

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

September 24, 2018

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: Virginia Antell, Susan Gould-Coviello, Michael Flynn, David Gabor, Jeffrey Jones, Tina Lane, and Richard Ross.

Chairman O'Donnell called the meeting to order at 6:00 p.m. in the 2nd floor stage conference of the Town Hall and announced that the Board would hear Public Comment. No one offered any comment.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period September 8th through September 21st, 2018, regarding the following:

Future OSHA Compliance: Mr. Zubricki reported that both he and Board of Health Agent Erin Kirchner had attended a recent overview seminar sponsored by the Town's insurance agent regarding the new Occupational Safety and Health Administration (OSHA) requirements from the Massachusetts Department of Labor Standards (DLS) that will go into effect in February 2019. The BOH Agent is willing to oversee the Town's compliance in this matter with occasional help from consultants and current office personnel and with additional training, thereby avoiding the need to hire an OSHA compliance officer.

Preservation of the Town-owned Central Schoolhouse, 28 Main Street: Mr. Zubricki reviewed the work being planned by the Essex Historical Society and the Essex Shipbuilding Museum regarding the repairs to the Central Schoolhouse at 28 Main Street. It is hoped and anticipated that funding for the work will be provided by the Society, CPA funding, and grants, and will include replacing the roof, replacing the furnace, painting the exterior, and other miscellaneous repairs. The building is used by the EHS&ESM for displaying artifacts, including ship models on loan from the Smithsonian Institute, and archival storage of documents pertaining to the Town's history. The Board was in favor of the proposed repairs, contingent upon the Society consulting with the Historical Commission regarding the repairs. Any repairs that propose the use of Town funds will be contracted for by the Selectmen.

Fall Town Meeting Warrant, Special Election Warrant, Meeting Guide: The Board reviewed Mr. Zubricki's first draft of a guide to the articles on the Fall Town Meeting Warrant. The guide is intended to offer residents more in depth information, as well as the Board's opinion, regarding the more complicated articles on the warrant. Mr. Zubricki will revise the guide, based on the Board's comments, which included a decision to comment on select articles.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$726,709.08.

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 9/20/18 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	08/24/18	\$ 156.40	Police
Ernie Nieberle	Nieberle's	08/24/18	\$ 192.15	Fire
Ernie Nieberle	Nieberle's	08/24/18	\$ 2,703.91	Highway

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's September 10, 2018 Open Meeting.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's July 11, 2018 Open Meeting and Executive Session.

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

Mr. Zubricki suggested that the Board table discussion of an application for an Emergency Management Performance Grant, pending receipt of the documents from the State, and the Board agreed.

A motion was made, seconded, and unanimously voted to approve a Notice of Intent (NOI) developed by the Department of Public Works regarding the Town's compliance with the Municipal Separate Storm Sewer System (MS4) Permit program, administered by the United States Department of Environmental Protection (EPA).

The Board discussed a request from the Youth Director to place an EYC mailbox on Town Hall grounds. It was agreed to deny the request. At present, residents may drop off items for the EYC at the Town Hall during business hours or they may send them by regular mail. The EYC Director will also be informed that she can work with a software vendor to provide on-line services.

Mr. Zubricki reported that one nomination had been received for Volunteer of the Year and one nomination received for Employee of the Year. The Board was in favor of both nominations and asked Mr. Zubricki to order the awards which will be presented at the Fall Town Meeting.

A motion was made, seconded, and unanimously voted to approve and sign the Warrant for the 2018 State Election.

Concerning Conomo Point Matters, the Board signed one-year lease renewal offers to twenty Conomo Point tenants. The Board had previously voted in favor of offering these lease renewals.

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

One-Day Wine & Malt Licenses:

- Ratify an application by Chebacco Liquor Market, for use on Saturday, September 22, 2018 between the hours of 2:00 p.m. and 8:00 p.m. within the confines of 66 Main Street.
- Chebacco Liquor Market, for use on Monday, October 14, 2018, between the hours of 3:00 p.m. and 8:00 p.m. within the confines of 66 Main Street.
- Chebacco Liquor Market, for use on Saturday, November 3, 2018, between the hours of 6:00 p.m. and 10:00 p.m. within the confines of 66 Main Street.
- Ales Over ALS, Christine Woodman, for use on Saturday, October 20, 2018, between the hours of 12:00 noon and 11:00 p.m., within the confines of the Waterline Center at the Essex Shipbuilding Museum, 66 Main Street.

One-Day Entertainment Licenses:

- Ales Over ALS, Christine Woodman, for use on Saturday, October 20, 2018, between the hours of 12:00 noon and 11:00 p.m., within the confines of the Waterline Center at the Essex Shipbuilding Museum, 66 Main Street.

The Board was reminded of the following meetings and events:

- The next regular Board of Selectmen's meeting will take place on Monday, October 1, 2018, at 6:00 p.m. in the Stage Conference Area on the 2nd floor of the Town Hall.
- The Selectmen will meet with the Town Building Committee on Thursday, October 4, 2018, at 7:00 p.m. in the Third Floor Auditorium at Town Hall (attendance optional).
- The Selectmen will meet with the Town Building Committee on Wednesday, October 10, 2018, at 7:00 p.m. in the Third Floor Auditorium at Town Hall.
- The Planning Board will hold a public hearing relative to the Fall Town Meeting articles pertaining to marijuana facilities (potential ban or extended moratorium) on October 10, 2018, at 7:30 p.m. in the Second Floor Conference Room at Town Hall.
- The Fall Town Meeting will be held on **Tuesday**, October 16, 2018 at 7:30 p.m. in the gym at the Essex Elementary School. It will be preceded by a Selectmen's meeting at 6:00 p.m. in the Teachers' Conference Room.

Mr. Zubricki reported that there was no need to move to Executive Session since there had been no new developments regarding Drinkwater, as Trustee of the Drinkwater Essex Realty Trust vs. Town of Essex, Land Court Civil Action No. 18-MISC-000391.

The Board reviewed and approved a proposed Selectmen's meeting schedule for the remainder of the calendar year and for early 2019.

The Board reviewed a request for a building permit for the replacement of floorboards on an exterior porch at 130 Conomo Point Road, Map 108, Lot 65, DRW Trust. Selectman Spinney, moved that the Board of Selectmen, in its capacity as Conomo Point Commissioners, approve a building renovation request made by Thayer McKenzie, to renovate the existing structure on the

premises located at 130 Conomo Point Road (Map 108, Lot 65), 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 and any prescribed work has not yet been completed.
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, which currently only includes replacement of exterior floorboards, may not be expanded in scope without seeking approval from this Board, which may be denied.

(See Building Permit Application dated September 11, 2018, and initialed by the Chairman, September 24, 2018, for the specific alterations requested.)

The motion was moved, seconded, and unanimously voted.

Mr. Zubricki reported that Dan Mayer has offered to organize Conomo Point residents, along with the President of the Conomo Point Association to maintain the planting bed/drainage swale at the new Conomo Point Park starting next season.

Chairman O'Donnell entertained a motion to approve a written request for the transfer of all interests in the leasehold for the property at 111 Conomo Point Road (Map 108, Lot 76) from Cozy Cottage LLC, 277 Royal Poinciana Way 218, Palm Beach, FL 33480; to Brooke and Robert Carroll, adding that nothing in this approval is intended to convey or imply any right, title or interest in the subject property, or any portion thereof that was not already held by Cozy Cottage LLC. The motion was moved, seconded, and unanimously approved.

Chairman O'Donnell also entertained a motion to approve a written request for the addition of the following people to the leasehold for the property at 113 Conomo Point Road and 0 Conomo Point Road (Map 108, Lots 74 and 75): Aude C. Sisk, Dr. Geoffroy C. Sisk, Adelaide (Sisk) Ness, and Jean-Charles A. Sisk; and further, that nothing in this approval is intended to convey

or imply any right, title or interest in the subject property, or any portion thereof to the parties being added that was not held by those already on the lease. The motion was moved, seconded, and unanimously approved.

Concerning a proposed Special Election, a motion was made, seconded, and unanimously voted to hold a Special Election on November 6, 2018, concurrent with the State Election; a motion was made, seconded, and unanimously voted to open the warrant for the November 6, 2018 Special Election; a motion was made, seconded, and unanimously voted to add ballot questions to the November 6, 2018 Special Election warrant per the draft warrant presented at this meeting, or as revised (which is attached hereto); a motion was made, seconded, and unanimously voted to close the warrant; a motion was made, seconded, and unanimously voted to approve the warrant; a motion was made, seconded, and unanimously voted to sign the warrant; and, a motion was made, seconded, and unanimously voted to transmit the ballot language for the November 6, 2018 Special Election to the Town Clerk.

At 7:30 p.m., Town Moderator Jeffrey Jones; Finance Committee Vice-Chair Michael Flynn and FinCom members David Gabor and Richard Ross; and, Town Accountant Virginia Antell joined the Board. Those present reviewed and discussed at length each monetary item on the Fall Town Meeting Warrant. The Summary of Monetary Articles will be revised based on the discussion and made available to residents at the Fall Town Meeting in October.

Susan Coviello joined those present to request that the Board proclaim October 7 through 14, Cape Ann Plein Air Week. The Board was in agreement, and a motion was made, seconded, and unanimously voted to approve and sign the proclamation. Ms. Coviello thanked the Board and left the meeting.

Virginia Antell, Michael Flynn, David Gabor, Jeffrey Jones, and Richard Ross left the meeting.

A motion was made, seconded, and unanimously voted to hold the Fall Town Meeting on Tuesday, October 16, 2018 at 7:30 p.m. at the Essex Elementary School; a motion was made, seconded, and unanimously voted to open the warrant for the October 16, 2018 Fall Town Meeting; a motion was made, seconded, and unanimously voted to add articles to the warrant for the October 16, 2018 Fall Town Meeting per the draft warrant presented at this meeting (which is attached hereto); a motion was made, seconded, and unanimously voted to close the warrant; a motion was made, seconded, and unanimously voted to approve the warrant; and, a motion was made, seconded, and unanimously voted to sign the warrant.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 8:32 p.m.

Prepared by: _____
Pamela J. Witham

Attested by: _____
Andrew C. Spinney

2018
Commonwealth of Massachusetts
Town of Essex
Warrant for Special Town Meeting

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet in said Essex at the Essex Elementary School on Tuesday, October 16, 2018 at 7:30 p.m. and there and then to act on the following Articles, viz:

ARTICLE 1

To see if the Town will vote to ratify the votes taken pursuant to the following articles on the warrant for the Special Town Meeting held on August 27, 2018; or take any other action relating thereto:

1. Article 7 - transfer from Free Cash the sum of \$14,500 for repairs and renovations, furnishings and equipment for the Centennial Grove Cottage and its adjacent garage, including the cost of any design, engineering, construction, installation and/or related services and everything incidental and related thereto. Said funds shall be expended by the Board of Selectmen;
2. Article 8 - to amend the vote taken under Article 6 of the May 7, 2018 Annual Town Meeting by adding a VOIP telephone expense line in the Police Department Budget for fiscal year 2019 and to transfer the sum of \$4,750 from Free Cash to this new VOIP Telephone line item; and
3. Article 9 - transfer from Free Cash the sum of \$16,000 to replace the Fire Department's base radio transmitter, including all costs for removing and disposing of the old transmitter, if necessary, and installing the new transmitter.

ARTICLE 2

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Wastewater Department's sewer maintenance line item for fiscal year 2019; or take any other action related thereto.

ARTICLE 3

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase and install all necessary switchgear and related devices and services,

or anything related or incidental thereto to make the Town's fiber optic municipal area network functional after its construction is complete; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to contract for senior citizen transportation services; or take any other action relating thereto.

ARTICLE 5

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to retain the services of a designer to assist the Town and its Owner's Project Manager (OPM) with the development and comparison of various design options for the future renovation and/or replacement of the Town's existing public safety building, either at the existing site or at some other site, and either as a combined facility on one site or as separate police and fire facilities on separate sites; and further, to develop design plans and an associated cost estimate for the recommended option through the 60% construction document (CD) design phase, including all costs incidental or related thereto; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to a) design and renovate space within the Police and Fire Headquarters building at 24 Martin Street into a Police Department prisoner processing area and all costs incidental or related thereto; and b) to purchase, set in place, equip, and wire a storage container to be placed outside the building to serve as the Police Department evidence area and all costs incidental or related thereto; or take any other action relating thereto.

ARTICLE 7

To see if the Town will approve the \$52,232,925 borrowing authorized by the Manchester Essex Regional School District, for the purpose of paying costs of the Manchester Memorial Elementary School new school construction project, for replacement of the school at 43 Lincoln Street in Manchester-by-the-Sea, Massachusetts, including the payment of all costs incidental or related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the School Building Committee. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities. Any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and ninety-three one hundredths of a percent

(35.93%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; or take any other action relating thereto.

ARTICLE 8

To see if the Town will vote to amend Section 4-16.6(e) of the Town of Essex Animal Control Bylaw, which currently reads, in part:

Further, the Town Clerk will charge a late fee of Fifteen Dollars to obtain an individual or Kennel License after July 1st of any calendar year.

By changing "July 1st" to "April 1st"; or take any other action relating thereto.

ARTICLE 9

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be used as a match to a State grant program for the design and/or construction of renovations and improvements to the Conomo Point seawall system; or take any other action relating thereto.

ARTICLE 10

To see if the Town will vote to establish a new Stabilization Fund known as the Conomo Point Repair, Maintenance, and Improvement Fund for the purpose of providing funding for repairs, maintenance and improvements to common areas and structures on the Town-owned land known as Conomo Point; and to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to said Fund; or take any other action relating thereto.

ARTICLE 11

To see if the Town will vote to amend the Town's Zoning Bylaw by adding a new Section 6-14.4, RECREATIONAL MARIJUANA ESTABLISHMENTS, that would provide as follows:

Section 6-14.4

Consistent with G.L. c.94G, § 3(a)(2), all types of recreational marijuana establishments as defined in G.L. c.94G, §1(j), including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Essex.

This Section shall be effective upon passage by the voters at a Town Election.

;or take any other action relating thereto.

ARTICLE 12

To see if the Town will vote to amend the Town's Zoning Bylaw by revising Section 6-14, **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, which temporarily prohibits the use of land for commercial recreational marijuana establishments so that the Planning Board has sufficient time to study the issue and determine what, if any, zoning bylaw should be adopted, by extending the moratorium's date in Section 6-14.3 as set forth below:

6-14.3 *TEMPORARY MORATORIUM*

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through ~~December 31, 2018~~ **June 30, 2019, or until such time as the Town votes to adopt Zoning Bylaw amendments approved by the Attorney General that prohibit or regulate recreational marijuana establishments, whichever occurs earlier.** During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

; or take any other action relating thereto.

ARTICLE 13

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for tree and shrub maintenance and/or removal work at the Essex Senior Center property at 17 Pickering Street and all costs incidental or related thereto; or take any other action relating thereto.

ARTICLE 14

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Essex Youth Commission operating budget for the remainder of fiscal year 2019; or take any other action relating thereto.

ARTICLE 15

To see if the Town will vote to amend the vote taken under Article 6 of the May 7, 2018 Annual Town Meeting by revising the amounts transferred to/from various cemetery funds; or take any other action relating thereto.

ARTICLE 16

To see if the Town will vote to amend the vote taken under Article 8 of the May 7, 2018 Annual Town Meeting by revising the amounts designated for sewer construction debt; or take any other action relating thereto.

ARTICLE 17

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Bicentennial Fund; or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to authorize the Great Marsh Brewing Company at 99 Main Street to purchase additional gallons of sewer capacity in accordance with Section 7-7.5 of the Town of Essex Bylaws; or take any other action relating thereto.

ARTICLE 19

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund the Town's Other Post-Employment Benefits (OPEB) Trust Fund; or take any other action relating thereto.

ARTICLE 20

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum or sums of money to be added to the Town's building capital improvements fund, and/or recreational capital improvements fund, and/or purchase of vehicles and major equipment that qualify as capital purchases fund, and/or Town Hall/Library repair and maintenance fund, and/or municipal street lighting repair and maintenance fund; or take any other action relating thereto.

ARTICLE 21

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to replenish the Finance Committee's Reserve Fund for fiscal year 2019; or take any other action relating thereto.

ARTICLE 22

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Town's Stabilization Fund; or take any other action relating thereto.

And you are hereby directed to serve this Warrant by posting attested copies; one at the Post Office, one at the Town Hall, and one at the Essex Elementary School, in said Essex, fourteen days at least before the time for holding said meeting.

Given under our hand this 24th day of September, two thousand eighteen.

Lisa J. O'Donnell, Chairman

Andrew C. Spinney

Peter D. Phippen

BOARD OF SELECTMEN
TOWN OF ESSEX

Return of the Warrant:

Date: _____

I have served this warrant by posting attested copies thereof – one at the Post Office; one at the Town Hall; and, one at the Essex Elementary School in said Essex; at least fourteen days before the time for holding said meeting.

Constable

2018
Commonwealth of Massachusetts
Town of Essex
Warrant for Special Town Election

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet at the Essex Fire and Police Headquarters located at 24 Martin Street, Essex, MA for a Special Town Election to be held on Tuesday, November 6, 2018, for which the polls will be open from 7:00 o'clock A.M. until 8:00 o'clock P.M., to bring in their votes on the following questions:

1. Shall the Town of Essex be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay the Town's allocable share of the bond issued by the Manchester Essex Regional School District for the purpose of paying costs of the Manchester Memorial Elementary School new school construction project, for replacement of the school at 43 Lincoln Street in Manchester-by-the-Sea, Massachusetts, including the payment of all costs incidental or related thereto?

_____ Yes _____ No

2. Shall the Town of Essex adopt the following By-Law?

Summary: Massachusetts General Laws, Chapter 94G, Section 3 allows a town, through adoption of zoning by-laws, to prohibit all or certain types of marijuana establishments from operating in that town. In a town such as Essex that voted "yes" on Question 4 at the November 8, 2016 State Election in favor of allowing adult use of marijuana and lawful operation of marijuana establishments, a ballot question is also required. In this case, the by-law amendment at issue, if approved by Town meeting and at this election, would prohibit all "marijuana establishments," as defined in Massachusetts General laws, Chapter 94G, Section 1 from operating in Essex.

6-14.4 Recreational Marijuana Establishments

Consistent with G.L. c.94G, § 3(a)(2), all types of recreational marijuana establishments as defined in G.L. c. 94G, § 1(j), to include marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers

or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Essex.

_____ Yes _____ No

And you are hereby directed to serve this Warrant by posting attested copies: one at the Post Office, one at the Town Hall, and one at the Essex Elementary School, in said Essex, seven days at least before the time for holding said election.

Given under our hand this 24th day of September, two thousand eighteen.

Lisa J. O'Donnell, Chairman

Andrew C. Spinney

Peter D. Phippen

BOARD OF SELECTMEN
TOWN OF ESSEX

Return of the Warrant:

Date: _____

I have served this warrant by posting attested copies thereof – one at the Post Office; one at the Town Hall; and, one at the Essex Elementary School in said Essex; at least seven days before the time for holding said election.

Constable