

**Selectmen's Minutes
Senior Center - Upstairs**

January 26, 2015

Present: Selectman Lisa J. O'Donnell, Selectman Susan Gould-Coviello, Town Administrator Brendhan Zubricki, and Selectmen's Assistant Pamela J. Witham.

Also Present: Attorney Michael Sullivan

Acting Chair Lisa J. O'Donnell 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. Michael Sullivan identified himself and said that his family has a long history of being at Conomo Point and that he was there on behalf of Katie Ryan, a tenant at Conomo Point and the spokesperson for a Robbins Island neighborhood group. He asked why the Selectmen had not responded to *Mrs. Ryan's recent email letter*, and Mr. Zubricki said that the Selectmen have not met since January 12th and have not had an opportunity to review the letter. Acting Chair O'Donnell said that until the boundary dispute with Mr. Hsia is resolved, there is no point in proceeding with subdivision plans for Robbins Island. Mr. Zubricki confirmed with Mr. Sullivan that he had seen the Board's prior statement on this matter in a previous set of minutes. Mr. Sullivan said that he would like to read Mrs. Ryan's letter and have it appended to tonight's minutes. The Selectmen agreed to the request and Mr. Sullivan read the letter. Mr. Sullivan said that the group is going to forward the letter to the Town's consultant who is helping the Town with these matters. Mr. Sullivan thanked the Selectmen for their time and left the meeting.

A motion was made and seconded, and, the Board voted unanimously to ratify Chairman Jones' declaration of a State of Emergency for the Town of Essex, commencing today, 1/26/2015, at 1:00 p.m., until further notice.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period January 10th through January 23rd, 2015, regarding the following:

Northern Conomo Point Planning Update: Mr. Zubricki reported that a contract has been signed with Copley-Wolff to produce a more detailed plan regarding the future of northern Conomo Point. The Conomo Point Planning Committee and Sub-Committee met with that firm's representative, Jim Heroux, last Thursday, to provide him with initial guidance. The Conomo Point Planning Committee has also recommended that the Town hire a marketing consultant and a visualization firm to formulate a well-focused package discussing the northern Conomo Point plan with graphics which would be used to inform residents. The Board was in agreement that Mr. Heroux should be advised that the Board would like to have his recommendations and work

products by early April, at the latest, to provide time for the marketing consultant and the design firm to finish the presentation package in plenty of time for review and discussion by residents before Town Meeting.

Town Hall Exterior Renovation Cost Estimate Update: Mr. Zubricki said that the Town's consulting Project Manager has hired McGinley Kalsow to create a detailed review of the necessary repairs to the Town Hall exterior. The study will be used to calculate the cost of these exterior repairs. Plus, due to the extent of work, other items will have to be included as required by State Law, such as an elevator. The review by McGinley Kalsow, which was scheduled to take place during this week of January 26, has now been postponed due to the approaching blizzard.

Potential Increase to Town Planner's Wage Budget: Mr. Zubricki reported that it may be desirable to increase the salary budget for the Town Planner to allow him to work additional hours per week if the Town is awarded the State grant for help with developing a strategic plan. The Planner is willing to provide an extra two to three hours per week in addition to the five that he currently works. The Selectmen (who also serve as the Personnel Board) were in favor of the idea, and asked Mr. Zubricki to discuss the matter with the Finance Committee. The Board commented that they support the increase even if the grant is not awarded, so that the Planner can start the process on his own.

School Budget Discussion Group Meeting: Mr. Zubricki reported that he had attended a small budget meeting at the school last week where work continues on the FY2016 budget. He announced that the joint meeting of the MERMHS Budget Committee, the Manchester and Essex Select Boards, and the Manchester and Essex Finance Committees for tomorrow has been cancelled due to the blizzard. He said that the budget hearing is now scheduled for February 3rd at the Essex Elementary School.

Requested Increase to Fire Engineers' Annual Stipend: Mr. Zubricki said that the Board of Fire Engineers, which is composed of three members (two deputies and a chief) has asked for an increase in the salary paid to the two Deputy Fire Engineers, from \$1,180 to \$1,400 per year. The Fire Chief's annual stipend was increased last year. A motion was made, seconded, and unanimously voted to approve the request. The Selectmen's approval, acting in their capacity as the Personnel Board, will be forwarded to the Finance Committee.

Review of Potential Topics for Annual Town Meeting: Mr. Zubricki reviewed a *list of potential topics for the Annual Town Meeting* in May 2015.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$674,828.32.

Since there was only one Selectman in attendance this evening who was also present at the last Selectmen's meeting, it was agreed to postpone approval of the minutes for the Selectmen's

January 12, 2015, Open Meeting and Executive Session until the next Selectmen's meeting on February 9, 2015.

A motion was made, seconded, and unanimously voted to accept the resignation of Amelia Crimmins, who has moved to Ohio, from the Public Safety Study Committee.

A motion was made, seconded, and unanimously voted to appoint Tom Shute to the position of Special Police Officer for the remainder of a 1-year term, ending 6/30/15, pending his successful completion of psychological testing. The Selectmen signed his appointment card.

A motion was made, seconded, and unanimously voted to approve a 1-year contract for FY15 in the amount of \$33,000 with Clifton Larson Allen for the provision of audit services and to lock-in the fees for FY16 and FY17 at \$33,500 and \$34,000, respectively.

A motion was made, seconded, and unanimously voted to ratify the submission of a Keep Moving Grant application by the Council on Aging in the amount of \$600.00.

A motion was made, seconded, and unanimously voted to ratify the approval of an Antiques License Renewal for Robert Landry, L.A. Landry Antiques at 164 Main Street.

At 7:42 pm, 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, Kelley v. Town, Essex Superior Court, C.A. No. ESCV2014-01582; acting Chair O'Donnell entertained a motion to move to Executive Session. She stated that discussing these matters in Open Session would be detrimental to the Town's litigating and negotiating strategies, and that the Board would be returning to Open Session to finish regular business. She invited Town Administrator Zubricki to attend the Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, Mr. Zubricki, and their Assistant moved to Executive Session.

The Board, Mr. Zubricki, and their Assistant returned to Open Session at 7:50 pm.

Concerning Conomo Point matters: A motion was made, seconded, and unanimously voted to approve and sign a settlement agreement regarding Kelley v. Town, Essex Superior Court, C.A. No. ESCV2014-01582.

It was agreed to postpone discussion regarding the property at 4 Conomo Lane, Map 19, Lot 83, until the next Board of Selectmen's meeting on February 3, 2015.

Acting in their capacity as the Town's Licensing Board, the Board considered changing the Town's Alcoholic Beverage Licensing Rules and Regulations (C-2.1 b. Hours) regarding the Sunday hours for restaurants, based on a request from Patrick Shea of the C.K. Pearl restaurant to serve alcoholic drinks on Sunday starting at 10:00 am, instead of 11:00 am. Subsequently, a

motion was made, seconded, and unanimously to amend the Town's Alcoholic Regulations to allow restaurants to begin serving alcohol on Sundays starting at 10:00 am.

Additionally, a motion was made, seconded, and unanimously voted to approve Patrick Shea's request to begin serving alcohol on Sundays, starting at 10:00 a.m. The Selectmen signed a license for the restaurant which reflects this change to his Sunday hours for 2015.

The Board agreed to continue discussion at a future Selectmen's meeting of the entire Board regarding a suggested change to the Town's Alcoholic Beverage Licensing Rules and Regulations (C-6 Training) which would eliminate the in-person training requirement every fifth year for continuing managers.

At 8:00 p.m., Acting Chair Lisa O'Donnell welcomed Fire Chief Daniel Doucette, Council on Aging Chair Keith Symmes, and Town Planner Matt Coogan to the Selectmen's Quarterly Meeting. She asked Matt Coogan to begin.

Mr. Coogan reminded the Selectmen that he had submitted a grant application to the Metropolitan Area Planning Council a couple of weeks ago seeking assistance with formulation of a strategic plan for Essex. He said that MAPC is very enthusiastic about our application. However, this year the Council has received an enormous number of requests and they are carefully evaluating each one. Everyone continues to be optimistic about our chances.

Council on Aging Chair Keith Symmes said the COA is delighted to have their new Director, Kristin Crockett. He said that there were over twenty applications for the part-time job, and all of the applications were from people with impressive qualifications.

Mr. Symmes, who has been appointed to the new Bicentennial Committee, said that the committee will hold their first meeting on this Wednesday, at which time they hope to elect a chair for the committee.

Fire Chief Daniel Doucette reported everything is going well, but that they have been having some equipment issues and are working to resolve them. He also reported that one of the men will soon be sent for special training.

Acting Chair O'Donnell reported that while at the Massachusetts Municipal Association's annual meeting last weekend in Boston with Selectman Gould-Coviello, they had heard a number of interesting ideas. One idea is for the Town to host a "job fair" regarding both the elected and the appointed opportunities that exist to participate in Town government. A job fair could stimulate civic interest among a wide range of townspeople.

The discussion with Chief Silva regarding his Calendar Year 2014 Accomplishments and CY2015 Goals was postponed until a future Selectmen's meeting when Select Board Chair Jeff Jones will be present.

The next regular Board of Selectmen's meeting will take place on Monday, February 9, 2015, at 7:00 p.m. in the Library on Martin Street.

A motion was made, seconded, and unanimously voted to adjourn the meeting at 8:15 p.m.

Documents used during this meeting include the following:

Mrs. Ryan's recent email letter

List of Potential Topics for the Annual Town Meeting

Prepared by: _____
Pamela J. Witham

Attested by: _____
Lisa J. O'Donnell

Brendhan Zubricki

From: "Katie Ryan" <ryankaroline@gmail.com>
Date: Wednesday, January 14, 2015 10:12 PM
To: "Brendhan Zubricki" <bzubricki@essexma.org>
Cc: "James E. Ryan (jer6p)" <james_ryan@gse.harvard.edu>; "Michael T. Sullivan" <MSullivan@ConnKavanaugh.com>
Subject: Re: BOS meeting 1/12

Dear Mr. Zubricki,

Thanks for your reply. At the risk of sounding too lawyerly, could you please confirm that "refrain from consideration" means that neither the BOS nor the Town's consultant will be doing any further work at all on the Robbins Island subdivision until the Town's dispute with the Hsias is resolved? If that is not the case, then I would ask that you please either forward my December letter to the Town's consultant, or let me know that I may do this myself.

Moreover, if it is indeed the case that the subdivision process is now entirely suspended because of the Town-Hsia dispute, then I must take this opportunity to express our collective frustration, with all respect to you and the BOS. This dispute, which arose well after we signed bridge leases with the expectation that the lots would be offered for sale within three years, apparently relates to a small and remote strip of land that, in and of itself, does not have significant value. Prior to the dispute, the Town had no reason to believe that it owned the land (or that the land could be exchanged for other land in order to provide the Town with greater water access). We now find ourselves into the fourth year of bridge leases, with a fifth year on the horizon. (We hope and trust that the BOS would not attempt to have the bridge leases expire simply because of the Hsia dispute.)

Under the circumstances, we respectfully submit that all interested parties should consider every possible way to move the subdivision process along as quickly and as fairly as possible. For instance, the BOS might consider waiving any right to this strip of land (or attempting to sell it), or proceeding with the planning process until the dispute is resolved (so that the resolution is not followed by a long period of planning).

We are very interested in discussing any and all potential options with the Town, either with or without the Hsias present. Unless the BOS would prefer to conduct a more informal meeting, which we previously requested, we will plan to attend the next BOS meeting on January 26, in the hope of having a more personal exchange about how the process might be advanced as expeditiously as possible.

Please note that we do understand that you and the BOS are doing your best to resolve a complicated situation. In turn, we hope that you and the BOS will understand how deeply we all feel about these issues and the future of Robbins Island in general.

Thank you again for your time and, in advance, for your reply.

Katie Ryan

On Jan 13, 2015, at 7:06 AM, "Brendhan Zubricki" <bzubricki@essexma.org> wrote:

Dear Ms. Ryan:

The Board discussed your note last evening. The Board remains inclined to refrain from consideration of the subdivision until after the Hsia matter has been settled.

Thank you.

BZ

From: [Katie Ryan](#)
Sent: Thursday, January 08, 2015 7:46 PM
To: [Brendhan Zubricki](#)
Cc: [James E. Ryan \(jer6p\)](#)
Subject: Re: BOS meeting 1/12

Dear Mr. Zubricki,

Thanks for your email and time. While there is much in Selectman O'Donnell's statement that raises questions, I would like to focus on just the issue at hand and save the rest for another day.

There is an obvious difference between approving the subdivision and planning for it. I can understand, though disagree about, why the approval might have to await resolution of the Hsia dispute. But clearly subdivision planning does not. Indeed, the town is planning the subdivision now. All my letter asks is that the Robbins Island Association be included in this planning process, and that our voices be heard. It is a non sequitur to respond by saying that that request cannot be considered because approval—as opposed to planning—must await resolution of the Hsia dispute. If the Town feels it appropriate to plan the subdivision now, we deserve to have our voices heard. We are the current residents of Robbins Island. Our members have family histories on the island going back over 100 years and an intimate knowledge of the island that comes with that. Moreover, we have entered into multiple bridge leases over the last several years at very high rates with the expectation that we would have the opportunity to purchase the land under our homes and now the subject of the subdivision plan being developed. If you do not agree, I would like an explanation as to why, which doesn't rely on the irrelevant fact that the approval process must await the Hsia dispute.

In sum, I do not feel your effort to exclude the current residents of Robbins Island from the subdivision planning process is fair or appropriate under the circumstances and again request a meeting or other opportunity for leaseholders on Robbins Island to become involved.

Thank you for your time. I look forward to your response.

Katie Ryan
President
Robbins Island Association

On Jan 7, 2015, at 8:01 AM, "Brendhan Zubricki" <bzubricki@essexma.org> wrote:

Dear Ms. Ryan:

Pam forwarded your e-mail message to me and I also received your recent voicemail. Agendas for Selectmen's meetings are generally posted the Thursday prior to the Monday meeting (this Thursday for the meeting on the 12th).

The Selectmen had a chance to review your letter at the last meeting (December 15) and I have provided the draft minutes pertaining to that matter so that you can see their position. Nothing has changed since the meeting.

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. Mr. Denton asked if the Selectmen had received a letter from Katie Ryan, president of the Robbins Island Association, dated Dec 8, 2014. (Please see attachment at the end of these minutes.) The Chairman acknowledged receipt of the letter and Mr. Denton asked that it be attached to the minutes for tonight's meeting. The Select Board agreed. The Chairman said that the Board and Town Counsel would discuss Mrs. Ryan's letter in Open Session after the Board and Town Counsel discussed that and related matters in Executive Session. Mr. Denton agreed to wait until later in the evening.

[LATER IN THE SAME MEETING]

Selectman O'Donnell said that she would like to read the following statement regarding a proposed subdivision of Robbins Island:

- When the Board of Selectmen attempted subdivision approval, abutters (the Hsias) disputed the location of the property line which is defined by Mean High Water;
- The Town's surveyor has confirmed the accuracy of the original line, but the Planning Board will not approve the plan until an agreement with the Hsias is reached;
- Over the past year, the Selectmen have tried to work with the Hsias;
- In the meantime, the Selectmen have conducted an extensive title search and determined that the Hsias do not have a right of access over the Town's property;
- Although the Hsias have not obtained a survey to support their claim, the Selectmen have met with them twice over the past few months to try to resolve this matter;
- The Selectmen offered to give the Hsias enough property to keep the house where it is and the Selectmen offered to allow them access over the

Town's property;

- In exchange, the Selectmen asked only that the Hsias agree to the location of the line and give an access easement to the water;
- Each time the Selectmen met with the Hsias, the Hsias seemed to ask for more and offer less;
- If the Town is going to have a vote to sell in May, this issue needs to be resolved before the end of the year so that the appraiser and Planning Board have sufficient time;
- If the Hsias do not agree to a resolution, the only other option is the Land Court;
- Land Court will likely take several years to decide and will cost both parties thousands;
- In the meantime, Bridge Leases will end, leaving the future of Robbins Island uncertain.

Selectman O'Donnell explained to Mr. Denton that there is no way to even consider Mrs. Ryan's recent letter unless and until the Hsia dispute has been resolved, since no subdivision will be approved without resolution of that matter.

Best Regards.

BZ