

Selectmen's Minutes
2nd Floor, Town Hall Stage Conference Area, 30 Martin Street

April 9, 2018

Present: Chairman Lisa J. O'Donnell, Selectman David A. Doane, Selectman Andrew C. Spinney, Town Administrator Brendhan Zubricki, Town Counsel Gregg Corbo, and Selectmen's Assistant Pamela J. Witham.

Also Present: Dickran Babigian, Tom Beale, Curt and Lindsay Bergeron, Helen Brown, Lee Bresnahan, Maria Burnham, Skip Crocker, Jodi Harris, Gerard Hayward, Gerry and Marjorie Holleran, Erin Kirchner, Tina Lane, Dan Mayer, Attorney Nancy McCann, Ernie Nieberle, Peter Phippen, Amy Reilly, Jeff Soulard, Pam Stone, Kristen Walker, Molly Williamson, and several others.

Chairman O'Donnell called the meeting to order at 6:00 p.m. in the 2nd Floor Stage Conference Area of the Town Hall at 30 Martin Street and announced that the Board would hear Public Comment. No one offered any comment.

Tax Collector Jeff Soulard joined the Board to request approval and signatures for a community septic loan program. A motion was made, seconded, and unanimously voted to authorize the issuance of up to \$1,000,000 bonds and notes under the vote of the Town passed 5/1/17 (Article 17) for the Community Septic Management Loan Program.

Mr. & Mrs. Holleran joined the Board. The Hollerans rent the Conomo Point property at 21 Middle Road (Map 108, Lots 49 A&B) and their septic system has failed. They would like to install a tight tank on lot 49 B which presently has a year to year lease. Discussion followed, and the Board said that they would take their request for a 19-year lease on lot 49 B under advisement pending further discussion with Town Counsel. The Hollerans left the meeting.

Dickran Babigian joined the Board to request approval of structural repairs to Dan Mayer's leased Conomo Point property at 23 Middle Road. Mr. Babigian reviewed the necessary repairs and provided a floor plan and elevation plan of the existing structure. The Board said they would take the matter under advisement and Mr. Babigian left the meeting.

At 6:36 p.m., a motion was made, seconded, and unanimously voted to recess the meeting. Chairman O'Donnell, Town Counsel Corbo, and Town Administrator Zubricki left the meeting.

Chairman O'Donnell, Town Counsel Corbo, and Town Administrator Zubricki rejoined the meeting at 6:58 p.m. and a decision was made to move the meeting to the 3rd floor, due to the number of persons present.

At 7:00 p.m., Chairman O'Donnell announced the continuation of the Public Hearing concerning applications for an Annual Weekday Entertainment License and an Annual Sunday Entertainment License by Riversbend Restaurant, 35 Dodge Street, plus 2 One-Day Entertainment Licenses and 2 One-Day Wine & Malt Licenses. She stated that the Board would

also be considering a more recent request for a third One-Day Entertainment License and turned the meeting over to Town Counsel Gregg Corbo, who described the parameters of each of the types of licenses being sought. He said that no one was entitled to automatically be granted a license and the Board has the option to vote yes or no, or yes contingent upon specified conditions. Tonight's discussion would consist of the Board's review of each of the licenses requested and a deliberation on whether or not to grant them. Public comment on the license requests had been heard at the last Selectmen's meeting on March 26. After the Board's deliberation, Attorney Corbo will draft a statement regarding the Board's decisions that will be read and voted at the next Board meeting on April 23.

The discussion began with the request for an annual weekday (Monday through Saturday) entertainment license and an annual Sunday entertainment license. Mr. and Mrs. Bergeron, the owners of the Riversbend, were present with their lawyer, Attorney Nancy McCann. Mr. Bergeron said that he would like to offer music at the restaurant, both inside and on the deck, and was not planning on increasing the number of seats in the establishment, which is currently limited to a total of 98, split between the restaurant and the deck, by the alcohol license. Since the last Selectmen's meeting, Mr. Zubricki said that the Board had received 5 letters in support of granting the Riversbend licenses and 39 letters in opposition, as well as a petition with numerous signatures urging denial of the licenses. The reasons cited in the letters against granting the licenses included increased traffic, safety concerns, and noise issues.

The Bergerons were also applying for 5 1-day licenses. The first one was a 1-day entertainment license for indoor entertainment at the restaurant on Wednesday, April 11, between the hours of 4:30 and 9:30 p.m. The 2nd and 3rd licenses were for a 1-day entertainment license and a 1-day wine & malt license for the Essex River Race on Saturday, May 12, within the confines of a tent on the grounds of the Riversbend property. And, the 4th and 5th licenses were for a 1-day entertainment license and a 1-day wine & malt license for a wedding to be held on Saturday, June 16, within the confines of a tent.

After lengthy discussion and deliberation concerning each of the 5 licenses, a motion was made, seconded, and unanimously voted to approve the 1-day entertainment license for use on Wednesday, April 11, between the hours of 4:30 and 9:30 p.m., within the confines of the restaurant, occupancy to be limited to 98 persons, and the sound to be contained within the building. This license will be printed and signed by the Board outside of a meeting prior to April 11, pending receipt of the \$25 license fee.

A motion was made and seconded to deny both 1-day licenses requested for May 12, the Essex River Race event. The motion carried with Selectman Doane abstaining. A motion was made, seconded, and unanimously voted to approve the 1-day wine & malt license for the wedding on Saturday, June 16, between the hours of 4:30 and 9:00 p.m., within the confines of the tent on the lawn with occupancy by 95 persons, and with the restaurant closed to the public.

The Board again discussed the request for an annual weekday entertainment license and a motion was made and seconded to approve the license for use on Thursdays, Fridays, and Saturdays

between the hours of 4:30 and 10:00 p.m., within the confines of the restaurant only, with occupancy limited to 98 persons. Selectman Spinney and Selectman Doane voted in favor of the motion and Chairman O'Donnell voted against. The motion carried. Therefore, music will be permitted within the restaurant for the Saturday wedding on June 16.

A final motion was made, seconded, and unanimously voted to deny the request for the annual Sunday entertainment license.

Attorney Corbo will now prepare a statement summarizing the decisions of the Board regarding the 4 1-day license requests and the annual licenses request and the Board will examine the statement and vote on it at their next meeting on Monday, April 23. A motion was made, seconded, and unanimously voted to close the hearing at 9:10 p.m.

All those present left the meeting, except for Health Agent Erin Kirchner, Tina Lane, Animal Control Officer Amy Reilly, Animal Health Inspector Pam Stone, and Molly Williamson and her daughter, along with the Board, Town Counsel, the Town Administrator, and the Selectmen's Assistant, who moved back to the Stage Conference Area on the 2nd floor of the Town Hall.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$168,452.91.

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 3/29/2018 warrant pursuant to subsection (d) of said Section.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Jim McNeilly	McNeilly EMS	03/29/2018	\$ 290.00	Fire

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 03/22/2018 warrant pursuant to subsection (d) of said Section.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ernie Nieberle	Nieberle's	04/05/2018	\$ 417.35	Police
Ernie Nieberle	Nieberle's	04/05/2018	\$ 730.00	Fire
Ernie Nieberle	Nieberle's	04/05/2018	\$ 244.95	Fire
Ernie Nieberle	Nieberle's	04/05/2018	\$ 117.90	COA

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's March 26, 2018, Open Meeting and Executive Session; the March 28, 2018, Open Meeting and Executive Session; the March 29, 2018, Open Session; and, the April 5, 2018 Open Session.

Those present discussed the keeping of a small pet potbellied pig owned by Molly Williamson at 8 County Road. The pig is now being kept inside the house. It was agreed that the Town bylaw regarding the keeping of pigs should be updated to differentiate between the keeping of several large pigs and the keeping of one small pet pig, if possible. Mr. Zubricki will work with the

Board of Health, the Animal Health Inspector, the Animal Control Officer, and the Water Department on appropriate revisions to the Town bylaw for the Fall Town Meeting Warrant. In the interim, the Board decided to take no action.

Pam Stone, Amy Reilly, and Molly Williamson and her daughter left the meeting.

The Board, the Town Administrator, Town Counsel, and the Health Agent discussed the Hollerans proposed plans versus code requirements for a septic system or tight tank at 21 Middle Road. Following the discussion, the Board was in agreement, that the Hollerans could install a tight tank on lot 49 A, and therefore, there was no reason to consider extending the 1-yr lease on lot 49 B to 19 years. Mr. Zubricki will inform the Hollerans.

Board of Health Agent Erin Kirchner left the meeting.

Those present discussed the plans to make structural repairs and renovations to the property at 23 Middle Road. Selectman Spinney moved that the Board of Selectmen, in its capacity as Conomo Point Commissioners, approve a building renovation request made by Daniel Mayer, to renovate the existing structure on the premises located at 23 Middle Road (Map 108, Lot 53), subject to the following terms and conditions:

1. The work shall be done in accordance with the terms and conditions set forth in Sections 2 and 3 of Article IX and Article X of the Land Lease commencing on January 1, 2017 (the "Lease"), which terms and conditions are expressly made part of this approval.
2. The work shall include upgrade of the septic system serving the premises in accordance with the criteria of the Board of Health, if deemed necessary by the Board of Health.
3. The renovated dwelling shall be considered the "Improvements" for purposes of the Lease.
4. The Lessee acknowledges that nothing in this vote is intended to convey or imply any right, title or interest in the Town's property, or any portion thereof, and that nothing herein is intended to extend the term of the Lease or to waive the Town's right of termination pursuant to Article XI thereof, and further that the Town expressly reserves the right to assert ownership of the newly constructed dwelling in accordance with Article V of the Lease.
5. The Lessee shall sign a written acknowledgment of his agreement to these conditions, which acknowledgement shall be countersigned by the Town Administrator on behalf of the Board.
6. The renovation may be completed to a lesser extent than depicted by the building envelope on the below-referenced perspective view plans, but may not exceed said envelope without seeking approval from this Board, which may be denied.

The motion was seconded and unanimously voted.

Attorney Corbo left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period March 24th, 2018 through April 6, 2018, regarding the following:

Damage to Conomo Point Seawalls: Mr. Zubricki reported that there has been significant damage to the stone piers and seawalls from the recent winter storms. He also reviewed a note from the Descenzas saying that the Town property next to theirs at 7 Beach Circle is being eroded and they would like the Town to shore up the Town property to lessen the strain on their sea wall. Mr. Zubricki said that he would like to work with Mark Haskell and DPW Superintendent Paul Goodwin to assess the damage and develop a plan for repairs. The Board was agreeable to using the remainder of the Conomo Point Management money to partially fund the repairs, as well as the placing of boulders to shore up the Town property at the edge of 7 Beach Circle.

Preliminary Annual Town Meeting Motions: Mr. Zubricki reviewed the proposed list of motions and presenters for the Annual Town Meeting on May 7, 2018.

Coastal Barrier Resources System Unit Boundary Updates: Mr. Zubricki said that he had forwarded a link to the Board regarding the ever expanding boundaries of coastal areas that are not eligible to receive Federal funding for development. He will demonstrate on his computer at the next meeting.

Fiscal Year 2019 Coastal Resilience Grant Application: Mr. Zubricki said that the Town is working towards getting municipal vulnerability preparedness certification. This certification will enable the Town to apply for and receive grants to study the effects of mussel/oyster reefs as a tool to preserve the marshes.

The Board discussed exhibits for 3 public forums regarding a proposed Town public safety building. The Board agreed that they may compile a summary and position statement, based on feedback received at the forums.

A motion was made, seconded, and unanimously voted to approve a request from the American Diabetes Association to pass over roads in Essex during their annual Tour de Cure fundraising event planned for Sunday, May 20, 2018, between the hours of 10:00 a.m. and 2:00 p.m.

A motion was made, seconded, and unanimously voted to approve and sign a proclamation awarding the 2018 Selectmen's Citizenship Award to the most deserving MERHS graduating senior. The Selectmen signed the certificate. Presentation of the framed certificate will be made on May 24th by the newly elected Board member.

A motion was made, seconded, and unanimously voted to approve Fire Chief Dan Doucette's recommendation to appoint Philip C. Cicala and Liam L. Irwin as probationary firefighters pending CORI and medical screening. The Board signed the appointment cards.

Concerning Conomo Point matters, Mr. Zubricki reported that Bill Liberti and Morgan Tomaiolo of the Conomo Point Association are planning a small reception and a Grand Opening Ceremony with a ribbon cutting for the new Conomo Point Park. The event will take place on the Friday evening before Essex River Day on June 23rd. They are planning to have a caterer and would be applying for a one-day wine and malt license and a one-day entertainment license. The Board was agreeable to providing a police detail for the event and authorized Mr. Zubricki to work on organizing the event with the Association.

Mr. Zubricki also reported that a person from Manchester had contacted him to say that he was planning to open a marijuana shop in Manchester and was thinking of having a cultivation site in Essex. The Manchester resident was inquiring about the Town's present laws regarding cultivation and Mr. Zubricki had explained that the Town presently has a moratorium on all recreational marijuana activities.

Mr. Zubricki said that the Community Preservation Committee had met recently, and, in addition to other business, had decided to take back the money they had set aside to obtain a master plan for Memorial Park. The Committee may recommend a similar project in the future.

Acting in their capacity as Licensing Board, a motion was made, seconded, and unanimously voted to approve the following requests for permits and licenses:

Senior Shellfish Permit:

- Stephen Hartley

Gasoline-Fuel Storage/Sale License Renewals:

- Nieberle's Service Station, d/b/a Ernie's Service Station, 8 Main Street
- GBG Crowley, Inc., d/b/a Gaybrook Garage, 152 Western Avenue
- Holden Oil, Inc., d/b/a Holden Essex LLC, 2 Scot's Way
- Knobby River Ventures Inc., d/b/a Perkins Marine, Inc., 82 Main Street
- Energy North, Inc., d/b/a Energy Liquors, 156 Main Street

Gravel Pit Permit:

- Curlew Cove Realty Trust, Judson A. Lane, 53-59 and Rear John Wise Avenue

One-Day Wine & Malt License:

- Woodman's Inc., R.L. Swett, for use on Saturday, May 5, 2018, between the hours of 11:00 a.m. and 12:30 p.m., within the confines of the grass in front of the Essex Room at 125 Main Street.

The Board was reminded of the following events and meetings:

- Essex Division of the Cape Ann Chamber of Commerce meeting on Wednesday, April 11, 2018, 8:00 a.m., at the Village Restaurant , 55 Main Street, to discuss the Town's proposed acquisition of the property.
- Public Forum regarding the proposed acquisition of 55 Main Street, April 12, 2018, 7:00 p.m., in the cafetorium at the Essex Elementary School, Story Street.
- Public Forum regarding the proposed acquisition of 55 Main Street, April 18, 2018, 7:00 p.m., in the cafetorium at the Essex Elementary School, Story Street.
- The next regular Board of Selectmen's meeting will take place on Monday, April 23, 2018, at 6:00 p.m. in the Town Hall Stage Conference Room on the second floor, 30 Martin Street.
- Public Forum regarding the proposed acquisition of 55 Main Street, April 24, 2018, 7:00 p.m., in the cafetorium at the Essex Elementary School, Story Street.
- Coastal Resilience Grant Public Workshop highlighting the inter-relatedness of emergency planning and coastal resilience planning, April 25, 6:00 to 8:30 p.m., Essex Town Hall.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 10:46 p.m.

Attached documents used during this meeting include the following: None.

Prepared by: _____
Pamela J. Witham

Attested by: _____
Andrew C. Spinney