

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

March 11, 2013

Present: Chairman Jeffrey D. Jones, Selectman Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham, Town Counsel Gregg Corbo, Shellfish Constable Billie Knovak, Town Clerk Christina Wright, Town Moderator Rolf Madsen, and Deputy Town Moderator David Lane.

Also Present: Jim Haskell, Ed Lane, Peter Marshall, Shep Means, George Mullin, Ken Riehl, Dean Rossi, Wayne Savoie, and Keith Woodman.

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.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period February 23rd, 2013 through March 8th, 2013, regarding the following:

Potential Vendor Hosting of Software: Mr. Zubricki reported that he has finished moving the Town's computer user files to Melrose and is contemplating the next step which was originally to move computer applications to Melrose. Mr. Zubricki discussed the various applications used by different departments in Town and noted that keeping each of the applications in Town at present would provide financial advantages. However, beginning July 1, 2013, for the accounting software and July 1, 2014, for the assessing software, it will be more advantageous to move those applications to vendor-hosted platforms. Such platforms did not exist when the Town's Agreement with Melrose was first produced. Mr. Zubricki will move on to exploring virtual desk tops and email solutions with Melrose. The Selectmen were in agreement with Mr. Zubricki and a motion was made, seconded, and unanimously voted to authorize him to begin discussions with the various software application vendors to provide programs to the Town to automatically update and maintain the software, and to backup the data.

Repair of Roof and Construction of Game Court, Centennial Grove: Mr. Zubricki said that the YMCA has informed him that there was damage to one of the changing sheds at Centennial Grove over the winter. They have offered to provide the labor to make the repairs if the Town will agree to pay for the cost of materials. The YMCA has also requested permission to construct a game court called a gaga pit to be used by participants in their summer youth program at the Grove. Subsequently, a motion was made, seconded, and unanimously voted to authorize the YMCA to implement the repairs to the changing shed and to grant permission to the YMCA to build the game pit. A motion was also made, seconded, and unanimously voted to agree to pay for the cost of materials needed to make the repairs to the shed.

Board of Library Trustees' Proposal for Town Hall Basement: Mr. Zubricki reviewed a *letter from the Library Board of Trustees* requesting to use some of the funds that were recently appropriated to make repairs to the Town Hall to create a community meeting room in the Town Hall basement. The Selectmen discussed the request and noted that the money that is currently appropriated was already earmarked for specific repairs and will not be enough to cover the cost of all of the items on the repair list. They also noted that there are no plans at present to make the

basement ADA accessible and no extra money in the budget for funding at this time. They agreed to take the letter under advisement.

School District Budget Follow-up Meeting: Mr. Zubricki reported that he had attended a recent budget meeting for the School District. Among other things that were discussed, it was suggested that perhaps the new patrolman that Essex will be adding to the Essex Police Department in the near future could be shared with the School District. The District might be able to reimburse Essex for part of the patrolman's time through grant funding or from the school budget. Those present agreed that it was too early to make any decisions regarding this suggestion.

Regional Lockup Potential Fiscal Implications: Mr. Zubricki said that he has determined that there are definite advantages to participating in a regional lockup program for a small town. He will continue to investigate the benefits and procedures associated with the new lockup being planned in Middleton with regard to possible future Town participation in the regional facility.

Peter Marshall and Wayne Savoie appeared before the Selectmen to request a waiver of the application filing deadline for a commercial clamming permit. Mr. Marshall and Mr. Savoie explained that they had missed the deadline inadvertently. Both Mr. Marshall and Mr. Savoie brought additional documents with them attesting to their current Essex residency. The documents were reviewed by the Town Clerk who was also present. A motion was made, seconded, and unanimously voted to grant the waiver and approve the applications. Mr. Marshall and Mr. Savoie thanked the Selectmen and left the meeting.

Public Safety Center Design Funding: Mr. Zubricki said that the design architect has confirmed that \$700,000 is still an accurate estimate for the cost to produce a proposed design for a new public safety building. Discussion by the Selectmen followed and it was concluded that it would be premature to ask the Town to approve this expenditure at Town Meeting for a variety of reasons including the designation and acquisition of a specific site and a lack of definitive knowledge regarding the Town's exact needs for the police department.

Central Conomo Point Zoning District Bylaw: Work on the proposed zoning district bylaw continues with a Planning Board public hearing at the Elementary School on Wednesday, March 20, 2013, starting at 8:00 p.m. After the hearing, the bylaw language will be finalized for inclusion in the Annual Town Meeting Warrant which is expected to be closed and approved at the Selectmen's meeting on March 25th.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$213,403.04.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's February 25th, 2013, Open Meeting and the February 25th, 2013, Executive Session.

A motion was made, seconded, and unanimously voted to grant permission to Neurofibromatosis Northeast to pass over Essex Roads during their 3rd Annual Coast to the Cure bike ride on Saturday, September 7, 2013.

The Selectmen agreed to discuss the possible advantages of the formation of an ad hoc committee to consider present and future space and budgetary needs of the Essex Police Department at a future meeting.

The Selectmen tabled the Town Clerk's request for authorization to take a stance regarding a Senate Bill that advocates for a study of seasonal residency and voting until after Town Counsel has studied the matter.

The Selectmen reviewed *pictures showing the current construction status* of the new school building for the North Shore Regional Vocational School District.

At 7:30 p.m., the Chairman announced that the Board would initiate a hearing regarding an alleged violation of the Essex Shellfishing Regulations by Shepherd Means. The Chairman proceeded to read the rules for conducting such a hearing to those present. Subsequently, he entertained a motion to open the hearing. The motion was moved, seconded, and unanimously voted. The Chairman then asked those present who wished to speak during the hearing to raise their right hand and swear to tell the truth. Shellfish Constable Knovak and Shepherd Means came before the Selectmen, raised their right hands, and swore to tell the truth during the hearing. The Chairman asked the Shellfish Constable for a brief summary of his discovery of the alleged offense. Constable Knovak affirmed that he had filed a written report of the offense with the Selectmen and verified that the document held by the Selectmen was his report. The Chairman then asked Mr. Means to speak. Mr. Means said that he had used his non-resident recreational clamming permit to dig razor clams on the Essex flats and that he sold them to a wholesale vendor in Town. He said that he has had various clamming permits from the Town for the last fifteen years and has never, until now, received a citation. He asked the Selectmen to be lenient in their dispensation of a penalty. The Shellfish Constable agreed that Mr. Means has always exhibited exemplary deportment on the flats until this incident. No one else wished to speak and a motion was made, seconded, and unanimously voted to close the hearing. The Selectmen discussed the matter and a motion was made, seconded, and unanimously voted to agree that a violation of the Town's Shellfishing Rules and Regulations had occurred. A second motion was made, seconded, and unanimously voted to assess no penalty for the violation in recognition of Mr. Means' self-enforced abstinence from clamming on Essex flats for the last two months. Mr. Means thanked the Selectmen and left the meeting.

Proposed Changes to Shellfish Regulations: Mr. Zubricki reviewed changes to the Town's Shellfish Regulations that had previously been advocated by the Shellfish Constable and the Town Clerk. Keith Woodman, Chairman of the Shellfish Advisory Commission, and Jim Haskell, a member of the Commission, said that they had discussed these changes at their meeting last Monday. The Commission was not in favor of increasing the annual fee for a commercial clamming permit to \$500 and offering a \$200 discount to those individuals who

gave at least 10 hours of volunteer labor to help with the ongoing reseeding project on the flats. The Commission was also not in favor of amending the regulations to deny recreational permits to commercial clambers from other towns nor was the Commission in favor of requiring that unharvested clams be reburied by the digger if the outside air temperature is less than 28 degrees. And lastly, the Commission was not in favor of prohibiting the digging of oysters for commercial purposes. The Selectmen thanked the Commission for their comments and said that they would take the revisions under advisement. They asked the Commission to come before them again sometime within the next six month period to offer suggestions that the Commission is in favor of to improve and safeguard the Town's shellfish resources. The Commission members agreed to consider the Selectmen's suggestion and said they are actively seeking additional members for the Commission, which may have up to seven members. Currently, the members are three in number: Chair Keith Woodman and members Jim Haskell and Shellfish Constable Knovak. Chair Woodman also suggested that the Constable be designated a non-voting member of the Commission. The Selectmen thanked those present for their comments and Shellfish Constable Knovak, Jim Haskell, Ed Lane, Shep Means, George Mullin, Dean Rossi, and Keith Woodman left the meeting.

Draft Annual Town Meeting Warrant: Town Moderator Rolf Madsen, Deputy Town Moderator David Lane, and Town Clerk Christina Wright appeared before the Selectmen to discuss the current ***draft of the Annual Town Meeting Warrant***. Those present proceeded to discuss the relevance of including certain articles in the warrant. It was also agreed to change the order of the articles. Following the discussion, Mr. Zubricki said that he would incorporate the suggested changes into the next draft of the warrant which will be reviewed at the next Selectmen's meeting on March 25. Mr. Zubricki will also create suggested handouts for the meeting which will offer additional information to the residents regarding some of the articles. Following the discussion, Mr. Lane, Mr. Madsen, and Town Clerk Christina Wright left the meeting, along with Mr. Riehl.

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

Commercial Clamming Permits:

- Richard Buczko
- Kelly Corrao
- David H. Doane
- Michael T. French
- Scott G. Hamlen
- Matthew Jacobs
- Michael W. Jacobs, Jr.
- Mark Jordan
- Edward G. Lane
- Matthew E. Lane
- Dale Lowry
- Phillip H. MacDougall

- Rocco Manzi
- Timothy S. Marshall
- Chris Maxfield
- Kevin Oyer
- Glenn Pike
- Dean Rossi
- Richard Tofuri, Jr.

Common Victualler's License Renewal:

- Down River Ice Cream Corporation, Amy Ahearn, Manager, at 241 John Wise Avenue
- Essex Pizza & Restaurant, Dimitrios Tegos, Manager, at 235 Western Avenue

Non-Resident Recreational Clamming Permits:

- Steve Abbott of Peabody, MA sponsored by Richard Pierro of Belcher Street
- Cliff Bathalon of Hudson, NH sponsored by Edward S. Neal of Western Avenue
- David A. Bogdan of Georgetown, MA sponsored by Richard Pierro of Belcher Street
- Matt Couturier of Sandown, NH sponsored by Edward S. Neal of Western Avenue
- Stephen Danca of Beverly, MA sponsored by Robert Brophy of Western Avenue
- George Dionne of Brentwood, NH sponsored by Leo Provost of School Street
- Charles Dolliver III of Hamilton, MA sponsored by Mark R. Lane of Dodge Street
- Michael Dolliver of South Hamilton sponsored by Mark R. Lane of Dodge Street
- Christian P. Frey of Danville, NH sponsored by Edward S. Neal of Western Avenue
- James Groetz of Kensington, NH sponsored by Leo Provost of School Street
- Frank A. Hartmann of Greenland, NH sponsored by William Perkins of John Wise Avenue
- Ed Kawczynski of Salem, MA sponsored by Richard Pierro of Belcher Street
- Wayne Kinney of Kingston, NH sponsored by William Perkins of John Wise Avenue
- Steve Landers of Hamilton, MA sponsored by Richard Tofuri of Forrest Avenue

- Robin M. Linehan of Newbury, MA sponsored by William Perkins of John Wise Avenue
- Scott McKenna of Ipswich, MA sponsored by Rich Tofuri of Forrest Avenue
- Robert A. Normand of Beverly, MA sponsored by David Burnham of Martin Street
- Frank Northrop of Brentwood, NH sponsored by Leo Provost of School Street
- Dan Provost of South Hampton, NH sponsored by David Burnham of Martin Street
- John Standley, Jr. of Beverly, MA sponsored by Leo Provost of School Street
- Bruce J. Stevens of Brentwood, NH sponsored by Dean W. Richards of Winthrop Street

Senior Clamming Permits:

- Robert Brophy
- Robert A. Doane
- Russell Jordan
- George E. Lane
- Charles A. McNeil
- Richard J. O'Leary
- Everett E. Reed

Student Clamming Permit:

- Steven Ronchi

Waiver of Filing Deadline & Non-Resident Recreational Clamming Permit:

- Bradford Allen of Georgetown sponsored by Russell Jordan of Western Avenue

The Selectmen were reminded that the next regular Board of Selectmen's meeting will take place on Monday, March 25th, 2013, at 7:00 p.m. in the Library on Martin Street.

At 9:35 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; and, collective bargaining issues with AFSCME and the EPBA, the Chairman entertained a motion to move to Executive Session. He stated that discussing these matters in Open Session would be detrimental to the Town's negotiating, litigating, and bargaining strategies. He invited Town Counsel and the Town Administrator to attend the session and said that the Board would be returning to Open

Session. The motion was moved and seconded, and following a unanimous Roll Call Vote, the Board moved to Executive Session with the Town Administrator and Town Counsel.

The Board returned to Open Session at 11:00 p.m. Attorney Corbo had previously left the meeting.

Mr. Zubricki reviewed a *comparison of MIIA Health Plans for Municipal Retirees*. He said that MIIA has provided information concerning a change in the Town's plan for retirees that will not be too different from the existing plan, but will be less expensive to the Town. Mr. Zubricki will ask the Town's Insurance Advisory Committee whether they intend to meet and discuss.

Mr. Zubricki reported that Representative Ann Margaret Ferrante had approached him to provide an email from the Town in support of creating a local film office. The Office would provide helpful local information to companies seeking to film movies, documentaries, etc. in the area. The Selectmen were in agreement with the support email and Mr. Zubricki will forward it to Representative Ferrante.

Mr. Zubricki said that in addition to the recent bill that the Town had paid to Brown Sardina in the amount of approximately \$3,000 for graphics that were used during the public forums on Conomo Point, he has now received another bill. A motion was made, seconded, and unanimously voted to approve and pay this new bill.

In other business, a motion was made, seconded, and unanimously voted to award Mr. Zubricki, as Town Administrator, a 3% merit increase for fiscal year 2014.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 11:10 p.m.

Documents used during this meeting include the following:

Letter from the Library Board of Trustees
Draft of the Annual Town Meeting Warrant
Pictures showing Current Construction Status
Comparison of MIIA Health Plans for Municipal Retirees

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell