

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

September 23, 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: Steve Cuthbertson, Mr. & Mrs. John Cushing, Mr. & Mrs. Davis, Joan Brown Herrmann, Ellen Hull, Aude Sisk, Nina Walker, and the Gloucester Daily Times Reporter James Niedzinski.

Chairman Jones called the meeting to order in the T.O.H.P. Burnham Library at 7:00 p.m. and announced that the Board would hear Public Comment. No one offered any comment. Gloucester Times Reporter James Niedzinski announced through Chairman Jones that he would be recording the meeting.

Mr. Zubricki reported that updated information from the Board of Health shows that three leaseholders were already in compliance with Board of Health orders and should have been included on the list of leaseholders in good standing on tonight's agenda for the Board to consider offering a 3rd year bridge lease. Both Mr. Zubricki and Chairman Jones apologized for the error in the listing.

Chairman Jones reminded those present that the time for public comment had been offered and passed.

A motion was made, seconded, and unanimously voted to therefore offer 3rd year bridge leases for the following properties, which are all in good standing:

- 31 Middle Road, Map 24, Lot 3, Collins
- 136 Conomo Point Road, Map 24, Lot 38, Cushing
- 29 Middle Road, Map 24, Lot 4, Sisk

A motion was made, seconded, and unanimously voted to approve notices offering a third year bridge lease to the following Conomo Point leaseholders in good standing:

- 39 Middle Road, Map 19, Lot 81, Averay
- 34 Robbins Island Road, Map 19, Lot 66, Calder
- 38 Robbins Island Road, Map 19, Lot 69, Clark
- 169 Conomo Point Road, Map 24, Lot 10, Coakley
- 161 Conomo Point Road, Map 24, Lot 14, Conomo Point Assoc.
- 155 Conomo Point Road, Map 24, Lot 16, Cottage Park Realty
- 142 Conomo Point Road, Map 24, Lot 36, Crossen
- 163 Conomo Point Road, Map 24, Lot 13, Cushing & Lane
- 15 Middle Road, Map 24, Lot 32, Cuthbertson
- 2 Conomo Lane, Map 19, Lot 82, Davis
- Conomo Point, Map 24, Lot 25, Davis
- 124 Conomo Point Road, Map 24, Lot 43, Davis
- 34 Robbins Island Road, Map 19, Lot 67, Denton
- 7 Beach Circle, Map 19, Lot 99, DeScenza

- 168 Conomo Point Road, Map 24, Lot 22, Goldsberry
- 170 Conomo Point Road, Map 24, Lot 23, Goldsberry
- 11 Middle Road, Map 24, Lot 33, Goldsberry
- 11 Conomo Lane, Map 24, Lot 1, Hartley
- 126 Conomo Point Road, Map 24, Lot 42, Hatfield, Fraser, & Osburn
- 134 Conomo Point Road, Map 24, Lot 39, Healy
- 172 Conomo Point Road, Map 24, Lot 24, Herrmann
- 21 Middle Road, Map 24, Lot 29, Holleran
- 105 Conomo Point Road, Map 19, Lot 97, Hull
- 25 Robbins Island Road, Map 19, Lot 78, King
- 9 Middle Road, Map 24, Lot 34, Lane
- 144 Conomo Point Road, Map 24, Lot 35, Lane
- 9 Conomo Lane, Map 24, Lot 2, Lane
- 179 Conomo Point Road, Map 24, Lots 5 & 6, Lane
- 17 Middle Road, Map 24, Lot 31, Lemcke & de Vries
- 159 Conomo Point Road, Map 24, Lot 15A, LeRoyer
- 3 Beach Circle, Map 19, Lot 101, Lunt & Menges
- 122 Conomo Point Road, Map 24, Lot 44, Lynch
- 36 Robbins Island Road, Map 19, Lot 68, MacDougall
- 19 Middle Road, Map 24, Lot 30, MacGrath
- 110 Conomo Point Road, Map 19, Lot 88, Marsolais
- 114 Conomo Point Road, Map 19, Lot 86, Mazzarino
- 175 Conomo Point Road, Map 24, Lot 7, Mears
- 173 Conomo Point Road, Map 24, Lot 8, Mears
- 11 Beach Circle, Map 19, Lot 95, Menges
- 171 Conomo Point Road, Map 24, Lot 9, Murphy
- 167 Conomo Point Road, Map 24, Lot 11, Murphy
- 30 Robbins Island Road, Map 19, Lot 65, Rettberg
- 154 Conomo Point Road, Map 24, Lot 18, Richardson
- 42 Robbins Island Road, Map 19, Lot 71, Riggs
- 43 Robbins Island Road, Map 19, Lot 75, Riggs
- 29 Robbins Island Road, Map 19, Lot 77, Romano
- 25 Middle Road, Map 24, Lot 27, Rowe
- 44 Robbins Island Road, Map 19, Lot 72 & 74A, Sachsse
- 113 Conomo Point Road, Map 19, Lots 89 & 91, Sisk
- 23 Middle Road, Map 24, Lot 28, Smith
- 111 Conomo Point Road, Map 19, Lot 92, Smith
- 4 Conomo Lane, Map 19, Lot 83, Spunt
- 165 Conomo Point Road, Map 24, Lot 12, Walker
- 166 Conomo Point Road, Map 24, Lot 21, Walker
- 187 Conomo Point Road, Map 19, Lot 85, Webber
- 130 Conomo Point Road, Map 24, Lot 41, Wendell
- 3 Middle Road, Map 24, Lot 18 A, Wendell
- 1 Middle Road, Map 24, Lot 19, Wendell

- 162 Conomo Point Road, Map 24, Lot 20 Wendell
- 159 Conomo Point Road, Map 24, Lot 15 B, Wendell

Mr. Zubricki said that rent arrearage had been paid today on two other Conomo Point properties and a motion was made, seconded, and unanimously voted to therefore also offer 3rd year bridge leases for the following properties, which are now in good standing:

- 120 Conomo Point Road, Map 24, Lot 45, Maher
- 103 Conomo Point Road, Map 19, Lot 98, Mauceri

The Selectmen reviewed the status of the remaining leaseholders at Conomo Point. Subsequently, a motion was made, seconded, and unanimously voted to issue letters to the following leaseholders who will not be offered 3rd year bridge leases at this time due to specific circumstances (including rent arrearage and/or tax arrearage and/or Board of Health Wastewater Order non-compliance):

- 9 Beach Circle, Map 19, Lot 96, Adams
- 1 Robbins Island Road, Map 19, Lot 79, Fryou & Loup
- 41 Robbins Island Road, Map 19, Lot 76, King
- 101 Conomo Point Road, Map 19, Lot 102, Mayer
- 40 Robbins Island Road, Map 19, Lot 70, Pratt
- 46 Robbins Island Road, Map 19, Lots 73 & 74, Ryan
- 8 Conomo Lane, Map 19, Lot 84, Spintig & Grimes
- 109 Conomo Point Road, Map 19, Lot 93, True

These leaseholders will have until December 1, 2013 to correct their status, and consequently be offered a 3rd year bridge lease.

John Cushing, Mr. Davis, and Nina Walker left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period September 7th, 2013 through September 20th, 2013, regarding the following:

Opening of Filed Sub-bids for Town Hall/Library Improvement Project: Mr. Zubricki said that the second round of filed sub-bidding on the Town Hall project had not been as successful as it was hoped. After consulting with the Town's Architect and Town Counsel, it has been decided to amend the bid package by substituting less costly materials for steel and by folding three sub-trades into the general bid. Bid alternates will also be used to provide pricing options. The general bidding deadline has again been extended.

Award of Annual Contract for Heating Oil: Mr. Zubricki reported that two bids had been received to supply heating oil to the Town Hall and Fire Station. They were both for \$0.25 over the Low Daily Boston Wholesale Price. Representatives from both companies met with Mr. Zubricki last week for a coin toss to determine the winner of the bid. Foxhill Heating Service won the coin toss. A motion was made, seconded, and unanimously voted to award this season's heating oil contract to Foxhill Heating. The Selectmen signed the contract.

Future Electricity Supply Contracts with Constellation Energy: Mr. Zubricki said that he recently met with Constellation Energy representatives to discuss two new options the company is offering its customers. The first option allows a customer to lock in rates for a partial year or several years at a time. The Selectmen were in agreement with Mr. Zubricki that he should start monitoring the trend in rates, even though the Town's contract does not expire until 2015. Mr. Zubricki said that Constellation will also perform a Town energy audit at no-cost, no-obligation. Part of this offer could also include replacement lighting/fixtures with energy efficient items.

Discussion Relative to Solar Hosting Credit Program: Mr. Zubricki said that he is continuing to research how credit programs operate and has sought information from several sources including the Massachusetts Department of Energy Resources. There are many different programs available and choosing the right one can be challenging. Mr. Zubricki said that he will obtain a sample contract from Synergy Energy for review. Mr. Zubricki has also been in contact with a consultant that did work for Endicott College regarding a feasibility study for something similar in Essex.

Further Discussion Relative to Federal Channel Encroachment Study: Mr. Zubricki reported that both he and Selectman O'Donnell had met with three local marina owners to discuss options for initiating an Essex River Federal Channel encroachment elimination study. It was noted that current Federal Channel maps are not consistent with where the channel is located in some of the marina permit materials. It is hoped that the Federal government will offer assistance with this project if encroachments are first eliminated. In addition to the dredging of the channel, each of the marina owners will have to dredge their locations and connect them to the channel. A lot of coastal towns north of Essex have lost beaches and shore line during last winter's storms and it is hoped that the material dredged from the River mouth under a different program could be returned to the northern towns.

Proposal to Revise Sidewalk Adjacent to Village Restaurant Property: The Village Restaurant has been working with MassDOT on a plan to change the sidewalk on the corner of Martin Street and Main Street. MassDOT is finalizing their approval now that the Village has agreed to a design and the work may be completed in the near future.

DEP Final Judgment Quarterly Report: Mr. Zubricki reported that he had completed compilation of this quarter's *report to the DEP*. A motion was made, seconded, and unanimously voted to approve and distribute the report.

Discussion of Potential Marijuana Facility Special Permit Category: The Selectmen met with the Planning Board to consider a potential marijuana facility moratorium zoning bylaw. After some discussion, everyone agreed that medical marijuana facility should be added to the list of uses requiring a Special Permit in the Town's zoning bylaws. Town Counsel is presently developing an article to this effect for the November 18, 2013 Special Town Meeting and the Planning Board has agreed to hold a public hearing regarding the article in early November.

Sarah Cushing left the meeting.

A motion was made, seconded, and unanimously voted to hold a Special Town Meeting on Monday, November 18, 2013, starting at 7:00 p.m. at the Essex Elementary School on Story Street. Another motion was made, seconded, and unanimously voted to open the warrant for the November 18, 2013 Special Town Meeting. Mr. Zubricki confirmed that the Town Moderator will be available for the STM.

Review of Potential Topics for Special Town Meeting, November 18: Mr. Zubricki reviewed potential topics for the Special Town Meeting. Mr. Zubricki will now prepare the first draft of the STM warrant based on the Selectmen's comments.

Central Conomo Point Subdivision Definitive Plan Application: Mr. Zubricki reported that Horsley Witten will be completing the Definitive Plan in the near future. A motion was made, seconded, and unanimously voted to approve the Chairman's signature on the application forms outside of a meeting when the plan is ready.

Massachusetts Downtown Initiative Grant Update: Mr. Zubricki said that the consultant on this project is finishing their report and that a second public forum will be held after representatives of the Long Term Planning Committee discuss past input and the final approach with the consultant.

The Gloucester Times Reporter left the meeting and Mark Lynch, Chairman of the Conomo Point Planning Committee joined the Selectmen.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$79,134.32.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's September 6th, 9th, and 16th, 2013, Open Meetings and the September 6th, 9th, and 16th, 2013, Executive Sessions.

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

One-Day Entertainment License:

- Cape Ann Chamber of Commerce, Emily Harris, for use on Saturday, October 26, 2013, between the hours of 11:00 a.m. and 4:00 p.m., within the confines of Shepard Memorial Park. (Rain Date: Sunday, October 27, 2013)

One-Day Wine & Malt License:

- Cape Ann Chamber of Commerce, Emily Harris, for use on Saturday, October 26, 2013, between the hours of 11:00 a.m. and 4:00 p.m., within the confines of Shepard Memorial Park. (Rain Date: Sunday, October 27, 2013)
- Essex Historical Society & Shipbuilding Museum, Lee Spence, for use on Saturday, September 28, 2013, within the confines of the Waterline Center at 66 Main Street.

The Selectmen were reminded that the next regular Board of Selectmen's meeting will take place on Monday, October 7, 2013, at 7:00 p.m. in the Senior Center on Pickering Street.

The Essex Clam Fest is scheduled for Saturday, October 26, 2013.

A motion was made, seconded, and unanimously voted to approve a recommendation from Peggy Duff, Chair of the Essex Cultural Council, to appoint Georgeann Richards to the Council for a term of six years. The Selectmen signed the appointment card.

Selectman Gould-Coviello entertained a motion to approve the transfer of all interests in the leasehold for the property at 113 Conomo Point Road (Map 19, Lots 89 & 91) from David B. Sisk to his brother, Robert A. Sisk, leaving Robert A. Sisk as the sole leaseholder and terminating any and all rights that David B. Sisk may have had in the property, with the caveat that the Bridge Lease expires by its term on December 31, 2013. She stated that nothing in this vote shall be construed as an extension of said lease; and further, that nothing in this approval is intended to convey or imply any right, title or interest in the subject property, or any portion thereof that was not already held by David B. Sisk and Robert A. Sisk. She said that in approving this request, the Board is not acknowledging or adopting any claim of ownership in the structures located on the property and the Town expressly reserves all rights therein, including but not limited to the right to assert the Town's ownership of the structures upon expiration or termination of the Bridge Lease. The motion was moved, seconded, and unanimously voted.

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

- 98 Conomo Point Road, Map 19, Lot 56, Daniel Mayer (May be discussed in both Open and/or Executive Session.)
- 6 Sumac Drive, Map 19, Lot 16, Daniel Mayer (May be discussed in both Open and/or Executive Session.)
- 12 Town Farm Road, Map 19, Lot 40, Daniel Mayer (May be discussed in both Open and/or Executive Session.)
- 20 Cogswell Road, Map 19, Lot 54, Marybeth Tirrell (Permitting and installation of a tight tank is still in process. The lender will not close until a new system is installed.)

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

- 92 Conomo Point Road, Map 19, Lot 46, Joan Brown Herrmann (Continuing to market the transfer of lease and purchase rights in anticipation of additional interest from prospective transferees.)
- 19 Cogswell Road, Map 19, Lot 53, Estate of Hedwig Sorli (A prospective transferee recently placed his pursuit of the property on hold, and the leaseholder is continuing to market the transfer of lease and purchase rights.)

Mr. Zubricki announced that there is an Essex Division of the Cape Ann Chamber of Commerce meeting on Friday, September 27, starting at 8:00 a.m. in the upper deck at Woodman's on Main Street.

Mr. Zubricki said that two different individuals have asked to meet with the Selectmen to discuss locating a medical marijuana facility in Town. The Selectmen agreed to meet with each of them at their next meeting on October 7.

At 8:03 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. He invited Mr. Zubricki and Mark Lynch to attend the Session and said that the Board would only be returning to Open Session to adjourn the meeting. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board moved to Executive Session and all others left the meeting.

The Board returned to Open Session at 9:01 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:

Report to the DEP

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell