

**Selectmen's Minutes
Essex Elementary School**

August 6, 2012

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

Chairman Jones called the meeting to order at 6:00 p.m. in the cafetorium at the Essex Elementary School on Story Street and announced that the Board would hear Public Comment. No one offered any comment.

Mr. Zubricki said that he had spoken with one of the Conomo Point tenants about this evening's informational forum regarding the recently issued purchase and sale agreements for southern Conomo Point leased properties. Mr. Zubricki reviewed some of the questions that the tenants may be asking at tonight's forum. Those questions included the following:

- Would it be possible to extend the lease for one year while a transfer of lease rights is arranged?
- Can the \$5,000 deposit be lowered to \$500?
- What if it takes longer than 60 days to arrange financing?
- Who owns the roads at the Point?
- Land at Little Neck in Ipswich has recently been selling for less than the valuations for land at Conomo Point. Can the Town commission an updated appraisal for the Conomo Point land?

The Chairman asked Mr. Zubricki to begin the presentation of his Town Administrator's Report for the period July 21st, 2012 through August 3rd, 2012 regarding the following:

Conomo Point Planning Committee Meeting: Selectman Gould-Coviello reported that the CPPC had met recently. The Committee had discussed the next steps for resolution of the issues regarding the northern portion of Conomo Point and Selectman Gould-Coviello read a ***recommendation from the Committee*** to work with the Selectmen to use the funds for planning that were provided at the Annual Town Meeting. The Committee will seek and select a landscape architecture and design firm to help discover options and develop a final plan for the northern Conomo Point area incorporating highest and best use and maximum public access based on good fiscal management as approved by the Finance Committee. The Committee will be meeting again on Thursday, August 16, 2012 in the Senior Center.

Designer Assistance Regarding Town Hall / Library Project: Mr. Zubricki reported that the Town Building Committee had interviewed and ranked the top three firms that had submitted bids for the work at Town Hall. Meyer and Meyer had achieved the top ranking. At Mr. Zubricki's recommendation, a motion was made, seconded, and unanimously voted to request a cost proposal from Meyer and Meyer. The proposal may not exceed \$50,000.

Town Hall Bell Tower Structural Review: Mr. Zubricki said that concerns have been expressed regarding the Town Hall Bell Tower which appears to be moving away from the rest of the building, despite some structural work which was performed in the 1990's. Mr. Zubricki has

managed to track down the supervising architect of the 1990 work, but he was not involved in the analysis of the structure. Mr. Zubricki has not been successful in contacting the managing architect, Mr. Rowe, who is believed to have retired from the business, for those repairs, nor has he been able to locate a set of plans for the repairs that were made. The Selectmen agreed that the bell tower repairs should be added to the list of suggested assessments and repairs to be paid for out of the recent \$600,000 appropriation at Town Meeting. Other suggested additions to the list include repairs to the library ramp and a generator. Mr. Zubricki said that the Town Building Committee was very impressed with Meyer and Meyer and their vision of how the use of Town Hall space could be maximized while retaining the unique historical aspects of the building. It is possible that the firm could be asked to outline its long-term recommendations using other funding.

Asbestos Evaluation and Operations/Maintenance Plan Grant: Mr. Zubricki said that he had prepared a grant application, with the approval of the Fire Chief, to apply for a \$5,000 Risk Management Grant from the Town's insurer to pay for an evaluation and management plan for existing asbestos in the Fire Station by Covino Environmental. A motion was made, seconded, and unanimously voted to approve the grant application.

"Up With People" Community Service and Involvement: Mr. Zubricki said that he had met recently with a representative from "Up with People". This organization is composed of young people from all over the world, whose mission is to tour the world promoting peace and acceptance of diverse cultures. They will be performing a musical show, "Voices", in September at the Hamilton-Wenham Regional School and will also be available to help with community service projects. While at Hamilton-Wenham, the group will be hosting various activities and workshops at the school. The representative from the group has asked whether any families in Essex might be interested in boarding group members while they are in the area, and also if there are any community service projects that members of the group could perform. The Selectmen asked Mr. Zubricki to put a notice on the Town's website regarding the group (once a link has been provided) and to contact the Manchester-Essex Regional School District. Mr. Zubricki will also ask if the group would be interested in helping to re-box old files at the Town Hall or in helping at the Senior Center.

Mr. Zubricki said that he had been approached by Andrew Cataldo, the son of Vickie and Michael Cataldo, who has volunteered to complete the porch repairs on the Grove Cottage that were begun by another group. He has also volunteered to pick up trash in the area, maintain the grounds, remove the old metal pipes that used to supply water to the Cottage, and remove the junk in the garage. After a discussion, a motion was made, seconded, and unanimously voted to approve Andrew Cataldo's completion of the porch repairs (with the Town paying for materials), maintenance of the grounds, and collection of litter. Mr. Zubricki will ask the Department of Public Works Superintendent about removal of the old water pipes. The items in the garage are being used by the YMCA for the summer program and will remain on the property.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$478,602.80.

A motion was made, seconded, and unanimously voted to approve and sign the minutes for the July 23rd, 2012, Selectmen's Open Meeting and the Selectmen's July 23rd, 2012 Executive Session.

A motion was made, seconded, and unanimously voted, at the *recommendation of Police Chief Peter Silva*, to appoint Robert Smith to the position of Assistant Harbormaster contingent upon successful completion of a drug and medical test.

Bing Gao, the manager of the Riverside Bistro, came before the Selectmen to discuss his application for a weekday entertainment license for live and recorded music, both inside and outside the building. The Selectmen said that there had been problems in the past regarding outdoor music at this location. Subsequently, a motion was made, seconded, and unanimously voted to approve the request for a weekday entertainment license with the stipulation that outdoor entertainment will be limited, on a provisional basis, to only live, acoustic music kept at a reasonable sound level on Friday and Saturday, ending at 10:00 p.m., and is subject to revisitation by the Licensing Board if complaints arise; Indoor entertainment will be limited to live or recorded music on Monday through Saturday, so long as the sound is kept at a reasonable level and is contained within the building. Mr. Gao was reminded that he still needs to pay the fees for a Common Victualler's License and for the Entertainment License. Mr. Gao thanked the Selectmen and left the meeting.

At 6:40 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 in the Teachers' Lounge. He said that discussing this matter in Open Session would be detrimental to the Town's negotiation strategy and invited Mr. Zubricki to attend the Session. He said that the Board would be returning to Open Session for the Public Informational Forum and to finish regular business. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board left the cafetorium and moved to Executive Session in the Teachers' Lounge.

At 7:00 p.m., the Board returned to Open Session in the Essex Elementary School cafetorium.

The Chairman asked Mr. Zubricki to begin the Public Informational Forum to discuss the recently issued purchase and sale agreements for southern Conomo Point leased properties. The purchase price of the lots, which was set at Town Meeting, is for the land-only value, based on the appraisal by the Town's consultant, Mark Tyburski, and southern Conomo Point tenants will have 60 days to either accept or decline the agreement. Approximately thirty-seven Town residents were assembled. Mr. Zubricki said that both he and the Board would be happy to answer any questions that anyone had about the purchase and sale agreements and that the discussion would be limited to one half hour.

One of the first questions concerned the determination of metes and bounds for the lots being offered. Mr. Zubricki explained that the approved southern subdivision plan is on file at the Salem Registry of Deeds which can be accessed on-line at salemdeeds.com. The plan book is

432, and the page is 97. The sub-division plan contains all the necessary boundary information regarding the lots for sale. Mr. Zubricki said that the Town will be installing stone bounds along the roadways, but the Town will not be staking out the bounds of the individual lots.

It was mentioned by one of the Conomo Point tenants, that the timing is not favorable for those tenants wishing to transfer their rights to someone who would like to purchase the property, since it is commonly thought that the real estate market is better in the spring than the fall.

Another question concerned ownership of the roads at Conomo Point. Mr. Zubricki said that the roads will continue to be publicly owned, private roads. (The roads will remain on Town-owned land, but have never been formally accepted at a Town Meeting as public ways.) The Department of Public Works will continue to plow and maintain the roads as they have in the past. There will be no improvements to any of the roads at Conomo Point other than the turnarounds required by the Planning Board at the end of Cogswell Road and Sumac Drive for safety reasons.

Two parcels (A & B) have been reserved by the Town and will not be offered for sale. Mr. Zubricki said that the use for those parcels has not yet been determined.

A tenant asked if the amount of the deposit could be reduced from \$5,000 to \$500 or \$100. The Chairman replied that the customary deposit for a purchase and sale agreement is 5% and that the \$5,000 in this case is equal to around 2.5% of the average purchase price of the southern Conomo Point lots.

The question was raised again about ownership of the improvements to the leased lots at the Point and Mr. Zubricki said that it continues to be the Town's position that it owns the improvements. However, the purchase and sale agreements are for the valuation of the land only and once the property is sold, the owner will then have rights to the entire property. The issue of ownership of the improvements should not be an issue, since it is irrelevant.

The tenants expressed concerns that they would not be able to get financing, based on the tight time schedule. Mr. Zubricki said that the purchase and sale agreements, as written, will allow for closings right up through the end of calendar year 2012. The tenants also asked for an up-dated appraisal from the Town, since they felt the current valuations were high. Another tenant asked if there would be rent rebates if the sale of a property was completed before the end of the calendar year.

Some of the tenants said that they would like to negotiate the purchase price and Mr. Zubricki explained that the current purchase price is for the lowest amount allowable that was voted at Town Meeting and is non-negotiable. However, the Selectmen said that they would be willing to work in other ways that do not involve the purchase price, on a case by case basis, with elderly, year-round tenants on a low, fixed income, who could not afford to purchase their leased lots.

Another question was raised about what will happen to the lots that are not purchased by the current tenants. The Selectmen said that they will decide on a case by case basis to either sell them to someone else or to keep the properties for Town use.

The purchase and sale agreements for three of the properties contain a right of first refusal to the Town if the new owner decides to sell the lot in the future. The purchase price for these three lots was reduced by 5% as suggested by the Town's appraiser. A question was raised about whether this is a one-time right or if it would continue through successive owners and Mr. Zubricki said that he would ask Town Counsel.

There being no further questions from those assembled, the Chairman thanked everyone for coming and said that the Board would now return to their regular business. Except for Steve Cuthbertson, everyone left the meeting.

A motion was made, seconded, and unanimously voted to approve and sign the ***Continuing Disclosure Certificate*** associated with school building construction borrowing in the amount of \$1,964,000.

A motion was made, seconded, and unanimously voted to approve a ***request to pass over Essex roads during the 13th Annual Nelson's Ride*** on Sunday, August 26, 2012.

A motion was made, seconded, and unanimously voted to have the Town participate in the ***Massachusetts Municipal Association's Statewide 6th Grade Essay Contest***.

A motion was made, seconded, and unanimously voted to approve the following requests for clamming permit filing waivers and approvals:

- Consider a vote to waive the application filing deadline and approve the application for a Non-Resident Recreational Clamming Permit for William Pascucci of Stuart, FL, who is being sponsored by Rich Tofuri, Jr.
- Consider a vote to waive the application filing deadline and approve the application for a Non-Resident Recreational Clamming Permit for Stephen Ward of Wilmington, MA, who is being sponsored by Timothy Shanks.

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

One-Day Wine and Malt License:

- Chebacco Liquor Mart, Paul Chisholm, for use on Saturday, August 18, 2012, between the hours of 5:00 p.m. and 9:00 p.m. within the confines of the Cox Reservation.

One-Day Entertainment License:

- Eventide Gallery & Merchants Group, Teri Eramo, for use on Saturday, August 18, 2012, between the hours of 5:00 p.m. and 9:00 p.m. within the confines of the Cox Reservation.

The Selectmen were reminded that the next Board of Selectmen's meeting will take place on Monday, August 20th, 2012, at 7:00 p.m. at the T.O.H.P. Burnham Library on Martin Street.

The Cape Ann Caucus will be held on Thursday, September 20, 2012, from 7:30 a.m. to 9 a.m. at the Rockport Art Association at 12 Main Street, sponsored by the Cape Ann Chamber's Government Affairs Committee.

The Selectmen reviewed a *request from Eric and Kathryn Spunt* to sublet their leased property at 4 Conomo Lane (Map 19, Lot 83), starting around September 1, 2012. The Spunts will forward the name of the sub-tenant to the Selectmen once the property has been rented. A motion was made, seconded, and unanimously voted to approve the request to sublet the property at 4 Conomo Lane.

Mr. Zubricki announced that a Stipulation of Dismissal, with Prejudice, for the Town of Essex vs. Melvin Barron had been filed with the court and that Mr. Barron has paid all past due real estate taxes, rent, and fees, as well as the taxes due August 1, 2012. A motion was made, seconded, and unanimously voted to counter-sign a Bridge Lease that Melvin and Carol Barron had already signed that carries all of the terms and conditions of the other Bridge Leases, including the Tyburski-derived rent amounts.

On a related matter, Selectman Gould-Coviello said that the Conomo Point Planning Committee is considering whether or not it would be advisable to move more quickly on the Robbins Island and Beach Circle properties to resolve the issues, instead of including those areas in the planning for the remainder of the northern area of Conomo Point.

Selectman Gould-Coviello announced that the group working on establishing a Cultural District is moving along and that a walking tour of the proposed district will be held on Monday, August 13 at 1:00 p.m. She asked the other Selectmen to attend the tour, and if possible, to write an individual letter of support for the district. It was suggested that she also invite the new head of the Cape Ann Chamber of Commerce to attend the tour.

One of the Selectmen said that a resident is investigating converting a wind turbine to a cell tower. Mr. Zubricki said that he would ask the Building Inspector about the plans and find out if a public hearing or a variance would be necessary.

The Chairman announced the conclusion of the Board's regular business. Citing the need to discuss pending litigation concerning the case of Judson Pratt, et. al. vs. the Town of Essex, Essex Superior Court C.A. No. ESCV2012-00936B; pending litigation concerning the case of Appellants vs. the Town of Essex Board of Assessors, ATB Docket No. X305092; and the value of real property abutting Southern Avenue, Map 3, Lot 22; 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 litigating strategy and negotiating strategy. He stated that the Board would only be returning to Open Session to adjourn the meeting and invited Town Administrator Brendhan Zubricki to attend. The motion was moved and seconded. Following a unanimous Roll Call Vote, Steve Cuthbertson left the meeting, and the Board moved to Executive Session.

The Board returned to Open Session at 8:20 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:

Recommendation from the Conomo Point Planning Committee
Recommendation of Police Chief Peter Silva to Appoint Robert Smith
Continuing Disclosure Certificate
Request to pass over Essex roads during the 13th Annual Nelson's Ride
Massachusetts Municipal Association's Statewide 6th Grade Essay Contest
Request from Eric and Kathryn Spunt to Sublet 4 Conomo Lane

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell