

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

**October 15, 2012**

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

Also Present: Conomo Point Tenants Steve Cuthbertson, Ida Doane, Leah Maher, Glenn and Heather Mores, and Nina Walker, and Mr. & Mrs. Mores Attorney, Bruce Ramsey.

The Chairman called the meeting to order at 7:00 p.m. and announced that the Board would hear Public Comment. No one offered any comment.

At 7:01 p.m., citing the need to discuss the lease, sale, and value of real property at Conomo Point, the Chairman entertained a motion to move to Executive Session. He said that discussing these matters in Open Session would be detrimental to the Town's negotiating strategy and invited Town Administrator Zubricki and Town Counsel Corbo to attend the session. He stated that the Board would be returning to Open Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, the Town Administrator, the Selectmen's Assistant, and Town Counsel left the Library and moved to Executive Session in the Town Administrator's office on the second floor.

The Selectmen, their Assistant, the Town Administrator, and Town Counsel returned to the Library at 7:20 p.m. and continued the Selectmen's meeting in Open Session.

Mr. and Mrs. Mores and their attorney, Bruce Ramsey, came before the Selectmen to discuss the Purchase & Sale Agreement for 34 Cogswell Road (Map 19, Lot 11), a turnaround easement, and a request for an extension of the signing deadline for the Purchase & Sale Agreement. Mr. and Mrs. Mores said that they had found someone who would like to assume the lease rights to the property at 34 Cogswell Road and who is also interested in purchasing the property from the Town. However, that person is currently in Europe and will not be back until mid-November. The Selectmen said that they would like written confirmation from the interested person of their intention to lease and ultimately purchase the property by next Monday, October 22. Pending receipt of the confirmation by 10/22, the Selectmen will make a determination on whether or not to extend the signing deadline to November 15, 2012. The Mores and their attorney thanked the Selectmen and left the meeting.

Suzanne Lynch joined the Selectmen to discuss her candidacy for the opening on the Board of Registrars. Town Clerk Christina Wright explained that the position requires approximately 8 hours a month, more or less. Suzanne briefly reviewed her past activities on local groups and committees, including her continuing support of the Essex PTA. The Selectmen said that she is one of two candidates for this position. Mr. Zubricki will inform her of their choice of candidate after they conclude an interview with one other person. She thanked the Selectmen and left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$109,177.48.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the September 24<sup>th</sup>, 2012, Selectmen's Open Meeting, the Selectmen's September 24<sup>th</sup>, 2012 Executive Session, and the Public Hearing on September 28<sup>th</sup>, 2012.

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

One-Day Wine and Malt License:

- Apple Street Farm, Frank McClelland, Fall Harvest Festival, for use on Friday, October 19, 2012, between the hours of 5:00 and 11:00 p.m. within the confines of the Apple Street Farm at 35 Apple Street.
- Apple Street Farm, Frank McClelland, Fall Harvest Festival, for use on Saturday, October 20, 2012, between the hours of 5:00 and 11:00 p.m. within the confines of the Apple Street Farm at 35 Apple Street.

The Selectmen were reminded that the Cape Ann Chamber of Commerce's Business After Hours will be held at the Castle Manor Inn, 141 Essex Avenue, Gloucester, from 5:00 p.m. to 7:00 p.m., on Wednesday, October 17, 2012.

The Annual Essex Clam Fest will take place on Saturday, October 20, 2012, between the hours of 11:00 a.m. and 4:00 p.m. in Shepard Memorial Park.

The Cape Ann Chamber's Congressional Debate and breakfast will take place at Cruiseport Gloucester, from 7:30 to 9:30 a.m. on Friday, October 26, 2012.

The next regular Board of Selectmen's meeting will take place on Monday, October 29<sup>th</sup>, 2012, at 7:00 p.m. in the Senior Center on Pickering Street.

A motion was made, seconded, and unanimously voted to approve and sign the Presidential Election Warrant.

A motion was made, seconded, and unanimously voted to approve a request from Thomas Guertner to close Periwinkle's Restaurant for maintenance and cleaning from October 29, 2012 through February 28, 2013.

A motion was made, seconded, and unanimously voted to approve a request from Xunjie Zheng to close the Riverside Bistro for maintenance and cleaning from October 29, 2012 through February 28, 2013.

A motion was made, seconded, and unanimously voted to approve and sign the registration form for the Assistant Plumbing & Gas Inspector, David Pereen.

The Selectmen reviewed a letter from Roger F. Bresnahan regarding the Town's taking advantage of a free service provided by the Massachusetts Department of Revenue to audit the financial management of the Town. The Selectmen were interested in the idea and agreed to consider it again at a later date.

A motion was made, seconded, and unanimously voted to approve a ***request to put a North Shore United Way thermometer*** on the right side of the Library driveway from mid-November through the end of April.

Mr. Zubricki said that former Selectman Ray Randall used to act as the Selectmen's liaison to the Council on Aging and the Council on Aging has asked that a current Selectman be designated to replace him as liaison. Selectman Gould-Coviello volunteered for the position and Mr. Zubricki said he would inform Council on Aging Chair Keith Symmes.

The Selectmen reviewed the two candidates running for two positions on the Boston Region Metropolitan Planning Organization and a motion was made, seconded, and unanimously voted to cast votes for Joseph C. Sullivan and Catherine B. Cordes.

A motion was made, seconded, and unanimously voted to acknowledge a ***Disclosure of Appearance of Conflict of Interest*** submitted by George E. Marsh Jr. No objections were registered.

Martha Thompson introduced herself to the Selectmen and discussed her candidacy for the open position on the Board of Registrars. Mrs. Thompson has been very active as a poll worker, serving on various veterans' groups, and helping with political campaigns. The Town Clerk said that the position would require about 8 hours a month, sometimes more or sometimes less. The Selectmen reminded Martha that she was one of two candidates for the position. They said that they would make a decision later this evening and that Mr. Zubricki would call her with their decision on Tuesday. She thanked the Selectmen and left the meeting with Town Clerk Christina Wright.

Mr. Zubricki reported that the group organizing the Halloween party for the children at Centennial Grove has been informed that they will have to have the party earlier in the day so that it will end by 5:00 p.m. due to the Board of Health ban on outside activities between the hours of 5:00 p.m. and 8:00 a.m. He said that the Board of Health has asked if the Selectmen would like to issue an advisory against Halloween trick or treating, as well, in relation to the Eastern Equine Encephalitis threat. The Selectmen decided that trick or treating is not an organized group activity and recommended that the Board of Health issue a Code Red Advisory, if necessary, the night before trick or treating, warning people about the risks.

Mr. Zubricki said that the Town's insurance carrier has recommended that the Town increase its public officials liability insurance back wages limit from \$50,000 to \$150,000. The amended policy will increase the Town's annual payment by \$760. The insurance carrier said that they

have found that \$50,000 is not adequate to deal with most claims of this type. A motion was made, seconded, and unanimously voted to approve the increase in insurance coverage.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period September 22<sup>nd</sup>, 2012 through October 12<sup>th</sup>, 2012, regarding the following:

Town Website Review and Suggestions: Mr. Zubricki said that he had met with an Essex resident who specializes in website development. Mr. DeMeo has suggested live links to major documents and more descriptive labeling for the Town's website. Mr. Zubricki said that Mr. DeMeo will submit a written report of his suggestions for the Selectmen's consideration.

Installation of Multi-Protocol Label Switching Fiber Connection: The City of Melrose is working with Comcast to bring a MPLS fiber connection into the Essex Town Hall and representatives from Comcast and the City of Melrose came to the Town Hall recently to look over the site. There will be a new IT closet installed on the stage where all of the IT equipment and the MPLS switch will be located. Melrose and Comcast are currently negotiating a contract for this service, which Essex will also be required to sign. A motion was made, seconded, and unanimously voted to authorize Mr. Zubricki to sign the necessary paperwork when it becomes available.

AFSCME Negotiations for Successor Agreement: Mr. Zubricki said that a letter has been received from the union requesting the initiation of discussions regarding the renewal of the union contract which is due to expire on June 30, 2013. Selectman Gould-Coviello volunteered to be the Selectmen's representative for the discussions.

Responses to Request for Services: Mr. Zubricki reported that two proposals have been received and that the Conomo Point Planning Committee met on October 11<sup>th</sup> to review the proposals. The Selectmen decided to meet at 6:45 p.m. at the Senior Center on Monday, October 22<sup>nd</sup>, along with representatives from the Conomo Point Planning Committee, to conduct the interviews regarding the selection of a design firm to assist with planning for northern Conomo Point. Interviews will be held at 7:00 p.m. and 8:00 p.m.

Downtown Board Walk Feasibility Project Technical Review: Mr. Zubricki, Selectman O'Donnell, the Town's consulting engineer, Ed Perkins, and representatives from the Department of Environmental Protection and Army Corps of Engineers met recently to view the proposed site of the boardwalk on the causeway and to discuss attached floats for boat tie-up. Anything that encroaches upon the Federal Channel is not permitted and it appears that floats attached to the proposed boardwalk would interfere with the Federal Channel. One solution might be to petition to have the channel moved. The Board confirmed that funding should be sought for the boardwalk with a parallel effort to explore channel realignment.

At 8:10 p.m., the Board of Public Works Superintendent Paul Goodwin, BPW Chair Brian Feener, and BPW members Scott DeWitt and Paul Rullo joined the Selectmen to provide a public information session regarding proposed changes to the sewer regulations. Mr. Zubricki

reviewed the reasons behind each of the proposed changes to the 38-page ***Board of Public Works Sewer Regulations***. The Town will be asked to vote on the proposed changes to the Town's sewer bylaw at the Special Town Meeting that will be held on Monday, November 19<sup>th</sup>, 2012. If the bylaw changes pass, the Board of Public Works will promulgate the regulations which have been developed to match the bylaw proposal. The Town Meeting will also be asked to vote to approve an increase in the present sewer flow for the potential buyer of 5-11 Southern Avenue (Map 38, Lots 1, 2, 3, and 4).

Also, on another matter, the Boards discussed the proposed change of use for cemetery property. In order for the Town to build a public safety building on the John Wise Avenue property held by the BPW for cemetery use, the BPW is required to declare that the property is surplus and turn it over to the Selectmen for general use. The BPW asked if their release of the property could be conditional and if they could be assured that use of the property would be returned to them if the Town decided not to use the site for a public safety building? Mr. Zubricki said that was not possible based on his consultation with Town Counsel. The BPW said that they would consider this matter further and let Mr. Zubricki know whether it should be included in the warrant for the November 19<sup>th</sup> Special Town Meeting. The Selectmen thanked them for coming and they left the meeting.

At 9:03, citing the need to discuss the lease, sale, and value of real property at Conomo Point; pending litigation concerning the case of Judson Pratt, et. al. vs. the Town of Essex, Essex Superior Court C.A. No. ESCV2012-00936B; and a potential easement over Town land for the benefit of Demeter, Map 3, Lot 19, Southern Avenue; the Chairman entertained a motion to move to Executive Session. He said that discussing these matters in Open Session would be detrimental to the Town's negotiating and litigating strategies. He invited Town Administrator Brendhan Zubricki and Town Counsel Gregg Corbo to attend the Session and said that the Board would be returning to Open Session in about one hour to continue regular business. The motion was moved and seconded. Following a unanimous Roll Call Vote, all others present left the building and the Board moved to Executive Session.

The Board, their Assistant, the Town Administrator, and Town Counsel returned to Open Session at 10:12 p.m. The Selectmen were rejoined by Steve Cuthbertson, Ida Doane, Leah Maher, and Nina Walker.

The Selectmen reviewed a letter from Karl and Elizabeth Pingree regarding a request for an extension of the signing deadline for their Purchase and Sale Agreement at Conomo Point. A motion was made, seconded, and unanimously voted to approve an extension of up until April 14<sup>th</sup>, 2013, contingent upon the following conditions:

- Receipt by the Selectmen of an unaltered, signed Purchase & Sale Agreement by October 31, 2012;
- Receipt of a \$5,000 deposit;
- Proof that the property has been listed with a real estate agent or Multiple Listing Service;

- Pro-rated payment of Bridge Lease Year Two rent from January 1, 2013 through closing on the property;
- And, if there is no sale of the property by the end of the extension, return of the \$5,000 deposit to Mr. & Mrs. Pingree.

The Selectmen reviewed correspondence from Ida Doane regarding Mr. Tofuri's property at Conomo Point. The Chairman informed Mrs. Doane that since the Board had not received a formal agreement from Mr. Tofuri authorizing Mrs. Doane to act on his behalf with regard to his leased property at Conomo Point, the Board would only communicate with Mr. Tofuri at this time.

The Selectmen also reviewed an email from Mrs. Doane regarding her unsuccessful efforts to secure financing for the purchase of her leased property at 10 Town Farm Road. Chairman Jones, who is the CEO of Melrose Cooperative Bank, said that his bank could not provide financing due to a conflict of interest, but he had spoken to a number of local banks, which he named, that would be willing to finance a few of the properties for sale at the Point.

The Selectmen considered a request from Cynthia Van Hamersveld to extend the deadline for the Purchase and Sale Agreement for the property at 89 Conomo Point Road (Map 19, Lot 116) in order to obtain financing. The Selectmen declined to approve an extension, since they did not feel that it is necessary at this time. They may consider granting one at a later date.

The Selectmen considered a written request to add Maureen C. Woodman to the Bridge Lease and Purchase and Sale Agreement for the property at 94 Conomo Point Road (Map 19, Lot 47) currently leased by Paul T. Kelley. Selectman Gould-Coviello made a motion to approve the written request for the addition of Maureen C. Woodman to both the Bridge Lease and the yet-to-be-signed Purchase & Sale Agreement for the property at 94 Conomo Point Road (Map 19, Lot 47) with the caveat that said Bridge Lease expires by its term on December 31, 2012, that said Purchase & Sale Agreement expires by its term 60 days from its original receipt by Paul T. Kelley, and that nothing in this vote shall be construed as an extension of said Bridge Lease or Purchase & Sale Agreement or an alteration of any of the terms contained therein; 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 Paul T. Kelley. The motion was moved, seconded, and unanimously voted.

The Selectmen considered a written request to add Rosine Liberti to the Bridge Lease and Purchase and Sale Agreement for the property at 8 and 12 Robbins Island Road (Map 19, Lots 60 and 62) currently leased by William Liberti. Selectman Gould-Coviello made a motion to approve a written request for the addition of Rosine Liberti to both the Bridge Leases and the yet-to-be-signed Purchase & Sale Agreements for the properties at 8 and 12 Robbins Island Road (Map 19, Lots 60 and 62) with the caveat that said Bridge Leases expire by their terms on December 31, 2012, that said Purchase & Sale Agreements expire by their terms 60 days from their original receipt by William Liberti, and that nothing in this vote shall be construed as an extension of said Bridge Leases or Purchase & Sale Agreements or an alteration of any of the

terms contained therein; that nothing in this approval is intended to convey or imply any right, title or interest in the subject properties, or any portion thereof that was not already held by William Liberti. The motion was moved, seconded, and unanimously voted.

A motion was made, seconded, and unanimously voted to approve a written request to remove the names of Richard C. Jr., Paul Tofuri, and Christine Sutton from the Bridge Lease and from the Purchase and Sale Agreement for the property at 4 Town Farm Road (Map 19, Lot 35).

A motion was made, seconded, and unanimously voted to approve a written request to remove the names of Janet M. Landry (deceased), Jane E. Powers and Susan L. Mears from the Bridge Lease and from the Purchase and Sale Agreement for the property at 96 Conomo Point Road (Map 19, Lot 48).

A motion was made, seconded, and unanimously voted to approve and countersign Conomo Point Purchase and Sale Agreements for the following properties:

- 82 Conomo Point Road (Map 19, Lot 26)(Amirault)
- 87 Conomo Point Road (Map 19, Lot 117)(Durie)
- 89 Conomo Point Road (Map 19, Lot 116)(Van Hamersveld)
- 100 Conomo Point Road (Map 19, Lot 57)(Given)
- 6 Robbins Island Road (Map 19, Lot 59)(Collins, L.)
- 8 Robbins Island Road (Map 19, Lot 60)(Liberti)
- 12 Robbins Island Road (Map 19, Lot 62)(Liberti)
- 2 Sumac Drive (Map 19, Lot 15)(Gammons)
- 3 Town Farm Road (Map 19, Lot 45)(Bertocci)
- 10 Robbins Island Road (Map 19, Lot 61)(Tardie)

The Selectmen reviewed the following Purchase & Sale Agreements:

- 9 Cogswell Road (Map 19, Lot 51): A motion was made, seconded, and unanimously voted to approve the Brenneman Purchase & Sale Agreement for this property outside of a meeting as soon as Town Counsel determines whether any additional paperwork is necessary to address the fact that the tenant is a Trust.
- 22 Cogswell Road (Map 19, Lot 14): A motion was made, seconded, and unanimously voted to approve and countersign Mr. Osburn's Purchase & Sale Agreement for this property and to attach a letter stating that Mr. Osburn's cover letter is not part of the P&S Agreement and that Section 19 is a lawful and binding part of the signed P&S.
- 28 Cogswell Road (Map 19, Lot 12), 90 Conomo Point Road (Map 19, Lot 34): A motion was made, seconded, and unanimously voted to approve the P&S for both these properties outside of a meeting as soon as Town Counsel and Mr. Calder's attorney reach agreement regarding an attached rider.

- 33 Cogswell Road (Map 19, Lot 28): A motion was made, seconded, and unanimously voted to approve the P&S and Rider between Mary Lewis and Margaret Sydlowski and the Town for this property.
- 85 Conomo Point Road (Map 19, Lot 118): A motion was made, seconded, and unanimously voted to approve the P&S with Donna and Gary Beck for this property outside of a meeting as soon as Donna and Gary Beck select a form of ownership.
- 86 Conomo Point Road (Map 19, Lot 33): A motion was made, seconded, and unanimously voted to approve this P&S with Kathleen Simpson outside of a meeting pending the receipt of a septic system inspection report for this property.
- 94 Conomo Point Road (Map 19, Lot 47): A motion was made, seconded, and unanimously voted to approve the P&S with Paul T. Kelley and Maureen C. Woodman for this property outside of a meeting as soon as they select a form of ownership.
- 7 Sumac Drive (Map 19, Lot 20): A motion was made, seconded, and unanimously voted to approve and countersign the P&S and Rider with Cottage Park Realty, Inc.

It was announced that a written letter of interest had been received from a person trying to obtain financing for the property at 92 Conomo Point Road (Map 19, Lot 46) which is currently leased to Joan Brown Herrmann. A motion was made, seconded, and unanimously voted to grant a furthertwo-week extension to the signature deadline for this property.

Mr. Zubricki said that signed Purchase & Sale Agreements have been received for the following properties with substantive alterations made to the original P&S Agreements that were offered:

- 98 Conomo Point Road (Map 19, Lot 56)(Mayer)
- 6 Sumac Drive (Map 19, Lot 16)(Mayer)
- 9 Town Farm Road (Map 19, Lot 44)(Smith, K.)
- 10 Town Farm Road (Map 19, Lot 38)(Doane)
- 12 Town Farm Road (Map 19, Lot 40)(Mayer)
- 13 Town Farm Road (Map 19, Lot 41)(Maher)

The Selectmen did not approve of the changes made by altering the original agreements and a motion was made, seconded, and unanimously voted to reject these P&S Agreements and to reissue the original agreements to the respective tenants with a signing deadline of October 31, 2012, and a requirement that all previous reservations and alterations are retracted.

Mr. Zubricki resumed presentation of his Town Administrator's Report.

Town Hall / Library Improvements Project: Mr. Zubricki reported that the consultant for the Town Hall Improvement Project had recently met with the Town's DPW workers who made strategic excavations at the Town Hall. The consultant was able to determine that the Town Hall



foundation sits in a bowl of marine clay. Based on these test results, it appears that an interior drain system would be more effective than an exterior solution to the Town Hall's water problem in the basement. The Selectmen said that they would discuss additional financing for this project with the Finance Committee at the Department Head meeting on October 29, 2012 (after the consultant generates a new cost estimate).

Mr. Zubricki said that Meyer & Meyer have developed an accurate set of plans of the existing conditions at the Town Hall. There is also a *priority listing of desired improvements* and associated costs.

Draft Special Town Meeting Warrant and Potential Special Election: Mr. Zubricki briefly reviewed each of the proposed articles for the November 19<sup>th</sup>, 2012, Special Town Meeting.

The Selectmen discussed the two candidates for the vacant position on the Board of Registrars. A motion was made and seconded to appoint Suzanne Lynch to the position. Selectman O'Donnell abstained from the voting. Chairman Jones and Selectman Gould-Coviello voted for Suzanne.

Bid Opening and Contract for Used Aerial Fire Apparatus: Mr. Zubricki reported that only one bid had been received, but that it was within the \$190,000 appropriation allowed by Town Meeting. A motion was made, seconded, and unanimously voted to sign the Contract Award Certificate and Notice to Proceed not to exceed the amount of \$179,100. The additional funds will be used to outfit the vehicle.

Southern Conomo Point Subdivision Improvements and Covenant: Mr. Zubricki said that the construction firm is getting ready to install the stone bounds at southern Conomo Point. The Board of Health has been reviewing each property's potable water supply. Mr. Zubricki would like everything to be in order so that the Planning Board will be able to make a partial release of the southern Conomo Point properties at their meeting on November 7<sup>th</sup>, 2012.

Ship's Wheel Monument Placement: Mr. Zubricki reported that he had spoken to the Conservation Agent about moving the shed and the Ship's monument at the Town Landing. The Agent advised that it shouldn't be a problem as long as there was no disturbance to the ground. Mr. Zubricki agreed to ask the Harbormaster about whether or not the shed could be moved off the site and placed behind the Fire Station.

UMass Vaccine Clinic Third Party Billing Contract: A motion was made, seconded, and unanimously voted to sign the renewal of a third party vaccination billing contract with UMass.

Selectman Gould-Coviello said that Mayor Carolyn Kirk of Gloucester told her that the new wind turbine that is being built at Varian will supply all the city's municipal buildings with free electricity. The Selectmen asked Mr. Zubricki to find out if this savings would affect the sewer bill for Essex.

The Chairman asked if there was any Public Comment. Nina Walker and Leah Maher had questions about seasonality restrictions at Conomo Point.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 11:25 p.m.

Documents used during this meeting include the following:

*Disclosure of Appearance of Conflict of Interest*  
*Request to Place a North Shore United Way Thermometer*  
*Draft Board of Public Works Sewer Regulations*  
*Priority Listing of Desired Improvements to Town Hall*  
*Draft Special Town Meeting Warrant*

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

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