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**BOARD OF SELECTMEN MEETING
July 20, 2011
Meeting Room A**

Present: Philip J. Miller, First Selectman
Norman M. Needleman, Selectman
Joel B. Marzi, Selectman

Philip Miller called the meeting to order at 7:03 p.m.

Approval of Agenda:

Motion was made by Philip Miller to approve the Agenda with one addition under New Business 8E Appointments and Resignations, Boards and Commissions. Norman Needleman seconded the motion. All in favor.

Approval of Minutes:

Motion was made by Philip Miller to approve the July 6, 2011 Regular Meeting Minutes with one change on page 1 under the topic Rain in the last sentence to remove the apostrophe in homeowners. Norman Needleman seconded the motion. All in favor.

COMMUNICATIONS AND CORRESPONDENCE

PUBLIC COMMENT:

Mr. Strickland Hyde discussed that the downtown areas of Essex, including North Main Street, River Road, and Grove Street are well maintained by the public works department and he would like to see the whole town, including the rural areas of Essex, to be as well maintained, including the trimming of trees. Mr. Miller stated that the tractor is working its way around Essex and was in the far side of Ivoryton this week and it is on its way Book Hill Woods area. The town rents this piece of equipment out for a long period of time and we are working on getting it around the town.

Mr. Hyde also inquired why the highway department is putting in the platform and why that job wasn't put out to bid. Mr. Miller stated that the project is being overseen by the Harbor Commission and they have arranged to get some of the work done by the public works crew to save the town money.

Mr. Miller stated the Town of Essex has a small public works crew, that the town has a terrific crew and they are doing a terrific job.

Mrs. Lois Ely stated that she sees the public's work crew on Gates Road, Cedar Grove, and Harbor View area and they have been clipping the area and she sees her taxpaying dollars being used.

INFORMATIONAL ITEMS:

Mr. Miller reported on the sidewalk replacement project from Ivoryton to Centerbrook. Mr. Miller stated that we've been told by the Department of Transportation that there is a backlog of work and they are unable to get the paperwork completed on time so that we

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may not be able to start the project this summer. We will not lose the grant money, but materials may be more expensive next year. Mr. Miller stated that the town wishes to go out to bid now, but we cannot until the State of Connecticut finalizes the paperwork.

Mr. Miller reported that he will be holding an all employee meeting in August along with our Deputy Treasurer Kelly Sterner and Retirement Chair Ellen Whaley-Wexler. The meeting will help to explain to employee the format and new definitions that were recently made to the plans. Mr. Miller thanked the retirement committee.

Mr. Marzi stated the employee meeting should be posted if all three selectmen were planning on attending. There was discussion on whether the employee meeting is or is not a meeting of the public. Mr. Marzi suggested the meeting should be noticed and possibly put it into executive session.

There was discussion on whether the all employee meeting should be noticed if all three selectmen were planning on attending or whether this was an employee meeting and should just be employees only. There was further discussion on whether this employee meeting should or should not be open to the public. It was discussed and noted that the Selectman's office will look into how to notice this meeting.

Clean Vessel Act (CVA) Grant Program 2012 Boating Season

Mr. Miller reported that the town was awarded a grant for funding in the amount of \$86,062.00. Kate Hughes Brown is the Grants and Outreach Coordinator with the Office of Long Island Sound Programs.

OLD BUSINESS

Novelty Lane

Mr. Norman Needleman reported that Mr. Jeff Going is working on setting up a meeting with all the bordering residents on Novelty Lane to discuss the improvements. The town wants to repair and remediate and improve the public access area with grant funds that were awarded to the town. Mr. Needleman stated that there are issues on the deeds on that whole street and we need to get a general understanding from all the residents and he would like everyone to be on the same page. Mr. Marzi stated there is not only a deed issue, but a wetlands issue.

There was discussion on whether the grant funds may be lost if not used within a certain amount of time. Mr. Miller stated that we can request an extension. Mr. Needleman stated we would like a reasonable solution to this problem.

Town Hall Sound System

Mr. Miller reported that there have been requests for a sound system in the auditorium and the Selectmen's Office looked into prices. Mr. Needleman recommended a wireless microphone and a PA system that is rechargeable and also suggested looking into a briefcase type system. He suggested speaking to the sound engineer at the Ivoryton Playhouse for some guidance in purchasing a sound system for the town hall.

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Proposed Subdivision Fee Ordinance

Mr. Miller reported that the Planning Commission suggested revising the fees to bring them up to other town's fees.

Mr. Miller read into the record an email from our town planner, John Guskowski.

The Planning Commission is seeking to amend the 2002 Land Use Fee Ordinance to allow the Town to better capture the actual costs of processing and review of Subdivision Applications. In the course of any application, the most expensive costs to the Town are the legal and technical oversight provided by consulting attorneys, engineers, and planners - none of which are on staff of the Town of Essex. In the decade since the establishment of the ordinance's fee schedule, both the costs (hourly rate) of these experts have increased and the complexity of the technical review has meant more hours are required at both the pre-approval and post-approval phases of the subdivision project.

The bottom line is that the fees collected from applicants have not covered the Town's processing and review costs for the last several applications - a trend that is not likely to reverse. If the ordinance's fee structure is kept as-is, the Town will essentially continue to subsidize private property development. It may be at Town Meeting, the citizenry of Essex may decide to continue to do just that, but the Planning Commission is on record as wishing to change that. The Planning Commission believes that the cost of processing and reviewing subdivision applications should be covered by those seeking to subdivide land.

To that end, two basic areas of change are sought in the Fees Ordinance. The first is just a simple ramping up of some of the per-lot and per-linear-foot of roadway costs. This is a basic recognition that the cost of living and of doing business has increased in the past decade. Although similar towns calculate fees in many different ways that make apples-to-apples comparisons difficult, these basic fees (or their increases) are not at all out of line with Essex's peers.

The second and more important area of change is the consultant-estimate area. The existing Ordinance allows the Town to acquire outside technical consulting in cases of particularly complex or unusual projects. This section of the Ordinance has never been triggered, largely because of the perception that the bar for technical complexity is a high one. The twin facts that all development has become more complicated and the Town is so dependent on outside consultants leads the Planning Commission to the conclusion that this section of the Ordinance should be a default position. At the time of application, the Town's technical consultants will take a look at the application and assess the probable complexity of the project. Is it a private road? Are there difficult topography or drainage issues? Is there a better way to make the project fit into the landscape and the neighborhood?

The revised structure of the ordinance will allow the Commission to place these estimated review fees into an account up front that will ensure that the Town covers its expenses for processing and reviewing the application. Any unexpended funds are refunded to the applicant. In this way, the Town is protected from overage, and the applicants will understand up front what these expenses will be.

For these reasons, the Planning Commission requests that the Board of Selectmen place the Fee Ordinance, as proposed and amended by the Planning Commission and Town Attorney David Royston, on the next available Town Meeting agenda for approval.

Thank you for your consideration

-John Guskowski, AICP
Consulting Town Planner

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Dr. Tom Danyliw stated that the Town of Essex is lucky to have Mr. Guskowski as our planner. Dr. Danyliw also stated that the two recent subdivisions cost the citizens of Essex approximately \$1000 in taxes to cover the costs involved; so the concern is that the citizens of the town of Essex are subsidizing the developers.

There was discussion on the fees and how many splits are allowed. There was discussion and questions and answers. Mr. Marzi had a question regarding Section 3.4e and what the maximum amount would be that they would have to pay.

Mr. Danyliw stated that he would recommend that he would have to check with council to see whether Section 3.4e overrides Section 3.3.

Motion was made by Philip Miller to approve the recommendations of the planning commission on the amendment and restatement of an ordinance concerning a schedule of fees for the processing of land use applications. Norman Needleman seconded the motion. All in favor.

Mr. Marzi suggested that zoning may want to piggy back this type of fee schedule. Mr. Danyliw stated that through this process other town commissions could piggy back on this. The fee schedule is for the planning commission, but the zoning commission could do their own fee schedule. Mr. Marzi stated any fees collected by planning are counted as revenue to the town.

Motion was made by Philip Miller to set a public hearing and town meeting on Wednesday, August 17th, 2011 at 8:00 p.m. regarding the recommendations of the planning commission on the amendment and restatement of an ordinance concerning a schedule of fees for the processing land use application. Norman Needleman seconded the motion. All in favor.

Motion was made to change the Regularly Scheduled Board of Selectmen Meeting on Wednesday, August 17, 2011 from 7:00 p.m. to 6:30 p.m. Norman Needleman seconded the motion. All in favor.

Retirement Plan – Public Works Union Request

Mr. Miller reported that the public works union has requested a change of the pension plan multiplier to go from 1.4 to 1.5. Mr. Miller reported that the request has been made to the Pension Services. As of tonight's meeting the information has not been provided to the selectmen and this topic will be placed on the next Selectmen's agenda.

Mr. Miller read into the record a letter from Attorney Dorman's office:

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July 15, 2011

Ms. Katherine C. Foley
Connecticut State Board of Labor Relations
38 Wolcott Hill Road
Wethersfield, CT 06109

**RE: Town of Essex, DPW
and
Local 1303-285 of Council 4, AFSCME, AFL-CIO
Case No. MPP-29249**

Dear Ms. Foley:

This is to advise you that, in accordance with the Town of Essex Employee Retirement Plan, as was explicitly discussed and explained during negotiations of the collective bargaining agreement between the Town and the above-referenced bargaining unit, the process for amendment of the plan to increase the multiplier used to calculate retirees' pension benefits is being implemented.

Specifically, the Essex Board of Selectmen has instructed the Town's Retirement Board to obtain an actuarial assessment of the cost to the Town of the increased multiplier and the Board has in fact made that request. Once this information is received, the Retirement Board will hold a public hearing and then, as mandated by the plan, submit the proposed amendment for a vote at a Town meeting. As was made clear to the union's staff representative and members during contract negotiations, the final decision necessarily will be determined by citizens who vote at the Town meeting. In order to eliminate potential claims of bias and/or that a defeat is being orchestrated by the Town's negotiation team, neither the First nor Second Selectman will participate in the Town meeting. Rather, the proposed amendment to the pension plan will be presented by the Retirement Board. It is expected that the entire process should be completed by the end of August.

Mr. Needleman stated the way this would work is that the current plan members will have their plans frozen at the 1.4 multiplier and effective July 1, 2011 the new multiplier will be 1.5, if approved at a town meeting. This change will affect every employee of the Town of Essex except the police who have their own plan because it is for the entire census of employees, not just public works. The union still wants the town to proceed. Mr. Miller feels that the town's current benefits are very modest and he is in support of this increase.

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NEW BUSINESS

Book Hill Parking Space Request

Mr. Philip Miller read into the record a letter from Joseph Budrow the Zoning Enforcement Agent.

TOWN OF ESSEX
ZONING ENFORCEMENT/INLAND WETLANDS AGENT
ESSEX TOWN HALL - 29 WEST AVENUE
ESSEX, CT 06426
Tel: (860) 767-4340 Ext 115 - Fax: (860) 767-8509

MEMORANDUM

To: Board of Selectmen
From: Joseph Budrow, CZEA
Date: July 20, 2011
Re: Scott Johnson's driveway proposal

In a letter dated March 19, 2011 Mr. Scott Johnson of 73 Book Hill Road wrote a letter to the Town of Essex with a proposal to buy a piece of land from the Town in order to have a piece of land to park vehicles. He wishes to buy a piece of land across the street from his home to use as a parking area. This piece of land is the southern corner of Book Hill Road and Canfield Road. The land is town-owned a right-of-way. A brook and wetlands are located down slope to the southwest.

Initially I asked for the opinion of Dave Caroline about this since the piece of property is Town right-of-way and not an actual parcel. His opinion is that the Town should instead grant permission to park on the land instead of selling the property.

At a BOS meeting in March it was decided to forward the proposal to the zoning office so that an agreement could be typed up to make the proposal workable. That proposal was to be typed by the zoning official and sent to the Town Attorney for a legal review. That proposal was sent to Atty. Royston on July 15th. A copy of the "layman's text" is attached.

The proposed revocable license agreement will read something like:

Revocable License Agreement

The Town of Essex is entering into agreement with Scott Johnson, of 73 Book Hill Road, to allow for parking to take place within the Town-owned Right of Way that is located at the intersection of Book Hill Road and Canfield Road. The driveway at 73 Bok Hill Road is small and any expansion is prohibited by major ledge outcroppings, public utilities and the nearby southerly property line.

The area to be allowed for parking is within the triangular area that is located to the south of Canfield Road and west of Book Hill Road. Any improvements will be restricted to gravel with access from Canfield Road. An area no greater than 12' x 20' can be covered with stone. The area for the gravel is restricted to be within 40 feet of the stop sign on Canfield Road.

Mr. Scott Johnson stated he appreciated Mr. Joe Budrow, the Zoning Enforcement Officer and the town's efforts.

Mr. Miller stated there is no expense to the town in granting this parking area and it is not harming anything and it will also give a Mr. Johnson a safe location off Book Hill to park his

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vehicles. Mr. Johnson stated the he plans on using that area for his guests, not as a primary parking space.

Motion was made by Philip Miller that we enter into the Revocable License Agreement with Mr. Scott Johnson. Norman Needleman seconded the motion. Mr. Marzi stated that he is in support of this but he would like all applicable zoning regulations and laws to be met. All in favor.

Emergency Management and Homeland Security Resolution

Motion was made by Mr. Needleman to approve the Emergency Management and Homeland Security Resolution. Philip Miller seconded the motion. All in favor.

Mr. Miller stated this resolution will need to be done again after the November election when the new Selectman is in office.

Noise Ordinance

Mr. Miller reported on a request from a homeowner on Mallard Point regarding noise levels on the weekends. The homeowner claimed there are contractors working on the weekends. Mr. Miller stated to the homeowner that in the summer this does happen, especially when homeowners want to work before the heat of the day in the early morning hours.

Mr. Miller stated that we currently do not have a noise ordinance but the town does have a gentlemen's agreement. Mr. Marzi stated that zoning does have some regulations on noise levels in some areas. Mr. Marzi suggested possibly regulating or prohibiting contractors from making noise on the weekends, not neighbors. Mr. Marzi is not in favor of regulating the noise in Essex, it is not practical. Mr. Needleman suggested that Mr. Miller speak to the neighbor on Mallard Point.

Employee Position Descriptions

Mr. Miller reported that the position descriptions for approval today are the part-time Administrative Assistant to the Land Use Department and the Recording Clerk for the Economic Development Commission.

Mr. Needleman suggested tabling the Land Use position to the next Board of Selectmen meeting in order to better define the position and the responsibilities.

Motion was made by Philip Miller to approve the EDC Clerk position description. Norman Needleman seconded the motion. All in favor.

Appointments and Resignations, Boards and Commissions

Motion was made by Philip Miller to accept the resignation of Stacia Libby from the position of regular member of the Essex Park and Recreation Commission. Norman Needleman seconded the motion. All in favor.

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TRAFFIC AUTHORITY

Motion was made by Philip Miller to enter Traffic Authority. Joel Marzi seconded the motion and it was unanimously approved. Motion carried.

There was discussion regarding Edgewood Avenue in Ivoryton and the issue of speeding especially by the crosswalk. It is the closest street to the Mazda dealership. Crossing Edgewood to the cross street is difficult. The State of Connecticut placed a cross walk by Edgewood and there is also a bus stop. There are postings prior to the cross walk. Public Works has done some cuttings to clear site lines. Cars are not stopping at the cross walk and children are having difficulty crossing. Cars are traveling at unsafe speeds. The police have been notified. The residents and parents are asking for two flashing yellow lights, one coming and one going.

Mr. Miller stated that enforcement has been monitoring this area and people have been pulled over who have not stopped.

Mr. Marzi also stated that the Exit 3 desperately needs a light due to safety concerns.

Motion was made by Norman Needleman to exit Traffic Authority. Philip Miller seconded the motion and it was unanimously approved. Motion carried.

Public Comment:

Lois Ely stated that her residents association has a noise regulation, and there is no noise except when if there is an emergency, like a tree falling on a house that needs to be removed.

SELECTMEN GENERAL DISCUSSION:

There was discussion regarding the position in the land use department. Mr. Needleman stated that he would like for the current full time Land Use Administrative Assistant to continue to be the gatekeeper for all Land Use, and to hire a part time land use person to help with all land use clerical responsibilities for zoning, planning, health, building, zba, and iwvc, etc. Mr. Needleman suggested bringing in someone at a lower rate in a clerical level position to be the part time assistant in the land use department helping with clerical tasks.

Mr. Miller presented photographs of flooding on Pratt Street. Mr. Miller stated that there was old drainage structure under the road bed. The town wanted to put in a flapper valve or duct valve but we could not put in the tide flex valve which lets in some, but not a lot of the water. This is a tidal wetland area. Mr. Miller stated that if were to receive permission to install the tide flex valve, then we could buy it and have public works install it. Another option is to have the neighbors raise their driveway. This appears to be a hardship. We will continue to work on that.

Motion was made by Norman Needleman to adjourn the regular meeting at 8:29 p.m. Philip Miller seconded the motion. All in favor.

Respectfully submitted,
Maria Lucarelli