

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

**December 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: Judd Pratt, John and Sarah Cushing, Brad Atkinson, Ryan Cox, Noah Goldstein, and Gloucester Daily Times Reporter James Niedzinski.

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. Judd Pratt, a lessee of a Robbins Island property at Conomo Point, came before the Selectmen to discuss his lease at Conomo Point and gave the Selectmen *an analysis* that he had prepared regarding the economic feasibility of keeping his lease for the Robbins Island property. Mr. Pratt currently owes back taxes and rent on this property. Mr. Pratt reviewed his analysis and said that he would be willing to have the tenant who sublets the property send the rent checks to the Town. Chairman Jones reminded Mr. Pratt that he has not asked, nor received permission to sublet this property. The Chairman also said that no third year Bridge Leases are being offered to any tenant who is not current with either rent or tax payments. Mr. Pratt thanked the Selectmen and left the meeting.

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

Vendor-Hosted Platform for Assessors' Software: Mr. Zubricki said that the Town's goal is to have all of the proprietary software used by the various Town departments hosted by the vendors who provide the software. Mr. Zubricki is currently exploring options available for the Assessors software. However, this is still a relatively new concept for the Assessors' vendor and their pricing for this hosting service is therefore still quite high. The Selectmen were in agreement with Mr. Zubricki, that the Town should continue to check on the vendor's pricing from time to time, since the cost should decline as more companies take advantage of the new service.

Town Administrator's Performance Review and Goal Setting: Mr. Zubricki reminded the Selectmen that it is again time for his annual performance review and goal setting. He drew their attention to proposed goals for calendar year 2014 that he had included in his report.

Draft Request for Proposals for Promotion of Town Resources/Attractions: Mr. Zubricki discussed his *initial draft of a Request for Proposals* for promotion and advertising of the Town's resources, advantages, and attractions and reviewed the criteria for evaluating the proposals that are submitted. The Selectmen will provide feedback to Mr. Zubricki at the next meeting.

Contract with Virtual Town Hall for On-line Burning Permit Payments: Mr. Zubricki announced that an on-line payment option for obtaining burning permits will not be available through City Hall Systems in time for the upcoming burning season and recommended that the Town extend their contract with Virtual Town Hall for another year. The Town will likely switch to the City

Hall Systems solution next year. The Selectmen were in agreement, and a motion was made, seconded, and unanimously voted to extend the contract for one year.

Draft License for Use of Conomo Point Properties by Sailing Club: Mr. Zubricki reported that he has prepared *an initial draft of a license* for the Sailing Club at Conomo Point that will allow the club to use certain areas of Town land at the Point during certain times of the year. The Selectmen asked Mr. Zubricki to review the document with the Sailing Club and with other interested parties. The Selectmen were in favor of a two-year term for the license.

Fiscal Year 2015 School District Tentative Budget Hearing: Mr. Zubricki said that he had attended this meeting with two of the Selectmen. The meeting featured discussions regarding various issues and challenges. The District will continue to work on reducing the currently projected 6.9% increase to the budget. There has been a continued increase in school population over the past few years and it is anticipated that there will have to be an override in the near future in order to continue providing the same level of service.

Fiscal Year 2015 Regional School District Budget Discussion Meeting: Mr. Zubricki reported that he had also attended this recent meeting on December 17, and that there are more meetings planned during the month of January.

Continued Review of Draft FY15 Selectmen's Operating Budget: Mr. Zubricki reviewed an updated draft of the Selectmen's Operating Budget. It is anticipated that the budget will be submitted to the Finance Committee on January 9<sup>th</sup>.

Continued Review of the Draft FY15 Capital Budget Update: Mr. Zubricki also reviewed the updated 5-10 Year Capital Budget Plan, which is also due on January 9<sup>th</sup>.

John and Sarah Cushing left the meeting.

Police Chief Peter Silva, along with Police Officers Tom Shamshak and Jim Romeos, and Fire Chief Daniel Doucette joined the meeting. Brad Atkinson, co-owner and manager; Ryan Cox, co-owner; and Noah Goldstein, co-owner of The Farm restaurant also joined everyone to discuss the events of last November 26 in regards to public safety and the operation of the Farm restaurant. The Chief said that officers were called to the restaurant that night after receiving complaints about loud music. Upon arrival at the restaurant, in addition to the loud music, the two officers found what appeared to be over-crowding of the building and over-serving of alcohol. The Hamilton Police had to be called as backup due to unruly and verbally abusive patrons. Two persons were taken into protective custody. In addition, the officers observed one of the patrons who had been asked to leave the restaurant being given a plastic cup of beer in the parking lot. Only one of the owners had been present at the restaurant that night. Both Chief Doucette and Chief Silva spoke at length about the seriousness of the situation and the commitment of the owners and the Town officials to protect the patrons of the restaurant from injury or death to themselves or others. The owners said that they had had experienced bartenders on duty that night, as well as three persons stationed at the door and around the

restaurant to check ID's and monitor occupancy. Both Chiefs agreed that these precautions had failed miserably and asked the Farm's management to think about what additional measures they could take to prevent this type of situation from ever happening again. After much discussion by all those present, Chief Silva said that his department will have zero tolerance if this situation ever happens again and will recommend a reduction in hours to the Licensing Board. The Selectmen thanked those present for their participation in the discussion and Chief Doucette, Chief Silva, the Officers, and the Farm's owners left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$107,597.47, and further, to exempt from Section 20 of Chapter 268A of the General Laws the contract with Ramie Reader contained within the warrant pursuant to subsection (d) of said Section.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's December 9, 2013, Open Meeting and the December 9, 2013, Executive Session.

The Selectmen reviewed a request from Eric Magers, an MERHS teacher, for the Class of 2015 to use the Field of Dreams, have a pot luck supper, and waive the rental fee for the Field and the Grove on Friday, June 13, 2014. A motion was made, seconded, and unanimously voted to approve Mr. Magers' request.

Signature of Project Completion Certificate for State Revolving Loan Fund: Mr. Zubricki informed the Selectmen that the State would like the Town to make a resolution authorizing a Town Officer to file an application with the Massachusetts Bureau of Resource Protection for State Financial Assistance for Water Pollution Abatement Projects. Subsequently, the Chairman stated that,

"Whereas, The Town of Essex, MA, after thorough investigation, has determined that the work activity consisting of: constructing a sewer collection system in Essex and a trunk line through Gloucester, is both in the public interest and necessary to protect the public health, and that to undertake this activity, it is necessary to apply for assistance; and,

Whereas, the Department of Environmental Protection (the "DEP") and the Massachusetts Water Pollution Abatement Trust (the "Trust") of the Commonwealth of Massachusetts, pursuant to Chapter 21 and Chapter 29C of the General Laws of the Commonwealth ("Chapter 21" and "Chapter 29C") are authorized to make loans to municipalities for the purpose of funding planning and construction activities relative to Water Pollution Abatement Projects; and,

Whereas, the Applicant has examined the provisions of the Act, Chapter 21 and Chapter 29C, and believes it to be in the public interest to file a loan application.

NOW, THEREFORE, BE IT RESOLVED by the Essex Board of Selectmen as follows:

1. That the Chairman of the Essex Board of Selectmen is hereby authorized on behalf of the Applicant to file applications and execute agreements for grant and/or loan assistance as well as furnishing such information, data and documents pertaining to the applicant for a grant(s) and/or loan(s) as may be required; and otherwise to act as the authorized representative of the Applicant in connection with this application;
2. That the purpose of said loan(s), if awarded, shall be to fund construction activities.
3. That if said award is made the Applicant agrees to pay those costs which constitute the required Applicant's share of the project cost."

A motion was made, seconded, and unanimously voted to approve the foregoing resolution and for the Chairman to sign associated paperwork.

DEP Quarterly Report: Mr. Zubricki reported that he had completed this period's quarterly report to the DEP and a motion was made, seconded, and unanimously voted to transmit the report to the appropriate persons.

Preliminary Review of Potential Topics for Annual Town Meeting: Mr. Zubricki provided the Selectmen with an updated list of topics for the next Annual Town Meeting to be reviewed by the Selectmen for discussion at a future meeting.

Council on Aging Service Incentive Grant Application: Mr. Zubricki reported that the Council on Aging Chair had advised him that if the Town plans to use the Senior Center as a shelter during times of emergency, the Center should have a shower facility. The COA Chair said that he would like to have the Selectmen approve a grant application to provide funding for this facility should the Division of Elder Affairs deem that activity as being eligible for funding. A motion was made, seconded, and unanimously voted to approve and sign the grant application if and when it becomes available.

Selectman O'Donnell commented that the pad for the generator at the Senior Center is in need of repair and Mr. Zubricki said that he would inform the COA Chair.

A motion was made, seconded, and unanimously voted to designate Selectman O'Donnell as the Selectmen's official delegate to MIIA Officers meeting.

A motion was made, seconded, and unanimously voted to sign the updated Department of Revenue Bureau of Accounts Classification Tax Allocation for the Town of Essex.

Mr. Zubricki informed the Selectmen that the contract with Constellation for replacement energy efficient lighting has still not been finalized and the Selectmen agreed to postpone signature of the energy efficiency lighting retrofit contract and power purchase agreement with Constellation Energy to a future meeting date.

A motion was made, seconded, and unanimously voted to sign a letter to the Alcoholic Beverage Control Commission stating that the temporary increased resident population of Essex as of July 10, 2014 is estimated to be 3,800, based on information received from the Town Clerk.

Concerning Conomo Point matters, Mr. Zubricki said that there had been a typographic error in the November 21, 2013 Board of Health Order for septic tank replacement at 9 Beach Circle (Map 19, Lot 96). The Board of Health will be sending a corrected order. The tenant at 9 Beach Circle has not yet returned a signed third-year Bridge Lease agreement.

Subsequently, a motion was made, seconded, and unanimously voted to authorize Town Counsel to send a Notice to Quit upon the expiration of the current lease term to the following second-year tenants who either were not offered third-year Bridge Leases or who opted not to enter into third-year Bridge Leases, as follows:

- 9 Beach Circle, Map 19, Lot 96, Adams
- 1 Robbins Island Road, Map 19, Lot 79, Fryou
- 120 Conomo Point Road, Map 24, Lot 45, Maher
- 103 Conomo Point Road, Map 19, Lot 98, Mauceri
- 40 Robbins Island Road, Map 19, Lot 70, Pratt
- 8 Conomo Lane, Map 19, Lot 84, Spintig/Grimes

A motion was made, seconded, and unanimously voted to authorize and sign the following Conomo Point Extensions:

- Offer to extend the bridge lease and purchase and sale agreement for 20 Cogswell Road, Map 19, Lot 54, Marybeth Tirrell, at the third-year Bridge Lease rate.
- Offer to extend the bridge lease and purchase and sale agreement signing deadline for 92 Conomo Point Road, Map 19, Lot 46, Joan Brown Herrmann, at the third-year Bridge Lease rate.

Acting in their capacity as Licensing Board for the Town, a motion was made, seconded, and unanimously voted to approve the following license renewals for 2014:

Common Victualler's License Renewal for 2014:

- Captain Dusty's, Inc., d/b/a Captain Dusty's Ice Cream, John Bartlett, Manager, at 121 Eastern Avenue
- DVR Corporation, d/b/a Cape Ann Pizza and Subs, James Roumeliotis, Manager, at 65 Eastern Avenue
- Essex Seafood, Howard Lane, Manager, at 143 R Eastern Avenue

Antiques License Renewal for 2014:

- Robert Landry, L.A. Landry Antiques, at 164 Main Street
- Ann C. Orcutt, AnnTiques, at 2 R Martin Street
- Alexander Westerhoff at 18 Eastern Avenue

The Selectmen were reminded that their next regular Board of Selectmen's meeting will take place on Monday, January 6, 2014, at 7:00 p.m. in the Library on Martin Street.

Mr. Zubricki informed the Selectmen that a new Town resident had sent him an email offering to volunteer time to help the Town and listing a few suggestions for improvements in Town. The Selectmen said that they would take the matter under advisement.

Selectman O'Donnell said that she would be attending a meeting of the Friends of Memorial Park on January 9<sup>th</sup> to discuss ideas for repairing/replacing the Town's war memorial.

The Gloucester Times reporter James Niedzinski left the meeting.

At 8:23 p.m., citing the need to discuss a complaint brought against the Essex Board of Selectmen concerning the disposition of real property at southern Conomo Point; 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, 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 negotiating and litigating strategies and invited Mr. Zubricki to attend the session. The Chairman also announced 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.

The Board returned to Open Session at 8:47 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:

*An analysis of 40 Robbins Island Road*  
*Initial draft of a Request for Proposals*  
*Initial draft of a license for the Sailing Club at Conomo Point*

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

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