

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

May 20, 2013

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

Also Present: Annie Cameron, Steve Cuthbertson, Ida Doane, Benn Ferriero, Michael Ginn, Deputy Shellfish Constable Steve Hartley and Margaret Hartley, School Committee member Jim Haskell, Joan Brown Herrmann, School Committee member Alva Ingaharro, Shellfish Constable William Knovak, Gloucester Daily Times Reporter James Niedzinski, and Nina Walker.

The Chairman called the meeting to order at 7:00 p.m. in the Town Hall Library and announced that the Board would hear Public Comment. Steve Cuthbertson, a Conomo Point tenant, said that he had sent an email to the Town Administrator and the Selectmen's Assistant inquiring about liability questions concerning the houses at Conomo Point. He said the email asked if the Town has insured the houses at Conomo Point and that he had received no response to date from either person that he emailed. Chairman Jones said that the Town does not have property or liability coverage on the houses at Conomo Point since it is stipulated in the bridge leases that the tenant is responsible for maintaining the leased property and for indemnifying the Town against any and all perils. Mr. Zubricki and Ms. Witham both stated that the email in question had not been received and asked Mr. Cuthbertson to resend it.

Town resident Benn Ferriero came before the Selectmen to request a waiver of the application filing deadline for a commercial clamming license. Mr. Ferriero had been unaware that there was a filing deadline. A motion was made, seconded, and unanimously voted to waive the deadline for Mr. Ferriero and the Selectmen signed their approval of his application. Mr. Ferriero thanked the Selectmen and left the meeting.

Joan Brown Herrmann came before the Selectmen. She said that she is actively seeking a buyer to purchase her rights to the leased property at 92 Conomo Point Road, Map 19, Lot 46. In the meantime, she would like to request *permission to sublet this cottage* until her rights can be sold to a third party. After some discussion, a motion was made, seconded, and unanimously voted to approve and sign an agreement to extend her bridge lease and purchase and sale agreement signing deadline for this property through the last day of June, 2013. In addition, a motion was made, seconded, and unanimously voted to approve (subject to approval by Town Counsel) the request to sublet this property contingent upon receipt by the Selectmen of a letter from the sublet tenant stating that the sublet tenant is aware of and agrees to the length of the sublet term not exceeding any extensions made to the current bridge lease. Ms. Herrmann was given the extension agreement signed by the Selectmen to sign and return to the Selectmen.

Michael Ginn introduced himself to the Selectmen and requested that they approve his application for a commercial clamming permit. Mr. Ginn has been in the process of moving from Florida, back to Essex, and has moved into his old family home on John Wise Avenue. Because of his recent return, he could not provide the usual documents required for proof of residency. However, he has provided other documents, such as monthly bills, etc. addressed to him at the

John Wise Avenue address. After a discussion, a motion was made, seconded, and unanimously voted to waive the filing deadline and approve Mr. Ginn's request for a commercial clamming permit, contingent upon his completing an updated street census, listing he and his wife as residents at the John Wise Avenue address. Mr. Ginn thanked the Selectmen and left the meeting.

Shellfish Constable Knovak left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$79,371.12.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's May 6th, 2013, Open Meeting.

A motion was made, seconded, and unanimously voted to approve and sign an application to MassHighway requesting permission to pass over State roads during the annual Memorial Day Parade on May 27th, 2013. Chairman of the Board, Jeffrey D. Jones, and Selectman Susan Gould-Coviello will accept the invitation from the Memorial Day Committee to participate in the Memorial Day Parade.

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

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

- Shepherd Means of Gloucester, MA, sponsored by Richard Means of County Road

One-Day Entertainment License:

- Essex County Greenbelt Association, Inc., Shelley Raymond, for use on Friday, June 14, 2013, between the hours of 6:00 and 8:30 p.m. within the confines of the Cox Reservation at 82 Eastern Avenue.

One-Day Wine & Malt License:

- Essex County Greenbelt Association, Inc., Shelley Raymond, for use on Thursday, June 13, 2013, between the hours of 5:00 and 8:00 p.m. within the confines of the Cox Reservation at 82 Eastern Avenue.
- Essex County Greenbelt Association, Inc., Shelley Raymond, for use on Friday, June 14, 2013, between the hours of 6:00 and 8:30 p.m. within the confines of the Cox Reservation at 82 Eastern Avenue.

The Selectmen were reminded that the next regular Board of Selectmen's meeting will take place on Monday, June 3rd, 2013, at 7:00 p.m. at T.O.H.P. Burnham Library on Martin Street.

Annie Cameron and School Committee members Alva Ingaharro and Jim Haskell joined the Selectmen to discuss candidates for an appointment to fill a Committee vacancy left by the resignation of Kathleen Quill. Annie Cameron said that she would like to volunteer to finish out this year's term until the next Town election in May, 2014. After discussion, a motion was made jointly by Alva and Jim to recommend Annie's appointment to the Selectmen. The motion was seconded and followed by a unanimous Roll Call Vote by each of the Selectmen and each of the School Committee members. Annie was congratulated on her appointment, and she and the other members of the School Committee left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period May 4th, 2013 through May 17th, 2013, regarding the following items:

Public Safety Committee Charge and Formation: The Selectmen agreed that they generally approve of Mr. Zubricki's current draft of the *charge for a new public safety committee*. They also agreed to provide suggestions for interview questions to use when selecting the members for this new committee at the next Selectmen's meeting. They requested that Mr. Zubricki send them a reminder a few days before the questions are due.

Vendor-Hosted Software Agreement, Tyler Technology: Mr. Zubricki reported that Town Counsel and the vendor have reached agreement regarding a contract to provide accounting software services to the Town for 3 years (including annual options to cancel), beginning in FY2014. Acting upon Mr. Zubricki's recommendation, a motion was made, seconded, and unanimously voted to sign the 3-year contract with Tyler Technology.

Coordination of Various Planning Initiatives: The Board and Mr. Zubricki discussed various planning initiatives being formulated by several groups such as the Mass Bays Program, Eight Towns and the Bay, the ACEC (Area of Critical Environmental Concern), the Town's Long Term Planning Committee Village Initiative, the Essex River Walk project, the Essex River Cultural District, the MAPC (Metropolitan Area Planning Council, FEMA (Federal Emergency Management Association), and the Essex National Heritage Commission, to name a few. All of the initiatives have similar and/or related goals to identify, conserve, protect and manage the natural resources of the area. It was agreed that the Selectmen should meet with representatives of the Long Term Planning Committee to discuss the possibility of the LTPC assuming the responsibility of organizing and coordinating all these efforts within the scope of the Town. Mr. Zubricki agreed to invite the LTPC Chair Andrew St. John to the next Selectmen's meeting on June 3rd to discuss how the LTPC could assist in the implementation of these efforts.

Town of Essex Historic Properties Survey Plan Contract: The Essex Historical Commission received funding at the 2012 Annual Town Meeting to conduct a survey of historic properties in Town. After formulating the specifications for the job and soliciting quotations, the Commission has recommended that the 12-week project be awarded to Wendy Frontiero, R.A. of Beverly. Once Ms. Frontiero has returned the signed contract, it will be offered to the Selectmen for final approval and signature.

Potential Siting of New Exhibit at Legion Hall Property: Mr. Zubricki said that Kurt Wilhelm has informed him that the Essex Historical Society and Shipbuilding Museum would like to ask the Selectmen's permission to move an 1840 shoemaker's shop from Beverly to the piece of Town-owned land between the old Legion Hall and the White Elephant Shop. The ESM currently leases the Legion Hall from the Town and uses the first floor as part of the museum and second floor and attic as an archival repository for various Town artifacts. The entire project will be funded by the current owner of the shop and contributions. After some discussion, the Selectmen said that they would like to have Mr. Wilhelm come to their next meeting and speak about the history and significance of the shoemaking trade in Essex. They also agreed that they would like to solicit the Essex Historic Commission's opinion of the project.

Revision of Conomo Point Consolidated Calendar and Development of Preliminary Subdivision Plan for Central Conomo Point: Mr. Zubricki briefly reviewed the *updated Conomo Point calendar* showing the Town's recent progress in this matter. Now that the Town has approved zoning changes to create a Central Zoning District, Mr. Zubricki said that a review with Horsley Witten is scheduled for May 23. Horsley Witten will submit a preliminary plan of subdivision for the Central District to the Planning Board as soon as possible. Later, after the Attorney General approves the new bylaw, Horsley Witten will submit the Definitive Plan to the Planning Board. The Selectmen said that they would like to begin considering whether or not any areas can be put aside for future public use while still creating lots for all present tenants.

Initiation of Local Meals Tax for Quarter Beginning July 1, 2013: Mr. Zubricki reported that this was recently passed at the Annual Town Meeting and that the Department of Revenue had been notified, as required by State Law, within 48 hours of the vote. Mr. Zubricki said that the Licensing Board will be asked to provide a list of Town establishments serving food and the DOR will then notify these establishments of their obligation to collect and pay the tax.

Draft Memorandum of Understanding, National Wildlife Federation: Mr. Zubricki announced that he has received a draft of the proposed *MOU from the National Wildlife Federation* regarding their proposal to provide the Town with a grant for a project to map climate changes and develop adaptation strategies. Mr. Zubricki suggested that Town Counsel should review the document. It was also suggested that the MOU should be compared with samples for similar projects in other towns. The Selectmen and Mr. Zubricki agreed to solicit the Long Term Planning Committee's opinion and help with this project, including discussion with Chairman Andrew St. John on June 3rd.

Application to Seaport Advisory Council for Boardwalk Construction: Mr. Zubricki reported that Salem State has indicated that they would like to continue to work with us on developing the boardwalk project, now that they have completed the feasibility study. Mr. Zubricki has asked the Executive Director of the Seaport Advisory Council for guidance concerning identification of the next steps in the process to secure design, permitting, and construction funding. Mr. Zubricki said that the Town also needs to determine the requirements for the two easements that will be

needed from private individuals. The Selectmen said that they would like to solicit public input regarding the project. Mr. Zubricki also reported that a resident has alleged that the Town Bylaws prohibit the boardwalk. It was agreed that Mr. Zubricki would ask the Building Inspector for his opinion on the matter.

Guidelines for the Use of the Town's Telephone Notification System: The Selectmen discussed whether guidelines should be established concerning authorized use of the Town's notification system. It was agreed that the present guidelines allowing immediate use during an emergency situation and a vote by the Selectmen or ratification of the Chairman's decision for non-emergency situations would continue. The Selectmen's office will ask any event organizer to request a notification message well in advance of any event that will close a road or otherwise impact a neighborhood.

Gloucester Daily Times Reporter James Niedzinski left the meeting.

Mr. Zubricki reminded the Selectmen that State law automatically provides a Chief of Police with an additional contract year unless the Selectmen notify a Chief of their intention not to renew at least one year prior to the contract's expiration. With that in mind, a motion was made, seconded, and unanimously voted that the Board of Selectmen has no intention of ending the Chief's contract in June of 2014.

Although the location of the mandated handicap accessible bathroom at the Town Hall had previously been agreed to and decided, it had come to the attention of the Selectmen that a different location is now desired. It was agreed that Meyer & Meyer will be consulted about changing the designs previously requested and keeping the current location of the first floor bathroom, but enlarging it to comply with handicap standards. Mr. Zubricki reviewed the current estimate of the design fees for the improvements to Town Hall and agreed to ask for more detail concerning a variety of items, especially concerning engineering subcontractor RDK's design and oversight updated proposal.

Mr. Zubricki suggested that the Board move to Executive Session at this time. Steve Cuthbertson said that he would like to request that he be provided with any changes to proposed Conomo Point deeds and correspondence relating to those deeds on Tuesday. The Selectmen indicated that any documents deemed public would be shared within allowable time frames.

At 8:27 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; 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 said that the Board would be returning to Open Session. He asked Mr. Zubricki to be present during the Executive Session. The motion was moved and seconded. Following a unanimous

Roll Call Vote, the Board and Mr. Zubricki moved to Executive Session. All others present left the meeting.

The Board returned to Open Session at 9:17 p.m.

The Board discussed the application by the Riverside Bistro for a Sunday Entertainment License and reviewed the restrictions that were placed on the Bistro's Weekday Entertainment License. It was agreed that they would ask Mr. Bing Xue Gao to come to the Selectmen's meeting on June 3rd to discuss his application.

The Selectmen and Mr. Zubricki agreed that Thayer Adams, a tenant at Conomo Point and acting President of the Conomo Point Association, would be asked to attend the next Selectmen's meeting for a discussion regarding maintenance at Conomo Point. Superintendent Paul Goodwin and several Conomo Point tenants will also be invited to the discussion.

Mr. Zubricki said that he has been contacted about the possibility of Centennial Grove being rented and used as a location for another film. The film company is trying to finalize when they will want to use the Grove. Mr. Zubricki has also received an inquiry from the Burnhams about renting the Grove Cottage for an afternoon. The Selectmen were in favor of the rental at the same rate as the Grove Pavilion, as long as it did not conflict with the other events planned at the Grove. The general Grove rules and regulations will also apply for renting the Cottage.

It was agreed that discussion of the following deeds would be tabled:

- 98 Conomo Point Road, Map 19, Lot 56
- 12 Town Farm Road, Map 19, Lot 40
- 6 Sumac Drive, Map 19, Lot 16

A motion was made, seconded, and unanimously voted to sign an agreement to extend the bridge lease and purchase and sale agreement for the following properties:

- 98 Conomo Point Road, Map 19, Lot 56, Daniel Mayer (Financing for this property is expected to be completed in June.)
- 6 Sumac Drive, Map 19, Lot 16, Daniel Mayer (Financing for this property is expected to be completed in June.)
- 12 Town Farm Road, Map 19, Lot 40, Daniel Mayer (Financing for this property is expected to be completed in June.)
- 20 Cogswell Road, Map 19, Lot 54, Marybeth Tirrell (Permitting and installation of a tight tank is still in process, with a late May installation anticipated. The lender will not close until a new system is installed.)

A motion was made, seconded, and unanimously voted to sign an agreement to extend the bridge lease and purchase and sale agreement signing deadline for the following properties:

- 11 Cogswell Road, Map 19, Lot 52, Bernice K. Lichtenstein (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 (A transferee has been identified, but he is still working out the septic system upgrade requirements of his prospective lender.)

The Selectmen were reminded that every year at this time, following the Annual Town Meeting and the Election, they consider reorganization of the Board. After a brief discussion, a motion was made, seconded, and unanimously voted to ask Jeff Jones to continue as Chairman of the Board and to ask Selectman Lisa J. O'Donnell continue as Clerk for the Board.

There being no further business before the Board this evening, a motion was made, seconded, and unanimously voted to adjourn the meeting at 9:38 p.m.

Documents used during this meeting include the following:

Permission to Sublet the Cottage at 92 Conomo Point Road

Charge for a New Public Safety Committee

Updated Conomo Point Calendar

MOU from the National Wildlife Federation

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell