

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

**December 9, 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: Assessor Barry Ewing, Assessor Kurt Wilhelm, Thayer Adams, Bill Liberti, and Dan Mayer.

Chairman Jones called the meeting to order at 7:00 p.m. in the T.O.H.P. Burnham Library on Martin Street and announced that the Board would hear Public Comment. Thayer Adams said that she had received a ***letter from the Board of Health*** that the septic system at 9 Beach Circle, Map 19, Lot 96, had conditionally passed inspection and that a new tank must be installed by December 31 of this year. She wanted to know why she was only allowed a few weeks to complete the installation and said that she is trying to market the lease rights to this property and that this could affect whether or not she decides to lease the property for a third year. Mr. Zubricki agreed to investigate the Board of Health's reason for the short deadline.

Two members of the Board of Assessors, Barry Ewing and Kurt Wilhelm, came before the Selectmen to discuss setting this year's Residential Factor. The Chairman entertained a motion to open the hearing and the motion was moved, seconded, and unanimously voted. Mr. Ewing said that the Board of Assessors would like to recommend that the Factor be set at 1 again this year. The Chairman asked those present if anyone would like to speak either for or against the recommendation. No one had any comments. The Chairman entertained a motion to close the hearing and the motion was moved, seconded, and unanimously voted to close. A motion was made, seconded, and unanimously voted to set the Residential Factor at one. The Selectmen signed the documents. A motion was also made, seconded, and unanimously voted to authorize Mr. Zubricki to sign an attestation statement relative to the Residential Factor for the Selectmen electronically on the Department of Revenue's website. Mr. Ewing and Mr. Wilhelm thanked the Selectmen and left the meeting.

The Chairman asked Bill Liberti and Dan Mayer to join the Selectmen at the table to discuss the use and maintenance of Town-owned parcel A on Map 19 on Cogswell Road. Mr. Liberti handed out a ***map of the area in question***. Mr. Liberti said that he has been mowing a portion of the area for years and that the Sailing Club uses it periodically to set up, clean, and repair boats. They also use it to store their biggest boat and trailer. Mr. Mayer said that he also has been mowing the area, and had to move the boat trailers to do so. He said that he wanted it to be a nice grassy area that would be available as a play area to children and not a storage area and/or parking lot. The Selectmen discussed posting signage to prohibit the parking of trailers and vehicles. Subsequently, the Selectmen asked Mr. Zubricki to draft a license agreement to permit Mr. Liberti/the Sailing Club to use the area for a limited time each year to get ready for the season, after which the parcel will be maintained as a grassy lot with signs prohibiting unauthorized parking and/or dumping. It was also suggested that another license agreement could be issued to allow the Sailing Club to store their large boat at 5 Beach Circle or some other Town-controlled parcel. Mr. Mayer and Mr. Liberti thanked the Selectmen and left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period November 27, 2013 through December 6, 2013, regarding the following:

Promotion of Town Resources, Advantages, and Attractions: Mr. Zubricki asked the Selectmen how they will define the scope of work for this new budget item that was voted at the recent Special Town Meeting. After some discussion, it was agreed that Mr. Zubricki would draft a Request for Proposals for the Selectmen's review.

Central Conomo Point Definitive Subdivision Plan Change Order: Mr. Zubricki said that Horsley Witten has submitted a ***change order*** for payment due to the increased scope of work that resulted from the creation of a central subdivision at Conomo Point after having previously produced a northern subdivision plan. The Selectmen were in agreement and a motion was made, seconded, and unanimously voted to approve the change order for payment from the Conomo Point Management Budget.

Response to Planning Board's Memo Regarding Central CP Subdivision: The Selectmen reviewed a ***draft letter to the Planning Board*** requesting an extension of the approval deadline for the Central Conomo Point Subdivision Plan. Following Town Counsel's approval of the Selectmen's revisions to the letter, the finalized letter will be filed with the Town Clerk and then forwarded to the Planning Board.

Town Hall/Library Health and Safety Improvement Project Contract: Mr. Zubricki provided the Selectmen with the newly completed ***contract for the Town Hall improvement project***. A motion was made, seconded, and unanimously voted to approve and sign the contract in the amount of \$863,251.

Town Hall Exterior Renovation Cost Update Contract & FY15 Capital Plan: Those present reviewed a ***cost estimate in the amount of \$9,300*** from McGinley Kalsow to update their 2008 report on much needed Town Hall exterior renovations and repairs. The Selectmen were in agreement to postpone commissioning an update at this time. Mr. Zubricki will use other means to arrive at a project cost update to be included in the 2016 capital plan.

Preliminary Review of FY2015 Selectmen's Operating Budget: Mr. Zubricki reviewed the points in his ***draft letter to the Finance Committee*** regarding the FY2015 Board of Selectmen's Budget Request package. Based on the Selectmen's comments, Mr. Zubricki will prepare a revised document for further review at the next meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$270,266.28.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's December 2, 2013, Open Meeting and the December 2, 2013, Executive Session.

The signature of the energy efficiency lighting retrofit contract and continued power purchase agreement with Constellation Energy has not yet been completed by Constellation Energy and will be considered at a future meeting.

A motion was made, seconded, and unanimously voted to grant permission to James Stavros to close the Fairway Pub from December 1, 2013 through March 15, 2014 for cleaning and general maintenance.

Annual Town Meeting: A motion was made, seconded, and unanimously voted to set the date for the Annual Town Meeting for Monday, May 5, 2014, starting at 7:30 p.m. at the Essex Elementary School. A motion was made, seconded, and unanimously voted to Open the Warrant for the Annual Town Meeting and accept articles for inclusion in the Warrant until 3:00 p.m. on Monday, March 3rd, 2014. And, a motion was made, seconded, and unanimously voted to accept reports for the Annual Town Report until noon on Monday, February 3rd, 2014.

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

All Alcohol Package Store License Renewal for 2014:

- Chebacco Liquor Mart, Inc., d/b/a Chebacco Liquor Mart, John D. Chisholm, Manager, at 201 Western Avenue *PENDING A CURRENT TRAINING CERTIFICATE*
- CPM Investment Group, Inc., d/b/a Essex Wine & Spirits, Vincent Marano, Manager, at 91 Main Street

All Alcohol Restaurant License Renewal for 2014:

- Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille, Allen W. Matthews, Manager, at 63 Eastern Avenue
- BN FARM, LLC, d/b/a The Farm, Bradley Atkinson, Manager, at 233 Western Avenue
- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue
- Diamond 4 Cookhouse LLC, d/b/a Castle Kreek Cookhouse & Bar, Kelly A. Roach, Manager, at 234 John Wise Avenue
- Essex Fortune Palace, Inc., Fang Liaw, Manager, at 99 Main Street
- Greenbow Corporation, d/b/a Shea's Riverside Restaurant & Bar, Carol E. Shepard, Manager, at 122 Main Street
- Riverside Bistro Inc., d/b/a Riverside Bistro, Xun Jie Zheng, Manager, at 112 Main Street *PENDING A CURRENT TRAINING CERTIFICATE & INSPECTION*
- Towne Landing Inc., d/b/a Periwinkles, Thomas L. Guertner, Manager, at 74 Main Street
- Windward Grill LLC, d/b/a Windward Grille, Timothy Kennefick, Manager, at 109 Eastern Avenue

- Village Restaurant of Essex, Inc., d/b/a The Village Restaurant, Kevin Ricci, Manager, at 55 Main Street
- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Stephen B. Woodman, Manager, at 125 Main Street
- Woodman's Inc., d/b/a Lobster Pool, Stephen B. Woodman, Manager, at 119 Main Street

**Antiques License Renewal for 2014:**

- Richard Bevilacqua, Essex Antiquarians at 165 Main Street
- Michael Bider, Bider's Antiques, Home, Camp & Cottage at 67 Main Street
- Debbie & Alfred Brosch, Brosch Antiques at 143 Main Street
- Robert Coviello, Main Street Antiques at 44 Main Street
- Robert Coviello, Robert C. Coviello Antiques at 155 Main Street
- Robert Hanlon, Walker Creek Furniture, Inc. at 57 Eastern Avenue
- Channing Howard, Howard's Visual Merchandise at 165 Eastern Avenue
- James P. Lower, New England Joinery at 85 Southern Avenue
- Michael March, Blackwood March Antiques at 3 Southern Avenue
- Alison Taylor, Ebb & Flow LLC at 166 Eastern Avenue
- A.P.H. Waller, Joshua's Corner at 2 Southern Avenue
- A.P.H. Waller, A.P.H. Waller & Sons at 140 Main Street

**Automatic Amusement Device License Renewal for 2014:**

- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue

**Class II License Renewal for 2014:**

- Dynamic Auto Brokers, Charles F. Coles, Jr. and Mark Gallagher, at 147 Eastern Avenue, "Total of 16 cars maximum at one time. All work to be done inside building. Business may operate 8 am to 6 pm Monday through Saturday. Closed Sundays."
- GBG Crowley, Inc., d/b/a Gaybrook Garage, Michael Crowley, at 152 Western Avenue, "No more than 6 unregistered vehicles to be parked outside at any one time."
- Paul Russell, Gullwing Service Co., Inc., d/b/a Paul Russell and Company at 106 Western Avenue, "No more than 5 unregistered vehicles to be parked outside building at any one time. Business hours: Monday through Friday 8 am to 6 pm; Saturday 8 am to 12 noon. No Sunday hours."
- Portside Auto, Eric Holdsworth at 166 Eastern Avenue, "No more than 1 motor vehicle may be displayed. No lights, flags or signage except for 15 x 19-inch sign in window of vehicle."
- Scott's Auto Clinic, Inc., Scott Savory at 6 Scot's Way, "No more than 6 unregistered vehicles to be parked outside building at one time."

- Wright Industries, Inc., Paul Wright at 22 Western Avenue, "No more than two pieces of equipment to be displayed at 22 Western Avenue at any one time."

Common Victualler's License Renewal for 2014:

- Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille, Allen W. Matthews, Manager, at 63 Eastern Avenue
- Blue Marlin Inc., d/b/a Marlin Market, Cory Matthews, Manager, at 63 Eastern Avenue
- BN FARM, LLC, d/b/a The Farm, Bradley Atkinson, Manager, at 233 Western Avenue
- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue
- Chanty, Inc., d/b/a Richdale, Peter A. Panagoplos, Manager, at 156 Main Street
- Chebacco Liquor Mart, Inc., d/b/a Chebacco Liquor Mart, John D. Chisholm, Manager, at 201 Western Avenue
- CPM Investment Group, Inc., d/b/a Essex Wine & Spirits, Vincent Marano, Manager, at 91 Main Street
- Diamond 4 Cookhouse LLC, d/b/a Castle Kreek Cookhouse & Bar, Kelly A. Roach, Manager, at 234 John Wise Avenue
- Eben Creek Corporation, d/b/a J.T. Farnham's, Joseph K. Cellucci, Manager, at 88 Eastern Avenue
- Essex Fortune Palace, Inc., Fang Liaw, Manager, at 99 Main Street
- Clifford Amero, Manager, Essex River Cruises & Charters, at 35 Dodge Street
- Essex River Dogs, Eric Vennerbeck, Manager, at 162 Main Street
- Fenisha Corporation, d/b/a Schooner's Market, Bhavikaben J. Patel, Manager, at 121 Eastern Avenue
- Greenbow Corporation, d/b/a Shea's Riverside Restaurant & Bar, Carol E. Shepard, Manager, at 122 Main Street
- Riverside Bistro Inc., d/b/a Riverside Bistro, Xun Jie Zheng, Manager, at 112 Main Street
- Towne Landing Inc., d/b/a Periwinkles, Thomas L. Guertner, Manager, at 74 Main Street
- Windward Grill LLC, d/b/a Windward Grille, Timothy Kennefick, Manager, at 109 Eastern Avenue
- Village Market, Madeline M. Emmons, Manager, at 1 Martin Street
- Village Restaurant of Essex, Inc., d/b/a The Village Restaurant, Kevin Ricci, Manager, at 55 Main Street
- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Stephen B. Woodman, Manager, at 125 Main Street
- Woodman's Inc., d/b/a Lobster Pool, Stephen B. Woodman, Manager, at 119 Main Street

Sunday Entertainment License:

- Riverside Bistro Inc., d/b/a Riverside Bistro, Xun Jie Zheng, Manager, at 112 Main Street
- Woodman's Inc., d/b/a Woodman's Function Hall and Lobster Trap Pub, Stephen B. Woodman, Manager, at 125 Main Street

Weekday Entertainment License Renewal for 2014:

- Blue Marlin Grille, Inc., d/b/a Blue Marlin Grille, Allen W. Matthews, Manager, at 63 Eastern Avenue
- BN FARM, LLC, d/b/a The Farm, Bradley Atkinson, Manager, at 233 Western Avenue
- Cape Ann Golf Course Corp., d/b/a Fairway Pub, James N. Stavros, Manager, at 99 John Wise Avenue
- Greenbow Corporation, d/b/a Shea's Riverside Restaurant & Bar, Carol E. Shepard, Manager, at 122 Main Street
- Towne Landing Inc., d/b/a Periwinkles, Thomas L. Guertner, Manager, at 74 Main Street
- Riverside Bistro Inc., d/b/a Riverside Bistro, Xun Jie Zheng, Manager, at 112 Main Street
- Windward Grill LLC, d/b/a Windward Grille, Timothy Kennefick, Manager, at 109 Eastern Avenue
- Woodman's Inc., d/b/a Woodman's Function Hall & Lobster Trap Pub, Stephen B. Woodman, Manager, at 125 Main Street
- Woodman's Inc., d/b/a Lobster Pool, Stephen B. Woodman, Manager, at 119 Main Street

Wine and Malt Package Store License Renewal for 2014:

- Chanty, Inc., d/b/a Richdale, Peter A. Panagoplos, Manager, at 156 Main Street  
*PENDING A CURRENT TRAINING CERTIFICATE*
- Fenisha Corporation, d/b/a Schooner's Market, Bhavikaben J. Patel, Manager, at 121 Eastern Avenue

Wine and Malt Restaurant License Renewal for 2014:

- Eben Creek Corporation, d/b/a J.T. Farnham's, Joseph K. Cellucci, Manager, at 88 Eastern Avenue

The Selectmen were reminded that their next regular Board of Selectmen's meeting will take place on Monday, December 23, 2013, at 7:00 p.m. in the Library on Martin Street.

The Selectmen reviewed a ***request from Police Chief Peter Silva*** to hold a joint informational meeting at the next Selectmen's meeting on December 23 with the Selectmen, the management of the Farm restaurant, and Chief Silva to discuss public safety issues and business operations of the restaurant. The Selectmen agreed to schedule the appointment for 7:30 p.m.

The Selectmen discussed reviewing the old mind maps regarding the future use of Conomo Point. Mr. Zubricki agreed to update them with Mr. Ray Randall, based on recent events, for discussion at a future meeting on February 10, 2014.

At 8:06 p.m., citing the need to discuss 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 the Town of Essex vs. the Estate of Judith H. Foley, Northeast Housing Court C.A. No. 09H77SP003249; 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 litigating strategy. He invited the Town Administrator's attendance at the Executive Session and said that the Board would be returning to Open Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board moved to Executive Session.

The Board returned to Open Session at 8:15 p.m.

Conomo Point Matters: A motion was made, seconded, and unanimously voted to sign letters to the following Conomo Point tenants who returned their signed, third-year Bridge Lease extension agreements with letters of protest:

- 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
- 136 Conomo Point Road, Map 24, Lot 38, Cushing
- 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 A Robbins Island Road, Map 19, Lot 67, Denton
- 126 Conomo Point Road, Map 24, Lot 42, Hatfield
- 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
- 17 Middle Road, Map 24, Lot 31, Lemcke
- 122 Conomo Point Road, Map 24, Lot 44, Lynch
- 42 Robbins Island Road, Map 19, Lot 71, Riggs
- 43 Robbins Island Road, Map 19, Lot 75, Riggs
- 44 Robbins Island Road, Map 19, Lot 72, Sachsse
- Robbins Island Road, Map 19, Lot 74 A, Sachsse
- 23 Middle Road, Map 24, Lot 28, Smith
- 109 Conomo Point Road, Map 19, Lot 93, True

A motion was made, seconded and unanimously voted to sign letters to the following Conomo Point tenants who returned their partially signed, third-year Bridge Lease extension agreements with letters of protest and with missing signature(s):

- 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

Another motion was made, seconded, and unanimously voted to sign letters to the following Conomo Point tenants who returned their partially signed, third-year Bridge Lease extension agreements without letters of protest, but with missing signature(s):

- 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

The Board discussed potentially rescinding offers of third-year Bridge Leases for tenants who have not paid the fourth quarter rent on their second-year Bridge Leases. Letters will be prepared for signature at the next Selectmen's meeting for the following tenants unless they have paid by the time of posting for that meeting:

- 19 Middle Road, Map 24, Lot 30, MacGrath
- 46 Robbins Island Road, Map 19, Lot 73 & 74, Ryan

The Board was also in agreement that letters rescinding the Town's offer of third-year Bridge Leases and a Notice to Quit would be prepared for signature at the next Selectmen's meeting to be sent to the following tenants who have not by the time of the agenda posting for that meeting opted to execute and return their third-year Bridge Lease extension documents:

- 9 Beach Circle, Map 19, Lot 96, Adams
- 161 Conomo Point Road, Map 24, Lot 14, Conomo Point Assoc.
- 1 Robbins Island Road, Map 19, Lot 79, Fryou
- 159 Conomo Point Road, Map 24, Lot 15 A, LeRoyer
- 103 Conomo Point Road, Map 19, Lot 98, Mauceri

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 8:30 p.m.

Documents used during this meeting include the following:

*Letter to Thayer Adams from the Board of Health dated November 21, 2013*  
*Map of area in question (Map 19, Parcel A)*  
*Horsley Witten Change Order dated December 3, 2013*  
*Draft Letter to the Planning Board*



*Contract for the Town Hall Improvement Project*  
*McGinley Kalsow Cost Estimate in the amount of \$9,300*  
*Draft FY2015 Budget Request Letter to the Finance Committee*  
*Request for an Informational Meeting from Police Chief Peter Silva*

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

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