

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

June 17, 2019

Present: Chairman Andrew C. Spinney, Selectman Peter D. Phippen, Selectman Ruth R. Pereen, Town Administrator Brendhan Zubricki, Town Counsel Gregg Corbo (by telephone), and Selectmen's Assistant Pamela J. Witham.

Also Present: Curt and Lindsay Bergeron, Erika Brown, Mike Cronin, Laurel Eisenhauer, Brian Feener, John Filias, Jodi Harris, Bob Jerin, Mr. & Mrs. LaFata, Tina Lane, Amy Robinson, and Kristen Walker.

Chairman Spinney 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.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$134,449.50.

A motion was made, seconded, and voted by Chairman Spinney and Selectman Phippen to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 6/13/2019 warrant pursuant to subsection (d) of said Section. Selectman Pereen abstained.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Dave Pereen	Pereen Plumbing	05/24/2019	\$ 200.00	Selectmen
Ramie Reader	Reader Electric	06/03/2019	\$ 258.00	Selectmen
Ramie Reader	Reader Electric	06/04/2019	\$ 2,626.00	Selectmen
Ernie Nieberle	Nieberle's	05/24/2019	\$ 292.00	Police
Ramie Reader	Reader Electric	05/27/2019	\$ 288.00	Fire
Ernie Nieberle	Nieberle's	05/24/2019	\$ 188.70	Fire
Ernie Nieberle	Nieberle's	05/24/2019	\$ 153.49	Highway
David Pereen	Pereen Plumbing	05/24/2019	\$ 696.50	Water

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's June 10, 2019, Open Meeting.

The motion to ratify the Board's vote on June 10th to allow the front fence at 11 John Wise Avenue to be dismantled by volunteers and burned in the bonfire at Essex River Day was tabled.

Chairman Spinney moved that the Board find that the Executive Session purposes for the matters identified in the meeting notice no longer apply and that the minutes from all meetings (12/10/2018, 12/17/2018, 01/07/2019, 02/06/2019, and 02/11/2019) at which such matters were discussed be made available for inspection and copying upon request, subject to redaction or withholding on a case-by-case basis for discussions protected by the Attorney/Client Privilege or other applicable law. The motion was seconded and voted unanimously.

A motion was made, seconded, and unanimously voted to appoint Ian MacDougall to the position of Probationary Firefighter for a partial term of 1 year, ending 6/30/2020, pending successful completion of drug and medical testing.

A motion was made, seconded, and unanimously voted to sign a Certificate of Appointment for Pamela Thorne, Town Clerk.

A motion was made, seconded, and unanimously voted to accept the resignation of Chris Larson from the Economic Development Committee.

A motion was made, seconded, and unanimously voted to approve a request from the Youth Commission to use the Centennial Grove Cottage on Mondays and Wednesdays from 12 noon to 3:00 p.m. starting July 31 through August 27, 2019. The Chairman signed the application.

Amy Robinson joined the Board and Town Counsel Gregg Corbo joined the Board by telephone. Amy Robinson and her sister are the lessees of three lots at Conomo Point:

- 11 Middle Road (Map 108, Lot 57) a house lot, 20-year lease
- 168 Conomo Point Road (Map 108, Lot 46) an accessory lot with shed, 1-year lease
- 170 Conomo Point Road (Map 108, Lot 47) an accessory lot, 1-year lease

Recently a new septic tank was installed on Lot 57. However, the original leaching field is on one of the accessory lots, Lot 46. Ms. Robinson is seeking to have the lease for that accessory lot converted to a 20-year lease, or alternatively, to have that lot combined with lot 57. There is also a shed on the lot which is in need of repair, but she does not want to repair the shed if there is only a year-to-year lease. She mentioned other lessees at Conomo Point who have had the leases on their lots amended to become long-term leases. Town Counsel Corbo explained that the circumstances regarding the amended lots were different from those for her accessory lot. Ms. Robinson also suggested that two such amendments were granted by the Board based on information provided by those leaseholders which does not appear to her to be consistent with the facts. She identified the lots as Map 108, Lots 44A and 50. The Board wanted to know the number of accessory lots at the Point, both vacant lots and those with structures. Following a discussion regarding various lots, potential lease terms, and conditions, the Board agreed to take the matter under consideration and discuss it again at their next meeting on July 1. The Board also agreed that Mr. Zubricki should investigate Ms. Robinson's claims regarding the leaseholds she identified. Amy Robinson left the meeting and Town Counsel terminated his phone connection.

Laurel Eisenhauer, the Town's representative to the Cape Ann Transportation Authority, joined the Selectmen at the table. She was appointed as representative to CATA last fall, and the company is now under new management. Ms. Eisenhauer stated that there is a lack of public transportation to and from Essex, making it hard for Town businesses to find employees and hard for Town residents to get to jobs or travel to the train stations. She said that CATA is applying for a State grant for transportation of dialysis patients. The Board said that the Economic Development Committee intends to address the transportation issue. And, recently, the Town was successful in partnering with Gloucester to obtain a grant to provide transportation for food

access and physical activity to low-income seniors. The Board thanked Ms. Eisenhower and she left the meeting.

Gloucester Reporter Mike Cronin left the meeting.

John Filias joined the Selectmen to discuss his candidacy for a position on the Board of Public Works. Following the discussion, the Board said they would also be talking to a second candidate this evening. The Board said that they will make a choice following the second interview. Mr. Filias left the meeting.

A motion was made, seconded, and unanimously voted to permit YMCA Camp Dory staff to utilize the Centennial Grove Cottage for occasional staff training starting on June 15, 2019; and also, to use the Cottage during Camp Dory hours if the weather is inclement.

A motion was made, seconded, and unanimously voted to approve the following appointments/re-appointments and the Board signed the appointment cards:

Community Preservation Committee for 3 years: Alison Taylor

Conservation Commission for 3 years: Angus Bruce

Finance Committee for 3 years:

- Rob Fitzgibbon

Fire Engineers Board for 1 year:

- Keith Carter, Deputy Chief
- Ramie Reader, Deputy Chief
- Daniel Doucette, Fire Chief

Firefighter for 1 year:

- James, Albani
- Daniel Ball
- John Bateman
- Westley Burnham
- Robert Cavender
- Philip C. Cicala
- Samuel Crocker V
- Colt Donahue
- Richard Dort, Jr.
- Daniel Fialho
- Michael French
- Jason Heath
- Peter Hoare
- Barry Leeds
- Amy McNeilly
- James McNeilly
- Edward S. Neal
- Jon O'Bryan

- Nicholas Ouellette
- Kent Parsons
- Joan Perrigo
- Anthony Pizzo
- Andrew Ray
- Sean Reed
- Ryan Santos
- Michael Soucy
- George Stavros
- Eian Woodman

Probationary Firefighter for 1 year:

- Craig Carter

Fire Department for 1 year:

- Ernest Nieberle, Jr., Captain
- Travis Good, Lieutenant
- Cory Jackson, Lieutenant
- Joseph Lafata, Lieutenant
- David Thompson, Lieutenant
- Daniel Doucette, Forest Fire Warden
- Daniel Doucette, Emergency Management Director
- Daniel Doucette, REPC Emergency Response Coordinator

Open Space Committee for 1 year:

- Nancy Dudley
- Tamson Gardner
- Lysa Leland
- Julie Scofield

Youth Commission for 3 years:

- Christina Bruce
- Stacie Capotosto

A motion was made, seconded, and voted to approve the reappointment of David Pereen, as a Lieutenant to the Fire Department for 1 year. Selectman Pereen abstained.

A motion was made, seconded, and voted to approve the reappointment of Peter D. Phippen as MAPC Representative for 3 years, and also to sign the reappointment document for MAPC. Selectman Phippen abstained.

The Board was reminded of the following events and meetings:

- The Town Building Committee will meet in the Town Hall 3rd Floor Auditorium on Wednesday, June 19, 2019 at 7:00 p.m.

- The next regular Board of Selectmen's meeting will take place on Monday, July 1, 2019, at 6:00 p.m. in the 2nd Floor Stage Conference Area at the Essex Town Hall.
- The Rededication of the Old Essex Burying Ground on Main Street will take place on Saturday, July 27, 2019, starting at 1:00 p.m.
- The Swearing-in Ceremony for the new Police Chief and two new Sergeants will take place on Thursday, August 1, 2019, starting at 4:30 p.m. in the Town Hall Auditorium on the 3rd floor.

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

Commercial Shellfish Permit:

- Jackson Friedman
- Erjol Shtraza

Student Commercial Shellfish Permit:

- Oliver Hull
- Ian Schylling

One-Day Entertainment License and waiver of the license fee:

- Essex Police Department, Peter Silva, for use on Sunday, September 29, 2019, between the hours of 1:00 and 4:00 p.m. within the confines of Memorial Park.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period June 1st, 2019 through June 14th, 2019, regarding the following:

Essex Housing Coalition Update: Selectman Phippen and the Town Administrator both attended the recent meeting of the Coalition where it was agreed that the Coalition's focus in Essex will be to provide support to the Planning Board regarding their proposal for a mixed-use downtown district to be presented for approval at the Fall Town Meeting. There is a public forum, as well as a public hearing planned in the fall.

MVP Action Grant Funding Status and Grant Contracts: Mr. Zubricki reported that the State has funded the grant that the Town applied for with Boston University regarding sediment transport, but the State has not funded the grant for the second year of sediment deposition recovery monitoring. A motion was made, seconded, and unanimously voted to sign the State paperwork for the sediment transport grant and to sign the contract with Boston University when it becomes available.

Manchester Cricket Reporter Erika Brown left the meeting.

Town Counsel Gregg Corbo joined the meeting again by telephone.

Sale of Vacant Lots at Conomo Point: Mr. Zubricki reported that, to date, he has collected the names and contact information from eleven individuals expressing interest in purchasing one or both of the two Town-owned lots at Conomo Point that are for sale. Mr. Zubricki will work with

Chairman Spinney, starting soon, to interview each prospective buyer regarding their sales offer and proposed use of the site or sites.

Possible Policy Concerning Issuance of Outdoor Entertainment Licenses: The Board, the Town Administrator, and Town Counsel discussed at length the reasons for reviewing on a case by case basis, applications for outdoor entertainment licenses. Town Counsel said that the Town does have the right to impose limitations on each license if deemed necessary, such as certain days of the week, times of the day, duration of the entertainment, the number of licenses to be granted to a particular property or organization each year, and/or the type of music. The Board agreed to take the matter under advisement for continued discussion.

The Board asked Curt and Lindsay Bergeron about a proposed private use of the Riversbend restaurant property for a family wedding. The Bergerons affirmed that a family member is planning a catered wedding at the Riversbend and will be paying for everything. The Riversbend will not be supplying either the food or the alcohol and the Bergerons will not be receiving any money. Town Counsel reviewed the State law requirements regarding the serving of alcohol at non-residential property. The law presumes that any such service constitutes the sale of alcohol, which requires permitting, unless the presumption is overcome by other facts provided. Based on Town Counsel's review, the Bergerons would not need one-day alcohol or entertainment licenses as long as they provide a copy of the caterer's contract to the Town and signed an affidavit attesting that the event was for a family member and that they will not receive any money for the event. The Bergerons agreed to provide a copy of the contract to the Board and to sign the affidavit when it becomes available. Mr. Zubricki will draft the affidavit with Town Counsel.

Chairman Spinney agreed to Curt Bergeron's request to hear a summary from local businessmen at the Board's next meeting on July 1 regarding entertainment licenses and associated noise.

Curt and Lindsay Bergeron, Mr. and Mrs. LaFata, and Bob Jerin left the meeting.

Mr. Zubricki said that it had been brought to his attention by a neighbor that the Bubble Factory on Choate Street is planning on hosting an event on June 29, 2019. According to the Bubble Factory website, tickets to the event cost \$30 each which would include a "free beer" from a visiting beer truck. Mr. Zubricki had left two messages on the Bubble Factory phone saying that if they would like to serve alcohol, they will need to request a one-day license from the Board. However, the next Board meeting is after June 29 and it is now too late for them to request a license. There has been no response from the Bubble Factory. Town Counsel recommended that Mr. Zubricki call the beer truck company to explain that a one-day license had not been requested and that serving alcohol on June 29 would not be permitted. Town Counsel also advised that, if necessary, notice in writing should be sent to the Bubble Factory and that the neighbor should call the police if he sees a beer truck.

At 7:51 p.m., citing the need to discuss pending litigation concerning the City of Gloucester vs. the Town of Essex, Superior Court C.A. No. 17-310C; litigation strategy with respect to the legal suit: Drinkwater, as Trustee of the Drinkwater Essex Realty Trust v. Town of Essex, Land Court

Civil Action No. 18-MISC-000391; and also, to discuss the Installment Sale Agreement for 96 Conomo Point Road, Map 110, Lot 27; 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 litigating and negotiating strategies. He said that the Board would be returning to Open Session to finish the Board's regular business. He invited the Town Administrator and Town Counsel (via telephone) to attend the Executive Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, their Assistant, the Town Administrator, and Town Counsel moved to Executive Session. Jodi Harris, Tina Lane, and Kristen Walker left the meeting.

The Board, their Assistant, the Town Administrator, and Town Counsel (via telephone) returned to Open Session at 8:18 p.m.

Brian Feener, whose term on the Board of Public Works expires on June 30, 2019, joined the Board to discuss his interest in being reappointed to the position. Following the discussion, the Board thanked Mr. Feener and he left the meeting.

At 8:23 p.m. the Chairman entertained a motion to return to Executive Session to discuss a request to amend the Installment Sale Agreement for 96 Conomo Point Road. He stated that discussing this matter in Open Session would be detrimental to the Town's negotiating strategy and invited the Town Administrator and Town Counsel (via telephone) to attend the Executive Session. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, their Assistant, the Town Administrator, and Town Counsel moved to Executive Session.

The Board, their Assistant, the Town Administrator, and Town Counsel returned to Open Session at 8:28 p.m. Town Counsel terminated his phone connection.

The Board discussed the Planning Board's two recommendations for the Board of Public Works' appointment and a motion was made, seconded, and voted to appoint John Filias, effective July 1, 2019. Chairman Spinney abstained. Selectman Preen will inform Mr. Feener of the Board's decision and Mr. Zubricki will contact Mr. Filias.

Mr. Zubricki resumed presentation of his Town Administrator's report.

Contract for Design of Downtown Parking Striping and Signage: Mr. Zubricki reported that a proposal for the design of downtown parking striping and signage has been received from a second company, TEC. The TEC proposal is for \$36,000, compared to Stantec's proposal for \$50,000. In addition, the TEC proposal is capped at \$36,000 and the Stantec proposal is uncapped. The Board was in agreement, and a motion was made, seconded, and unanimously voted to select TEC for the design work. The Chairman will wait to sign the contract until the TEC determines if the firm can actually reduce the \$36,000 price.

Memorandum of Understanding (MOU) for Senior Transportation Grant: Mr. Zubricki said that, as discussed earlier in the meeting with Laurel Eisenhauer, the Town, in partnership with

Gloucester, has been successful in receiving a grant to improve transportation for low-income seniors to food access and physical activity. The Town's share of the grant is \$4,753.00. Subsequently, a motion was made, seconded, and unanimously voted to approve signature of the grant documents.

There being no other business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 9:00 p.m.

Documents used during this meeting include the following: None.

Prepared by: _____
Pamela J. Witham

Attested by: _____
Peter D. Phippen