

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

**August 22, 2011**

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

Also present: Cliff Ageloff, Helen Brown, Maria Burnham, Michael Dyer, Bruce Fortier, James Henderson, Lori Henderson, and Ed Neal.

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

Cliff Ageloff, of Addison Street, came before the Selectmen to say that he represented a group of concerned Town residents who had officially filed a complaint at the Town Clerk's Office earlier today challenging the Town residency status of more than 110 registered voters who are leaseholders at Conomo Point. Mr. Ageloff and Mr. Neal spoke at length about the seriousness of their charge of voter fraud and strongly urged the Selectmen to take steps to rectify the situation. The Chairman stated that this matter falls under the Town's Board of Registrars' jurisdiction and that that Board of Registrars will be scheduling a meeting to discuss the claims in the near future. The Chairman thanked everyone for their comments.

Bruce Fortier said that he would like to comment on the recent ruling against the Town in the Gloucester Sewer Rate Dispute case. He stated that the ruling was wrong and that the Town should appeal the ruling, citing Rule 56 and Rule 59. He said that he would be happy to work with Mr. Zubricki and Town Counsel to help draft a motion for re-trial and/or appeal. The Chairman thanked Mr. Fortier for his thoughts and he left the meeting.

Cliff Ageloff, Ed Neal, Maria Burnham, and Helen Brown left the meeting.

Lori Henderson of Water Street, said that she would also like to say that she is in favor of strictly reviewing the qualifications of all those who claim Town residency status and who seek to register as voters of the Town.

James Henderson of Water Street said that he would like to state that he has noticed that the "No Wake" zone in the Essex River that starts at Billy's Point is not being enforced. Boats not going the speed limit create large wakes that greatly contribute to the erosion of the marsh. He said that he has already voiced his concerns to Police Chief/Harbormaster Peter Silva. The Selectmen thanked Lori Henderson and her uncle and they left the meeting.

Michael Dyer stepped forward and said that he would like to review his *recent memo* to the Selectmen regarding his concerns about the appearance and safety of the causeway sidewalks. He drew the Selectmen's attention to the many signs, mailboxes, and telephone poles that are blocking pedestrian traffic. He also said that washout from several of the gravel or dirt driveways in the area is unsightly and spreads debris over the newly installed sidewalks. After some discussion, the Selectmen and Mr. Zubricki agreed to ask the Building Inspector to review the area in question and comment on the size and placement of the signs. The Selectmen and Mr.

Zubricki said that they would discuss Mr. Dyer's concerns at their regularly scheduled update meeting with MassHighway on Wednesday. Mr. Dyer left the meeting.

Mr. Zubricki presented his Town Administrator's Report for the period August 6<sup>th</sup>, 2011, through August 19<sup>th</sup>, 2011 regarding the following:

Municipal Health Insurance Reform: Mr. Zubricki said that he has forwarded to the Selectmen information regarding the recent municipal health insurance legislation that has been provided by several sources including Senator Bruce Tarr's office and Town Counsel. Mr. Zubricki will be attending a Massachusetts Municipal Association seminar on August 25<sup>th</sup> to learn more about the options available to the Town under this new legislation.

Rail Trail Prospect: Mr. Zubricki reported on his research to date regarding railroad land that may be available for purchase with Community Preservation Funds. Mr. Zubricki has been seeking to reconcile the Assessors' records of the property lines and rightful ownership of the property with the railroad's records. The railroad has declined the Town's offer of \$12,500, but has hinted that they may take less than \$25,000. There is also another piece that is adjacent to the land in question that the Town believes it owns, but that the railroad says belongs to them. The Selectmen asked Mr. Zubricki to include an article to purchase the railroad land on the proposed warrant for the Special Town Meeting being planned for September.

Establishment of Electricity Supply Benchmark Price: Mr. Zubricki said that he has been watching the price of electricity and that it is currently at the lowest rate since March of this year: 7.53¢ per kilowatt hour. After some discussion, a motion was made, seconded, and unanimously voted to authorize the Chairman of the Board of Selectmen and the Town Administrator to execute, on behalf of the Board, the Electrical Supply Agreement between the Town and Constellation New Energy, Inc. if the price per kWh for electricity to be sold to and purchased by the Town under such agreement is equal to or less than 7.600 ¢ per kWh for a contract term of three years. Mr. Zubricki reminded the Selectmen that the Town can still elect to choose to participate in a program to decrease peak consumption usage by turning on Town generators at peak consumption times and thereby qualify for a reduced overall rate.

Cape Ann TV Discussion: Mr. Zubricki reported that he met recently with the new director of Cape Ann TV. She is seeking funding help from each of the four towns on Cape Ann and outlined several ways that towns could assist Cape Ann TV in their effort to provide local public television programming. She suggested that the Town could offer to share with Cape Ann TV its Technology Fund which is replenished by Comcast on a quarterly basis, based on user consumption. The Town has been using the money in this fund to pay for upgrades and maintenance of the Town's computer systems. She also suggested that the Town could purchase a camera kit and could designate a person to receive training in order to provide more television coverage of Town events. The Selectmen asked Mr. Zubricki to forward the Director's requests to the Cape Ann Chamber of Commerce and the Merchants' Group.

Special Town Meeting Warrant: Mr. Zubricki reviewed the articles on the *proposed warrant* for the September Special Town Meeting. The Selectmen discussed the complaint that was filed today challenging some of the Town's registered voters. Mr. Zubricki said that the STM should be postponed to a later date, since the law requires that (if a complaint is filed) an investigation must be held to resolve the issue before the next Town Meeting. The Town Clerk, as the person in charge of the Board of Registrars, has tentatively scheduled a meeting to discuss the challenges on August 31<sup>st</sup> at 2:30 p.m. The Selectmen said that they were interested in attending that meeting and asked to be posted for it. Everyone agreed that the STM should be postponed until September 26<sup>th</sup>.

Subsequently, a motion was made, seconded, and unanimously voted to hold a Special Town Meeting on Monday, September 26<sup>th</sup>, 2011, at 7:30 p.m. at the Elementary School on Story Street.

A motion was made, seconded, and unanimously voted to open the warrant.

A motion was made, seconded, and unanimously voted to add and approve the articles as they appear on the draft warrant and to also include three articles pertaining to funding of the installation of the police trailer that is being donated to the Town by a private party and remodeling of a portion of the police station, funding for interest on Town loans, and funding for a replacement public safety repeater, subject to approval of the articles and warrant wording by Town Counsel.

A motion was made, seconded, and unanimously voted to close the warrant.

A motion was made, seconded, and unanimously voted to sign the warrant outside of a Board meeting after it has been reviewed and approved by Town Counsel.

Mr. Zubricki announced that he would be meeting with Senator Tarr and Chairman Jones tomorrow at 2:45 p.m.

Approval of Annual Town Meeting Bylaw Changes: Mr. Zubricki asked the Selectmen if they would like to give Horsley Witten permission to begin the next task listed on the scope of services contained in their consulting contract now that the Attorney General has approved the changes to the Town's bylaws that were voted at the last Annual Town Meeting. A motion was made, seconded, and unanimously voted to ask Horsley Witten to commence the definitive subdivision application process with the Planning Board for southern Conomo Point.

Mr. Zubricki said that he had received an expression of interest in the northern Conomo Point project from a design firm. Selectman O'Donnell asked that the proposal be forwarded to the chair of the Conomo Point Planning Committee and also that Mr. Zubricki try to obtain the proposal in PDF format so that it could be shared with the entire Committee.

The Board discussed the feasibility of handicap ramps and crosswalks at the corner of Southern and Eastern Avenue and at the corner of Western and John Wise Avenues. They also discussed the sidewalk treatment for the end of Main Street where it becomes John Wise Avenue. These items will be discussed at the MassDOT update meeting on Wednesday.

Mr. Zubricki said that he would like to remind the Selectmen that the Sheriff has offered to provide free, unskilled labor to the Town in the form of prisoner work groups for any small projects that the Town may have. The Selectmen asked that Mr. Zubricki also notify the DPW Superintendent about the Sheriff's offer.

In other business, a motion was made, seconded, and unanimously voted to approve and sign the weekly warrant in the amount of \$147,860.69.

A motion was made, seconded, and unanimously voted to approve a *Reserve Fund transfer* in the amount of \$5,590.00 to the Unemployment Budget for the month of July 2011.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the August 8<sup>th</sup>, 2011, Selectmen's Open Meeting, and the minutes for the August 8<sup>th</sup>, 2011, Selectmen's Executive Session.

A motion was made, seconded, and unanimously voted to release to the public the Executive Session I minutes from the November 29<sup>th</sup>, 2010, Selectmen's meeting and the Executive Session II minutes from the Selectmen's April 11<sup>th</sup>, 2011 meeting.

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

One-Day Auction Permit:

- Michael March, Blackwood March Antiques, for use on Tuesday, September 13, 2011, between the hours of 4:00 p.m. and 11:00 p.m. within the confines of 125 Main Street.

One-Day Entertainment License:

- Essex Parks Improvement Committee, LynnAnne Hagar, for use on Friday, August 26, 2011, between the hours of 6:30 and 9:00 p.m., within the confines of the Waterline Center at 66 Main Street.

One-Day Wine and Malt License:

- Eventide Art Studio & Gallery, Teri Eramo, for use on Saturday, August 27, 2011, between the hours of 4:00 p.m. and 9:00 p.m. within the confines of the Eventide Art Studio & Gallery at 63 Main Street.
- Essex Parks Improvement Committee, LynnAnne Hagar, for use on Friday, August 26, 2011, between the hours of 6:30 and 9:00 p.m., within the confines of the Waterline Center at 66 Main Street.

Parades/Special Permits to Pass over Essex Roads:

- Approve a request to pass over Essex roads from the Floating Hospital for Children at Tufts Medical Center during their 15<sup>th</sup> Annual Cycle for Life on Saturday, September 17, 2011.
- Approve a request to pass over Essex roads from the Middlesex Sheriff's Department during their 6<sup>th</sup> Annual SJV Memorial Motorcycle Ride to benefit the Cystic Fibrosis Center at Children's Hospital Boston on Saturday, September 10, 2011.

The Selectmen were reminded that there will be a Conomo Point Planning Committee/Sub-Committee meeting this Thursday, August 25, starting at 7:30 p.m. in the Senior Center.

The Annual Essex Music Festival will take place on Saturday, August 27<sup>th</sup>, 2011.

The Town Building Committee will meet on Monday, August 29<sup>th</sup>, 2011 in the T.O.H.P. Burnham Library.

The next regular Board of Selectmen's meeting will be on Monday, September 12<sup>th</sup>, 2011, at 7:00 p.m., in the T.O.H.P. Burnham Library on Martin Street.

A motion was made, seconded, and unanimously voted to proclaim Monday, October 24, 2011, United Nations' Day. The Chairman signed the *proclamation*.

The Selectmen reviewed a building permit requested by Jeffrey Lawler, a contractor hired by Daniel Mayer, to renovate the kitchen and bathroom at 6 Sumac Drive. A motion was made, seconded, and unanimously voted that pursuant to Paragraph 6 of the Lease, the Selectmen hereby approved a request to modify property located at 6 Sumac Drive by renovating the kitchen and bathroom and that this approval does not convey or imply that the lessee of 6 Sumac Drive has any right, title or interest in the subject property or any portion thereof, and also, that it does not affect the lease termination date of December 31, 2011.

The Selectmen discussed an *email from Debbie Litka* regarding parking at Centennial Grove. Selectman Gould-Coviello said that she had had a lengthy conversation with Ms. Litka regarding several issues and that she would convey the Selectmen's comments to Ms. Litka.

The Selectmen reviewed an *email from Dennis McGurk* regarding parking at Conomo Point. It was agreed that a group discussion involving the Police Chief and the DPW Superintendent should be scheduled for a future Selectmen's meeting to discuss the parking situation at the Point and the alternative options that may be available, if any.

Mr. Zubricki said that the DPW Superintendent has notified the Selectmen's Office that one of the seawalls at Conomo Point is in need of repairs. The Superintendent said that he has made repairs to the seawall in the past and is happy to make the current needed repairs if the Selectmen are in favor of them, if and when resources allow. A motion was made, seconded, and

unanimously voted to approve the repairs to the Conomo Point seawall suggested by the Superintendent.

Selectman Gould-Coviello said that the owner of one of the Town's restaurants had called her regarding a recent notice sent to all restaurant and package store owners in Town serving or selling alcohol that reminded them that the Town's regulations had been changed last year to require annual certification from either ServeSafe® Alcohol Server Training or Training for Intervention Procedures (TIPS) for managers. Selectman Gould-Coviello said that she would have the restaurant owner call Mr. Zubricki for clarification of the new regulations.

At 9:06 p.m., citing the need to discuss pending litigation and the leasing of real property at Conomo Point, 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 legal strategy and detrimental to the Town's lease negotiating position. The Chairman invited Mr. Zubricki to attend the Executive Session and said that the Board would only be returning to Open Session to adjourn the meeting. The motion was moved, seconded, and per a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 9:50 p.m.

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:

*Recent Memo from Michael Dyer*  
*Proposed Warrant*  
*Reserve Fund Transfer*  
*UN Day Proclamation*  
*email from Debbie Litka*  
*email from Dennis McGurk*

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

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