

**Selectmen's Minutes  
Town Hall Stage Conference Area**

**August 28, 2017**

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

Also Present: Bill Bradford, Jane Lyman, Sandy and Richard Osborn, Ed Perkins, Tim Perry, Thomas Riordan, Peter G. Silva, Doug Woodman, Eian Woodman, and Stephen Woodman.

The Chairman called the meeting to order at 7:00 p.m. in the Town Hall Stage Conference area at 30 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 the weekly warrant in the amount of \$191,925.97.

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 08-17-17 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	Nieberles	07/24/17	\$ 146.00	Council on Aging
Ernie Nieberle	Nieberles	07/24/17	\$ 271.80	Highway Dept.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's August 14, 2017, Open Meeting and Executive Session.

A motion was made, seconded, and unanimously voted to ratify the Chairman's signature of a letter of support for the North Shore Alliance for Economic Development's application for funding under the State's Regional Economic Development Organization Grant Program.

The Selectmen reviewed *Jessica Webb's resignation letter* from the Council on Aging, and a motion was made, seconded, and unanimously voted to accept her resignation.

The Selectmen signed a thank-you letter to Barry O'Brien regarding his invaluable assistance with the selection and installation of the Town Hall audio and video systems.

At 7:05 p.m., the Chairman entertained a motion to open the public hearing regarding the request for a transfer and pledge of the annual all alcohol restaurant license for Periwinkles, 74 Main Street. The motion was moved, seconded, and unanimously voted. Thomas Riordan introduced himself and his attorney, Tim Perry, to the Selectmen. Mr. Riordan is in the process of purchasing Periwinkles restaurant. He said that he plans on changing the menu slightly, but otherwise will keep everything the same. The Chairman asked if anyone else wished to comment

and Eian Woodman welcomed Mr. Riordan to the community. 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 transfer and pledge of license. The Selectmen signed the Local Licensing Approval Form which will be forwarded, along with the rest of the substantial transfer request package to the State Alcoholic Beverage Control Commission for final approval. Mr. Riordan and his attorney thanked the Selectmen and left the meeting.

Mr. Zubricki explained that Matt Coogan was unable to attend tonight's meeting and the Board agreed to postpone discussion of a possible purchase of streetlights from National Grid until a future meeting when Mr. Coogan could be present.

Mr. Zubricki reported that he has purchased three memorial benches for the new northern Conomo Point Park with funds donated by three families. Most recently, he has received another request to donate a fourth bench. After a short discussion, the Selectmen were in agreement that Mr. Zubricki should ask Mark Haskell to pour five concrete slabs, equally spaced, at the park, since it will more cost effective to pour all the slabs at the same time instead of as the benches are purchased. Mr. Haskell will also be pouring slabs for the chimney swift bird boxes and it was agreed that a site visit should be scheduled with Derek Brown to determine the best location for the boxes. A motion was made, seconded, and unanimously voted to accept the three gifts from Nina Fletcher, Laura Matson, and Carol and Harlan Wendell, Jr. to fund the purchase of the three memorial benches that are on order. Mr. Zubricki will arrange to purchase a fourth bench when the fourth donation is received.

The Selectmen agreed to postpone further discussion regarding possible prohibition of clam harvesting on Sundays, until Selectman Doane could participate in the discussion.

A motion was made, seconded, and unanimously voted to approve a ***recommendation to appoint Christian Mont*** to the position of Special Police Officer, contingent upon testing and successful completion of drug and medical screening. The Selectmen signed his appointment card.

Stephen, Doug, and Eian Woodman joined the Selectmen to discuss a ***recent alcohol service violation at Woodman's, Inc. Lobster Pool***. The Woodmans reported that the employee had been disciplined and they are making arrangements for all of their employees to attend special alcohol training courses. They also have a phantom customer visit the restaurant periodically, checking to see that all the Board of Health and ABCC regulations, etc., are being observed by the staff. Mr. Zubricki had asked Town Counsel about the Town's options regarding a second alcohol violation and other Massachusetts towns had been polled regarding their alcohol regulations. The Selectmen were in agreement that the Town's regulations need to be amended to include a list of violations and a corresponding list of resultant disciplinary actions. Further discussion was postponed until Selectman Doane could be present. The Woodman's said that they would be available to help with anything the Selectmen might need and left the meeting.

Selectman Spinney agreed to put together an analysis of how liquor license violations are handled in other communities for discussion at a future meeting.

Sandy & Richard Osborn of ERBA (Essex River Basin Adventures) joined the Selectmen to discuss parking at Conomo Point, and other related items. Sandy Osborn said that they would like to ask about the possibility of getting a special permit or pass that would allow them to park buses for school groups, such as Landmark school, closer to the kayak deployment area at Conomo Point. They suggested the new lot on Conomo Lane for the buses. The Selectmen said that they would take the matter under advisement. Other items that they mentioned include designating two spaces at Clammers' Beach as "Vehicles with trailers only", designating two spaces at Front Beach as "Loading/Unloading only", and kayak/boat racks at Clammers' Beach. These items will be discussed at a future meeting. The Osborns thanked the Selectmen and left the meeting.

Bill Bradford and Ed Perkins joined the Selectmen at the table to Review Options for Possible Relocation of the Shipbuilders' Memorial. Mr. Bradford reported that he had discussed the Lions' desire to move the monument to Paglia Park with Elaine Paglia's nephews, who agreed to discuss the matter with their aunt. Those present also reviewed three other options: placement between the White Elephant and the Legion Hall on Main Street, placement off Martin Street by the Town Hall, and placement on the Ricci property on the Essex River. Mr. Bradford and Mr. Perkins agreed to make an appointment to see the Board again to continue the discussion, once they had more information to offer. They left the meeting.

Chief Peter G. Silva met with the Selectmen to continue the discussion regarding his revision of the Harbor Regulations. The Selectmen agreed with his revisions, but suggested that the revised regulations be reviewed by Town Counsel for consistency and continuity, etc. Chief Silva agreed and Mr. Zubricki will forward the revised regulations to Town Counsel for comment.

Mr. Zubricki reported that he had spoken with the Division of Marine Fisheries and the Town's Conservation Commission Agent regarding their positions on the use of mud moorings and the moorings' impact on the environment. Neither the Division nor the ConCom Agent had an opinion on their use. Chief Silva said that he was only interested in adding a small number of mud moorings in an area that would not interfere with shellfish harvesting. The Selectmen asked him to keep them informed through Selectman Spinney and he left the meeting.

Continuing with other business and Conomo Point matters, the Selectmen discussed possible configurations for the *water access stairs at the Conomo Point Park*. Chairman O'Donnell exhibited schematic drawings for three possible options. Those present agreed that option #2 was the most desirable, and Mr. Zubricki will forward the plan to Gregg Campbell for construction, after Chairman O'Donnell put the drawing in final form.

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

Auction Permit:

- Blackwood March Antiques, Michael March, for use on Tuesday, September 26, 2017, between the hours of 10:00 am and 10:00 pm, within the confines of 125 Main Street.

One-Day Entertainment License and Waiver of Fee:

- Essex Police Department, Peter G. Silva, for use on Friday, September 8, 2017, between the hours of 7:00 p.m. and 9:30 p.m., within the confines of Memorial Park.

One-Day Entertainment License:

- Cape Ann Chamber of Commerce, Ken Riehl, for use on Saturday, October 21, 2017, between the hours of 11:00 a.m. and 4:00 p.m., within the confines of Memorial Park, 35<sup>th</sup> Annual Essex Clamfest.

One-Day Wine and Malt License:

- Cape Ann Chamber of Commerce, Ken Riehl, for use on Saturday, October 21, 2017, between the hours of 11:00 a.m. and 4:00 p.m., within the confines of Memorial Park, 35<sup>th</sup> Annual Essex Clamfest.
- Woodman's Inc., Joan Houghton, for use on Wednesday, September 6, 2017, between the hours of 11:00 a.m. and 10:00 p.m., within the confines of 125 R Main Street.

The Selectmen were reminded that the Town Building Committee will meet on Tuesday, August 29, 2017, at 7:00 p.m. in the Town Hall Auditorium, 30 Martin Street.

The next regular Board of Selectmen's meeting will take place on Monday, September 11, 2017, at 7:00 p.m. in the Town Hall Stage Conference Area at 30 Martin Street.

Mr. Zubricki continued the presentation of the remaining items in his Town Administrator's Report for the period August 12<sup>th</sup> through August 25<sup>th</sup>, 2017:

Update Concerning Fiber Optic Municipal Network: Mr. Zubricki said that both Verizon and National Grid are refusing to acknowledge or negotiate the Town's right to use space on the utility poles. The Town had reserved that right when the utilities were granted permission for placement of the poles on Town land many decades ago. Consequently, Town Counsel has recommended sending each of the two utilities another letter re-asserting our rights. The Selectmen were in agreement and a motion was made, seconded, and unanimously voted to sign and send the letter prepared by Town Counsel.

Jane Lyman from Comcast left the meeting.

Finalization of Request for Proposals for Centennial Grove Master Plan: Mr. Zubricki said that everyone's suggestions have been incorporated into the Request for Proposals for a Centennial

Grove Master Plan and he suggested that certain ranking criteria be included in the proposal. Chairman O'Donnell suggested that one more ranking category be added that would encourage an innovative and imaginative response. The Board will review the revised RFP at their next meeting after Chairman O'Donnell and Mr. Zubricki develop a draft of that fourth criterion.

Update Concerning Status of Army Corps of Engineers Study: Mr. Zubricki reported that the Army Corps plans to begin drafting a management plan to guide their study of salt marsh restoration techniques. The plan will provide an itemization of the different restoration techniques to be studied.

Mr. Zubricki reminded those present that the Town is hosting an ACEC (Areas of Critical Environmental Concern) summit in the Town Hall Auditorium in late September, where representatives from various groups will share information and views on coastal zone management.

Use of Conomo Point Park Float for Certain Mooring Holder Dinghies: Mr. Zubricki reviewed a draft of a license for dinghy tie-up and a hold harmless agreement that is based on advice from Town Counsel and MIIA, the Town's insurance provider. The Board was in agreement that the license would be offered to three known persons who have moorings west of the Conomo Point Waterfront Park that they access by non-motorized dinghies. Others in that same situation are welcome to also apply for a permit. A motion was made, seconded, and unanimously voted to offer tie-up privileges to the three persons, contingent upon their signed approval of the License Agreement and the Hold Harmless Agreement.

Town Hall Sprinkler Pipe Painting and Library Ramp Lattice Work: Mr. Zubricki said that he had received an estimate to paint the sprinkler pipe and repair the Library ramp lattice that is considerably less than the estimate supplied by Campbell Construction and there is enough money left in the budget to have the work performed. A motion was made, seconded, and unanimously voted to accept the second estimate.

Preliminary List of Possible Topics for Fall Town Meeting: Mr. Zubricki reviewed his initial draft of *suggested articles for the Fall Town Meeting*. The Board will consider the draft and continue the discussion at their next meeting on September 11.

FY18 Pedestrian and Bicycle Safety Enforcement and Equipment Grant: Mr. Zubricki reported that in order to meet the filing deadline, the Chairman had signed the application for the FY18 Pedestrian and Bicycle Safety Enforcement and Equipment Grant. Subsequently, a motion was made, seconded, and unanimously voted to ratify her signature on the application form.

FY18 MIIA Loss Control Grant Program: Mr. Zubricki said that every year the Town applies for a MIIA grant to help fund a project that will decrease property damage and insurance claims. This year the Board of Public Works would like to apply for a \$10,000 grant to study sewer manholes. An existing storm water management appropriation will cover the remaining cost,

\$16,000, of the study at the Fall Town Meeting. A motion was made, seconded, and unanimously voted to approve the grant application, which will be signed by the Chairman.

FY18 Coastal Resilience Grant Award: Mr. Zubricki said the Town has been successful in winning a grant in the amount of \$71,450 from the MA Office of Coastal Zone Management and the Chairman has signed and returned the grant contract. A motion was made, seconded, and unanimously voted to ratify the Chairman's signature on the contract. A motion was also made to approve signature of the subcontract with the National Wildlife Federation and for the no-cost statement of work from the Plum Island Long-Term Ecological Research Site's personnel once the grant contract is countersigned by the State.

Migration from Code Red to Swift Reach Notification System: Mr. Zubricki informed the Board that the Regional Emergency Center is offering participatory towns free use of their Swift Reach Notification System. The SRN System is similar to the Code Red system that is currently used by the Town to notify residents of emergencies or closures, etc. By switching to the SRN System, the Town would save the \$5,000 per year that Code Red charges. The Selectmen were in agreement and a motion was made, seconded, and unanimously voted to authorize Mr. Zubricki to switch the Town over to the SRN System. Appropriate Code Red messages encouraging people to sign up for the new system will be sent by Mr. Zubricki when the time comes.

Coordination of Invasive Plant Removal Assessment Work: Mr. Zubricki said that a resident is interested in helping to control and/or remove invasive plants such as pepperweed and phragmites. Mr. Zubricki summarized ongoing efforts for the Board and will put the resident (who has a willing volunteer group behind her) in touch with existing project leaders.

On another matter, Selectman Spinney suggested that the Board start their meetings at 6:00 p.m. rather than 7:00 p.m. No one present had any objections, and it was agreed that the Board would try out the new meeting time, starting with their next meeting on September 11.

At 9:37 p.m., citing the need to discuss pending litigation concerning the case of the Town of Essex v. William Allen, Essex Superior Court C.A. Nos. ESCV2002-00352, ESCV2006-00313, and ESCV2007-02096; the Chairman entertained a motion to move to Executive Session. She stated that discussing this matter in Open Session would be detrimental to the Town's litigating strategy and invited the Town Administrator to attend the Session. She said 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. Tina Lane left the meeting.

The Board, their Assistant, and the Town Administrator returned to Open Session at 9:55 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:

*Jessica Webb's Resignation Letter*

*Recommendation to Appoint Christian Mont*

*Recent Alcohol Service Violation at Woodman's, Inc. Lobster Pool*

*Design for Water Access Stairs at the Conomo Point Park*

*Suggested List of Articles for the Fall Town Meeting*

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

Attested by: \_\_\_\_\_  
Andrew C. Spinney