

Selectmen's Minutes
TOHP Burnham Library

April 14, 2014

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: John Bediz, Attorney Kevin Dalton, Attorney Richard Kallman, Mark Lynch, Daniel, Mayer, A. Raymond Randall, Jr., Patrick Shea, Thomas Shea, Police Chief Peter G. Silva, Scott Solombrino, Jay Sweet, Jim Witham, representatives from Garden Remedies, and forty-six interested residents.

The Chairman called the meeting to order at 7:00 p.m. in the TOHP Burnham Library on Martin Street and announced that the Board would hear Public Comment. No one offered any comment.

In other business, a motion was made, seconded, and unanimously voted to approve this week's warrant in the amount of \$380,810.92.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's April 7th, 2014, Open Meeting and Executive Session.

A motion was made, seconded, and unanimously voted to approve a request from the Department of Public Works to transfer from various accounts the sum of \$13,510 towards the budget for fiscal year 2015.

A motion was made, seconded, and unanimously voted to proclaim May 2014, Mental Health Month. The Chairman signed the proclamation.

A motion was made, seconded, and unanimously voted to accept a resignation letter from Matt Jacobs regarding his position on the Shellfish Advisory Commission.

Mr. Zubricki reported that all parties have arrived at final language for an Easement and a Restrictive Covenant for the Symmes Property, located at 23-25-27 Centennial Grove Road. The Planning Board is currently reviewing a maintenance agreement for the property. The Symmes Family will be submitting an ANR (Approval Not Required) application to the Planning Board for the property. A motion was made, seconded, and unanimously voted to sign paperwork granting an easement for passage over the Town's property and accepting a Restrictive Covenant controlling future development on the property, all to be held in escrow by Town Counsel until the Planning Board's document and all other necessary documents have been executed.

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

One-Day Entertainment License:

- Essex County Greenbelt, Shelley Raymond, for use on Thursday, May 22, 2014, between the hours of 6:00 and 9:00 p.m. within the confines of the Cox Reservation at 82 Eastern Avenue.

One-Day Wine and Malt License:

- Essex County Greenbelt, Shelley Raymond, for use on Thursday, May 22, 2014, between the hours of 6:00 and 9:00 p.m. within the confines of the Cox Reservation at 82 Eastern Avenue.

The Selectmen were reminded that the Essex Division of the Cape Ann Chamber of Commerce will meet on Thursday, April 17, 2014 at the North Shore Bible Church at 8:00 a.m. (65 Eastern Avenue).

The Town Hall Offices will be closed Monday, April 21, 2014.

The next regular Board of Selectmen's meeting will take place on Monday, April 28th, 2014, at 7:00 p.m. in the Senior Center on Pickering Street.

Mr. Zubricki said that the Memorandum of Understanding with Senior Care for receipt of a grant from their RSVP Program for volunteer assistance on behalf of the Essex Council on Aging has not yet been completed and should be available for signing at the next Selectmen's meeting.

Conomo Point Matters: The Selectmen reviewed a request from Steve Cuthbertson, the current president of the Conomo Point Association, for permission to attach ramps and floats to the stone piers at Conomo Point from May 1 through November 1, 2014. They also discussed amending the form of the annual license, as suggested by Town Counsel. Subsequently, a motion was made, seconded, and unanimously voted to forward Town Counsel's amended license for the period from May 1 through November 1, 2014, to the Association for signature. The Selectmen will countersign, outside a meeting, upon receipt of the signed license.

At 7:05 p.m., the Chairman entertained a motion to open the Public Hearing regarding the transfer of an annual all alcoholic restaurant liquor license from Riverside Bistro, Inc., Xun Jie Zheng, Manager, to Hog Island Inc., d/b/a C.K. Pearl, Patrick T. Shea, Manager, at 112 Main Street. The motion was moved, seconded, and unanimously voted. Patrick Shea introduced himself and his father, Thomas Shea, to the Selectmen. Patrick Shea reviewed his extensive experience as a chef in Boston and abroad. He said that he is hoping to open the restaurant on June 1st. There were no other questions and a motion was made, seconded, and unanimously voted to close the hearing. The Selectmen were in agreement, and a motion was made, seconded, and unanimously voted to approve the request for a transfer of license. The completed application package will now be forwarded to the State Alcoholic Beverage Control Commission for final approval. The Selectmen congratulated Patrick Shea, and Mr. Shea and his father left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period April 5th through April 11th, 2014, regarding the following:

Continued Discussion Relative to Boat Trailer Parking Rules: Mr. Zubricki reported that the Department of Public Works has discussed the idea of confining non-resident, boat-trailer parking to the dirt area behind the Post Office. The DPW had some questions and thought that the installation of a kiosk would not generate enough income to pay for its initial cost. After some discussion, a motion was made, seconded, and unanimously voted to revise the municipal parking lot regulations to restrict the paved area for boat-trailer parking to residents displaying a valid sticker, with the risk of a \$300 fine or towing for violators.

Development of Position Description for Part-Time Planner: Mr. Zubricki said that the FY2015 budget provides for the hiring of a part-time planner to assist various Town departments. Since this will be a new position for the Town, Mr. Zubricki has begun to assemble information from other towns regarding job descriptions in this category. He asked the Selectmen to review the information collected to date for comment at a future meeting and he will draft a complete document for review.

Contract for Replacement of Historic Cast Iron Fencing at Cemetery: Mr. Zubricki said that the Community Preservation Committee and Town Meeting had approved an expenditure of \$24,500 for repair/renovation of a portion of the Spring Street Cemetery fence and the Historical Commission has since solicited bids for the work. Mr. Zubricki reported that DeAngelis Iron Work had submitted the winning bid. Subsequently, a motion was made, seconded, and unanimously voted to approve and sign the contract with DeAngelis, with an additional \$400 coming from the Town Property Budget.

Pothole and Winter Recovery Program Contract: Mr. Zubricki said that the State has an aid program administered by MASSDOT, to monetarily assist municipalities in their recovery from the past harsh winter. Based on a recommendation for Superintendent Goodwin and Mr. Zubricki, a motion was made, seconded, and unanimously voted to approve and sign the contract with MASSDOT to participate in the State's winter rapid recovery road program for \$19,930.

Revised Draft Annual Town Meeting Motions: Mr. Zubricki briefly reviewed each of the Annual Town Meeting motions and the accompanying summary of monetary articles that have been revised since the last meeting.

Review and Approval of Covenant for Central Conomo Point Subdivision: Mr. Zubricki reviewed a draft of the covenant for the Central Conomo Point Subdivision. Upon approval by the Planning Board and the Selectmen, Town Counsel will record the covenant with the subdivision plan. A motion was made, seconded, and unanimously voted to sign the covenant outside of a Selectmen's meeting when it becomes available if there are no substantive comments from the Planning Board.

Chairman Mark Lynch of the Conomo Point Planning Committee, along with Committee members John Bediz, Ray Randall, and Jim Witham joined the Selectmen to discuss the Conomo Point site visit last Saturday (4/12/14) to review the properties at Beach Circle which form the proposed Central Conomo Point Subdivision. Those present consulted a *map of the proposed*

subdivision. Each of the eight properties were reviewed and it was agreed that the Selectmen are in favor of selling:

- 105 Conomo Point Road, Map 19, Lot 97;
- 7 Beach Circle, Map 19, Lot 99;
- 3 Beach Circle, Map 19, Lot 101;
- and, 101 Conomo Point Road, Map 19, Lot 102.

Mr. Zubricki agreed to ask Town Counsel to prepare language for Town Meeting to ask for a change of use on these properties.

The property at 103 Conomo Point Road, Map 19, Lot 98, was abandoned by the tenant and is now entirely owned by the Town; as well as the property at 5 Beach Circle, Map 19, Lot 100, which was also abandoned a while ago and is now a vacant lot. The Selectmen said that they would like to continue to lease the property at 11 Beach Circle, Map 19, Lot 95 for the present and they would also like to keep the property at 9 Beach Circle, Map 19, Lot 96, for future Town use. The former tenant at 9 Beach Circle is in the process of negotiating to move the structure on the property to another piece of land. It was suggested that the tenant of 11 Beach Circle might be interested in moving the cottage on that lot to 5 Beach Circle, thereby enlarging the area at Clammers' Beach by the two adjacent lots. Selectman O'Donnell offered to prepare a visual representation of this for display at Town Meeting. Mr. Zubricki agreed to work with Town Counsel to reword Article 11 for the Annual Town Meeting based on these comments from the Selectmen and the Committee. Additionally, Jim Witham agreed to present the motion seeking to fill the current vacancy on the Committee since Chairman Lynch will be unable to attend.

On another matter, Mr. Zubricki reported that a complaint had been received regarding the Planet Aid receptacle on the Red Barrel Restaurant property. Although Planet Aid removes the donated items weekly, there is still always a large amount of items left around the receptacle. It was suggested that perhaps the Board of Health or the Building Inspector could determine whether this situation violated any health or junkyard regulations. Also, Mr. Zubricki agreed to try to contact the owner of the property regarding concerns of the neighbors.

Selectman O'Donnell reported on her attendance at a State House meeting to address the green crab infestation and its impact on shellfishing and eelgrass. The Division of Marine Fisheries is seeking a grant to fund an in-depth study of the situation. Encouragement is also being given to harvest large quantities of the crabs to sell for bait and/or food products.

The Selectmen were joined by a Citizen's Group for a discussion relative to Garden Remedies' proposed Medical Marijuana Growing Facility at the old Glass Dimensions' site on Western Avenue. The Citizens' Group is opposed to having the growing facility in Essex. Daniel Mayer, the Group's spokesperson led the discussion voicing the residents' concerns about security, crime, depreciation of property values, increased costs to Town departments, etc. The Selectmen and the Town Administrator explained that ultimate permission for the facility is to be granted and regulated by the State, not by the Selectmen. Also, as a result of a vote at the last Town Meeting to include growing facilities under the special permit bylaw and regulations, the Planning Board will be able to provide another layer of review. It was also noted that Police

Chief Silva has been working with Garden Remedies regarding their security procedures and equipment. The Group was encouraged to take their concerns to the State Department of Public Health, which is the regulation and enforcement agent of the Commonwealth. They were also encouraged to read the Town's bylaws and regulations regarding the special permitting process and to attend the Planning Board's public hearing to be held on this issue at a date to be determined.

Following the discussion, everyone left the meeting, leaving the Selectmen, their Assistant, and the Town Administrator.

At 8:25 p.m., citing the need to discuss pending litigation concerning the case of the Town of Essex v. Leah Maher, et al., Essex Superior Court C.A. No. ESCV2014-00522D; the lease, sale, and value of real property at Conomo Point; 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. The Chairman invited Town Administrator Brendhan Zubricki to take part in the Executive Session and he also stated 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, their Assistant, and the Town Administrator moved to Executive Session.

The Board, their Assistant, and Mr. Zubricki returned to Open Session at 8:58 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:

Map of the Proposed Subdivision

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell