

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

February 25, 2013

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

Chairman Gould-Coviello called the meeting to order at 7:00 p.m. in the Thomas Oliver Hazard Perry Burnham Library and announced that the Board would hear Public Comment. No one was present from the public to offer any comment.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period February 9th, 2013 through February 22nd, 2013 regarding the following:

Final Design Preparations, Downtown Boardwalk: Mr. Zubricki reported on his meeting with the design engineer for the proposed causeway boardwalk. The purpose of the meeting was to review the current status of the project. The engineer is now completing the final design for the project and Mr. Zubricki solicited the Selectmen's opinion regarding the remaining design questions that the engineer has. Once the design plans are completed, Mr. Zubricki will approach Ed Perkins and Bing Gao regarding easements over their property to access and to construct the boardwalk. The project will eventually be voted at Town Meeting. The Selectmen were of the opinion that the planters, benches, and signage should coordinate with the other benches and signage being contemplated for the pocket parks and history trail in town. The designer will use generic specifications until those choices are known. LED lighting will also be part of the final design. The Selectmen decided to specify composite pilings instead of CCA pilings since composite is more environmentally friendly. Mr. Zubricki said that the engineer is not recommending any change to the existing seawall that was part of the recently completed Route 133 Reconstruction Project.

Regional Dispatch Finance Advisory Board Monthly Meeting: Mr. Zubricki said that he had attended the monthly meeting of the Regional Dispatch Finance Advisory Board. He reported that the completion of the facility has been delayed due to State procurement issues. That concern has now been resolved and the project will proceed with the construction of the communications tower. They are still projecting that completion should occur by June 30, 2013. The Town of Wenham will be the first town to be switched over to the new center and they are anticipating that they will be able to switch one town every day. The Town's contract with the Teamsters for the Essex Emergency Center Operations will expire this June 30th. The regional center is also considering allocating a separate room of the facility to handle cellular-based 911 calls for our region.

Mr. Zubricki also reported that ground-breaking for a regional lock-up center will soon take place. Mr. Zubricki and the Selectmen agreed that it could be financially advantageous to the Town to join the regional lock-up. Membership in the regional lock-up would also mean that the proposed new public safety building for John Wise Avenue could be a lot smaller, and therefore a lot less expensive to build. Mr. Zubricki will inquire about the protocol for joining the Regional Lock-up.

Draft Annual Town Meeting Warrant: Mr. Zubricki reviewed each of the articles contained in the latest ***draft of the Annual Town Meeting Warrant***.

Mr. Zubricki said that he had been approached by Dennis and Rosemary Burnham who would like to purchase a small piece of town-owned land that is between their property on Lakeview Road and Western Avenue. After some discussion, the Selectmen agreed that they were not in favor of proceeding with their request at this time.

Mr. Zubricki also said that Helen Bethell of the Manchester-Essex Conservation Trust is working on a project to get Town approval to have several pieces of ***land designated as conservation land***. So far, the location of only one piece of the six proposed pieces is identified with an Assessors' Map and Lot number. The Selectmen were in agreement that they would like the Long Term Planning Committee, the Conservation Commission, and the Open Space Committee to make a recommendation to the Board regarding whether or not each group is in favor of the project. The Selectmen said they would like more information regarding location of the properties, etc. before bringing the project to Town Meeting for a vote, potentially in the fall of 2013.

Mr. Zubricki suggested that the Town Moderator be invited to the next Selectmen's meeting to participate in the discussion of the next draft of the Annual Town Meeting Warrant. The Board agreed.

Potential Schedule Change for Annual Town Election: At the last Selectmen's meeting, the Selectmen had agreed to take under advisement whether the annual Town election should be moved to coincide with a State election planned for April. Upon due consideration, both Selectmen were in agreement that they were against moving the Town election from the usual scheduled date of the Monday following the Annual Town Meeting. The Elementary School gymnasium has been reserved for two nights (May 6 and 7) for the Annual Town Meeting.

In other business, a motion was made, seconded, and unanimously voted to approve a request to pass over Essex Roads on Saturday, September 7, 2013 during the 17th Annual Cycle for Life to benefit the Floating Hospital for Children at Tufts Medical Center.

A motion was made, seconded, and unanimously voted to approve a request from Essex Cub Scout Pack 100 to hold their annual camp out at Centennial Grove on Saturday, June 8th, 2013, with a rain date of Saturday, June 15th and to waive the rental fee.

A motion was made, seconded, and unanimously voted to approve a request to extend the permission to close the Riverside Bistro from February 28, 2013 through March 30, 2013, for cleaning and repairs.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's February 11th, 2013, Open Meeting, the February 11th, 2013, Executive Session, the Selectmen's February 15th, 2013, Open Meeting, and the Selectmen's February 15th, 2013, Executive Session.

Preparations for Central Conomo Point Zoning District: Mr. Zubricki reported that the recent meeting with the Planning Board to introduce them to a proposed new zoning bylaw being contemplated for 'central' Conomo Point went very well. The Selectmen will also attend a portion of the next Planning Board meeting on Wednesday, March 6, 2013 at 8:00 p.m. at the Essex Elementary School, where Nick Cracknell will present an overall informal presentation regarding the proposed bylaw. Mr. Cracknell continues to work on drafting the proposed bylaw and plans to have a draft ready this week.

Proposed Revisions to Town of Essex Shellfish Regulations: Mr. Zubricki reviewed the *changes to the Town's shellfishing regulations* that were recently suggested by the Town Shellfish Constable. Mr. Zubricki had reviewed the changes with Town Counsel, who said that the changes would be permissible. The changes include: increasing the fee for the annual commercial license to \$500 per year with a \$200 discount available if 10 hours per year of work is provided to help with the shellfish reseeding project; restricting the issuance of non-resident recreational permits to only those people without commercial clamming permits in other towns; requiring shellfishers to rebury all sizes of clams not taken if the outside air temperature is less than 28 degrees; and banning all commercial harvesting of oysters. Mr. Zubricki commented that David Roach from the Division of Marine Fisheries considered the 28 degree rule to be technically reasonable. The Selectmen were in agreement with the proposed changes and asked Mr. Zubricki to forward the proposed revisions to the Shellfish Advisory Commission for comment.

NOTE: The shellfish regulation violation hearing that was scheduled for tonight at 7:30 p.m. has been re-scheduled to 7:30 p.m. on Monday, March 11th, 2013.

FEMA Hazards Grant, Emergency Generator: Mr. Zubricki continues to work on the Grant application to MEMA for a generator for use at the Town Hall. He has discussed placement of the generator with MEMA personnel and with the Town Historical Commission. The Historical Commission has recommended that the generator be placed to the rear of the Library parking lot where the trees will screen it from view. The generator needs to be placed in close proximity to the building so as not to lose voltage; it needs to be outside the flood plain; it needs to be easily accessible for delivery of diesel fuel; and, it should be away from trees that could fall in a storm and damage it. The ideal location appears to be to the rear of the Town Hall, behind the Town Clerk's office. It was suggested that the generator could be camouflaged with shrubbery or a fence.

A motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$619,672.65.

A motion was made, seconded, and unanimously voted to approve a *request from the Department of Public Works* to allow expenditures of \$15,000 in excess of available appropriations under M.G.L. Chapter 44, §31 (d).

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

One-Day Auction Permit:

- Blackwood March Antiques, Michael March, for use on Tuesday, March 5, 2013, between the hours of 4:00 and 10:00 p.m., within the confines of 125 Main Street.

Commercial Clamming Permit:

- Stephen Aiello
- Ronald A. Hemeon
- Brian Loebelenz

Non-Resident Recreational Clamming Permit:

- Bruce Simpson of Salem, NH sponsored by Barbara Muise of Main Street
- Matthew G. Lane of Gloucester, MA sponsored by Elizabeth Lane of Coral Hill
- Dan Swindell of Ipswich, MA sponsored by Thomas W. Prentiss of Forrest Avenue
- Mary A. Picariello of Boxford, MA sponsored by Ronald Hemeon of Rocky Hill Road
- Philip A. Picariello of Boxford, MA sponsored by Ronald Hemeon of Rocky Hill Road

Student Commercial Clamming Permit:

- Michael Loebelenz

The Selectmen were reminded that the Conomo Point Planning Committee will meet on Thursday, March 7, 2013, at 7:30 p.m. at the Senior Center.

The next regular Board of Selectmen's meeting will take place on Monday, March 11th, 2013, at 7:00 p.m. in the Library on Martin Street.

At 8:30 p.m., the Selectmen were joined by Town Accountant Roxanne Tieri and members of the Finance Committee: Chair Jeff Soulard, Jim Horrocks, and Mark McKenna. FinCom Chair Jeff Soulard reported that they continue to work on the budget for FY2014 and are currently at \$373,000 over the levy limit. Those present discussed the timing of the conversion to a regional emergency operations center. It is anticipated that with the expiration of the Teamsters ECO

contract on June 30th, that staffing of the Essex ECO, if necessary, could be provided by the regional center until conversion takes place. That would reduce the FY14 budget by about \$77,000. The school budget is presently projected at only a 3.1% increase over last year and the Department of Public Works has also managed to keep their budget to a modest increase. The FinCom will continue to work with the departments regarding their budgets and the needs of the Town. The Selectmen and the FinCom agreed that they will meet again on March 25th, when the Selectmen close the warrant, to discuss the status of the budget again. The Selectmen thanked the Town Accountant and the FinCom members and they left the meeting.

At 9:27 p.m., 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. v. the Town of Essex, Essex Superior Court C.A. No. ESCV2012-00936B; pending litigation concerning the case of Walker et al. v. The Town of Essex, Essex Superior Court C.A. No. ESCV2012-02221; 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 Richard D. Rettberg, et al. v. Board of Assessors of the Town of Essex, ATB Docket No. F317827; pending litigation concerning the case of the Town of Essex v. William Allen, Essex Superior Court C.A. Nos. ESCV2002-00352, ESCV2006-00313, and ESCV2007-02096; and, collective bargaining Issues with AFSCME and the EPBA; Acting Chair Gould-Coviello entertained a motion to move to Executive Session. She stated that discussing these matters in Open Session would be detrimental to the Town's negotiating, litigating, and bargaining strategies. She invited the Town Administrator to attend the Executive Session and said that the Board would be returning to Open Session to complete the remainder of the Selectmen's business scheduled for this meeting. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 9:52 p.m.

A motion was made, seconded, and unanimously voted to approve and send a Notice of Breach of Lease as drafted by Town Counsel to the tenant at 15 Middle Road, Map 24, Lot 32.

Mr. Zubricki reviewed the status of the following southern Conomo Point properties that are in the process of being sold to tenants of those properties:

- 14 Robbins Island Road, Map 19, Lot 63, Joanne Averay: Mrs. Averay has recently lost her husband and she will not be able to secure funding from a bank until her tax situation is clarified by her accountant soon. A motion was made, seconded, and unanimously voted to extend her bridge lease and her purchase and sale agreement closing deadline until March 31, 2013, contingent upon receiving a rent check for the month of March 2013.
- 98 Conomo Point Road, Map 19, Lot 56, Daniel Mayer, 6 Sumac Drive, Map 19, Lot 16, Daniel Mayer, and 12 Town Farm Road, Map 19, Lot 40, Daniel Mayer: Mr. Mayer is actively pursuing financing for these three properties, but it will not be completed during

February. Also, Mr. Mayer's business agent has been occupied with a death in the family for the past several weeks. A motion was made, seconded, and unanimously voted to extend his bridge leases and the purchase and sale agreement closing deadlines for these properties until March 31, 2013, contingent upon receiving rent for each of these properties for the month of March 2013.

- 20 Cogswell Road, Map 19, Lot 54, Marybeth Tirrell: Ms. Tirrell is being required by the bank that is providing financing for her purchase of this property to construct a new septic system. The construction has been held up by the cold weather and the bank will not complete the financing until the septic system is completed. A motion was made, seconded, and unanimously voted to extend Ms. Tirrell's bridge lease and her purchase and sale agreement closing deadline until March 31, 2013, contingent upon receiving a rent check for the month of March 2013.
- 89 Conomo Point Road, Map 19, Lot 116, Cynthia Carco Van Hamersveld: The Hamersvelds are in the process of selling another property that they own in order to finance purchase of the Conomo Point property. However, it is possible that their closing will still occur by the end of the month. A motion was made, seconded, and unanimously voted to extend the bridge lease for this property and the purchase and sale agreement closing deadline until March 31, 2013, if necessary, contingent upon receiving a check for the March rent.

Mr. Zubricki explained that the tenants of the following properties are actively engaged in marketing their property interests for the properties that they lease from the Town. Of the three, Mr. Zubricki expects that the property at 19 Cogswell Road is closest to reaching an agreement with a third party.

- 92 Conomo Point Road, Map 19, Lot 46, Joan Brown Herrmann
- 11 Cogswell Road, Map 19, Lot 52, Bernice K. Lichtenstein
- 19 Cogswell Road, Map 19, Lot 53, Estate of Hedwig Sorli

Subsequently, a motion was made, seconded, and unanimously voted to sign an agreement to extend the bridge lease and purchase and sale agreement signing deadlines for these three properties through March 31, 2013, contingent on receiving a check from each for the March rent.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:00 p.m.

Documents used during this meeting include the following:

Draft of the Annual Town Meeting Warrant

A Proposal to Designate 6 Properties as Conservation Land

Changes (Proposed) to the Town's Shellfishing Regulations

Request from the Department of Public Works for \$15,000 for Snow

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell