

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

September 24, 2012

Present: Chairman Jeffrey D. Jones, Selectman Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, Town Counsel Gregg Corbo, Town Counsel Jeffrey Blake, Selectmen's Assistant Pamela J. Witham, Board of Assessors Chair Richard Cairns, Assessor Barry Ewing, Assessor Kurt Wilhelm, Police Chief Peter G. Silva, Part-Time Police Officer Candidate Robert Smith, and numerous Conomo Point tenants.

The Chairman called the meeting to order at 7:00 p.m. and announced that the Board would hear Public Comment. Conomo Point tenant Leah Maher said that she was aware that some of the purchase and sale agreements have been modified for certain elderly tenants and she asked about the requirements that would qualify a tenant to receive a modification on a purchase and sale agreement. The Selectmen responded that the tenant has to meet the requirements mentioned in the bridge lease. Qualifying tenants must be elderly and have a low income. In addition, the leased premises at the Point must be their principal residence and they must be the only person listed on the lease.

Ida Doane, a Town resident and also a tenant at 10 Town Farm Road, ***requested a 60-day extension of her purchase and sale agreement*** signing deadline. She explained that the extension was necessary because she was having difficulty finding a bank that would be willing to finance her acquisition of the property. The Selectmen said that they would take her request under advisement.

Kirk Smith, also a Town resident and a leaseholder of two properties at the Point, said that he is also having trouble obtaining financing and would like an extension. The Selectmen said that they would discuss his request and inform him of their decision at a later time.

Police Chief Silva came before the Selectmen to introduce Robert Smith, a candidate for a part-time patrolman position. Chief Silva reviewed ***Mr. Smith's resume*** and his many accomplishments. Mr. Smith is currently an Assistant Harbormaster for the Town. Subsequently, a motion was made, seconded, and unanimously voted to appoint Robert Smith to the position of Part-Time Police Officer contingent upon Mr. Smith's successful completion of psychological testing. The Selectmen signed the appointment card and congratulated Mr. Smith. Chief Silva and Mr. Smith left the meeting.

Joan Brown Herrmann came forward and said that she has found a person who is interested in taking over her bridge lease and her purchase and sale agreement for 92 Conomo Point Road, Map 19, Lot 46. However, she said that the interested person has not yet been able to secure financing and that she would like an extension until such financing is achieved. She also said that the Town's Appraisal Consultant had only valued the house/cottage at 92 Conomo Point Road at \$2,000. She said that the valuation is interfering with the ability to secure financing. The Selectmen said that they will consider her requests and have Mr. Zubricki inform her of their decision on Tuesday.

Gary and Mary Lewis and their sister- and brother-in law (Peter and Margaret Sydlowski) came before the Selectmen to discuss the easement for the turnaround required by the southern Conomo Point subdivision plan and its impact on their purchase and sale agreement for 33 Cogswell Road (Map 19, Lot 28). The Lewis' said that they were concerned about the easement

interfering with their septic system, the summer water line, and their parking. Those present reviewed a *map of the proposed easement* for the turnaround and its relation to the property at 33 Cogswell Road. The Lewis' and Sydlowskis also asked for a *rider to their purchase and sale agreement* for the property that included a reduction of the purchase price by \$39,665 to compensate them for the easement to the Town. They also asked for an extension of the signing deadline for the purchase and sale agreement to provide time to arrive at an agreement on the easement. The Selectmen said that they would take the matter under advisement and the Lewis' and the Sydlowskis left the meeting.

Jon Calder and Torrey Johnson came before the Selectmen to request a transfer of the leasehold rights for the property at 28 Cogswell Road (Map 19, Lot 12). The leasehold is currently held by Mr. Johnson and his mother, who would like to transfer their interests to Jon and Cynthia Calder. Selectman Gould-Coviello moved to approve a *written request for the assignment* of both the leasehold and the yet-to-be-signed Purchase & Sale Agreement for the property at 28 Cogswell Road (Map 19, Lot 12) from Sara K. Johnson and Torrey R. Johnson to Jonathan D. Calder and Cynthia F. Calder pursuant to Article VIII, Section 1 of the Bridge Lease and Paragraph 21 of the Purchase & Sale Agreement for said property 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 Sara K. Johnson and Torrey R. Johnson; 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 Sara K. Johnson and Torrey R. Johnson; and further, that full vesting of the rights assigned to Jonathan D. Calder and Cynthia F. Calder shall not occur unless and until all required septic system inspection activities have occurred and that the required septic system inspection report has been provided to the Essex Board of Health. The motion was moved, seconded and unanimously voted. Mr. Calder and Mr. Johnson thanked the Selectmen and left the meeting.

At 7:38 p.m., citing the need to discuss pending litigation concerning the case of Appellants vs. the Town of Essex Board of Assessors, ATB Docket No. X305092 and 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 litigating position and negotiating position. He invited the Town Administrator, both Town Counsels, and the Board of Assessors to attend the Executive Session. He said that the Board would be returning to Open Session to finish regular business. The Conomo Point tenants present left the building. The motion was moved and seconded, and, following a unanimous Roll Call Vote, the Board moved to Executive Session.

A motion was made by the Chairman of the Board of Assessors to move to Executive Session to discuss pending litigation concerning the case of Appellants vs. the Town of Essex Board of Assessors, ATB Docket No. X305092. He said that discussing this matter in Open Session would be detrimental to the Town's litigating strategy and said that the Assessors would only be returning to Open Session to adjourn their meeting. The motion was moved and seconded, and following a unanimous Roll Call Vote, the Assessors joined the Selectmen and Town Counsels in Executive Session.

The Selectmen returned to Open Session at 9:29 p.m. The Assessors and Town Counsel Jeff Blake had previously left the meeting. The Selectmen were joined by a few Conomo Point tenants.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$77,169.96.

A motion was made, seconded, and unanimously voted to approve and sign a purchase and sale agreement for 4 Robbins Island Road (Map 19, Lot 58).

A motion was made, seconded, and unanimously voted to approve and sign a purchase and sale agreement for 6 Town Farm Road (Map 19, Lot 36).

A motion was made, seconded, and unanimously voted to grant a two-week extension of the purchase and sale agreement signing deadline to Joan Brown Herrmann for the property at 92 Conomo Point Road (Map 19, Lot 46), contingent upon her providing the Selectmen with a letter of intent from the person who interested in being assigned her lease rights to the property.

A motion was made, seconded, and unanimously voted to grant a two-week extension of the purchase and sale agreement signing deadline to the tenants leasing the properties at 33 Cogswell Road (Map 19, Lot 28) and 34 Cogswell Road (Map 19, Lot 11) to allow time to resolve the terms of the easement for the required turnaround.

A motion was made, seconded, and unanimously voted to authorize the Selectmen to sign the purchase and sale agreement for the property at 7 Sumac Drive (Map 19, Lot 20) pending agreement by Town Counsel and the attorney for the tenant on the proposed rider to the purchase and sale agreement.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period September 10th, 2012 through September 21st, 2012, regarding the following items:

Draft November Special Town Meeting Warrant: Mr. Zubricki briefly reviewed each of the fifteen articles on the ***draft warrant for the Special Town Meeting*** that is planned for November 19, 2012. He will make changes based upon the Board's guidance and will bring a revised draft to the next meeting.

Attorney Gregg Corbo left the meeting.

Draft Request for Services (RFS), Northern Conomo Point: Mr. Zubricki reviewed the list of firms that had been invited to submit proposals to provide design services for the planning of northern Conomo Point. Mr. Zubricki said that one of the eight firms that received an invitation has declined to participate. Mr. Zubricki also said that Nick Cracknell has offered a draft ***contract proposal*** for technical assistance services to the Conomo Point Planning Committee and the Selectmen, regarding the planning for northern Conomo Point in the amount of \$4,750. A motion was made, seconded, and unanimously voted to sign the contract outside of a Selectmen's meeting as soon as the final draft is created by Mr. Cracknell, making minor modification suggested by Mr. Zubricki.

Filling of Vacancy on the Board of Registrars: Mr. Zubricki announced that there are two candidates for the single vacancy on the Board of Registrars. The two political parties in town have failed to provide the Town Clerk with a requested list of candidates, and it is now the Selectmen's responsibility to appoint a person to fill the vacancy. The Selectmen asked Mr. Zubricki to schedule interview appointments for Suzanne Lynch and Martha Thompson at their next Selectmen's meeting on October 15th.

Offer of Volunteer Website Improvement Assistance: Mr. Zubricki said that Tom Demeo has volunteered to help the Town improve the Town's website. The Selectmen were in agreement that Mr. Zubricki should arrange a conference between Mr. Demeo and the Town's website provider to explore possibilities and to report back to the Board.

Development of Town Hall/Library Repair Scope of Work: Mr. Zubricki reported that the design firm hired by the Town to develop a scope of work to improve the working environment at the Town Hall has submitted an initial cost estimate for waterproofing the Town Hall basement in the amount of \$300,000. Only \$600,000 was appropriated at Town Meeting, leaving \$190,000 to pay for all the other improvements needed after paying for design services, fire and security alarms, and waterproofing the basement. The Selectmen were in agreement that the design firm should complete their analysis of the building and asked Mr. Zubricki to consult with the Finance Committee Chair about additional funds for the improvements. An additional debt exclusion or use of free cash are possible options.

Heating Oil Quotations and Awarding of Contract: Mr. Zubricki said that two quotations had been received this year to supply heating oil to the Town Hall and the Fire Station commencing November 1st, 2012 and ending October 31st, 2013. The lowest bidder was Old Yankee Fuel at \$0.25 over the cost of the Low Daily Boston Wholesale Price. A motion was made, seconded, and unanimously voted to approve and sign the contract for the coming heating season with Old Yankee Fuel contingent upon receipt of their insurance documents.

Location of Ship's Wheel Monument: Mr. Zubricki and Selectman O'Donnell reported that they had met with William Bradford and had made a site visit to the Town Landing where the Ship's Wheel Monument is located. Various relocations of the monument and the shed were discussed. The Selectmen were in favor of the shed being relocated to a point near the property line for Periwinkles restaurant and of turning the monument so that it could be more favorably viewed from Main Street. Mr. Zubricki agreed to speak with the Town's Conservation Agent to determine if these changes would be permissible without extensive permitting..

Requests to Open Roadway, Route 133 Gas Line Work: It was reported that National Grid had planned to tear up the recently completed sidewalk and roadway on Route 133 to provide gas to four properties. MassDOT normally places a 5-year moratorium on road work to a finished project area. After calling various people at National Grid and MassDOT, Mr. Zubricki was told by National Grid that they have cancelled the work orders for three of the properties and that the only one remaining was for the Catholic Church. Mr. Zubricki has since been informed that National Grid has also cancelled the work for the church.

Management of Conomo Point Rent and Sale Proceeds: The Selectmen agreed to discuss this topic with representatives of the Finance Committee, the Long Term Planning Committee, the Conomo Point Planning Committee, the Town Building Committee, the Centennial Grove Committee, and others at the next scheduled Department Head meeting on October 29, 2012.

DEP Quarterly Report: A motion was made, seconded, and unanimously voted to transmit the DEP Quarterly Report dated October 1, 2012.

Purchase Vehicle for Elderly, Low-Income, Principal Residence Tenants: Mr. Zubricki said that he will continue to explore possible methods with Town Counsel to provide deferred payments to elderly, low-income tenants who wish to purchase their leaseholds at Conomo Point.

In other business, a motion was made, seconded, and unanimously voted to approve and sign the minutes for the September 10th, 2012, Selectmen's Open Meeting, the Selectmen's September 10th, 2012 Executive Session, the Selectmen's September 17, 2012 Open Meeting, and the Selectmen's September 17, 2012 Executive Session.

A motion was made, seconded, and unanimously voted to approve the use of the Luther Burnham Fund to assess and repair the Treasurer/Collector's vault lock and the Town Clerk's vault door mechanism.

A motion was made, seconded, and unanimously voted to proclaim Wednesday, October 24th, 2012, *United Nations Day and sign the proclamation*.

A motion was made, seconded, and unanimously voted to approve a request to hold the Town's Halloween party at Centennial Grove on Saturday, October 27, 2012, between the hours of 5:00 and 8:00 p.m., including a bonfire and horse and wagon rides contingent upon approval of the Essex Fire Department regarding the management of the planned bonfire. The Selectmen also said that parents must remain with their children during the event.

A motion was made, seconded, and unanimously voted to approve the use of the Town Event Fund for two Police details at the Clamfest on October 20, 2012 and for certain extra Department of Public Works expenses related to the Clamfest such as a dumpster, if necessary.

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

One-Day Wine and Malt License:

- Apple Street Farm, Frank McClelland, for use on Friday, September 28th, 2012, between the hours of 5:00 and 11:00 p.m. within the confines of 35 Apple Street.
- Apple Street Farm, Frank McClelland, for use on Saturday, September 29th, 2012, between the hours of 5:00 and 11:00 p.m. within the confines of 35 Apple Street.
- Essex Historical Society & Shipbuilding Museum, Nathan Woodman, for use on Saturday, October 6, 2012, between the hours of 4:00 and 11:00 p.m. within the confines of the Waterline Center at 66 Main Street.

- Cape Ann Chamber of Commerce, Tim Burton, for use on Saturday, October 20, 2012, between the hours of 11:00 a.m. and 4:00 p.m. within the confines of Memorial Park.

One-Day Entertainment License:

- Essex Historical Society & Shipbuilding Museum, Nathan Woodman, for use on Saturday, October 6, 2012, between the hours of 4:00 and 11:00 p.m. within the confines of the Waterline Center at 66 Main Street.
- Cape Ann Chamber of Commerce, Tim Burton, for use on Saturday, October 20, 2012, between the hours of 11:00 a.m. and 4:00 p.m. within the confines of Memorial Park.

The Selectmen were reminded that there will be a public hearing regarding the proposed transfer of license for Lewis' Oyster House at 234 John Wise Avenue at 7:30 a.m. on Friday, September 28, 2012 in the T.O.H.P. Burnham Library.

The next regular Board of Selectmen's meeting will take place on Monday, October 15th, 2012, at 7:00 p.m. in the T.O.H.P. Burnham Library on Martin Street.

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.

A motion was made, seconded, and unanimously voted to sign the letters to Conomo Point tenants regarding possible extension of their bridge leases.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:30 p.m.

Documents used during this meeting include the following:

Ida Doane's request for a 60-day extension of her purchase and sale agreement
Mr. Smith's Resume
Map of the Proposed Easement
Rider to their Purchase and Sale Agreement
Johnson/Calder written request for the Assignment
Draft Warrant for the Special Town Meeting
Contract Proposal
United Nations Day Proclamation

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell