

Selectmen's Minutes
Senior Center - Upstairs

April 22, 2013

Present: Chairman Jeffrey D. Jones, Selectmen Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, Selectmen's Assistant Pamela J. Witham, Ida Doane, Thayer Adams, Mrs. Ciarametaro, and Troy Ciarametaro.

The Chairman called the meeting to order at 7:00 p.m. on the second floor of the Senior Center at 17 Pickering Street and announced that the Board would hear Public Comment. No one offered any comment.

Troy Ciarametaro came before the Selectmen to request a waiver of the application deadline for a student commercial clamming license as he had inadvertently forgotten about the deadline. His application was previously reviewed by the Town Clerk and all the required documents were attached. Subsequently, a motion was made, seconded, and unanimously voted to waive the deadline for Troy and approve his application. The Selectmen signed the application and wished Troy luck with clamming. Troy thanked the Selectmen and left the meeting with his mother.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$597,585.27.

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws the contract with Ramie Reader contained within last week's warrant pursuant to subsection (d) of said Section.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's April 8th, 2013, Open Meeting and the April 8th, 2013, Executive Session.

The Selectmen reviewed a *recommendation from the Planning Board* and a motion was made, seconded, and unanimously voted to reappoint Brian Feener to a 3-year term on the Board of Public Works commencing in May, 2013. The Selectmen signed the appointment card.

The Selectmen reviewed a resignation letter from *Westley Burnham* regarding his position as Assistant Harbormaster. A motion was made, seconded, and unanimously voted to accept Mr. Burnham's resignation.

The Selectmen reviewed *Mike Dyer's resignation letter* from the membership of the Conomo Point Planning Committee. The vacancy on the CPPC left by Mr. Dyer may be filled by an appointment by the Selectmen and that party can serve until the fall Town Meeting.

After review of the police and fire accident coverage form specifying the number of Town employees in these departments, a motion was made, seconded, and unanimously voted to sign the form and return it to the Town's insurance carrier, after the coverage form is also signed. (See below.)

The Selectmen reviewed a *communication from the Town Clerk* requesting authorization from the Selectmen for herself and the Board of Registrars to participate in a State study of residency

requirements for voting purposes. A motion was made, seconded, and unanimously voted to recognize the Town Clerk's and the Board of Registrars' involvement with a residency/voter registration study associated with a proposed Senate bill and with respect to future related activities as actions that fall within their official capacities.

A motion was made, seconded, and unanimously voted to sign letters of notification to the Massachusetts State Republican Committee and to Phyllis Leland, Chair, of the Democratic Town Committee, informing them of the opportunity to submit a list of poll workers for appointment.

Mr. Zubricki reported that he has asked the Town's insurance carrier to compare the Town's Police and Fire Department accident coverage renewal form to that required in the Town's Personnel Bylaw. A motion was made, seconded, and unanimously voted to approve and sign the renewal form, outside of a Selectmen's meeting, once the insurance carrier's analysis is completed, and the form is updated with respect to any coverage line that requires an increase.

A motion was made, seconded, and unanimously voted to approve the new rates for health care benefits for the period 7/1/13 through 6/30/14 proposed by MIIA, which includes moving to two new retiree health care plans.

A motion was made, seconded, and unanimously voted to approve and sign the Essex Police Benevolent Association contract when it becomes available outside of a Selectmen's meeting, effective July 1, 2013, subject to Town Meeting funding.

A second motion was made, seconded, and unanimously voted to approve the American Federation of State and County Municipal Employees contract, effective July 1, 2013, subject to Town Meeting funding.

A motion was made, seconded, and unanimously voted to approve a *request from the Essex Elementary PTO* to pass over Essex roads during its 6th Annual Happy as a Clam 5K Run/Walk and Family Mile Fun Run on Friday, May 3, 2013.

Confirming that all interested parties were in agreement, a motion was made, seconded, and unanimously voted to approve the temporary use of the Field of Dreams by the Manchester Essex Regional High School Junior Varsity softball program.

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

One-Day Wine and Malt License:

- Woodman's Inc., Joan Houghton, for use on Saturday, May 11, 2013, between the hours of 12:00 noon and 9:00 p.m. within the confines of 125 Main Street.

- Woodman's Inc., Joan Houghton, for use on Saturday, May 11, 2013, between the hours of 12:00 noon and 9:00 p.m. within the confines of 125 Main Street.

Renewal of Gasoline Storage License:

- Michael Crowley, GBG Crowley, Inc., d/b/a Gaybrook Garage at 152 Western Avenue.

The Selectmen were reminded that the Essex Division of the Cape Ann Chamber of Commerce will hold its next meeting on Thursday, May 2, 2013, starting at 8:00 a.m. at Woodman's Lobster Pool.

The next regular Board of Selectmen's meeting will take place on Monday, May 6th, 2013, at 6:30 p.m. at the Essex Elementary School on Story Street.

The Chairman commented that he had noticed that the owner of the property at 147 Eastern Avenue has been displaying two cars, as well as a boat, in his front yard. Mr. Zubricki said that some residents had expressed concerns regarding this property and he had advised them to contact the Building Inspector and/or the Planning Board.

Mr. Zubricki said that he has had a request from a septic system contractor to store equipment and materials at 24 Cogswell Road while the contractor is in the process of installing multiple septic system upgrades for property owners at Conomo Point. The contractor pledged to restore any ground damage in kind and to provide the Town with an insurance certificate naming the Town as an additional insured. A motion was made, seconded, and unanimously voted to approve this request.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period April 6th, 2013 through April 19th, 2013, regarding the following items:

Public Safety Committee Charge and Formation: Mr. Zubricki brought back the draft **Public Safety Committee Charge** that the Selectmen had reviewed at their last meeting. The Selectmen are favoring a seven member ad hoc committee, with one member from the Town Building Committee, one member from the Finance Committee, and the remaining five members selected from the community at large. The Selectmen said that they would like to think about a list of questions to be asked of prospective members and will vote on the charge at a later meeting.

Town Hall/Library Improvement Project Design: Mr. Zubricki reviewed the **updated recommended project scope** from Meyer & Meyer for improvements to Town Hall. The cost estimate for this work is approximately \$30,000 greater than the total funding appropriated at Town Meeting for the project. However, M&M feels that once the project goes out to bid, the Town may be able to achieve everything on the list, especially since project contingencies in the cost estimates will decrease as elements are refined for bid. The Selectmen agreed that if there is any extra money, it should be put towards a new air conditioning system to replace the old

fashioned, inefficient window units currently in use. As such, the AC system will be carried in the bid as an add alternate.

Conomo Point Appropriation Requests: Mr. Zubricki said that he has discussed the Selectmen's request to the Finance Committee to endorse Annual Town Meeting Articles 12 and 13 with FinCom Chair Jeff Soulard. These articles request \$150,000 for northern Conomo Point waterfront access design plans and \$100,000 for northern Conomo Point waterfront access construction. Mr. Soulard has said that they are reluctant to endorse the entire \$250,000 at this time, but may be agreeable to supporting a partial amount now and a further amount at a fall Special Town Meeting or \$100,000 for design and \$50,000 for construction (arriving at the \$150,000 total that the FinCom does support). The Selectmen continued to feel that it is important to begin to implement parts of the plan once it is approved. It was suggested that the scope of the first improvements should be discussed with Brown Sardina to determine which part of the plan would be best to begin with based on the amount of money available at this time. Conomo Point Planning Committee Chair Mark Lynch joined the meeting. The Selectmen asked for his opinion on the appropriations and he stated that he thought it might be better to postpone them for a year while the central zoning district bylaw is developed. The Board agreed that \$100,000 for design and \$50,000 for construction will be adequate to begin, especially if those figures are supported by the Finance Committee on April 24th, 2013.

Treasurer/Tax Collector Virginia Boutchie came before the Selectmen to request that they consider the adoption of a ***Policy and Procedure for Compliance with Regulations Associated with Tax-Exempt Governmental Purpose Bonds*** dated March 21, 2013. She said that it is important that a town have procedural guidelines in place to help ensure that the execution of the fiscal duties of the Treasurer/Tax Collector's office comply with federal and state laws. After some discussion, the Selectmen agreed that they would like to review the policy and discuss it again at their next meeting on May 6th.

Revised Draft Annual Town Meeting Motions: Mr. Zubricki briefly reviewed the ***summary of monetary articles*** for the Annual Town Meeting. He noted that the amounts for some of the articles are still being discussed and that one or two of the articles may not be necessary. Mr. Zubricki also quickly reviewed the order of all the ***motions for the articles on the warrant*** and the persons selected to present the motions at Town Meeting.

Request to Purchase Town Property: Mr. Zubricki said that he had received a request from a property owner on Gregory Island Road regarding permission to purchase adjacent Town-owned land. Mr. Zubricki initiated a preliminary review of the land and found that a former Superintendent of the Department of Public Works had recommended that this land and other Town-owned parcels in the area be kept by the Town in the event that it ever becomes necessary to provide a community septic facility in that thickly settled area by Chebacco Lake. The Selectmen agreed to take no action on the property owner's request to purchase two of the parcels, since future wastewater disposal is an important consideration. Mr. Zubricki will work with the Treasurer regarding all area parcels to determine whether all necessary taking steps were accomplished for each parcel (as time permits).

Potential Wind Energy Partnership: Mr. Zubricki reminded the Selectmen that at their last meeting they had reviewed a suggestion from a resident to explore the use of wind energy for the Town. Mr. Zubricki had since contacted a private company mentioned in a recent newspaper article about three wind turbines erected in Gloucester. Mr. Zubricki found that the company would be interested in working with a town to provide a wind facility, but that certain conditions needed to be met before discussions could begin. The first requirement would be to locate a site that the company could actually acquire from the Town or from a private owner that will provide excellent wind conditions at all times of the year. The company would also require that the neighborhood and local government stand 100% behind the project. Windmills recently erected south of Boston have met with a lot of opposition due to the constant flashes of light and shadow and vibration. No one could identify a site in Town that met the initial requirements and the Selectmen agreed to take no action at this time regarding the pursuit of wind energy (but remained open to any new ideas of information).

Downtown Boardwalk Feasibility Study Final Report: Mr. Zubricki announced that Salem State University has completed their *feasibility study of a proposed river boardwalk* for the Town under a grant from the Seaport Advisory Commission that was previously awarded to the Town. Mr. Zubricki said that they did conclude that a boardwalk was feasible and would benefit the Town. Two easements from local Town's people will be necessary to implement the construction of the boardwalk. Mr. Zubricki is hopeful that the easements will be donated to the Town and the easements could then be designated as matching funds in an application for a Seaport construction grant. In anticipation of the property owners agreeing to make the easements, Article 31 of the Annual Town Meeting Warrant will ask the Town to authorize the Selectmen to acquire by gift, these permanent easements for the boardwalk. After Town Meeting, depending on the result, Salem State is interested in helping the Town apply for a construction grant from Seaport.

At 8:00 p.m., the Selectmen were joined by Treasurer/Tax Collector Virginia Boutchie, Board of Public Works Chair Brian Feener, Superintendent of the Board of Public Works Paul Goodwin, Shellfish Constable Billy Knovak, Conomo Point Planning Committee Chair Mark Lynch, Building Inspector Bill Sanborn, Police Chief Peter G. Silva, Council on Aging Chair Keith Symmes, Town Accountant Roxanne Tieri, and Town Clerk Christina Wright for the Quarterly Meeting with the Selectmen to review department and committee business.

Chairman Jones asked the Shellfish Constable to lead the discussion. Mr. Knovak reported that the Shellfish Constable's boat and truck are in working order. In addition to his patrolling the clam flats, he has been assisting the State with water testing from time to time. He said that the State is predicting that there will probably be a red tide occurring in the near future, based on recent wind conditions. The Chairman said that the Selectmen had received an *anonymous letter from "Concerned Clam Diggers of Essex"* asking that the winter clam flats be kept open year-round. Mr. Knovak commented that it has been the customary practice for many years to close the winter flats in the spring and open them in the winter. Theoretically, the winter flats are easier to reach and are more protected from the weather than the other flats. He said that some

people are opposed to the closure, since using the winter flats for moorings during the summer is thought to interfere with the production of the clam bed. No one present had received any word from the Shellfish Advisory Commission regarding the Commission's recommendations about the winter flats. The Selectmen were in agreement, and a motion was made, seconded, and unanimously voted to continue the practice of closing the winter flats and the winter flats will be closed, effective midnight, April 30th, 2013. The Selectmen's Assistant will send notices about the closure to the Gloucester Daily Times, the Essex Elementary School, and the Town Clerk. Notices will also be posted in the Town Library and in the Selectmen's Office, as well as on the Town website.

Town Accountant Roxanne Tieri reported that everything is proceeding smoothly in her office.

Treasurer/Tax Collector Boutchie said that this is her department's busy time collecting this quarter's taxes and following through to collect monies owed or to lien properties that are delinquent.

The Selectmen congratulated BPW Chair Brian Feener on his reappointment to the Board. Superintendent Goodwin said he is busy pursuing reimbursement from the State and Federal government for money expended during last winter's storms. Mr. Goodwin was thanked by those present for his department's excellent job keeping the Town roads open during the winter and also for the fine repairs his men made to the damaged sea walls at Conomo Point. Mr. Goodwin listed several projects he has planned using government funding, such as the purchase of a new tractor and repairs to many Town roads. The State has also announced that there will be an increase to Chapter 90 money this year. Mr. Goodwin also announced that very soon, residents will be able to purchase dump stickers on-line. Mr. Zubricki reported that BPW workers had discovered that the cover on an old cesspool on Town-owned property at Conomo Point had disintegrated and reported it to the Board of Health which issued an order to the Selectmen to protect public safety and fix the situation. The BPW proceeded to cover the hole with new wood and weights, and a few days later, they were able to replace the wood with a strong metal cover that could not be tampered with by children, etc.

Police Chief Peter Silva reported that two people from the Essex Police Department (Sergeant Paul Francis and Officer Ryan Davis) were part of the Cape Ann Emergency Task Force that went to Watertown to assist in the door-to-door search for the Boston Marathon bombing suspect. He said that several of his full-time officers had recently attended a training session at Endicott College. He said that their attendance will earn credits from the Town's insurance carrier. Chief Silva said that the FBI is assisting the department in their investigation of an explosive device that was found on a walking path behind the Town Hall. Recently, as the result of a call to the Police Department, the Department seized some marijuana and drug related implements from a Water Street home. The FBI is also assisting in this investigation. The Chief reported that they will begin placing the river channel markers and siting the moorings during the next two weeks. And finally, he reported that the switch-over date for the ECO to the RECO in Middleton is set for June 24th, 2013.

Council on Aging Chair Keith Symmes reported that the Council's grant funding from Senior Care has been cut by 11% this year, but that it has been offset by a 22% increase in the Council's State grant funding. He also reported that the Council is extremely lucky to have very many dedicated volunteers and that the Center's new generator is almost ready to go on line.

Town Clerk Christina Wright reported that she will be busy organizing and overseeing four separate elections before the end of this fiscal year on June 30. She recently completed the dog license renewals that were due by April 1st. Those who missed the renewal date will be charged a late fee. The Town Clerk has also organized an annual rabies vaccination clinic, which will take place this year on May 1st. The proceeds from the clinic will go towards funding tuition for local veterinary students.

Conomo Point Planning Committee Chair Mark Lynch reported that the Committee has worked with the consulting firm Brown Sardina and the Board of Selectmen to develop a master plan for Conomo Point that can be implemented in stages over the next several years as the Town desires. The Committee co-hosted three public informational forums this past winter and two more are planned for this coming Thursday. Mr. Lynch asked Mr. Zubricki to put out a Reverse 911 call to residents informing them of the two forums on Thursday and the Selectmen agreed.

Building Inspector Bill Sanborn said that his office is seeing a lot of activity. The permits are mostly for remodeling and repairs with fewer permits for new houses than were issued in past years. He said that there was some interest in obtaining increased sewer flow when the article was first passed, but that only one or two residents seem to be actively pursuing the option.

Selectman O'Donnell said that Long Term Planning Committee Chair Andrew St. John could not be present tonight and had asked her to report for the LTPC since she is also an LTPC member. The LTPC is continuing to work on the risk assessment process, which is a discussion of threats to community-defining resources and potential actions to counter those threats. The LTPC's intention is to present the Selectmen with a report on their findings later this year.

Selectman O'Donnell also reported that, in her capacity as Town Building Committee Chair, the TBC has not been very active lately. However, the TBC did assist with the determination of the improvements that will be made to Town Hall.

At 8:57 p.m., the Chairman thanked everyone for their updates, and everyone left the meeting except for the Selectmen, the Town Administrator, the Selectmen's Assistant, Ida Doane, and Thayer Adams.

Selectman Gould-Coviello asked if Brown Sardina had submitted an executive summary of their design work for northern Conomo Point. They have not and Mr. Zubricki said that he would check on its status.

Selectman O'Donnell displayed a flyer that she has drafted to be sent to all Essex residents, containing information regarding Conomo Point. It was agreed that everyone would send their

comments concerning the flyer's contents to Mr. Zubricki by tomorrow, since it is necessary to get it to the printer by Wednesday. It was also agreed to ask Conomo Point Planning Committee Chair Mark Lynch for his comments on the flyer. Chairman Jones said that he will donate the printing for the flyer's color page insert.

Mr. Zubricki said that there may be a need to make revisions to the deeds for the properties that Dan Mayer is working to purchase at Conomo Point (98 Conomo Point Road, Map 19, Lot 56; 12 Town Farm Road, Map 19, Lot 40; and, 6 Sumac Drive, Map 19, Lot 16). The changes would only include minor re-wording and only one of the three properties is potentially going to closing prior to the Board's next meeting (6 Sumac Drive). Ms. Ida Doane and Ms. Thayer Adams were recognized by the Chairman and made comments relative to deed revision process. Mr. Zubricki and Chairman Jones both reiterated that any changes would be non-substantive in nature, would only involve the 6 Sumac deed, due to timing, and would only be signed outside of a meeting if necessary. A motion was made, seconded, and unanimously voted to authorize any minor, non-substantive changes to the 6 Sumac deed as recommended by Town Counsel and the Selectmen's signatures outside of a meeting when the documents become available, if necessary.

Mr. Zubricki proceeded to review the reasons for extending the bridge leases and closing dates within the purchase and sale agreements for the following properties:

14 Robbins Island Road, Map 19, Lot 63, Joanne Averay: Mr. Zubricki reported that Mrs. Averay's financing has been approved, but the bank's process to proceed to closing will not be completed until some time in May.

98 Conomo Point Road, Map 19, Lot 56, Daniel Mayer: Mr. Zubricki said that Mr. Mayer has been negotiating financing and anticipates a May closing on this property.

6 Sumac Drive, Map 19, Lot 16, Daniel Mayer: Mr. Zubricki said that Mr. Mayer is in the process of obtaining financing and anticipates a late April or early May closing on this property.

12 Town Farm Road, Map 19, Lot 40, Daniel Mayer: Mr. Zubricki said the Mr. Mayer is working to obtain financing and anticipates a May closing on this property.

20 Cogswell Road, Map 19, Lot 54, Marybeth Tirrell: Mr. Zubricki reported that permitting for a tight tank is in process with a May installation anticipated. The lender will not close until a new system is installed and completed.

Ms. Ida Doane and Ms. Thayer Adams were again recognized by the Chairman. They commented that other tenants had closed on sales back in November and December and did not understand why some other transactions were being extended. Mr. Zubricki and Chairman Jones made clear that each sale is taken on a case-by-case basis and the specific requests made by purchasers and/or their attorneys with respect to both deed language nuances and signing/closing dates are fact-specific elements of individual business transactions.

A motion was made, seconded, and unanimously voted to approve and sign the extensions for the bridge leases and the closing dates within the purchase and sale agreements for the preceding properties.

Mr. Zubricki reviewed the reasons for extending the bridge leases and the purchase and sale agreement signing deadline for the following properties:

92 Conomo Point Road, Map 19, Lot 46, Joan Brown Herrmann: Mr. Zubricki reported that Ms. Herrmann is continuing to market the transfer of lease and purchase rights for this property in anticipation of additional interest from prospective transferees now that warmer weather has arrived.

11 Cogswell Road, Map 19, Lot 52, Bernice K. Lichtenstein: Mr. Zubricki reported that Mrs. Lichtenstein is also continuing to market the transfer of lease and purchase rights in anticipation of additional interest from prospective transferees now that warmer weather has arrived.

19 Cogswell Road, Map 19, Lot 53, Estate of Hedwig Sorli: Mr. Zubricki said that a transferee has been identified, and the prospective transferee is presently researching the septic system upgrade requirements of his prospective lender.

A motion was made, seconded, and unanimously voted to approve and sign the extensions for the bridge leases and the purchase and sale agreement signing deadlines for the preceding properties.

All of the tenants of these eight properties are continuing to pay monthly rent at the second-year bridge lease rate until the sale of the properties is concluded.

At 9:17 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 to conduct a strategy session in preparation for negotiations with non-union personnel; 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, litigating, and bargaining strategies. He invited the Town Administrator to attend the Executive Session and said that the Board would be returning to Open Session. Ida Doane and Thayer Adams left the 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 9:29 p.m.

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:

Recommendation from the Planning Board
Westley Burnham's Resignation Letter
Mike Dyer's Resignation Letter
Communication from the Town Clerk regarding Residency Study
Request from the Essex Elementary PTO to Pass over Essex Roads
Public Safety Committee Charge
Updated Recommended Project Scope for Town Hall
*Policy and Procedure for Compliance with Regulations Associated with Tax-Exempt
Governmental Purpose Bonds*
Draft Summary of Monetary Articles
Draft of Motions for Articles on the Annual Town Meeting Warrant
Feasibility Study of a Proposed River Boardwalk
Anonymous Letter from "Concerned Clam Diggers of Essex"

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell