded, and unanimously voted to affirm Essex residency for Julian Balili.

Motions were made, seconded, and unanimously voted to affirm Essex residency for Dan Doane, David Earl, Sefton Earl, Steve Hemeon, Matt Jacobs, Mike Jacobs, George Lane, Matt Lane, Phillip MacDougall, Steve MacDougall, Rocco Manzi, Timothy Marshall, and Dean Rossi.

Shepherd Means had voluntarily withdrawn his application and a motion was made, seconded, and unanimously voted to take no action on the complaint.

A motion was made, seconded, and unanimously voted to also take no action regarding William Pascucci and Thomas Prentiss since they did not file renewal applications.

The Chairman expressed his thanks to all who attended the hearing and Officers Gilardi and French, Town Clerk Christina Wright, Attorney David Babson, Attorney John Guerin, Attorney David Smith, and everyone else except Town Counsel Gregg Corbo, Cliff Ageloff, Charles Burnham, Susan Coviello, Mark Lynch, and Jim Witham left the meeting.

The Selectmen discussed the results of the hearing. Another complaint had been received after tonight's hearing had been scheduled and the Selectmen agreed that Mr. Zubricki should examine the complaint and come back to the Selectmen with recommendations for action.

Conomo Point Planning Committee Chairman Mark Lynch came forward and distributed copies of his *committee's report to the Selectmen* regarding the committee's recommendations for the future of Conomo Point. Mr. Lynch said that he would forward a digital version to Mr. Zubricki to be posted on the Town's website. Mr. Lynch proceeded to review the basic components of the report and asked the Selectmen to take the report under advisement for future discussion. The Selectmen's Assistant agreed to mail copies of the report to CPPC members who were not present. Mr. Lynch said that the committee will be meeting again on March 31st, and will be drafting a shorter, simpler version of the report to use as an informational handout at the Annual Town Meeting. The committee also will be compiling a Frequently Asked Questions sheet for handout.

Mr. Zubricki continued the Conomo Point discussion by briefly recapping the recent changes to the Conomo Point Articles on the *Annual Town Meeting Warrant*. Some of those present felt that Article 2, which deals with the procedure for sale or lease of property at Conomo Point, should contain wording to the extent that the properties at Conomo Point shall in no case be leased for an amount less than a certain sum of money. Town Counsel advised that the article should seek to preserve as much discretion for the Selectmen as possible.

Mr. Zubricki said that he may be adding two more articles to the warrant. The first one would provide funding for a new copier at the Town Hall. The present copier is 6 years old and is no longer repairable. Mr. Zubricki said that the Town Hall will try to keep it working until the start of the next fiscal year. Also, Mr. Zubricki reported that Mrs. Offenberger had called him to say that she and her husband would be interested in offering a license or lease to the Town for use as additional public parking on a piece of land they own on Main Street at \$1000 per month. The Selectmen agreed that Town Meeting should decide whether or not the Town is interested in contracting for the additional parking on the causeway.

Neither Mr. Zubricki nor Attorney Corbo have received any guidance from the Department of Environmental Protection regarding the DEP's offer to help with drafting a request to amend the deadline date in the Final Judgment. The Chairman asked Town Counsel to press the DEP for a response.

Sue Coviello, Charles Burnham, Cliff Ageloff, Mark Lynch, and Jim Witham left the meeting.

In other business, Mr. Zubricki said that he had received a *request to release the Executive Session minutes* for March 22, 2010. The members of the Board had separately reviewed the minutes in question previously and all were in agreement. A motion was made, seconded, and unanimously voted to release the Executive Session minutes for the Selectmen's March 22nd, 2010 meeting.

Mr. Zubricki said that the Town Clerk had informed him that employees reviewing and/or signing nomination papers for public office while they are working in private spaces is against State law. Mr. Zubricki had discussed the matter with Town Counsel and had drafted a *policy for the Town* regarding this matter based on advice of Town Counsel. The Selectmen reviewed the new policy and a motion was made, seconded, and unanimously voted to designate the policy approved by Town Counsel as the official Town policy which will now be read and acknowledged by all Town employees.

At 10:06 p.m., citing the need to discuss the lease of real property, the Chairman entertained a motion to move to Executive Session. He said that the Board would be returning to Open Session and invited the Town Administrator and Town Counsel to attend. He stated that discussing the lease of real property in Open Session would be detrimental to the Town's lease negotiating strategy. Following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 10:23 p.m.

A motion was made, seconded, and unanimously voted to ask Mr. Zubricki to contract with an appraiser for two appraisals for one rental property located in the area known as northern Conomo Point and for one rental property in the area known as southern Conomo Point. The Selectmen asked Mr. Zubricki to choose properties that represented median range properties in their locations. Mr. Zubricki indicated that the appraisal process could not begin until terms of a draft lease are known, since those terms will affect the value.

Selectman O'Donnell said that she has gotten estimates of approximately \$1000 each for the preparation of four graphic representations showing the possible redevelopment of the waterfront areas at Conomo Point. There is a fifth landscape architect firm interested in the Conomo Point Project and Selectman O'Donnell said that she would be happy to talk to the company and take them on a site visit. She said that she will be drafting a scope of work for the drawings to give each of the firms interested some guidance concerning what the Town is seeking.

The Chairman said that Nick Cracknell from the Horsley Witten Group has been asked for comments concerning the impact of Chapter 40 (b) as it relates to Conomo Point that could be reviewed by Town Counsel Goldrosen. To date, Mr. Cracknell hasn't responded. The Chairman said that he would remind Mr. Cracknell.

Mr. Zubricki reviewed a *letter that he had received from Mr. Tomaiolo* regarding land he owns in Essex and the sewer service area. The Selectmen agreed that the letter should be forwarded to Town Counsel for review.

Attorney Corbo left the meeting.

A motion was made, seconded, and unanimously voted to approve and sign the weekly warrant in the amount of \$104,605.36.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the March 7th, 2011, Selectmen's Open Meeting and the March 7th, 2011, Selectmen's Executive Session.

A motion was made, seconded, and unanimously voted to approve the ***FY2012 Health Insurance Premiums.***

The Selectmen signed a letter of thanks to Paul Doucette for his many years with the Fire Department and will forward a copy to him. The framed original will be presented at his retirement celebration in the near future.

A motion was made, seconded, and unanimously voted to approve a request from Aces & Eights to hold their annual picnic at Centennial Grove on Saturday, July 9th, 2011.

A motion was made, seconded, and unanimously voted to sign a letter to North Shore HOME Consortium requesting that all funding for the Town of Essex be allocated to HAWC.

A motion was made, seconded, and unanimously voted to approve a request from the Essex Elementary PTO to pass over Essex roads during their 4th Annual Happy as a Clam 5K Run/Walk and Family Mile Fun Run on Friday, May 6, 2011.

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

Auction Permit:

- Michael March, Blackwood March Antiques, for use on Wednesday, March 30, 2011, between the hours of 4:00 and 11:00 p.m., within the confines of 125 Main Street.

One-Day Wine and Malt License:

- Aces & Eights, Tim Hunt, for use on Saturday, July 9, 2011, between the hours of 12:00 p.m. and 6:00 p.m. (Rain date 7/20/11).

One-Day Entertainment License:

- Aces & Eights, Tim Hunt, for use on Saturday, July 9, 2011, between the hours of 12:00 p.m. and 6:00 p.m. (Rain date 7/20/11).

The Selectmen were reminded that the next Board of Selectmen's meeting will take place on Monday, March 21st, 2011, in the T.O.H.P. Burnham Library on Martin Street.

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.

The Selectmen reviewed a letter to the Attorney General regarding unpaid CPA fees due cities and towns from the Mortgage Electronic Registration System. A motion was made, seconded, and unanimously voted to sign this ***letter of support for Register of Deeds*** John L. O'Brien, Jr.

Mr. Zubricki reported that he has received a complaint from a resident of Conomo Point that people are parking of boat trailers, etc. on private property on Sumac Drive and trashing the property. A motion was made, seconded, and unanimously voted to ask the Superintendent of Public Works to obtain and place no parking signs at the area on Sumac Drive.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:50 p.m.

Documents used during this meeting include the following:

Notice of Hearing
Conomo Point Planning Committee's Report to the Selectmen
Annual Town Meeting Warrant
Request to Release the Executive Session Minutes
Nomination Papers Policy for the Town
Letter that he had received from Mr. Tomaiolo
FY2012 Health Insurance Premiums.
Letter of Support for Register of Deeds

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell