

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

February 25, 2019

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

Also Present: Robert Amero, Virginia Antell, Laura Appeltofft, Guy Bradford, Ben Buttrick, Mike Cronin, Officer Ryan Davis, Attorney Andrew DeLorey, Sergeant Paul Francis, Mark Gallagher, Tina Lane, Kurt Wilhelm, Allison Williard, National Grid representative Sibhita Mahabier-Sheehy, and 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 and announced that the Board would hear Public Comment. Tina Lane said that she would like to thank the Board for successfully convincing Town Meeting to approve the purchase of the John Wise Avenue site for a new public safety building.

Brendhan Zubricki: Presentation of his Town Administrator's Report for the period February 9th, 2019 through February 22nd, 2019, regarding the following:

Dept. of Environmental Protection Comments Concerning Sewer Breaks: Mr. Zubricki reviewed a study recently completed by the Department of Environmental Protection regarding their investigation of the Wastewater Force Main Breaks on Main Street (Causeway). The study attributes the cause for each of the breaks to be due to excessive internal pressure on the pipes. The Board of Public Works and their Superintendent will now meet internally and with the DEP to discuss these findings and formulate a mutually acceptable course of action to prevent future breaks.

Board of Public Works Vote to Relinquish Control of Public Safety Site: Mr. Zubricki reported that the Board of Public Works (BPW) was meeting tonight and one of the items on their agenda was to vote to relinquish their control of a portion of the Spring Street cemetery and transfer it to the Board of Selectmen to be combined with the John Wise Avenue property as the future site of a public safety building. Mr. Zubricki had provided the BPW with a suggested form of vote from Town Counsel.

Commencement of Preliminary Design Work for Public Safety Building(s): Mr. Zubricki said that now that the Town has approved a designated site for the new public safety building, the Board needs to move forward with the project. The Board reviewed four public safety building design contract amendments concerning the next work tasks in the design process. A motion was made, seconded, and unanimously voted to approve the contract task amendment to create the schematic design. A second motion was made, seconded, and unanimously voted to approve the contract task amendment to initiate and complete the wetlands and environmental permitting for the project. A third motion was made, seconded, and unanimously voted to sign the contract task amendment authorizing the Project Manager to commission a site survey of the land. And, lastly, a motion was made, seconded, and unanimously voted to sign the contract task amendment authorizing the Project Manager to commission a traffic study of the site. Mr. Zubricki reminded

the Board that the existing Town Meeting appropriation contemplated all of the above work and the project is presently still on budget.

At 6:15 p.m., Robert Amero joined the Board. He said that recently he had moved to West Gloucester and he has to live in Gloucester for one year before he will be eligible to apply for a Gloucester clamming license. Mr. Amero presently has an Essex clamming license which will expire at the end of March and this is his only source of income. He asked the Board to approve renewing his permit to allow him to continue clamming in Essex until he can obtain a Gloucester Commercial Shellfish permit. After some discussion, the Board advised Mr. Amero to contact the Gloucester officials regarding their shellfish permitting regulations. Mr. Amero will meet again with the Essex Board of Selectmen on March 11 to update the Board on the status of his Gloucester permit. In the meantime, Mr. Zubricki will consult with Town Counsel regarding the matter. Mr. Amero left the meeting.

Purchase and Sale Agreement for 11 John Wise Avenue: Mr. Zubricki announced that he has received a signed purchase and sale agreement in the amount of \$785,000 for 11 John Wise Avenue from the property owners and a motion was made, seconded, and unanimously voted to approve and countersign the purchase and sale agreement.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$91,537.62.

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 02-14-2019 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	02/07/2019	\$ 162.00	Police
Ernie Nieberle	Nieberle's	01/24/2019	\$ 76.50	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 02-21-2019 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	01/24/2019	\$ 367.80	Snow Removal

A motion was made, seconded, and unanimously voted to accept and approve the Health Insurance renewal proposal from MIIA.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's February 6, 2019, Open Meeting and Executive Session.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's February 8, 2019, Open Meeting.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's February 11, 2019, Open Meeting and Executive Session.

Attorney Andrew DeLorey, Mark Gallagher, Laura Appelfofft, and several of their neighbors joined those already present. Chairman O'Donnell made a motion to open the Dynamic Auto Brokers' Class II Automobile Dealer's License Hearing that was continued from February 11. The motion was moved, seconded, and unanimously voted. The Chairman asked if anyone had any new information to report and Attorney DeLorey, Mr. Gallagher's lawyer, spoke about some of the Town's bylaws that may or may not pertain to Mr. Gallagher's property. Mr. Zubricki stated that the Board has broad authority with respect to how a Class II License is granted, pursuant to State Law. Mr. Zubricki briefly reviewed Town Counsel's advice in this matter, which was to grant the Class II License with the following restriction, so long as the property was in compliance by the time of the hearing:

"This license is subject to the licensee not allowing any more than 18 total unregistered vehicles on the entirety of the property, whether indoors or outdoors, at any time. Vehicles purported to be registered must display valid registrations and not merely expired license plates at all times while located at the property. Any member of the Licensing Board, the Essex Building Inspector, or members of the Essex Police Department shall be permitted by the licensee to conduct announced inspections of the entire property at any time, in order to confirm ongoing compliance with the abovementioned terms and conditions. In addition, on or before _____ the licensee shall install new screening between the licensed premises and neighboring properties, where failed screening plantings presently exist, in conformance with the Town of Essex Zoning Bylaws, to the satisfaction of the Essex Building Inspector. Failure of the licensee to meet and maintain all of the above terms and conditions at all times during the term of the license shall be grounds for suspension and/or revocation of the license by the Licensing Board, following a hearing."

The Board asked Mr. Zubricki if the Essex Police Department had conducted an inspection of the site today and he replied that it had. He stated that Officer Alexander Edwards had counted 11 unregistered cars and 4 cars with invalid license plates. Eleven properly registered cars were also present. The Board asked Mr. Gallagher if he still wanted a Class II License and he did. However, he said he would like to have the restriction changed to only apply to cars outside on the property. He did not want the cars inside to be included in the 18-car limit. The Board also reminded Mr. Gallagher that he had agreed to replace the shrubs he had planted to screen the property that were eaten by deer, with a fence. Mr. Gallagher agreed to do so by June 30, 2019. Mr. Zubricki asked Mr. Gallagher and his attorney if they had any other objections or input beyond the date and indoor restriction, and they did not. The Chairman asked if anyone else wished to comment and no one did. A motion was made, seconded, and unanimously voted to close the hearing. The Board discussed the matter and a motion was made, seconded, and unanimously voted to amend Town Counsel's suggested restriction to only apply to cars outside, not inside; and to insert 6/30/2019 as the deadline for erecting the fence. Mr. Zubricki made the

changes to license and the Board initialed the changes and signed the license. The Selectmen's Assistant made a copy of the signed license and gave the license to Mr. Gallagher. Attorney DeLorey, Mr. Gallagher, Laura Appellofft, and interested residents left the meeting.

Assessor Kurt Wilhelm said that he was unable to stay for the Board's meeting with the Finance Committee to discuss the FY2020 proposed budget, but he would like to recommend that \$10,000 be included in the Assessors' budget to hire a consultant to research the titles for numerous parcels of land in Town whose owners are unidentified, and/or for which boundaries and locations are unknown. The consultant that the Assessors would like to hire has been successful in identifying many parcels in Manchester, paving the way to allowing Manchester to either sell them and/or begin collecting taxes on them. The Board thanked Mr. Wilhelm for his recommendation and he left the meeting.

The Board was reminded that they are posted to attend the Town Building Committee meeting on Wednesday, February 27, 2019 at 7:00 p.m. in the 3rd floor Town Hall auditorium.

The Essex Division of the Cape Ann Chamber of Commerce will hold their next meeting on Thursday, February 28, 2019, starting at 8:00 a.m. at C.K. Pearl.

There will be a Northeast Coastal Coalition meeting on Friday, March 1, 2019, starting at 10:00 a.m. and ending at 1:00 p.m. in the 3rd floor auditorium of the Town Hall.

The Board's next regular Board of Selectmen's meeting will take place on Monday, March 11, 2019, at 6:00 p.m. in the Stage Conference Area on the 2nd floor of the Town Hall.

There will be a University of New Hampshire Symposium on Thursday, March 28, during the business day, in the 3rd floor Town Hall auditorium titled Great Marsh Recovery from the 2018 natural sediment deposition event.

Sergeant Paul Francis joined the Board at the table. Chairman O'Donnell said that she had reviewed the transition plan for the retiring Chief of Police and the subsequent promotion of Sgt. Francis to Chief of Police. The original draft has been amended, based on discussions with Chief Silva, Sgt. Francis, and Chairman O'Donnell. However, the Chairman said that she would like the current draft to include more detail, such as target deadlines for completion of certain benchmarks. Those present also discussed whether they should start now to assess, select, and phase in two new sergeants or whether they should hire an assessment firm to select the best candidate. It is likely that the candidate will be chosen from the current personnel in the department. The Board said that they will be reviewing Sgt. Francis's draft employment contract for chief later this evening in Executive Session and will invite him to a future meeting to discuss it. Sgt. Francis and Officer Davis left the meeting.

Mr. Zubricki reported that a Southern Avenue resident had reported a street light that was out. He said that the Town has purchased the streetlights from National Grid in preparation for grant-funded conversion to LED, but does not have any equipment or a process for replacing or

repairing them. He said that he has consulted with the Town of Ipswich, which has its own electric company, and that they may be willing to contract with Essex regarding maintenance, etc. The Board agreed that this concept should be added to the ongoing regionalization study.

On another matter, Mr. Zubricki said that he has been approached by 1623 studios, the local cable TV studio. The studio will be asking the four Cape Ann communities if they would be interested in sharing the cost of hiring a communications person dedicated to promoting future public messaging from each of the communities. The Board agreed that this concept should also be added to the ongoing regionalization study.

The Board viewed a painting on wood by a one-time local artist, Christopher Gershwin, of a Milk Street house which has been donated to the Town by a former resident. The Board agreed to keep it in the Stage Conference area.

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

Commercial Shellfish Permit:

- Julian Balili
- Yllka Balili
- David Earl
- Jeffrey Fraser, Jr.
- Fred Hoysradt
- Kristina Jacobs
- Matthew Jacobs
- Merqes Kuca
- Vogelushe Kuca
- Edward G. Lane
- Matthew E. Lane
- Matthew G. Lane
- Brian Loebelenz
- Josephine MacDougall
- Phillip MacDougall
- Chris Maxfield
- Glenn Pike
- John Ytzen-Handel

Senior Commercial Shellfish Permit:

- Sefton Earl
- Stephen Hartley
- Dennis Henderson
- George Lane
- Tom Prentiss

Student Commercial Shellfish Permit:

- Michael Loebelenz

Non-Resident Recreational Shellfish Permit:

- Edward Kawczynski, Salem, sponsored by Richard Pierro
- William Pascucci, W. Palm Beach, FL, sponsored by Dawn Burnham

One-Day Entertainment License:

- Village Restaurant, for use on Sunday, March 17, 2019, between the hours of 11:30 am and 2:30 pm, within the confines of the Village Restaurant parking lot at 55 Main Street.

Mr. Zubricki said that Richard Cairns has suggested the creation of a new bylaw to exempt persons over 70 years old from tax overrides. The Board agreed to have Mr. Zubricki explore the concept with Town Counsel.

Mr. Zubricki said the Town has received a notification from National Grid regarding three utility poles at Conomo Point that are in need of replacement. National Grid is being asked by regulators to move them out of the salt marsh and relocate them closer to the roadbed. Mr. Zubricki had viewed the site with Police Chief Silva and Superintendent Galli. Superintendent Galli has agreed to the relocation contingent upon only moving them 2 ½ feet, not 3 feet, and stipulated that the new holes for the poles be hand dug to avoid puncturing the buried water main that is in the area. Chief Silva was in agreement with Superintendent Galli. The Board voted to authorize Mr. Zubricki to ask Town Counsel to prepare the appropriate permission document.

Mr. Zubricki said a request had been received from Paul Rogati for the installation of street lights on Grove Street, since he frequently has to walk on that street after dark. The Board suggested that Mr. Rogati purchase a reflective vest and carry a flashlight.

National Grid representative Sibhita Mahabier-Sheehy joined the Board. At 7:30 p.m., a motion was made, seconded, and unanimously voted to open the Public Hearing regarding the petition by National Grid to install a pole and associated guy wires along Southern Avenue. Ms. Mahabier-Sheehy reviewed the proposed work and a motion was made, seconded, and unanimously voted to close the hearing. A motion was made, seconded, and unanimously voted to approve the installation. It was unclear whether or not the Board needed to sign the order in addition to the Town Clerk. As soon as this question is resolved the order will be signed and returned to National Grid. Ms. Mahabier-Sheehy left the meeting.

Acting in their capacity as Personnel Board, the Board reviewed a position description for a part-time Assessor and a position description for Chief Operator of the Water Department. A motion was made, seconded, and unanimously voted to approve both descriptions, neither of which will require budget increases within those departments.

Selectman Phippen did not participate in the following discussion and vote regarding St. John's Prep proposed use of a portion of Centennial Grove. St. John's Prep would like to utilize the Cottage area of Centennial Grove for their rowing team operations. Mr. Zubricki said they are interested in initially using it from mid-March through May for their spring season. The school would store their boats on their own portable racks at the site and perhaps place removable docks

there as well. The school has also mentioned that they may be interested in a summer program that would be scheduled after the YMCA program, and additionally, a fall program. After Board discussion, a motion was made, seconded, and unanimously voted to offer the site to St. John's Prep for their use from mid-March through May for \$250 per week of occupancy.

Draft Annual Town Meeting Warrant: Mr. Zubricki reviewed the various articles and their order to be included in the May 2019 Annual Town Meeting.

At 8:30 p.m., Town Accountant Virginia Antell, and Finance Committee Chair Ben Buttrick and Fin Com members Guy Bradford and Allison Williard joined the Board. Those present reviewed three different examples of a tax rate analysis of the proposed FY2020 operating budget that had been prepared by Ms. Antell. Those present also discussed various items that might be cut from the proposed budget to put it in balance. The Finance Committee is optimistic that the budget gap can be closed and will continue to work on the budget with the departments. The Finance Committee asked Mr. Zubricki to provide them with additional information concerning the Board of Assessors' request for title examination work, the Youth Commission's record of programs and attendance to date, and the Essex Merchants' Group's most recent use of the promotion of the Town funding. Virginia Antell, Ben Buttrick, Guy Bradford, and Allison Williard left the meeting.

Mr. Zubricki said that there have been no new developments regarding Collective Bargaining concerning the proposed FY 20 renewal of the American Federation of State, County, and Municipal Employees (AFSCME) agreement or the proposed FY 20 renewal of the Essex Police Benevolent Association (EPBA) agreement. He also informed the Board that there was no reason to discuss pending litigation concerning the case of the City of Gloucester vs. the Town of Essex, Superior Court C.A. No. 17-310C. Therefore, at 9:38 p.m., the Chairman entertained a motion to move to Executive Session to review the latest draft of the employment contract for the incoming Police Chief. She stated that discussing this matter in Open Session would be detrimental to the Town's negotiating strategy and invited the Town Administrator to attend the Executive Session. She said 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. Tina Lane left the meeting.

The Board, their Assistant, and the Town Administrator returned to Open Session at 10:05 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: None.

Attested by: _____
Andrew C. Spinney

Prepared by: _____
Pamela J. Witham