

Selectmen's Minutes
Senior Center

October 21, 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: Thayer Adams, Annie Cameron, Fire Chief Dan Doucette, Kim Drake, Sergeant Paul Francis, Alva Ingaharro, William Knovak, Mark Lynch, Special Police Officer Paul Peoples, A. Raymond Randall, Jr., Amy Reilly, Ken Riehl, Jeff Soulard, Richard Stevens, Roxanne Tieri, Christina Wright, and other members of the public.

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

The Board reviewed a request by Thayer Adams for a building permit for roof repair and siding work on the building located at 130 Conomo Point Road. A motion was made, seconded, and unanimously voted that pursuant to Article IX of the Bridge Lease, the Board of Selectmen, in their capacity as Conomo Point Commissioners, approve the proposed work. In light of the Superior Court's decision in Pratt v. Town of Essex, the Lessee was reminded that the Town will be the owner of said building upon expiration or termination of the Bridge Lease or any extensions thereof, and that in issuing this approval, the Board was not making any representation, express or implied, as to ownership of the structure. The lessee will be performing this work for its own benefit for the remaining term of the Bridge Lease and any extension thereof, and this approval does not convey or imply that the lessee has any right, title or interest in the subject property and does not affect the lease expiration date or the Town's rights of termination as set forth in the Bridge Lease. The Selectmen signed their approval of the building permit and it was returned to Thayer Adams to submit to the Building Inspector for his review.

Chris Edwards from the Alternative Therapies Group and two other members of his company joined the Selectmen to discuss a Community Hosting Agreement. Mr. Edwards is interested in establishing a medical marijuana cultivation facility in Essex. Their ten-year plan for the facility would also eventually include preparation and packaging of the product and the facility is projected to employ between 10 and 15 workers. They expect to also open a dispensary in the Salem area. The Group said that they would like the Town to enter into a community hosting agreement with them and offered to provide a copy of their agreement for the Selectmen's review. Under the agreement, the Group would give the Town \$25,000 per year, for five years. The Chairman said that the Town is in the process of updating its bylaws to include medical marijuana and informed the Group that the Planning Board will be asking the Town to vote on adding medical marijuana to the special permitting list in the Town bylaws. The Selectmen thanked the Group for their presentation, but said that the Selectmen and Mr. Zubricki need to do more research regarding this new area of development before committing to any endorsement of one specific firm. The Group is the sixth company to date, to announce their interest in locating in Essex.

Sergeant Paul Francis came before the Selectmen and introduced Special Police Officer Paul Peoples who is being recommended for appointment to the position of Reserve Police Officer. Mr. Peoples has completed extensive training to date and has logged over 200 volunteer hours at the Department. A motion was made, seconded, and unanimously voted to appoint Mr. Peoples to the position and the Selectmen signed his appointment card. He was congratulated by all present and Mr. Peoples left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period October 5, 2013 through October 18, 2013, regarding the following:

Town Hall/Library Improvements Project Funding: Mr. Zubricki reported that the second round of bidding has been completed and the bids have again come in significantly over budget, despite efforts to cut back on the scope of the project. After discussion with Town Counsel, the Town's Architectural consultant, the Selectmen, and the Finance Committee, it has been agreed to seek approximately \$260,000 additional funding for the project at the November Special Town Meeting to cover the additional costs and provide a 5% contingency. Finance Committee Chair Jeff Soulard said that the Finance Committee supports this decision. Mr. Zubricki said that one of the bidders has voiced an objection that the other bidders did not include a work plan in their bid submittals, and that therefore, the other bidders should not be considered for the job. Town Counsel has discussed this matter with the Attorney General and both agree that the inclusion or not of a work plan has no bearing on whether a bid may or may not be considered, and, a work plan may be submitted prior to signature of a contract, as a waived minor informality. Mr. Zubricki said that the bidders have agreed to extend their bids through the end of November.

Massachusetts Downtown Initiative (MDI) Grant Update: Mr. Zubricki announced that ICON Architecture will be hosting a presentation at the Senior Center of revised options for the redesign of the Town Landing on Wednesday, October 30, 2013, starting at 7:00 p.m. Mr. Zubricki said that a member of the Long Term Planning Committee would ask the newspaper to put an item in the paper announcing the planned presentation that is open to the public. ICON is also seeking input from the Selectmen and other Town groups, such as the Long Term Planning Committee, as to the next steps for this project. Mr. Zubricki suggested that since the Seaport boardwalk project is temporarily on hold, that this project should be combined with the boardwalk project and that the Town should apply to Seaport for construction funding for the combined projects. The Selectmen were in agreement with Mr. Zubricki's suggestion.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$74,224.35.

Mr. Zubricki said that he has not received any communication from the Centennial Grove Committee. He does not think that the Committee met in September as previously planned. Selectman O'Donnell said that she would try to contact the Committee's Chair.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's October 7, 2013, Open Meeting and the October 7, 2013, Executive Session.

The Selectmen reviewed a request from Thomas Guertner to close Periwinkle's Restaurant for maintenance and cleaning from November 4 through March 6, 2014. A motion was made, seconded, and unanimously voted to approve his request.

The Selectmen reviewed *correspondence from Garden Remedies, Inc.* concerning possible siting of a marijuana dispensary in Town.

A motion was made, seconded, and unanimously voted to approve a recommendation from the Long Term Planning Committee Chair, Andrew St. John, to appoint Joe Bourneuf to the LTPC for a term of 3 years, ending on 6/30/16. The Selectmen signed his appointment card.

A motion was made, seconded, and unanimously voted to approve a request from the Essex Lions Club to pass over Essex roads during their annual Turkey Trot event. The Selectmen signed the application requesting permission to pass over State roads on Sunday, November 24th which will be forwarded to MassDOT for approval.

A motion was made, seconded, and unanimously voted to approve a *request from Police Chief Peter Silva to accept a donation* from Shirley Singleton in the amount of \$2,000 to the Police Department.

A motion was made, seconded, and unanimously voted to approve the MIIA Health Benefits Trust Renewal Proposal for retiree rates from 1/1/14 through 12/31/14.

A motion was made, seconded, and unanimously voted to renew the Code RED Service Agreement for the next calendar year at the same cost as previous years.

A motion was made, seconded, and unanimously voted to approve and sign the MA Standard Contract Form with the MA Cultural Council and grant application in the amount of \$4,250.

A motion was made, seconded, and unanimously voted to approve and sign the Federal Excess Personal Property Cooperative Agreement between the MA Department of Conservation and Recreation, Bureau of Forest Fire Control and Forestry and the Essex Fire Department.

A motion was made, seconded, and unanimously voted to approve and sign the Department of Defense Firefighting Program Cooperative Agreement between the MA Department of Conservation and Recreation, Bureau of Forest Fire Control and Forestry and the Essex Fire Department.

The Selectmen reviewed the absentee ballot to fill two municipal seats on the Boston Region Metropolitan Planning Organization. There are two candidates, each running unopposed for the two available seats. A motion was made, seconded, and unanimously voted to vote for the two candidates and the Chairman marked the *MPO ballot* accordingly.

The Selectmen reviewed a letter from CATA saying that they would like to add a member to their Board of Directors who is from the disabled community. CATA would like the Selectmen to recommend an appropriate Essex resident with this experience. It was suggested that Dr. David Driscoll or his wife Ginger might be interested in the position or know someone who would qualify and Mr. Zubricki agreed to contact them.

Susan Mears joined the Selectmen to discuss plans for a memorial bench in honor of Mary Mears, a former Selectman, who recently passed away. Susan Mears showed the Selectmen two styles of granite benches that the family is considering. One style includes a back rest and the other does not. The Selectmen said that they favored the backless one. The Chairman explained to Mrs. Mears that plans are still being formulated for the redesign of northern Conomo Point and that the bench may have to be relocated at some time in the future. Mrs. Mears said that she understood. A motion was made, seconded, and unanimously voted to approve placement of a Mary Mears backless memorial granite bench at Conomo Point. Mrs. Mears thanked the Selectmen for their approval of the bench and left the meeting.

Representatives from the Alternative Therapies Group also left the meeting.

A motion was made, seconded, and unanimously voted to approve and sign the MA Standard Contract Form with CDA MA Emergency Management Agency and grant application in the amount of \$4,140.34 for reimbursement of seawall repairs. Christina Wright, acting in her capacity as a notary public witnessed the signature of the contract.

Conomo Point Overview: Ken Riehl said that he, as an interested resident, has been compiling a summary of major Conomo Point events to date in an effort to create a document that will help the public understand the long intricate history of Conomo Point, as well as the many issues that surround it. It was suggested that the document be made available for public viewing on the website and Mr. Zubricki will assist with that posting, using appropriate caveats.

Chairman Jones asked CPPC Chair Mark Lynch to lead off the discussion for the scheduled Quarterly Update by Department Heads and Committee Chairs. Mr. Lynch said that he has heard criticism regarding the apparent lack of public input in the Conomo Point planning process. Therefore, he said that the Committee has decided to host a public forum at the Elementary School on Saturday, November 16, 2013, from 9:00 a.m. until 12:30 p.m. that will allow anyone to make a 15-minutes presentation regarding their suggestions for the redesign of northern Conomo Point which will be followed by a question and answer period. The Committee has created certain guidelines for the presentations. Mr. Lynch said that he would like to have an article in the paper publicizing the forum, as well as a Code Red message sent out about the forum to allow interested persons time to prepare their presentations. Mr. Zubricki said that he would send out a Code Red message tomorrow and that he had already prepared a new Northern Design subsection of the website to accommodate posting of the various presentations.

Shellfish Constable Billy Knovak reported that the clam flats have been depleted due, at least in part, to over-digging. He said that the temperature of the water in the basin is hotter than it used

to be as a result of recent storms depositing sand in the basin, making it shallower. Mr. Knovak stated that there are no seed clams anywhere and there has been a population explosion in green crabs, which are clam predators. A lot of the regular clammers have been pursuing other employment. Clammers from other towns digging on Essex clam flats are no longer a problem. Constable Knovak said that he has been laying out seed nets from time to time to encourage clam propagation. The Constable said that he will be making arrangements with the Department of Public Works Superintendent Paul Goodwin to use their equipment to power-wash the Shellfish Constable's boat.

Town Accountant Roxanne Tieri reported that all is proceeding according to schedule in her department. The FY2013 reports have been completed and the FY2014 reports have been started.

Finance Committee Chair Jeff Soulard said that he recently attended the first joint budget meeting regarding next year's budget for Manchester Essex Regional School. He also reported that the Finance Committee was pleased to hear about the recent court decisions regarding Conomo Point. He said that the decisions remove some of the variabilities regarding the financial situation at the Point, making future planning more predictable.

Essex representatives to the Manchester Essex Regional School Committee members Annie Cameron and Alva Ingaharro reported that among other issues their Committee has been reviewing the elementary schools in both towns. Both schools are badly in need of repairs and the Committee will seek to determine the best way to remedy the situation which will likely take place over a few years.

Planning Board Chair Kim Drake reported that two public forums have been scheduled for Wednesday, November 6, 2013, starting at 8:00 p.m. at the Essex Elementary School. The first is regarding the addition of medicinal marijuana to the special permitting guidelines in the Town bylaws and the second concerns the proposed subdivision of central Conomo Point. Kim Drake, who is also chair of the Community Preservation Committee, reported that the CPC presently does not have a member from the Housing Authority and also that the member at-large position that is appointed by the Selectmen is vacant. She said the Committee would like to appoint Peter Madsen to the member at-large position. She also said that the representative member from the Conservation Commission would like to substitute Samantha Stevens in his place. Mr. Zubricki said that the ConCom should send a note to the Selectmen advising them of their recommendation. He also indicated that the Selectmen could appoint Mr. Madsen at their next meeting.

Town Clerk Christina Wright reported that she recently testified at a State House hearing regarding a bill being sponsored by Senator Bruce Tarr concerning the need for greater clarification in the State's guidelines for determining residency as it relates to voting privileges. She also said that she is investigating a new system of putting more information about the meetings of Town government on a website.

Sergeant Paul Francis, who is acting Police Chief while Chief Silva is away, said that the Department has been organizing for the Clam Fest which will take place on Saturday, October 26, 2013. He said that the Department continues to work with the new regional emergency center to perfect operations. Also, various standards for certification are being worked on and he is optimistic that this winter they will be able to schedule a trial audit and critique of the Department's certification readiness. Sergeant Francis also said that two of the Police Officers have received trainer's training so that they can now train the rest of the Department in certain specified areas.

Fire Chief Dan Doucette said that his Department is also still working through the process of moving the local emergency center to the regional center. He said the process is going smoothly with only a few snags along the way. He reported that a number of Fire Department members have received special training. Chief Doucette said that he had met with members of the newly formed Public Safety Study Committee recently at the Fire Station to give the members a tour of the building and speak to them about the needs and requirements of the Fire Department.

Animal Control Officer Amy Reilly reported that, among other things, she has been busy lately rounding up stray horses in the early morning hours. As a result, she has purchased a reflective vest, a halter, etc. to assist her with future incidents. She also reported that coyotes and coydogs are becoming an increasing problem in town. The population of these animals has dramatically increased and they do not seem to be afraid of people. She suggested that perhaps the Town should promote a hunting season to deal with the increase in population.

Richard (Stretch) Stevens, Chair of the Historical Commission reported that their consultant is continuing to work on the Town survey of historic buildings. The Commission has had several companies look at the Spring Street cemetery fence, but none have offered a quote for repair services. It appears that the project is labor intensive with most of the cost being used for materials and therefore is not profitable. He says that they will continue to investigate a way to repair and restore the fence. Mr. Stevens also reported that the Commission has been asked to review a pump house on Apple Street in regards to the newly passed demolition delay bylaw. It appears that the structure may be less than 100 years old and therefore exempt. The homeowner would like to remove it since it has not been maintained for many years and is deemed to be a safety hazard.

Ken Riehl, a member of the Public Safety Study Committee, reported that the Committee has already met a few times, including the meeting with Fire Chief Doucette. He said that they will be meeting in the near future with Police Chief Silva to discuss the needs of the Police Department. The Committee continues to collect facts and talk to other towns and communities about their public safety buildings and operations.

Mr. Zubricki said that the warrant for the Special Town Meeting planned for November 18, 2013, is now ready to be approved. He reviewed and discussed with those present, each of the sixteen articles on the warrant. Following the discussion, a motion was made, seconded, and unanimously voted to add the articles as they appear on the warrant dated October 21, 2013

(which is attached hereto). A motion was made, seconded, and unanimously voted to close the warrant. And finally, a motion was made, seconded, and unanimously voted to approve and sign the warrant. Mr. Zubricki said that he would send out a Code Red reminder message about the Special Town Meeting one week before the meeting.

The Chairman thanked everyone for their comments and everyone excepting the Selectmen, the Town Administrator, the Selectmen's Assistant, and Thayer Adams left the meeting.

Mr. Zubricki reported that the Superior Court concerning the Walker v. Town of Essex legal suit has found that the rents charged by the Town to Conomo Point tenants are permissible and that the tenants do not have an automatic right of first refusal.

A motion was made, seconded, and unanimously voted to sign an agreement to extend the bridge lease and purchase and sale agreement for 20 Cogswell Road, Map 19, Lot 54, Marybeth Tirrell. (Installation of a tight tank is now complete. The lender will now move toward closing.)

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:

- 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.)

A motion was made, seconded, and unanimously voted to approve and sign a letter to Charlene Fryou and Christiane Loup relative to an offer of a 3rd Year Bridge Lease.

A motion was made, seconded, and unanimously voted to approve and sign a letter to the True Family Irrevocable Trust relative to an offer of a 3rd Year Bridge Lease.

A motion was made, seconded, and unanimously voted to approve and sign a letter to Daniel Mayer relative to an offer of a 3rd Year Bridge Lease.

The Selectmen were reminded that the next regular Board of Selectmen's meeting will take place on Monday, November 4, 2013, at 7:00 p.m. in the Library on Martin Street.

At 9:36 p.m., citing the need to discuss the lease, sale, and value of real property at Conomo Point; 29 Robbins Island Road – regarding bridge lease extension in light of Conservation Commission Notice of Violation; litigation concerning the case of Judson Pratt, et al. v. the Town of Essex, Essex Superior Court C.A. No. ESCV2012-00936B; and, 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 invited Mr. Zubricki to attend the Executive Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, their Assistant, and Mr. Zubricki moved to Executive Session. Thayer Adams left the meeting.

The Board returned to Open Session at 9:50 p.m.

A motion was made, seconded, and unanimously voted to send a letter to the tenant at 29 Robbins Island Road informing the tenant that the Selectmen have decided to rescind their previous offer to extend his bridge lease for a third year in light of a Conservation Commission Notice of Violation (with the potential for the tenant to cure the breach).

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:

Correspondence from Garden Remedies, Inc.

Request from Police Chief Peter Silva to Accept a Donation

MPO Ballot

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell

2013
Commonwealth of Massachusetts
Town of Essex
Warrant for Special Town Meeting

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet in said Essex at the Essex Elementary School on Monday, November 18, 2013 at 7:30 p.m. and there and then to act on the following Articles, viz:

ARTICLE 1

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for renovations to the Town Hall and Library building at 30 Martin Street in order to improve health, safety, and the working environment; or take any other action relating thereto.

ARTICLE 2

To see if the Town will vote to renew its membership and to participate in the Northeast Massachusetts Mosquito Control and Wetlands Management District for a minimum of three years, pursuant to Chapter 258 of the Acts of 1958, as amended by Chapter 410 of the Acts of 1996, G.L. c. 252, ss. 5 and 5A, and other applicable laws, subject to an assessment through a reduction in Cherry Sheet revenue in an amount to be determined annually by the District Commissioners, and to authorize the Board of Selectmen and the Board of Health to enter into all agreements and to execute any and all instruments as may be necessary to affect this vote; or take any other action relating thereto.

ARTICLE 3

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for an engineering consultant to review the present status of the encroachment of structures into the Federal Channel of the Essex River and to work with Town officials and other stakeholders to eliminate encroachments, draft plans for realignment of the Federal Channel, draft plans for reconfiguration of the Federal Channel, and take any other actions to provide all other precursors necessary to apply to the Army Corps of Engineers, the Federal Legislature, or any other entity for Federal dredging assistance against an encroachment-free backdrop, and to

authorize the Board of Selectmen to enter into all agreements and to execute any and all instruments as be necessary to affect this vote; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to amend Section 6-3.4.2 of the Town of Essex Zoning Bylaws, Uses Requiring Special Permit, by adding a use to be known as "Medical Marijuana Treatment Center/Registered Marijuana Dispensary" as subsection "m" of said Section, and further, to amend Section 6-2.2 of the Town of Essex Zoning Bylaws, Definitions, by adding the following definition after the definition of "Lot Measurements" in said Section:

Medical Marijuana Treatment Center or Registered Marijuana Dispensary:

a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products ("MIPs"), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, Medical Marijuana Treatment Center or Registered Marijuana Dispensary refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

; or take any other action relating thereto.

ARTICLE 5

To see if the Town will vote to accept G.L. c. 40, § 6A to allow the annual appropriation of a sum of money for the purpose of advertising the Town's resources, advantages, and attractions; and to raise and appropriate, transfer from available funds, or borrow a sum of money for said appropriation for fiscal year 2014; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to authorize the Board of Selectmen to enter into a contract for up to ten years for the provision of youth summer camp services; or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the removal from utility poles of direct fire alarm wiring and equipment that is no longer needed; or take any other action relating thereto.

ARTICLE 8

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow, a sum of money to allow the Essex Public Safety Committee to retain the services of a consultant in carrying out the Committee's charge; or take any other action relating thereto.

ARTICLE 9

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase electronic control devices for the Police Department; or take any other action relating thereto.

ARTICLE 10

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to retain the services of a consultant to update the Town's Open Space Plan; or take any other action relating thereto.

ARTICLE 11

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund the Town's Other Post-Employment Benefits (OPEB) Trust Fund; or take any other action relating thereto.

ARTICLE 12

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund a deficit in the Emergency Medical Dispatch reimbursable grant fund; or take any other action relating thereto.

ARTICLE 13

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund an anticipated deficit in the fiscal year 2013 Assessors' Overlay account; or take any other action relating thereto.

ARTICLE 14

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Conomo Point Legal Budget for fiscal year 2014; or take any other action relating thereto.

ARTICLE 15

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the Town's Stabilization Fund; or take any other action relating thereto.

ARTICLE 16

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to pay unpaid bills from past fiscal years; or take any other action relating thereto.

And you are hereby directed to serve this Warrant by posting attested copies; one at the Post Office, one at the Town Hall, and one at the Essex Elementary School, in said Essex, fourteen days at least before the time for holding said meeting.

Given under our hand this 21st day of October, two thousand thirteen.

Jeffrey D. Jones, Chairman

Lisa J. O'Donnell

Susan Gould-Coviello

**BOARD OF SELECTMEN
TOWN OF ESSEX**

Return of the Warrant:

Date: _____

I have served this warrant by posting attested copies thereof – one at the Post Office; one at the Town Hall; and, one at the Essex Elementary School in said Essex; at least fourteen days before the time for holding said meeting.

Constable