

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

January 6, 2014

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

Also present: Dean Rossi, Ed Lane, Matt Jacobs, Judson Pratt, and Jeff Soulard.

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.

Matt Jacobs stepped before the Selectmen and said that he was aware that the Shellfish Advisory Commission was in need of members, and that he would like to be appointed to fill one of the vacancies on the Commission. The Commission is presently unable to meet, having only two members and needing at least a quorum of three. Mr. Jacobs said that he has been clamming all his life. The Selectmen were informed by Mr. Zubricki that there are no regulations regarding membership on the Commission. Subsequently, a motion was made, seconded, and unanimously voted to appoint Mr. Jacobs to the Commission for the remainder of a 3-year term, ending 6/30/16. Mr. Jacobs thanked the Selectmen and left the meeting with Dean Rossi and Ed Lane.

Jud Pratt, a lessee of 40 Robbins Island Road, Map 19, Lot 70, came before the Selectmen to update them regarding the current status of his formerly leased property. He had hoped to be able to pay off the tax and rent arrearage on the property this evening and therefore receive an offer of a third-year Bridge Lease. However, his plans had not worked out as hoped. Mr. Pratt offered to forward to the Town a check in the amount of \$1,400 that he had received from the person subletting this property from him. Mr. Pratt had not requested permission to sublet the property under the first or second year Bridge Lease and neither he nor the subletter has permission to occupy the premises. The Selectmen told Mr. Pratt that they would discuss the matter with Town Counsel and respond to him at a future date. Mr. Pratt left the meeting.

Finance Committee Chair Jeff Soulard came before the Selectmen to discuss an email that he had received from a local realtor regarding Town property at Conomo Point (31 Cogswell Road, Map 19, Lot 27). Those present discussed the various points of the email, and all agreed this email was not based on the facts of the situation. Concern was expressed that the email was being circulated and spreading a false account of the circumstances regarding the property. The tenant's current situation could have been prevented, yet the tenant at this property had chosen to refuse the Town's offer to sell him the property at the land-only value and had sued the Town to prove that the tenant owned the structures on the leased land. The Court had found that the Town owns this entire property (land and buildings) at the expiration of the lease. The first-year Bridge Lease for this property expired on December 31, 2012 and the tenant was not offered an extension. The tenant is now marketing the property and has offered to give the Town back rent and \$10,000 if he sells the property. The Selectmen have refused his offer and were concerned that a local realtor is marketing the property without authorization to sell Town property. Discussion followed regarding issuance of a Cease and Desist Order to prevent Realtor Ida Doane from marketing the subject property. A motion was made, seconded, and unanimously

voted to authorize Town Counsel to send a Cease and Desist Order to Barrett & Company LLC regarding the actions of their realtor Ida Doane.

Next, the Selectmen turned their discussion to 9 Beach Circle, Map 19, Lot 96, regarding the expiration of the Bridge Lease for this property and the tenant's desire to move the structure off of the property. It was decided to continue the discussion in Executive Session regarding the communication received by Town Counsel from Ms. Adams' attorney.

At 8:10 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; 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 the Board would be returning to Open Session and invited the Town Administrator, Town Counsel, and the Finance Committee Chair to join the Session. Chairman Jones said that discussing these matters in Open Session would be detrimental to the Town's negotiating and litigating strategies. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, their Assistant, the Town Administrator, Town Counsel, and the FinCom Chair moved to Executive Session.

The Board returned to Open Session at 8:20 p.m. for a brief Executive Session recess. Mr. Soulard had left the meeting during the Executive Session. The Selectmen, the Town Administrator, and Town Counsel were joined by Shellfish Constable William Knovak, Dean Rossi, Ed Lane, and Matt Jacobs.

The Selectmen informed Constable Knovak that they had appointed Matt Jacobs to membership on the Shellfish Advisory Commission.

The Shellfish Constable said that he would like to recommend that the Selectmen consider two amendments to the Town's shellfishing regulations. The first would limit the issuance of seasonal recreational digging permits to persons who are not licensed commercial clammers from other towns (others would be eligible for day permits only). The second amendment would require applicants for commercial licenses to get their applications endorsed by ten individuals attesting to the applicant's residency in the Town of Essex. After a short discussion, the Selectmen said that they would ask Town Counsel to review certain aspects of the Town's current regulations and opine on the suggested amendments. The Constable, Dean Rossi, Ed Lane, and Matt Jacobs left the meeting.

A motion was made and seconded to return to Executive Session. Following a unanimous Roll Call Vote, the Board, their Assistant, the Town Administrator, and Town Counsel returned to Executive Session at 8:30 p.m.

The Board returned to Open Session at 9:30 p.m. Town Counsel left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$711,142.94.

Selectman Gould-Coviello offered to meet the Town Clerk and the Town Treasurer/Tax Collector to learn about their calendar year 2013 accomplishments and to later report back to the Board.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's December 23, 2013, Open Meeting and the December 23, 2013, Executive Session.

The Selectmen signed a replacement appointment card for Harbormaster's Assistant John Thatcher. His appointment was previously approved at an earlier meeting.

A motion was made, seconded, and unanimously voted to permit the American Diabetes Association to pass over Essex roads during their annual cycling event Tour de Cure on Sunday, May 18, 2014.

Mr. Zubricki reported that the energy efficiency lighting retrofit contract and continued power purchase agreement with Constellation Energy was still being revised and would be offered at a future meeting for signature.

The Selectmen were reminded that the next regular Board of Selectmen's meeting will take place on Tuesday, January 21, 2014, at 7:00 p.m. in the Senior Center on Pickering Street.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period December 21st, 2013 through January 3rd, 2014, regarding the following:

Town Administrator Goals for Calendar Year 2014: The Selectmen reported that they needed additional time to review this matter.

Continued Review of Draft RFP for Promotion of the Town: Mr. Zubricki discussed his recent revisions to this document and the Selectmen approved of the changes to date. Mr. Zubricki will continue to refine the document, including a review of insurance requirements.

Final FY15 Selectmen's Operating and Capital Budget Requests: Mr. Zubricki reviewed the current draft of the Selectmen's Operating and Capital Budget requests and the Selectmen discussed minor changes to the documents. Subsequently, a motion was made, seconded, and unanimously voted to approve the FY15 Selectmen's Operating and Capital Budget Requests as amended tonight.

Draft List of Town Meeting Topics: Mr. Zubricki reviewed his *list of potential topics for future Town Meetings*, and after some discussion, the prioritization schedule for certain items was adjusted.

FEMA Coastal Flood Map Revisions: Mr. Zubricki reported that the new maps have been delayed and FEMS's Letter of Final Determination will likely be received sometime around January 16. The revised prints will arrive around February and will be effective on July 16, 2014. Once they are issued, the Town may vote to revise the Flood Plain Bylaw by incorporating the new panel numbers at Town Meeting.

Draft Conomo Point Sailing Club Town Property Use License: Mr. Zubricki said that the Sailing Club representative has suggested that the Club may find another site to use for repairs and maintenance of their boats. Therefore, a license would not be necessary. Mr. Zubricki will wait for additional information regarding the Club's intentions before proceeding with this matter.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:18 p.m.

Documents used during this meeting include the following:

List of potential topics for future Town Meetings

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell