

Present: Chairman Mark W. Lynch, Selectman Jeffrey D. Jones, and Selectman A. Raymond Randall, Jr.

The Chairman called the meeting to order at 7:35 p.m. in the Essex Elementary School Cafeteria on Story Street and announced that the Board would hear Public Comment. No one from the public was present.

The administrative changes to Article 14 from the Conomo Point Planning Committee were reviewed at the request of a CPPC member. The Board felt that the changes were not materially different from the original submission, however, the decision was made to go with the original article.

It was noted that the Warrant signed on March 24th was never posted. A motion was made, seconded, and unanimously Voted to rescind the signature of the Warrant signed on 3/24/08.

A motion was made, seconded, and unanimously Voted to reopen the Warrant.

A motion was made, seconded, and unanimously Voted to revise the Warrant in accordance with a new draft dated 3/26/08 which included changes to the election warrant and to articles 14, 27, and 29.

A motion was made, seconded, and unanimously Voted to close the Warrant.

A motion was made, seconded, and unanimously Voted to approve the revised Warrant.

A motion was made, seconded, and unanimously Voted to sign the revised Warrant. A copy is attached hereto.

The Board then participated in a meeting of the Essex Youth Commission relative to the Commission's Enterprise Fund Budget for Fiscal Year 2009.

There being no other business before the Board, a motion was made, seconded, and unanimously Voted to adjourn the meeting.

Prepared by: _____
A. Raymond Randall, Jr.

Attested by: _____
Jeffrey D. Jones

2008

Commonwealth of Massachusetts
Town of Essex

Warrant for Annual Town Meeting and 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, of the Annual Town Election to bring to ballot for the following officers:

Moderator for one year
Selectman for three years
Assessor for three years
Board of Health Member for three years
Two Constables for one year
Regional School Committee Member for three years
Trustee of Library Funds for three years
Two Planning Board Members for five years
Housing Authority Member for five years

AND, to do this by vote on one ballot. The polls will be open on May 12, 2008 at 7:00 o'clock A.M. and will close at 8:00 o'clock P.M. at the Essex Fire and Police Headquarters.

AND, 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 Monday, May 5, 2008 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 determine the manner of electing or choosing all other Town Officers usually elected or chosen at the Annual Town Meeting and take any appropriate action to elect such officers.

ARTICLE 2

To hear and receive the Reports of the Town Officials and Committees, and also to consider and receive any Reports contained in the Annual Town Report; or take any other action relating thereto.

ARTICLE 3

To see if the Town will amend or revise the Wage and Salary scale in accordance with the recommendations of the Personnel Board Report, a copy of which is on file in the Town Clerk's office and is incorporated herein by reference; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to fix the salary and compensation of each of the elected officers of the Town as required by Massachusetts General Law Chapter 41, Section 108, as amended, for fiscal year 2009 in accordance with the recommendations of the Personnel Board Report, a copy of which is on file in the Town Clerk's office and is incorporated herein by reference; or take any other action relating thereto.

ARTICLE 5

To hear and act upon the Report of the Finance Committee and to vote to raise and appropriate or transfer from available funds a sum of money for the Town charges and expenditures for the ensuing year; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to raise and appropriate, transfer from available funds, and/or borrow a sufficient sum of money to fund and implement a collective bargaining agreement between the Town and the Teamsters Local 42; or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to transfer from available funds, or borrow a sum of money for the purpose of funding the Sewer Enterprise Fund for the remainder of fiscal year 2008.

ARTICLE 8

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of funding the Sewer Enterprise Fund; 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 for the purpose of funding the Water Enterprise Fund; or take any other action relating thereto.

ARTICLE 10

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of funding the Youth Enterprise Fund; or take any other action relating thereto.

ARTICLE 11

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase materials for and to install a sand volleyball court at the Centennial Grove, including any costs incidental or relating thereto, and to purchase, equip and install picnic tables to be used at the Centennial Grove, including any costs incidental or relating thereto; or take any other action relating thereto.

ARTICLE 12

To see if the Town will approve the Gross Operating and Maintenance Budget of the Manchester-Essex Regional School District, and raise and appropriate or transfer from available funds a sum of money for the Town's assessment from the District - said sum to be calculated solely in accordance with the "Agreement Between the Towns of Essex and Manchester-by-the-Sea, Massachusetts with Respect to the Formation of a Regional School District", as most recently amended, by invoking and approving the provision found in paragraph four of G.L. c. 71, § 16B allowing District members "to reallocate the sum of their required local contributions to the district in accordance with the regional agreement", for the fiscal year beginning July first, two thousand eight; or take any other action relating thereto.

ARTICLE 13

To see if the Town will approve the Gross Operating and Maintenance Budget of the North Shore Regional Vocational School District, and raise and appropriate or transfer from available funds a sum of money for the Town's assessment from the District; or take any other action relating thereto.

ARTICLE 14

To see if the Town will vote to begin the designer selection process for the purpose of hiring a professional consultant or consultants to assist the Conomo Point Planning

Committee in developing a sub-division plan for the Town-owned land south of Robbins Island Road at Conomo Point;

The services provided shall include:

Surveying the land and establishing new lot lines for the existing leased lots by utilizing adjacent currently non-leased, Town-owned land to equitably maximize the lot area of each lot to the extent possible.

Establishing the lot area of each new lot in square feet and the frontage and setback distances of each new lot in linear feet.

Determining the legal process necessary to create new individual deeds for each lot i.e., Approval not Required, Variances from existing Zoning Bylaws via Appeals Board or creating new zoning district via Planning Board and Town Meeting Approval.

Establishing an appraised value for each lot as newly configured and determining the best manner of sale to recoup the full value of each lot to the Town.

The sub-division plan created by this process would then be submitted to a future Town Meeting for the purpose of approving any zoning changes necessary and final approval of sale.

The sub-division plan created by this process shall only apply to the land and lots south of Robbins Island Road;

and to authorize the Selectmen to notify the Department of Environmental Protection of the Town's intention.

; or take any other action relating thereto.

ARTICLE 15

To see if the Town will vote to accept provisions of Clause 41C of Section 5 of Chapter 59 of the Massachusetts General Laws, so as to provide real estate tax exemptions for certain senior citizens, and to accept the provisions of 41D of Section 5 of Chapter 59 of the Massachusetts General Laws, which provides for annual cost of living adjustments to the eligibility factors for such exemptions in accordance with the Consumer Price Index; or take any other action in relation thereto.

ARTICLE 16

To see if the Town will vote to adjust the exemption amount and eligibility factors for the property tax exemption for senior citizens under General Laws, Chapter 59, Section 5,

Clause 41A by increasing the maximum qualifying gross receipts amount from \$20,000 to \$25,000, or take any other action in relation thereto.

ARTICLE 17

To see if the Town will vote to amend Section 2-4.4 of the Town By-laws relating to meetings of the Finance Committee, which currently reads:

2-4.4 *MEETINGS*. The committee shall meet at least monthly, except during the months of July and August at the town hall and may hold special meetings upon at least 24 hours notice to each member. The time of the regular meetings of the committee shall be established at its organizational meeting, and may be subsequently changed by a majority vote of its members.

by adding the following sentence at the end of the section:

A quorum for the purposes of meeting under the Open Meeting Law shall be defined as a majority of the number of members that are presently on the Committee and its calculation shall not include vacant seats.

; or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to amend Section 4-4A.6 of the Town By-laws relating to Vessel Mooring Permits, which currently reads:

4-4A.6 The fee for a mooring permit is \$5.00 per foot per vessel per year with a minimum total fee of \$75.00. For purposes of fee calculation, the vessel length will be rounded to the nearest whole foot. The fee for being maintained on the "waiting list" for a mooring permit is \$10.00 per year.

by adding the following sentences at the end of the section:

The fee for a temporary mooring permit is \$10.00. The fee for a transient mooring permit is \$25.00 per day per vessel.

; and to add Section 4-4A.7 to the Town By-laws as follows:

The fine for any vessel which remains on the Town dock beyond the maximum time limit shall be \$50 for the first offense and \$100 for any subsequent offense.

; or take any other action relating thereto.

ARTICLE 19

To see if the Town will vote to accept, for all boards, committees or commissions holding adjudicatory hearings in the Town, the provisions of G.L. c.39, § 23D, which provide that a member of a board, committee, or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing, provided that certain conditions are met, or take any other action relating thereto.

ARTICLE 20

To see if the Town will vote to amend Chapter 6-6.9 *SPECIAL PERMITS* of the Essex zoning bylaw by adding, after part k, parts l, m and n.

1. WIND ENERGY CONVERSION SYSTEMS (WECS)

Installation of Wind Energy Conversion Systems (WECS), except units which are house or building mounted, but including temporary wind monitoring towers, shall be permitted subject to the following requirements and such other conditions as the Special Permit Granting Authority may impose under M.G.L. Chapter 40A and this bylaw.

1. Only towers not exceeding 150 feet in total tower height shall be allowed.
2. WECS towers shall be set back a distance equal to 1.25 times the Total Tower Height from:
 - a) Any public or private road right of way
 - b) Any overhead utility lines, unless written permission is otherwise granted by the affected utility to reduce this requirement.
 - c) All front, side, and rear property lines unless written permission is granted by abutters to reduce this requirement.
3. **Density of units:** Not more than one WECS may be installed per lot.
4. **Color:** WECS units shall be painted a non-reflective color that blends with sky and clouds.
5. **Noise and electromagnetic interference:** The WECS and associated equipment shall conform to the provisions of the Massachusetts Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10) as measured at the nearest lot line. The applicant shall provide certification at his/her expense that the system will not cause electromagnetic interference as measured at the lot line. After the installation, if neighbors can demonstrate that there is interference, the Building Inspector may order that the WECS be dismantled or modified to eliminate said interference.
6. **Lighting:** The WECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). A temporary light used to inspect a WECS and associated equipment is permissible provided said light is used only for inspection purposes and not in operation for an extended period of time.

7. **Access:** All ground mounted electrical and control equipment shall be secured to prevent unauthorized access, and the tower shall be designed and installed so as not to provide step bolts or ladders readily accessible to the public for a minimum height of eight(8) feet above the ground.
 8. **Signs:** All signs, other than manufacturers or installers identification, warning signs or owner identification on a WECS tower, or other structure visible from any public road shall be prohibited. All signs shall comply with Sect. 6-5.10 of Town of Essex bylaws.
 9. **Equipment shelters:** All equipment necessary for monitoring and operation of the WECS should be contained within the turbine tower. If this is not feasible, ancillary equipment may be located outside of the tower, provided it is contained either within an underground vault or enclosed within a separate structure which shall be screened from view by year-round landscape or vegetated buffer.
 10. **Abandonment:** A WECS that is out of service for a continuous 12-month period will be deemed to have been abandoned and the Building Inspector may issue a Notice of Abandonment to the owner. The owner shall have the right to respond to the Notice of Abandonment within 30 days from receipt of the Notice. The Building Inspector shall withdraw the Notice and notify the owner of same if the owner provides information that demonstrates that the WECS has not be abandoned.
 11. **Removal:** If the WECS is determined to be abandoned, the owner shall remove the WECS equipment at the owner's sole expense within 90 days of receipt of the Notice of Abandonment. If the owner fails to remove the WECS the Building Inspector may pursue legal action to have the tower and equipment removed at the owner's expense.
 12. **Violations:** It is unlawful for any person to construct, install or operate a WECS that is not in compliance with this by-law or with any condition contained in a building permit issued pursuant to the adoption of this bylaw. WECS installed prior to the adoption of this ordinance are exempt.
- m. **HOUSE OR BUILDING MOUNTED Wind Energy Conversion Systems (WECS)**
Any WECS unit mounted on a house or building and intended to generate power shall be allowed by right, shall require a building permit, and may be permitted subject to the following requirements and conditions enforceable by the Building Inspector under M.G.L. Chapter 40A and this bylaw.

1. The installed unit must not raise the total height above grade more than 20% of the height of the building, and must keep in reasonable scale with the size of the building.
2. The color of the unit must blend with the building and the surroundings.
3. **Noise and Electromagnetic Interference:** Noise levels for the WECS shall conform to Massachusetts Department of Environmental Protection Division of Air Quality Control 310 CMR 7.10. The applicant shall provide certification at his/her expense that the system will not cause electromagnetic interference as measured at the lot line. After the installation, if neighbors can demonstrate that there is interference the Building Inspector may order that the WECS be dismantled or modified to eliminate the interference.
4. The WECS unit must be situated in a manner that minimizes shadow and flickering. The applicant has the burden of proving that this effect does not have an adverse impact on the neighboring or adjacent uses through either site placement or mitigation.

n. WIND FARMS

Installation of clustered WECS units shall comply with the requirements of this section and shall be subject to the following conditions, and other conditions as the special permit granting authority may impose under M.G.L. Chapter 40A and this bylaw.

1. There shall be not more than one (1) WECS unit per acre.

; or take any other action relating thereto.

ARTICLE 21

To see if the Town will vote to amend section 6.3 DEFINITIONS of the Town zoning By-Laws by adding the following:

6-3.47 **WIND ENERGY CONVERSION SYSTEM (WECS):** A wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics.

6-3.48 **HOUSE OR BUILDING MOUNTED WECS:** Any WECS unit, mounted on a house or accessory building, intended to generate power.

6-3.49 **WIND TOWER:** The structure that supports the wind turbine.

6-3.50 **TOTAL TOWER HEIGHT:** The vertical distance from current grade to the tip of the rotor blade when at its highest point.

6-3.51 **WIND FARM:** A cluster of 2 or more wind turbines used to produce electrical energy.

; or take any other action relating thereto.

ARTICLE 22

To see if the Town will vote to amend Section 6-5.3 SUPPLEMENTARY HEIGHT PROVISIONS of the Zoning Bylaw that currently reads:

The provisions of this chapter governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, and other necessary appurtenances carried above the roofs, nor stacks or spires if not used for human occupancy and not more than 25 percent of the ground floor area of the building, nor to observation towers, television and radio towers and antennae, nor to churches or public or institutional buildings.

By inserting the term "wind turbines" between the words "observation towers" and "television"

; or take any other action relating thereto.

ARTICLE 23

To see if the Town will vote to amend **SECTION 6-12 FLOOD PLAIN DISTRICT** by replacing Section 6-12 in its entirety with the following:

6-12.1 **ESTABLISHMENT:** The Floodplain District is established, effective July 17, 1986, as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 3107, "Flood Resistant Construction")
- b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)
- c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- d. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00)
- e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30, V, and V1-V30 on the Essex Flood Insurance Rate Maps (FIRM), dated July 17, 1986 and revised July 230, 1998 and July 2, 1992, and as revised by letter(s) of map amendment, and Flood Insurance Study dated July 17, 1986, on file with the Town Clerk, Planning Board, and Building Inspector. The Essex Flood Insurance Rate Maps (FIRM) and the accompanying Essex Flood Insurance Study are incorporated herein by reference.

6-12.2 DEVELOPMENT REGULATIONS: The following regulations apply to the Flood Plain District.

- a. **UNNUMBERED ZONE:** Within any unnumbered Zone A, since the base flood elevation is not provided on the Flood Insurance Rate Map (FIRM), the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the building inspector for its reasonable utilization toward meeting the elevation or flood-proofing requirements, as appropriate, of the State Building Code. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered zone A.
- b. **ZONE V:** Within areas designated as coastal high hazard areas (Zone V), all development shall be located landward of the reach of mean high tide, since these areas are extremely hazardous due to high velocity waters from tidal surges and hurricane wave wash.
- c. **ZONE V1-30:** Man-made alteration of sand dunes within Zones V1-30, VE, and V which would increase potential flood damage are prohibited.
- d. **SUBDIVISIONS:** All subdivision proposals must be designed to assure that:
 1. Such proposals minimize flood damage
 2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 3. Adequate drainage is provided to reduce exposure to flood hazards.

6-12.3 NOTIFICATION OF WATERCOURSE ALTERATION

In a riverine situation, upon submission of the application to the Planning Board, evidence shall be provided that the following entities have been notified, in writing including copy of the application and plans, of a pending zoning permit to alter or relocate a watercourse:

- a. The adjacent communities of Gloucester, Hamilton, Ipswich, Manchester by the Sea
- b. National Flood Insurance Program (NFIP) State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104 and
- c. NFIP Program Specialist
FEMA Region 1,
99 High Street
6th Floor
Boston, MA 02110

6-12.4 **CONDITIONS FOR REVIEW AND APPROVAL:** The following standards shall be adhered to:

- a. The basement floor elevation for any structure having sustained living occupancy shall be at or above the base flood elevation as shown on the FIRM. Other structures shall meet the elevation or flood-proofing requirements, as appropriate, in accordance with 780 CMR, Massachusetts State Building Code. Within Zones A, where the base flood elevation is not shown on the FIRM, the applicant shall obtain any existing base flood elevation data as a basis for the elevation and flood-proofing requirements.
- b. Structures shall be so designed and secured that during flooding the foundation will not be undermined, or the structure will not be floated off, battered off, or swept away.
- c. There shall be no danger of pollution to the public or on-site water facilities because of the location or elevation of the building, filling of the area, or for other related reasons.
- d. The containment of sewage, the safety of gas, electric, fuel and other utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocution or any other dangers due to flooding shall be adequately protected.

- e. Methods of drainage shall be adequate.
- f. A professional registered engineer shall stamp and certify all plans and provide a written certification that all of the conditions for approval, per sub-section 6-12.4, have been satisfied with a particular notation that the project has been designed in such a manner that any encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood and any encroachment shall comply with the flood plain requirements of the State Building Code.

; or take any other action relating thereto.

ARTICLE 24

To see if the Town will vote to amend § 6-5.5 ERECTION OF MORE THAN ONE PRINCIPLE STRUCTURE ON A LOT of the Zoning Bylaw by deleting the text of the existing section which reads:

More than one structure which is housing a permitted or permissible use may be erected on a single lot provided that yard and lot requirements of this chapter be met. Notwithstanding the preceding, a maximum of three principle residential structures may be erected on a single lot provided that they house in the aggregate no more than three dwelling units, that lot area equal to that lot required for a single structure could be allotted to each structure, and that yard and lot coverage requirements of this chapter be met.

And substituting therefor the following:

More than one residential structure may be erected on a single lot provided that yard and lot requirements of this chapter be met. Notwithstanding the preceding, a second structure which is a single family residential use may be erected on a single residential lot of at least 70,000 square feet in area which lot has had a residential structure in use-for at least five years from the time of issuance of permanent Certificate of Occupancy and a third residential structure may be erected on a single lot of at least 110,000 square feet in area on a lot which has had two residential structures in use for a least five years from the time of issuance of permanent Certificate of Occupancy, provided that they house in the aggregate no more than three dwelling units, that lot area equal to that required for a single structure could be allotted to each structure, and that yard and lot coverage requirements of sections 6-6.2, RESIDENTIAL LAND USES - SINGLE FAMILY, and 6-6.3, RESIDENTIAL LAND USE, TWO FAMILY be met.

Each building must have access either jointly or separately by means of a driveway from the front lot line which is entirely within the lot. Any driveway must conform to the requirements of §6-5.14 and shall not be within 10 feet of a side or rear lot line, nor pass within 20 feet of residential structure which it does not serve.

; or take any other action relating thereto.

ARTICLE 25

To see if the Town will vote to make the following amendments to Chapter 6 Zoning Bylaws, for the purpose of increasing clarity and congruence of the Town Zoning Bylaws with those enacted by the Commonwealth by adding to the present definition which reads:

6-3.38 Structure: Anything constructed or erected of more than one member requiring a fixed location on the ground.

The following sentence:

Structures which are exempted from requirement of a building permit by the Massachusetts State Building Code (780 CMR Section 110.3 Exemptions), shall also be exempt from requirement of a building permit by this Chapter.

; or take any other action relating thereto.

ARTICLE 26

To see if the Town will vote to make the following amendments to Chapter 6 Zoning Bylaws, for the purpose of increasing clarity and congruence of the Town Zoning Bylaws with those enacted by the Commonwealth by deleting the words "the planning board or" from **6-8.3.a ADMINISTRATIVE REVIEW** (by the Board of Appeals) which currently reads:

ADMINISTRATIVE REVIEW: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision of determination made by the planning board or the; building inspector or other administrative official in violation of the provisions of this chapter or the provisions of Chapter 40A of the Massachusetts General Laws.

; or take any other action relating thereto.

ARTICLE 27

To see if the Town will vote to make the following amendments to Chapter 6 Zoning Bylaws, for the purpose of increasing clarity and congruence of the Town Zoning Bylaws with those enacted by the Commonwealth by deleting the words "planning board or" twice from **Chapter 6-8.5 APPEAL PROCEDURE**, which currently reads:

APPEAL PROCEDURE: In all cases, a person aggrieved by any decision of the planning board or the building inspector shall commence his appeal within 30 days after receipt of a written decision of the planning board or building inspector. He shall file his appeal on the forms prescribed therefore by the board of appeal, and shall specifically set forth his grounds for appeal in the application.

; or take any other action relating thereto.

ARTICLE 28

To see if the Town will vote to make the following amendments to Chapter 6 Zoning Bylaws, for the purpose of increasing clarity and congruence of the Town Zoning Bylaws with those enacted by the Commonwealth by deleting the word "approved" and instead inserting the word "reviewed" in **Chapter 6-7.2a BUILDING PERMIT REQUIRED**, which currently reads:

No building or structure shall be erected, added to, moved, or structurally altered without a permit in writing from the building inspector. No building permit shall be issued until the planning board shall have approved the plans showing the buildings to be placed thereon and the proposed use there for except in the case of a variance from the terms of this chapter by the board of appeals in accordance with the provisions of Chapter 40A, Massachusetts General Laws.

; or take any other action relating thereto.

ARTICLE 29

To see if the Town will vote to make the following amendments to Chapter 6 Zoning Bylaws, for the purpose of increasing clarity and congruence of the Town Zoning Bylaws with those enacted by the Commonwealth by deleting the severability clauses of **SITE PLAN REVIEW: SPECIAL PERMITS. 6-6.12.5 SEVERABILITY**, and **WATER RESOURCE PROTECTION DISTRICT, 6-13.3d. Severability**, which read:

Each provision of this by-law shall be construed as separate to that end, that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

And adding that same deleted section on severability to:

6-2 PURPOSE: This chapter is enacted in accordance with the provisions of Chapter 40A, Massachusetts General Laws, for the purpose of promoting the health, safety, and welfare of the inhabitants of the town.

as:

6-2A SEVERABILITY: Each provision of this Bylaw shall be construed as separate to the end that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

; or take any other action relating thereto.

ARTICLE 30

To see if the Town will vote to Amend Chapter 6 the Zoning Bylaws by adding:

6-14 RESIDENTIAL-AGRICULTURAL DISTRICT

6-14.1 PURPOSE.

The purpose of the Residential-Agricultural District is to ensure preservation of the unique scenic open spaces of Essex. Vistas of hayfields, pastures, woods, salt marsh and wetlands help define the rural character of Essex, encourage tourism and the tourist-dependent economy, as well as enhance the quality of life for all citizens of Essex.

6-14.2 RESIDENTIAL-AGRICULTURAL DISTRICT DELINEATION.

The boundaries of the Residential-Agricultural District are shown on a plan entitled "Residential-Agricultural District", dated 1/28/08, filed with the Essex Town Clerk and incorporated herein by reference (the "District Map"). The Residential-Agricultural District shall be considered to be superimposed over any other existing districts, e.g. Wetlands, Flood Plain, Water Resource Protection.

6-14.3 RESIDENTIAL-AGRICULTURAL DISTRICT USES:

Only the following uses are allowed in the Residential-Agricultural District:

- a. Residential Land uses, single family, as regulated by Section 6-6.2 of the Zoning Bylaw.
- b. Residential Land uses, two family as regulated by Section 6-6.3 of the Zoning Bylaw.
- c. Single and two-family dwelling units erected under Section 6-5.5 of the Zoning Bylaw.
- d. Agricultural Land uses (as defined by MGL Chapter 128, Section 1A).

- e. Land retained predominantly in its natural, scenic, or open condition for purposes of land or water conservation, wildlife habitat, drainage, erosion control, flood control, or passive outdoor recreation.
- f. Wind Turbines, as regulated by Section 6-6.9 of the Zoning Bylaw.

6-14.4 Any nonconforming preexisting use is permitted in accordance with M.G.L. Chapter 40A, Section 6.

ARTICLE 31

To see if the Town will vote, in accordance with Massachusetts General Laws, Chapter 82A, section 2, to designate the Board of Public Works as the local permitting authority to issue permits for the excavation of trenches on privately owned land and for the excavation of public ways of the town; or take any other action relating thereto.

ARTICLE 32

To see if the Town will vote to re-authorize the Selectmen to petition the General Court for a special act to enable enforcement of the Town's Sewer Service Area By-law under State law, a copy of which is on file with the Town Clerk, so as to carry-out the vote taken under Article 15 of the May 1, 2000 Annual Town Meeting; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further, to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition; or take any other action relating thereto.

ARTICLE 33

To see if the Town will vote to amend the electrical, plumbing, and gas fees contained in Essex By-law Section 2-7A that presently read:

ELECTRICAL FEE SCHEDULE:

New Construction - All fees to be based on total construction cost of the project.

All new construction-residential and commercial, new buildings and additions.

1. Cost of construction 0 to \$50,000	\$75.00
2. Cost of construction \$50,000 to \$100,000	\$100.00
3. Cost of construction \$100,000 and above	\$150.00

New Service	\$25.00
Temporary Service	\$20.00
Underground Service	\$25.00
220-volt outlets:	
range, dryer - each outlet	\$10.00
Oil Burner, gas burner	\$10.00

Swimming Pools	\$25.00
Recall Inspections	\$10.00
Permits for any electrical installations not specified	call inspector for fee

PLUMBING FEE SCHEDULE:

New Construction - Residential	\$75.00 , plus \$5.00 per fixture
Commercial	\$100.00, plus \$5.00 per fixture

Renovation/remodeling	
First 3 Fixtures	\$35.00
Each additional	\$5.00 per fixture
Hot Water Heater Replacement	\$20.00
Solar Hot Water Tank	\$25.00

Plumbing fixtures and appliances	
For each fixture or appliance	\$20.00
Piping	\$30.00
Swimming pool(In ground), Cisterns	
Lawn Sprinklers	\$25.00
Septic/Sewer Connection	\$25.00
Drainage Pipe/Rain Leaders	\$25.00
Reinspection charge	\$25.00

GAS FEES:

Boiler-Central Heat -Residential	\$30.00
-Commercial	\$60.00
Gas fired hot water heater	\$20.00
L.P. Tank	\$30.00
Gas fixtures and appliances	\$15.00 (each)
Unit heater	\$15.00
Re-inspection charge	\$25.00;

by replacing the foregoing fee schedules with the following fee schedules:

ELECTRICAL FEE SCHEDULE:

<u>Category</u>	<u>Fee</u>
With building permit:	\$3/thousand (based on estimated building permit construction cost – <u>not</u> estimated electrical cost) - \$35 minimum/no maximum
Without building permit:	All work \$35
Re-inspection fee:	\$35
Penalty for work without permit:	Double fee

PLUMBING FEE SCHEDULE:

New Construction - fixture	Residential	\$75.00 , plus \$5.00 per
fixture	Commercial	\$100.00, plus \$5.00 per

Renovation/remodeling		
First 3 Fixtures		\$40.00
Each additional		\$5.00 per fixture
Hot Water Heater Replacement		\$25.00
Solar Hot Water Tank		\$25.00

Plumbing fixtures and appliances		
For each fixture or appliance		\$35.00
Piping		\$30.00
Swimming pool(In ground), Cisterns		
Lawn Sprinklers		\$25.00
Septic/Sewer Connection		\$25.00
Drainage Pipe/Rain Leaders		\$25.00
Reinspection charge		\$25.00

GAS FEES:

Boiler-Central Heat	-Residential	\$35.00
	-Commercial	\$65.00
Gas fired hot water heater		\$25.00
L.P. Tank		\$35.00
Gas fixtures and appliances		\$20.00 (each)
Unit heater		\$20.00
Re-inspection charge		\$25.00;

or take any other action relating thereto.

ARTICLE 34

To see if the Town will vote to rescind certain borrowing authorizations; or take any other action relating thereto.

ARTICLE 35

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase and equip a skid-steer loader with attachments to be used by the Department of Public Works, including any costs incidental and relating thereto; or take any other action relating thereto.

ARTICLE 36

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase, equip and install a computer file server and associated software and other hardware to be used as an off-site recovery system in the event of an emergency, including any costs incidental and relating thereto; or take any other action relating thereto.

ARTICLE 37

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purchase of greenhead fly trap boxes; or take any other action relating thereto.

ARTICLE 38

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the payment of unpaid bills from past fiscal years; or take any other action relating thereto.

ARTICLE 39

To see if the Town will vote to amend the vote taken under Article 32 of the May 7, 2007 Annual Town Meeting by revising the amount appropriated for fiscal year 2008 Town Septic Betterment Fund debt service principal, interest, and fees and to transfer a sum of money from available funds for such purpose; or take any other action relating thereto.

ARTICLE 40

To see if the Town will vote to transfer from the Town Septic Betterment Fund a sum of money for the purpose of making necessary payments to the Massachusetts Water Pollution Abatement Trust during fiscal year 2009 in accordance with the terms of repayment for Community Septic Management Program loan funds; or take any other action relating thereto.

ARTICLE 41

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

ARTICLE 42

To See if the Town will vote Pursuant to G.L. c. 44, § 53E ½ to authorize a revolving fund by the Board of Health for the purpose of purchase of supplies and pharmaceuticals as needed by the Public Health Nurse. Medicare and other reimbursements relating to said programs and donations for the purpose of purchasing supplies and pharmaceuticals shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Health up to a maximum of \$10,000; or take any action thereto.

ARTICLE 43

To see if the Town will vote pursuant to G.L. c. 44, §53E ½ to re-authorize a revolving

fund used by the Board of Selectmen for the purpose of receiving the so-called Excess Fee, to consist of 60% of each electric and plumbing permit issued by the Electrical Inspector, the Plumbing & Gas Inspector, and their respective assistants for certain work as described in further detail in Article 5 of the January 24, 2005, Special Town Meeting warrant, to be expended by the Board of Selectmen, up to a maximum of Twenty Thousand Dollars (\$20,000) per fiscal year, for the purpose of paying said inspectors or assistants for such work; 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, seven days at least before the time for holding said meeting.

Given under our hand this 26th day of March, two thousand eight.

Mark W. Lynch, Chairman

Jeffrey D. Jones

A. Raymond Randall, Jr.

BOARD OF SELECTMEN
TOWN OF ESSEX

Attest:

Constable

Date:
