

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

August 8, 2011

Present: Chairman Jeffrey D. Jones, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham, Town Counsel Gregg Corbo, Robert Nelson, Steve Abbott, and Kimberly Smith.

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

Kimberly Smith came before the Board and said that she would like to state that she is the owner of the property at 138 Conomo Point Road and that she has engaged an attorney to pursue her claim. She said that she wanted the Selectmen to approve the transfer of the lease from her mother, Judith Foley, to her and that the leasehold was not part of her mother's estate. She said that she had delivered documents in support of her claims to the Selectmen's Office and asked the Selectmen not to act on a request from the Gelineau and Kline law firm to transfer the lease for the property to another party. Chairman Jones said that the Board would take the matter under advisement.

Steve Abbott came before the Selectmen to say that both he and David Bogdan were resubmitting their requests for a waiver of the application deadline for non-resident, non-commercial clamming permits and that they had found another Town resident, Daniel Lasman, to sponsor them. They were both unaware that the Town had revised the shellfishing regulations and had missed the new application deadline. A motion was made, seconded, and unanimously voted to waive the deadline and approve the applications for Mr. Abbott and Mr. Bogdan. Mr. Abbott thanked the Selectmen and left the meeting.

Robert Nelson of Beverly came before the Selectmen to also request a waiver of the application filing deadline and approval of his application for a non-resident, non-commercial clamming permit. He was unaware of the change to the regulations and was being sponsored by Stephen B. Woodman. A motion was made, seconded, and unanimously voted to waive the deadline for Mr. Nelson and to approve his application. Mr. Nelson left the meeting.

The Selectmen also reviewed a request from Paul Dredge of Arlington. He was also unaware of the recent change to the Town's regulations and is being sponsored by Sara Richards. A motion was made, seconded, and unanimously voted to waive the application deadline and approve the application for a non-resident, non-commercial clamming permit for Mr. Dredge.

At 7:05 p.m., citing the need to discuss the negotiation of the lease of real property, 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 Town Administrator Zubricki and Town Counsel Corbo to attend. Chairman Jones said that the Board would be returning to Open Session. Kimberly Smith left the meeting room. The motion was moved and seconded and following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 7:55 p.m. Mr. and Mrs. John Goldsberry, Steve Cuthbertson, Kimberly Smith, and Gelineau and Kline attorneys Roy Gelineau and Ryan Blake joined the meeting.

Mr. Zubricki presented his Town Administrator's Report for the period July 23rd through August 5th, 2011 regarding the following:

Melrose Datacenter Proposal: Mr. Zubricki reviewed with the Selectmen, a draft of a proposed ***agreement with the City of Melrose*** regarding the provision of information technology services. The Selectmen approved of the draft so far and Mr. Zubricki said that he will forward it to Town Counsel for comment. Mr. Zubricki will bring the matter back before the Board at the next stage.

Sloped Driveway and Parking Lot Adjustments: Mr. Zubricki reported that the parking lot of one of the restaurants on the causeway was too steep and posed safety concerns after MassDOT had finished paving the lot and installing a new mountable curb. MassDOT had remedied the situation by adding material and feathering the transition area. The Selectmen asked Mr. Zubricki to ask MassDOT if they would consider improving the slope by the Town Landing using the same method.

At 8:00 p.m., the Chairman announced that the Board would discuss a request from the law firm representing the estate of Judith Foley to transfer the leasehold for 138 Conomo Point Road (Map 24, Lot 37). He asked those present who wished to speak to introduce themselves to the Board. Jean and John Goldsberry of Conomo Point, and Attorneys Roy Gelineau and Ryan Blake from Gelineau and Kline, the law firm representing the estate of Judith Foley, came forward. Kimberly Smith stated that she was the rightful leaseholder of the property. Chairman Jones stated that Town Counsel had informed the Selectmen that the Probate Court had ruled that Gelineau and Kline, representing the Foley Estate, is the legal leaseholder of record and Kimberly Smith is not the legal leaseholder.

Chairman Jones spoke about the Town's past vote not to renew the leases at Conomo Point when they expire in December of 2011 and about the proposed plans to subdivide southern Conomo Point and offer the property there for sale. The Chairman said that plans are still being formulated for the future of northern Conomo Point and that the Selectmen have been told that Town residents want more public access to the waterfront. He pointed out that this property is across from a public pier and a public launch area. The property is currently unoccupied and has not been maintained, and no rent or taxes for the property have been paid to the Town for several years. The Chairman said that based on all these reasons including the uncertain future regarding northern Conomo Point (where this property is situated), he did not feel it was wise to grant a transfer of lease at this time. The Goldsberrys said that they have offered to buy the property because it is an eyesore to the neighborhood and lessens the enjoyment of their leasehold at Conomo Point. The untrimmed plantings on the property are blocking the water views from the Goldsberry leasehold. Attorney Gelineau said that he was sure that some agreement could be reached with the Town, if the Town agreed to the lease transfer, whereby the building on the property could be removed and the property could be cleaned up. However, after further

discussion, a motion was made, seconded, and unanimously voted by the Selectmen, acting in their capacity as the Conomo Point Commissioners, not to transfer the lease for this property (138 Conomo Point Road, Map 24, Lot 37).

The Chairman thanked everyone for coming and the Goldsberrys, the Gelineau and Kline Attorneys, Steve Cuthbertson, and Kim Smith left the meeting.

Mr. Zubricki resumed the presentation of his Town Administrator's report.

Selection and Deployment of Benches in Project Zone: Mr. Zubricki said that there will be several areas that may be appropriate for benches throughout the Route 133 Reconstruction project area and in some of the planned pocket parks. Following a short discussion, the Selectmen asked Mr. Zubricki to ask MassDOT if it would be possible to use some of the curb stones salvaged from the project for benches. Seawall capstones are already known to be available and the Selectmen supported the placement of some metal benches with high backs via donations.

Conomo Point Subdivision Preliminary Plan Decision: Mr. Zubricki said that the Board of Health has officially reviewed and approved the preliminary subdivision plan for southern Conomo Point, contingent upon an approved septic system and potable water source for each dwelling. Both the Fire Chief and the Chief of Police have viewed the southern Conomo Point area for possible safety issues and emergency vehicle accessibility issues and have made some simple recommendations regarding emergency access to the end of Cogswell Road. All parties will officially review the plan again at the definitive stage.

Conomo Point Planning Committee Meeting: It was noted that the Selectmen met with the Conomo Point Planning Committee recently to discuss how the Committee can assist the Selectmen with the Request for Proposals for the design of northern Conomo Point. The Committee has assigned the task to a sub-committee which will meet on August 25th.

Attorney Corbo left the meeting.

Rail Trail Prospect: Mr. Zubricki reviewed the map showing land owned by the railroad that may be available to purchase with Community Preservation Funds. A motion was made, seconded, and unanimously voted to authorize Mr. Zubricki to offer \$12,500 for the purchase of the land.

Dan Mayer joined the Selectmen to discuss his request to have the leasehold for 6 Sumac Drive, Map 19, Lot 16, currently held by Anstiss Jones transferred to him. Mr. Mayer already leases two other properties at Conomo Point. The year-round Sumac Drive property is in the "southern" section of Conomo Point, in the single-family sub-district. Following a short discussion of the location of the property, a motion was made by Selectman Gould-Coviello to approve the transfer of the leasehold for the property at 6 Sumac Drive (Map 19, Lot 16) from Anstiss Jones 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. The motion was seconded and unanimously voted. The Selectmen said that an approved copy of the minutes for this meeting would be sent to Mr. Mayer as documentation that this transfer was approved by the Selectmen. Dan Mayer thanked the Selectmen and he and Kimberly Smith (who had rejoined the meeting midway through the discussion of the Mayer/Jones transfer) left the meeting.

Mr. Zubricki resumed his review of his Town Administrator's report:

MunEnergy Electricity Supply Contract Options: Mr. Zubricki reported that he had recently met with our new representative from Constellation New Energy (CNE) to review the options available to the Town for renewing the energy contract which expires in December of 2012. The Town could renew the contract now for a blended rate based on the old contract and current rates or the Town could wait until the contract expires in 2012 and renew for the rate in effect at that time. It may be advantageous for the Town to wait, since the rates have been decreasing. The Selectmen said that they will consider the matter and discuss it again at their next meeting. The Board was not interested in CNE's energy efficiency program, but did express interest in the peak demand program.

Successor Solid Waste Disposal Contract: Mr. Zubricki said that a Covanta representative had attended a recent Board of Public Works meeting to discuss contract renewal options. The Town's contract will end in January 2013. Covanta has suggested that the Town could renew the contract at a modest increase for 6 months, so that a new contract would begin with the start of a new fiscal year. The vendor also discussed a new contract starting sooner. The Selectmen said that they would like to know the proposed 6-month renewal rate. Mr. Zubricki agreed to find out the rate and compare it with the rate for a new contract starting sooner.

In other business, a motion was made, seconded, and unanimously voted to approve and sign the weekly warrant in the amount of \$1,397,696.11.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the July 25th, 2011, Selectmen's Open Meeting, and the minutes for the July 25th, 2011, Selectmen's Executive Session.

The Selectmen reviewed a *letter from Maureen Appleyard* stating that the area off Red Gate Road was not an acceptable substitute for using the beach at Centennial Grove from 9:00 a.m. to 1:00 p.m. during the weekdays. The Selectmen said that they would review the matter again sometime between the end of this season and the start of next season, when the contract with the YMCA for the summer camp is up for renewal.

The Selectmen reviewed a *letter from Barbara Smith* of South Hamilton regarding her suggestion to issue parking stickers for Conomo Point to non-residents for a fee. The Selectmen were not in favor of this suggestion.

Mr. Zubricki said that a Town resident who has a commercial clamming permit has requested a resident parking sticker for his boat trailer. He does not own a motor vehicle. The Selectmen affirmed that resident parking stickers are only for residents' motor vehicles.

The Selectmen discussed the proposed gift of a trailer to the Town to be placed behind the Fire Station and used as auxiliary Police space. Even though the trailer would be a gift, there would be attendant costs such as hooking it up to utilities, installing a handicap access ramp, and making sure that it is properly equipped. A motion was made, seconded, and unanimously voted to accept the gift contingent upon funding of the costs needed to be incurred to make the trailer usable and to conform to public code.

A motion was made, seconded, and unanimously voted to approve a request from the First Congregational Church of Essex to have a picnic at Centennial Grove on Sunday, September 11, 2011, between the hours of 11:30 a.m. and 3:30 p.m. and to waive the rental fee.

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

- The Massachusetts Motorcyclists Survivor's Fund, Inc. during the 12th Annual Nelson's Motorcycle Ride on Sunday, August 28, 2011.
- YuKan Sports, LLC during a fundraising 25K road race on Saturday, September 10, 2011, to benefit the Spaulding Education Fund.
- The 5th Annual Stephen Hancox Memorial Motorcycle Run and BBQ on Saturday, September 17, 2011.
- The Cure for Cleavage Committee during their annual fundraising motorcycle ride on Sunday, September 18, 2011.

A motion was made, seconded, and unanimously voted to approve the following requests for One-Day Wine and Malt Licenses:

- Woodman's Inc., Joan Houghton, for use on Friday, September 9, 2011, between the hours of 12:00 noon and 10:00 p.m. within the confines of 121 Main Street.
- Woodman's Inc., Joan Houghton, for use on Saturday, September 10, 2011, between the hours of 12:00 noon and 10:00 p.m. within the confines of 121 Main Street.
- Apple Street Farm, Frank McClelland, for use on Thursday, August 11, 2011, between the hours of 5:00 p.m. and 10:00 p.m. within the confines of 35 Apple Street.
- Apple Street Farm, Frank McClelland, for use on Friday, August 12, 2011, between the hours of 5:00 p.m. and 10:00 p.m. within the confines of 35 Apple Street.
- Apple Street Farm, Frank McClelland, for use on Saturday, August 13, 2011, between the hours of 5:00 p.m. and 10:00 p.m. within the confines of 35 Apple Street.

The Selectmen reviewed a *recommendation from Fire Chief Daniel Doucette* and a motion was made, seconded, and unanimously voted to appoint the following persons as Probationary Firefighters for the remainder of the standard 1-year term, ending 6/30/2012:

- Robert Cavender
- Anthony Dragonetti
- Brett Jauss
- Michael Lattanzi

Mr. Zubricki said that the Essex Merchants Group would like to place several banners around Town promoting Town events. Insurance coverage is required for the banners and it is customary for the municipalities to provide this coverage. Mr. Zubricki said that the Town's insurance carrier has agreed to provide coverage for \$150.00. A motion was made, seconded, and unanimously voted to approve the expenditure of \$150.00 for insurance to cover the banners.

The Selectmen were reminded that the next regular Board of Selectmen's meeting will be on Monday, August 22nd, 2011, at 7:00 p.m., in the T.O.H.P. Burnham Library on Martin Street.

There will be a Special Town Meeting on Monday, September 12, 2011, starting at 7:30 p.m. in the cafetorium at the Elementary School on Story Street, preceded by a Board of Selectmen's meeting in the Teachers' Lounge starting at 6:30 p.m.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 9:10 p.m.

Documents used during this meeting include the following:

Agreement with the City of Melrose
Letter from Maureen Appleyard
Letter from Barbara Smith
Recommendation from Fire Chief Daniel Doucette

Prepared by: _____
Pamela J. Witham

Attested by: _____
Susan Gould-Coviello