

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

August 20, 2012

Present: Chairman Jeffrey D. Jones, Selectman Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham, and Conomo Point residents Cynthia Van Hamersveld and Bill Liberti.

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. No one offered any comment.

Attorney John Guerin, David Jones, and William W. Wolbach, Jr. came before the Selectmen to discuss the boundary of 1 Ralston Drive (Map 19, Lot 115). Mr. Wolbach, Jr. owns the property at 1 Ralston Drive and is in the process of selling it to Mr. Jones. However, the property at 89 Conomo Point Road (Map 19, Lot 116) (which the Town leases to a tenant) has encroachments on the property at 1 Ralston Drive which the buyer would like to resolve before the sale becomes finalized. The encroachments include a boat, a deck, a propane tank, and an outdoor shower deck. Attorney John Guerin said that the prospective new owner of the Ralston Drive property would like the Town to enter into a license agreement that would allow the encroachments to remain on the Ralston property for a period of time at the discretion of Mr. Jones and distributed a ***draft of the proposed license***. The Selectmen said that they would take the matter under advisement and after discussing it with Town Counsel, would get back to Attorney Guerin. Mr. Jones, Mr. Wolbach, Attorney Guerin, and Cynthia Van Hamersveld thanked the Selectmen and left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period August 3rd, 2012 through August 17th, 2012, regarding the following items:

Conomo Point Planning Committee Update: The Conomo Point Planning Committee and the Sub-Committee had met recently to work on creating a scope of services for the future design of northern Conomo Point to be executed by a professional consultant. It was agreed that the Committee seemed to be unclear as to the direction that the scope should take. The premise is to work with the existing open and improved spaces to maximize waterfront access and financial return to the Town. Presently, there is no intention to remove any houses or buildings and it was also agreed that the process needs to move forward in order to present a zoning district to Town Meeting in May. The Committee and the Sub-Committee will be meeting again in early September. The Selectmen agreed and a motion was made, seconded, and unanimously voted that once the scope of services was finalized, the bids for the work would be solicited by invitation only.

Southern Conomo Point Roadway Work Bidding Update: Mr. Zubricki reported that only one bid for the southern Conomo Point road improvements had been received, and it is in the amount of \$24,906.00. The amount is just below the amount estimated by Horsley Witten. A motion was made, seconded, and unanimously voted to issue a notice to proceed contingent upon verification that the company has the necessary bonds and insurance in place; and also, favorable completion

of reference checks for the company. The work will be scheduled to begin sometime after Labor Day weekend.

Cost Proposal for Town Hall / Library Design and Supervision Work: Mr. Zubricki informed the Selectmen that Meyer & Meyer has submitted a **cost proposal** for their design and engineering services regarding the improvements to the Town Hall employee environment. The fee is within the parameters set by Town Meeting. Mr. Zubricki said that he will work with Town Counsel and Meyer & Meyer to finalize a contract. A motion was made, seconded, and unanimously voted to sign the finalized contract outside of a Selectmen's meeting when it becomes available. Mr. Zubricki said that he would ask the Department of Public Works Superintendent if his department would be able to help with digging a trench by the Town Hall and removing a portion of the cement floor in the Town Hall basement to facilitate monitoring and analysis of the basement water problem.

Mr. Zubricki said that a quote has also been received to strengthen the first floor of the Town Hall to support heavy-duty fire-proof files in the amount of \$960.00. The Selectmen were in favor of proceeding.

Completion of Grove Cottage Porch Renovation: Mr. Zubricki said that Andrew Cataldo and his associates have graciously volunteered to complete the renovations to the Centennial Grove Cottage porch. The Selectmen signed a letter of acknowledgment and thanks to Andrew.

On another matter, Mr. Zubricki said that Vine Associates had contacted him to advise getting the Army Corps of Engineers involved in the boardwalk project, since there may be encroachment of the project into the Federal channel. Selectman O'Donnell questioned whether or not a special plan needed to be in place before work could be specified for the boardwalk, since it may be within the Area of Critical Environmental Concern (ACEC). Mr. Zubricki did not think the ACEC came that far up the River and said he would verify its extent.

In other business, a motion was made, seconded, and unanimously voted to approve and sign the minutes for the August 6th, 2012, Selectmen's Open Meeting and the Selectmen's August 6th, 2012 Executive Session I and II.

A motion was made, seconded, and unanimously voted to approve a **recommendation from Fire Chief Dan Doucette to appoint Jonathan O'Bryan** to the position of probationary firefighter. The Selectmen signed the appointment card.

A second motion was made, seconded, and unanimously voted to approve another **recommendation from Fire Chief Dan Doucette to also appoint Spencer Morse** to the position of probationary firefighter and the Selectmen signed his appointment card.

Town Counsel Gregg Corbo joined the Selectmen, along with Attorney Arthur Goldberg and Steve Demeter, to discuss a request by Mr. Demeter for an easement over Town Land on Southern Avenue. Mr. Demeter had purchased property on Southern Avenue several years ago

which he planned to develop. He discovered after the property was purchased that a strip of Town-owned land separated his property from Southern Avenue. He said that his land had been taxed these past twenty years as accessible, buildable property. Presently, there is an old dirt road/driveway that provides access from Southern Avenue, over Town property to the Demeter property. The road leads to a State fire tower facility in Manchester. There is a locked gate at the entrance to the Demeter property. Mr. Demeter is seeking to move the entrance to his property and secure an easement over the Town property for that entrance. The Selectmen said that they would take the matter under advisement for discussion with Town Counsel. They said that final approval of any easement over Town-owned land is required to be voted at Town Meeting. Mr. Goldberg and Mr. Demeter 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 \$58,746.03.

Selectman O'Donnell said that Hilary Mattison has expressed interest in filling the vacancy on the Town Building Committee. A motion was made, seconded, and unanimously voted to appoint Ms. Mattison to the Town Building Committee.

Selectman Gould-Coviello said that the process to establish an Essex Cultural District is moving right along. The tour of the proposed District, a couple of weeks ago, was well attended. Formation of the District is supported by Senator Tarr and many others who were present for the walking tour.

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

Auction Permits:

- Richard DiFillipo, R.A. DiFillipo Antiques & Auctions, for use on Wednesday, September 26, 2012, between the hours of 8:30 a.m. and 10:30 p.m. within the confines of 125 Main Street.

One-Day Wine and Malt License:

- Frank McClelland, Apple Street Farm, for use on Friday, August 24, 2012, between the hours of 5:00 and 11:00 p.m., within the confines of the Apple Street Farm at 35 Apple Street.
- Frank McClelland, Apple Street Farm, for use on Saturday, August 25, 2012, between the hours of 5:00 and 11:00 p.m., within the confines of the Apple Street Farm at 35 Apple Street.
- Joan B. Houghton, Woodman's Inc., for use on Friday, September 7, 2012, between the hours of 12:00 noon and 10:00 p.m., within the confines of Woodman's Function Hall at 125 Main Street.
- Joan B. Houghton, Woodman's Inc., for use on Thursday, September 13, 2012, between the hours of 12:00 noon and 10:00 p.m., within the confines of Woodman's Function Hall at 125 Main Street.

A motion was made by Selectman Gould-Coviello to approve a One-Day Wine and Malt License for Teri Eramo, Eventide Gallery, for use on Saturday, August 25th, 2012, between the hours of 6:00 and 9:00 p.m. within the confines of 63 Main Street. The motion was moved, seconded, and unanimously voted.

The Selectmen were reminded that the next Board of Selectmen's meeting will take place on Monday, September 10th, 2012, at 7:00 p.m. in 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.

A motion was made, seconded, and unanimously voted to approve a request to pass over Essex roads during the **6th Annual Stephen Hancox Memorial Motorcycle Run and BBQ Benefit** on Saturday, September 15, 2012.

A motion was made, seconded, and unanimously voted to approve the **Warrant for the 2012 State Primary**. The Selectmen signed the Warrant.

The Selectmen reviewed an appointment **list of proposed poll workers** as recommended by the Town Clerk and a motion was made, seconded, and unanimously voted to approve the Town Clerk's list, contingent upon verifying each of the individuals meet the appropriate qualification guidelines.

A motion was made, seconded, and unanimously voted to approve and sign the **State Formula Grant for the Council on Aging**.

A motion was made, seconded, and unanimously voted to authorize payment for the special police detail for the "Wet Paint Day" held on Saturday, August 18th, 2012, from the Special Events Fund.

The Selectmen considered a **request for assignment of a bridge lease** for 11 Beach Circle (Map 19, Lot 95) from Melvin & Carol Barron to Philipp G. Menges. Selectman Susan Gould-Coviello made a motion to approve the request for the assignment of the leasehold for the property at 11 Beach Circle (Map 19, Lot 95) from Melvin M. and Carol L. Barron to Philipp G. Menges pursuant to Article VIII, Section 1 of the Bridge Lease for said property, with the caveat that said Bridge Lease will expire by its term on December 31, 2012, and that nothing in this vote shall be construed as an extension of said Bridge Lease or an alteration of any of its terms; and further, 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 Melvin M. and Carol L. Barron. The motion was moved, seconded, and unanimously voted.

Mr. William Liberti left the meeting.

At 8:07 p.m., citing the need to discuss:

- the lease, sale, and value of real property at Conomo Point;
- the value of real property as evidenced by the request for easements and/or licenses by the following individuals:
 - Attorney John Guerin regarding property at 1 Ralston Drive and 89 Conomo Point Road;
 - Attorney Arthur Goldberg regarding property owned by Steve Demeter off Southern Avenue and Town-owned property;
 - Mr. Pat Gardner regarding property off Southern Avenue (Map 3, Lot 22) and the Coolidge Trust;
- pending litigation concerning the case of the Town of Essex vs. the Estate of Judith H. Foley, Northeast Housing Court C.A. No. 09H77SP003249;
- 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;
- pending litigation concerning the case of the Town of Essex vs. William Allen, Essex Superior Court C.A. Nos. ESCV2002-00352, ESCV2006-00313, and ESCV2007-02096;

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. The Chairman stated that the Board would be returning to Open Session and invited the Town Administrator and Town Counsel to attend the Executive Session. The motion was moved, seconded, and following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 9:55 p.m.

A motion was made, seconded, and unanimously voted to authorize Town Counsel Gregg Corbo to contact Attorney Arthur Goldberg regarding preliminary support for his client's (Steve Demeter) request for an easement over Town-owned land and that conditions or restriction may be required as part of the process.

A motion was made, seconded, and unanimously voted to authorize Town Administrator Brendhan Zubricki to discuss preliminary support for an easement requested by Mr. Gardner off Southern Avenue and that conditions or restrictions may be required as part of the process.

A motion was made, seconded, and unanimously voted to authorize Mr. Zubricki to serve the tenant of 89 Conomo Point Road with an order that all items encroaching upon the property at 1 Ralston Drive be removed within seven days. Failure to meet the removal deadline will result in the Town's contracting for removal of the items, with all charges to be paid for by the tenant.

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:

Draft of the Proposed License

Cost Proposal

Recommendation from Fire Chief Dan Doucette to appoint Jonathan O'Bryan

Recommendation from Fire Chief Dan Doucette to also appoint Spencer Morse

Warrant for the 2012 State Primary

List of Proposed Poll Workers

Request for Assignment of a Bridge Lease

State Formula Grant for the Council on Aging

6th Annual Stephen Hancox Memorial Motorcycle Run and BBQ Benefit

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell