

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

**April 8, 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, Sylvia Kirker, and her daughter, Sarah Kirker.

Chairman Jones 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 public comment.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period March 23<sup>rd</sup>, 2013 through April 5<sup>th</sup>, 2013 regarding the following items:

Town Building Committee Meeting and Proposed Public Safety Study Committee: Mr. Zubricki reported that he had prepared a draft *charge for a new ad hoc committee* that will assess the Town's requirements and needs for the two public safety departments. The draft charge is based on the Board's discussion at their last meeting. Selectman O'Donnell, who is also the Chair of the Town Building Committee, said that the TBC had discussed the formation of this new committee at their recent meeting and would like it to be a sub-committee of the TBC. The TBC has spent the last three years researching and working with a consulting firm to determine the spatial needs for a Town Fire and Police Department. Members of the TBC would bring a lot of background knowledge in this specialized area to the new committee. Other opinions were that the Board should not be part of the existing TBC. The Board was agreed that the new committee should be composed of seven members instead of five, some of them from the TBC, perhaps a representative from the Finance Committee, and other residents. The new committee would work on the project with a professional consultant to look at departments in other towns and to evaluate the needs of Essex. Potential members of the committee will be asked to submit letters of interest detailing their qualifications for membership. The Selectmen decided to continue discussion of this matter at a future meeting. Once the direction and scope for the new committee is agreed upon, Mr. Zubricki can make the final edits to the ad hoc committee's charge and ask for an article in the Gloucester Daily Times to solicit interested candidates.

At 7:15 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; and, pending litigation concerning the case of Walker et al. v. The Town of Essex, Essex Superior Court C.A. No. ESCV2012-02221; 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 and litigating strategies, and invited Mr. Zubricki to attend the Executive Session. The Chairman said that the Board would be returning to Open Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board moved to Executive Session upstairs in the Town Administrator's Office on the second floor.

The Board returned to Open Session at 7:38 p.m. in the Library.

Mr. Zubricki continued the presentation of his Town Administrator's report.

Conomo Point Seawall Damage and Repairs: Mr. Zubricki said that the Board of Selectmen have received several reports of unsafe conditions at Conomo Point due to damage to the seawalls from this year's winter storms. The Superintendent of the Department of Public Works has inspected the damage and is working with a contractor to complete repairs.

Fiscal Year 2014 Budget Proposal: Mr. Zubricki reviewed a draft *Summary of Monetary Articles* for the May 6-7, 2013, Annual Town Meeting. He reported that the Finance Committee is supporting all of the articles except for number 13 and number 20 which seek to provide money for waterfront access improvement construction, waterfront programs, and a lifeguard, all at Conomo Point. The monetary amounts for the EPBA and the AFSCME union contracts are approximate, but are expected to be finalized by meeting time. The Community Preservation Committee will be meeting soon to determine if they wish to make any expenditure recommendations and the Finance Committee has not yet determined the amount from Free Cash that they will request to replenish the Reserve Fund. A motion was made, seconded, and unanimously voted to recommend approval of the fiscal year 2014 water and sewer enterprise budgets at the Annual Town Meeting.

Draft Annual Town Meeting Motions: Mr. Zubricki reviewed the *draft of the motions* for each of the Annual Town Meeting Articles and the Selectmen discussed and selected the individuals who will make the motions on the floor of the meeting.

The Annual Town Meeting will be held in the gymnasium at the Essex Elementary School starting on Monday, May 6, 2013 at 7:30 p.m.

Mr. Zubricki announced that the public hearing to discuss residency regarding a commercial clamming permit for Steven Hemeon had been cancelled since Mr. Hemeon had withdrawn his application for a commercial clamming permit.

At 7:50 p.m., the Chairman announced that the Board would hear evidence regarding whether Todd Vickery is a resident of Essex for purposes of holding a commercial clamming license. The Selectmen were joined by Shellfish Constable Billy Knovak, Todd Vickery, and Mr. Vickery's wife. A motion was made, seconded, and unanimously voted to open the hearing. The Chairman asked that all comments be directed to the Chairman and said that everyone would be allowed to speak as long as they spoke to the matter at hand. The Chairman explained the order in which he would hear evidence and asked anyone wishing to speak during the hearing to come forward, raise their right hand, and solemnly swear that the testimony to be given in this matter would be the truth, the whole truth, and nothing but the truth. Mr. Vickery, his wife, and the Shellfish Constable came forward and so swore.

The Chairman proceeded to read a *letter sent to Mr. Vickery* from the Selectmen regarding the scheduling of this hearing to investigate the question of Mr. Vickery's Essex residency. The Chairman asked the Shellfish Constable to speak first. Shellfish Constable William Knovak testified that he could find no documentation that Mr. Vickery resides at 38 Lakeshore Drive and

said that the Town Clerk had not been provided with the required number of acceptable documents needed to substantiate Mr. Vickery's residency.

The Chairman asked Mr. Vickery to speak. Mr. Vickery showed the Selectmen a notice that was sent to him in 2011 denying his application to register to vote because it was not received in time to qualify for the election in 2011. He said he had not applied again. Mr. Vickery said that he lives with his mother at 38 Lakeshore Drive and that the property is owned by his mother and all of the property documents are in his mother's name. He has no driver's license or motor vehicle registration, but did show the Selectmen an ID card with the Lakeshore address. He also presented insurance bills and medical bills addressed to him at the Lakeshore address. One of the main documents used to determine residency is a street census which is mailed out each year by the Town Clerk and returned to her by the residents. Mr. Knovak said that the Town Clerk has no record of receiving a completed census report for the Lakeshore address for any of the last few years.

The Chairman asked if anyone else would like to speak either for or against. No one else came forward.

A motion was made, seconded, and unanimously voted to close the hearing.

The Selectmen discussed the testimony, and subsequently, a motion was made, seconded, and unanimously voted to approve a 2013 commercial clamming license for Mr. Vickery, contingent upon his mother obtaining, completing, and returning a street census form attesting that Mr. Vickery is a resident at 38 Lakeshore Drive. Mr. and Mrs. Vickery thanked the Selectmen; and, they and the Constable left the meeting.

The Selectmen were joined by Molly Richter and Ariane Rutt of Meyer & Meyer to discuss the firm's recommendations for the scope of Town Hall improvements and the associated ***cost estimate for those repairs***. The 2012 Annual Town Meeting approved making Town Hall improvements for the benefit of employee safety up to \$600,000 and a Special Town Meeting had added \$137,000 more. Town Building Committee members Beth Cairns, Dan Doucette, Deborah French, Stuart Pratt, Sara Richards, and Peter Silva also joined the discussion. Molly Richter told those present that it is important to be careful when undertaking a renovation project, because if the project exceeds a certain percentage of the property's assessed value, the property owner will be required by State law to add certain ADA features to the project. It was suggested that the assessed value of the Town Hall should be reviewed to make sure it is up to date with current values. It is evident that the Town Hall improvement project will be subject to at least one of these benchmarks and will now be required by the State to include a new ADA accessible bathroom on the first floor of the Town Hall. Space for the bathroom will be carved out of a corner of the Library. Molly reviewed the ***prioritized list of desired Town Hall improvements*** and said that she believes that the project could include approximately eleven of the items on the list plus the required new bathroom. Waterproofing the basement will be the most costly of these items, but it is also the most important and will ameliorate some of the mold and storage issues. Those present were in agreement with Meyer & Meyer's choice of items on

the list. The basement vault will have to be dropped along with many aspects of the front entry work, since these items are too expensive. The scope and cost estimate of the project can now be finalized. Molly expects that the project will be put out to bid in June of this year and that work may likely begin at the beginning of the new fiscal year in July 2013. Mr. Zubricki said that the Town Treasurer is very interested in the construction schedule, since she will have to make arrangements for borrowing the funds and be sure the funds will be available as they are needed. Borrowing is not expected to be necessary until FY14.

The TBC members, Molly Richter, Ariane Rutt, Sylvia Kirker, and Sarah Kirker left the meeting.

Planning Board Recommendation Regarding Central District: Mr. Zubricki noted that the Planning Board has written a **report regarding Warrant Article 10: A Zoning Bylaw Proposal for the Creation of a Central Conomo Point Zoning District**. The conclusion of the report states that the Planning Board has agreed to recommend without prejudice their approval for the proposed Central Conomo Point Zoning District Bylaw Amendment.

Seaport Grant Quarterly Report: Mr. Zubricki said that he has prepared and filed the project quarterly report. He showed the Selectmen a **diagram of the relationship between the proposed boardwalk and the Riverside Bistro**. The diagram illustrates that the boardwalk structure will partially interfere with the view from the Riverside Bistro. The Selectmen also reviewed a **site plan** for the boardwalk showing the easements necessary for its construction. Mr. Zubricki will continue to work with the abutters.

Climate Change Research and Planning Grant: Mr. Zubricki reminded the Selectmen that in the past they had elected to participate in a program that was never funded to participate in a climate change study program. The program has now obtained funding from another source and has asked if the Town would still like to participate. A motion was made, seconded, and unanimously voted to confirm the Town's continuing wish to participate in the program.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$104,053.80.

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

The Selectmen reviewed a letter of **resignation submitted by Gloria M. Story** regarding her position on the Council on Aging. A motion was made, seconded, and unanimously voted to accept her resignation and to approve a **recommendation from Keith Symmes**, Chairman of the Council on Aging, to appoint Kay Joseph, pending a favorable CORI check, to the position left vacant by Mrs. Story.

The Selectmen reviewed a **communication from a resident** suggesting that the Town explore wind energy. The Selectmen asked Mr. Zubricki to contact a couple of wind energy firms that

were mentioned in a recent article in the Gloucester Daily Times regarding the three windmills that have been erected in Gloucester. Mr. Zubricki agreed to ask these companies if they might be interested in discussing possibilities for wind energy in Essex.

The Selectmen agreed to postpone closing the winter clamming flats until they could meet with the Shellfish Advisory Commission.

The Selectmen discussed the process for filling the vacancy on the School Committee that will be created by the *resignation of Kathleen Quill* (effective May 13, 2013) after the annual Town election. Selectman Gould-Coviello agreed to speak with both of the Town's remaining representatives on the School Committee and ask for suggestions for a candidate to fill the vacancy with someone until the next Town election in 2014.

A motion was made, seconded, and unanimously voted to approve and sign a warrant to hold Special State Primaries on Tuesday, April 30, 2013 from 7:00 a.m. to 8:00 p.m. at the Memorial Fire Station.

The Selectmen considered a *request from Edward and Karen Contilli* to purchase Town-owned land near Gregory Island Road. It was decided to take no action regarding this request until additional information could be received and reviewed.

A motion was made, seconded, and unanimously voted to approve and sign an *Application for Waiver of Household Hazardous Waste Collection* Requirements to the MA Department of Environmental Protection for the Board of Health.

A motion was made, seconded, and unanimously voted to ratify the Chairman's approval of a building permit for 187 Conomo Point Road, Map 24, Lot 85, for the replacement of a defective roof.

Mr. Zubricki said that we are assessing the status of delinquent payments of rent and taxes from tenants at Conomo Point. He said that he would like to review the matter at a future Selectmen's meeting and to potentially have letters from Town Counsel to the tenants approved at that time.

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

Renewal of Common Victualler's License:

- Eric Vennerbeck, Essex River Dogs at 162 Main Street

One-Day Wine and Malt License:

- Woodman's Inc., Joan Houghton, for use on Saturday, May 4, 2013, between the hours of 12:00 noon and 10:30 p.m., within the confines of 125 Main Street.

Renewal of Gravel Pit Permit:

- David J. Lane, Curlew Cove Realty Trust, at 53-59 John Wise Avenue

Renewal of Gasoline Storage License:

- Ernest T. Nieberle, Jr., Nieberle's Service Station Inc., d/b/a Ernie's Service Station at 8 Main Street

Non-Resident Recreational Clamming Permit and Application Filing Deadline:

- William Pascucci of Stuart, FL sponsored by Richard Tofuri of Forrest Avenue

The Selectmen were reminded of a Conomo Point Planning Committee meeting scheduled for Thursday, April 11, 2013, starting at 7:30 p.m. at the Senior Center on Pickering Street.

The next regular Board of Selectmen's meeting will take place on Monday, April 22<sup>nd</sup>, 2013, at 7:00 p.m. in the Library on Martin Street.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 9:51 p.m.

Documents used during this meeting include the following:

*Charge for a new ad hoc committee*

*Summary of Monetary Articles*

*Draft of the Annual Town Meeting Motions*

*Letter sent to Mr. Vickery*

*Cost Estimate for the Town Hall Repairs*

*Prioritized list of desired Town Hall improvements*

*Report regarding Warrant Article 10*

*Diagram of the relationship between the proposed boardwalk and the Riverside Bistro*

*Site Plan of the Easements Needed for the Boardwalk*

*Resignation of Kathleen Quill*

*Resignation submitted by Gloria M. Story*

*Recommendation from Keith Symmes*

*Communication from a resident regarding the use of wind energy*

*Request from Edward and Karen Contilli*

*Application for Waiver of Household Hazardous Waste Collection*

Prepared by: \_\_\_\_\_  
Pamela J. Witham

Attested by: \_\_\_\_\_  
Lisa J. O'Donnell