

Present: Chairman Jeffrey D. Jones, Selectman Mark W. Lynch, Selectman A. Raymond Randall, Jr., Town Administrator Brendhan Zubricki, and Selectmen's Assistant Pamela J. Witham.

Also Present: Jessie Yurwitz, Tricia Soulard, Bradley Atkinson, Attorney Dave Smith, Steven MacDougall, Mike Jacobs, Phillip MacDougall, Julian Balili, Deborah Maffeo, Kevin Oyer, William Liberti, and John Amirault.

Chairman Jones called the meeting to order at 7:00 p.m. in the T.O.H.P. Burnham Public Library and announced that the Board would hear Public Comment. Attorney Dave Smith came before the Selectmen and requested that they reconsider their decision to refuse a waiver of the one-year residency requirement for a clamming license for each of his clients Mike Jacobs, Phillip MacDougall, and Steven MacDougall.

Citing the need to discuss pending litigation, the Chairman entertained a motion to move to Executive Session. The Chairman announced that the Board would be returning to Open Session and invited Town Administrator Zubricki to attend. Everyone else moved to the lobby of the Town Hall. The motion was moved, seconded, and per a unanimous Roll Call Vote, the Board moved to Executive Session at 7:03 p.m.

The Board returned to Open Session at 7:16 p.m. and everyone returned to the Library. Selectman Lynch said that the residency requirement has been part of the Town's shellfish regulations for a long time and that license denial by the Selectmen on these grounds is extremely rare. However, the Selectmen do not consider it wise to spend the Town's time and resources fighting the residency challenge. So, stating that he was not commenting on the validity of the challenge, Chairman Lynch made a motion to approve commercial clamming licenses for Phillip MacDougall, Steven MacDougall, and Mike Jacobs by waiving the one-year residency requirement. The motion was seconded, and unanimously Voted. The Selectmen signed the applications. Attorney Smith thanked the Selectmen and left the meeting with his clients.

Julian Balili asked the Selectmen to waive the deadline for filing his application for renewal of a clamming license. Mr. Balili was away during the filing season and had asked a friend to file his application. Mr. Oyer also asked for a waiver of the filing deadline since he expected to be reminded by the Town when the time came to renew his license. It was noted that the Shellfish Advisory Commission had been notified of the requests for deadline waivers and had acknowledged the requests but had not offered any comment. A motion was made, seconded, and unanimously Voted to approve the requests for application filing waivers and the Selectmen signed the papers. Mr. Balili, Mr. Oyer, and Ms. Maffeo thanked the Selectmen and left the meeting.

Mr. Zubricki presented his Town Administrator's Report for the period covering March 6th, 2010 through March 19th, 2010 regarding the following items:

Essex Youth Commission Survey: Mr. Zubricki reported that to date only about 46 responses had been received to the EYC survey. It was suggested that the limited

response may have been due to the surveys only being received by a small handful of people reached by the Town website and the use of backpack flyers. After some discussion, Selectman Randall and Selectman Lynch agreed to create a new survey with a few key questions that could be conducted by volunteers over the telephone to attempt to elicit a wider response. The Selectmen thanked Tricia Soulard and Jessie Yurwitz for their comments and they left the meeting.

Town Clerk Discussion: Mr. Zubricki reminded the Selectmen that the Town is still without a replacement for the Town Clerk who will be retiring in May. The Selectmen said that they would review the applications currently on file and asked Mr. Zubricki to advertise again for the opening. The cutoff date for receiving new applications will be 2:00 p.m. on Monday, April 5th. The Selectmen will meet that evening at the Senior Center to review the applications and choose finalists. The finalists will be asked to appear for interviews on Monday, April 12th, starting at 6:00 p.m. at the T.O.H.P. Burnham Public Library.

At 7:30 p.m., Bradley Atkinson, co-owner of The Farm restaurant on Western Avenue appeared before the Selectmen to discuss the plans for operation of the restaurant during the coming summer season. All Selectmen participated in the discussion, since there is no longer anyone employed by the restaurant that is related to any of the Selectmen (eliminating the potential conflict that was discussed in the past). The Selectmen were pleased that there has been only one question about noise from a neighboring resident since the last public hearing regarding the operation of The Farm. Mr. Atkinson said that the restaurant has cut back the number of hours that they have live music to only four hours a week. The Selectmen cautioned him to make sure that everyone working at the restaurant is informed that both doors need to be kept closed at all times to contain the sound inside the restaurant. Mr. Atkinson said that they are in the process of planning their spring menu that will come out in April and that they may promote a horseshoe tournament again this year. The Selectmen wished Mr. Atkinson well as the restaurant nears its one year anniversary and he left the meeting.

Mr. Zubricki resumed his Town Administrator's report.

Martin and Main Intersection Pocket Park: Mr. Zubricki reviewed that the Selectmen had asked for and received permission from the State as part of MassHighway's Route 133 Reconstruction Project, to have the intersection in front of the Village Restaurant where there is currently parking on State land converted to a grassy, curbed-in pocket park area. Robert Coviello and Ed Howard have now asked if the grassy area could be converted back to parking. The Selectmen asked Mr. Zubricki to make a formal request to MassHighway for a review of the request to change the current design for the intersection.

Retiree Representation on the Insurance Advisory Committee: The Selectmen discussed the list of municipal retirees provided by the Treasurer/Collector. The Selectmen may appoint a retiree on the new Insurance Advisory Committee that is being formed After

reviewing the list, the Selectmen asked Mr. Zubricki to find out if Beth Cairns would be interested in serving as a representative on the Committee.

Municipal Lot Signage and Winter Stairs Maintenance: Mr. Zubricki reported that he has been approached by the pastors in Town with a request for more signage directing traffic to municipal parking areas in order to help eliminate church patrons parking in areas that will interfere with parking for Town businesses. Mr. Zubricki has discussed the request with the Superintendent of Public Works and the Superintendent has agreed to acquire and place additional signage. The pastors have also asked that the stairs between the Village Restaurant parking area and the municipal parking area be kept open during the winter. The Superintendent has advised Mr. Zubricki that it has been impossible to keep the stairs free of ice and snow during the winter months. As a result, the stairs are closed during this time of the year because of possible liability issues. Mr. Zubricki agreed to ask the Superintendent to explore the installation of heaters under the stairs to keep them free of ice or snow.

Route 133 Reconstruction Task Force Meeting: Mr. Zubricki said that he is having continuing discussions with MassHighway about raising the road bed to prevent flooding during high tide events. The raised elevation was in all the early design plans for the road reconstruction, however, just recently, Mr. Perkins noticed that the current plans do not include the raised elevation. Mr. Zubricki has made an appointment with the new person who is in charge of the project to come out and visit the site and meet with area business owners to discuss the issue.

Mr. Perkins has also advised that it would be less work and expense to install wooden pilings for a future boardwalk now instead of after the reconstruction project is completed. The Selectmen were in agreement that Mr. Zubricki should begin discussion with MassHighway about the proposed construction schedule in order to determine whether or not the piling installation may be feasible.

Quarterly Report: Mr. Zubricki informed the Selectmen that the Quarterly Report to the Department of Environmental Protection has been prepared and is ready to be sent. A motion was made, seconded, and unanimously Voted to authorize transmittal of the Quarterly Report.

Annual Town Meeting Warrant: Mr. Zubricki reviewed the current status of each of the articles on the proposed warrant for the coming Annual Town Meeting. The Selectmen were in agreement on all of the articles; however, there are still a couple of changes that need to be made before the warrant can be approved.

A motion was made, seconded, and unanimously Voted to include the articles as they appear on the Warrant, dated March 22, 2010, except for Article 21, which will be included as amended by Nick Cracknell and Town Counsel per tonight's discussion at a future date.

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

A motion was made, seconded, and unanimously Voted to authorize signature of the Annual Town Meeting Warrant as approved and amended as soon as it becomes available outside of a Board of Selectmen's meeting, so long as the discussion regarding Article 21 demonstrates this to be prudent. Otherwise, the draft warrant will come before the Board at a subsequent meeting.

Mr. Amirault and Mr. Liberti left the meeting.

In other business a motion was made, seconded, and unanimously Voted to approve and sign the weekly warrant in the amount of \$65,233.71. Selectman Randall recused himself from the voting and did not sign the warrant.

A motion was made, seconded, and unanimously Voted to approve and sign the minutes for the March 8th, 2010, Selectmen's Open Meeting and the Selectmen's March 8th, 2010, Executive Session.

Mr. Zubricki said that it has been suggested that the Selectmen review any Line Item Transfer or Reserve Fund Transfer requests from anyone reporting to the Selectmen before the requests are acted on by the Finance Committee. This would allow the Selectmen to be more aware of matters in financial areas that are overseen by them. A motion was made, seconded, and unanimously Voted to have the Town Accountant forward any requests to the Selectmen before action by the Finance Committee.

Mr. Zubricki reported that he had received an inquiry from Boston Magazine. The magazine is preparing an article on the area and had several questions about the future of Conomo Point. The Selectmen had no comment for the magazine since no one can predict the outcome of the Conomo Point situation at this time.

The Selectmen reviewed a letter from Kay Whitcomb regarding reminiscences of Conomo Point.

Mr. Zubricki said that a resident has asked a question regarding the quantum of vote required to authorize a sale of Town land. The Selectmen asked Mr. Zubricki to forward two past opinions from Town Counsel to the resident in answer to the resident's question.

Mr. Zubricki said that he has been asked where the participants of the Summer Youth Program can seek refuge in case of a sudden electrical storm, since the Grove Cottage will not be used for the program this year and is alarmed. It was mentioned that the Pavilion is just as big as the Cottage. The Selectmen asked Mr. Zubricki to contact the Electrical Inspector and inquire about the effectiveness of installing a lightning protection system on the Pavilion.

The Selectmen reviewed a request from Captain Glenn Cardozo for an appointment with them to discuss the concept of a community covenant. The Selectmen agreed that Captain Cardozo could meet with them at 8:00 p.m. on April 12th.

The Selectmen reviewed a draft letter to Senator Bruce Tarr in support of the Essex Regional Retirement Board Receivership Bill. A motion was made, seconded, and unanimously Voted to sign the letter to Senator Tarr.

The Selectmen considered a request from the Manchester Essex Little League to hold the MELL Parade on May 1st. The Parade will march from Woodman's to Memorial Park. A motion was made, seconded, and unanimously Voted to approve MELL's parade request.

The Selectmen considered a request from Essex County Velo Cycling Club to hold a Time Trial Series on the following Wednesdays from 6:00 to 7:00 p.m.: 5/19, 6/2, 6/16, 6/30, 7/14, 7/28, 8/11, 8/25 and 9/8. A motion was made, seconded, and unanimously Voted to approve the Cycling Club's request.

A motion was made, seconded, and unanimously Voted to approve a request to hold the Annual Easter Egg Hunt on Town Hall grounds on Saturday, April 3rd, 2010, between the hours of 9:00 a.m. and 1:00 p.m.

The Selectmen reviewed a notification from the Massachusetts State Lottery Commission regarding an application by Cape Ann Golf Course for a Keno license.

A motion was made, seconded, and unanimously Voted to approve the following licenses:

All Alcohol Restaurant License:

- Woodman's Inc., d/b/a Woodman's Function Hall and Lobster Trap Pub, change of manager to Stephen B. Woodman at 125 Main Street.

Gasoline License Renewal:

- Charles E. Holden, Holden Essex Realty Trust a license for above-ground storage of 90,000 gallons of propane gas and 100 gallons of methanol alcohol at Lot #9, Scot's Way.

The Selectmen were reminded that the Boy Scout Court of Honor for Yuri Klypka-Simpson will take place on Saturday, April 10, 2010 at 11:00 a.m. at the First Universalist Church in Essex. Selectman Lynch will present a letter of congratulation.

The next Board of Selectmen's meeting will be held on Monday, April 12th, at 7:00 p.m. in the T.O.H.P. Burnham Public Library.

Acting in their capacity as the Personnel Board, the Selectmen reviewed the draft FY11 Wage & Salary Scale and decided to take it under advisement to afford an opportunity for review. A motion was made, seconded, and unanimously Voted to approve a 3% Cost of Living Allowance (COLA) for non-union, non-contract employees who normally receive a COLA. Mr. Zubricki will finalize the FY11 Wage & Salary Scale with that in mind.

The Selectmen agreed to ask Mark Osburn to read the motions at the Annual Town Meeting.

So far, no one has volunteered to join the Personnel Board, so that Board is still without enough members to function as a Board.

There being no further business before the Board of Selectmen, a motion was made, seconded, and unanimously Voted to adjourn the meeting at 9:15 p.m.

Prepared by: _____
Pamela J. Witham

Attested by: _____
A. Raymond Randall, Jr.

DRAFT - 2010

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
Planning Board Member for five years

AND, to do this by vote on one ballot. The polls will be open on May 10, 2010 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 3, 2010 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 for fiscal years 2010 and 2011 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 2011 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 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 2010; or take any other action relating thereto.

ARTICLE 7

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 8

To see if the Town will vote to transfer from available funds, or borrow a sum of money for the purpose of funding the Water Enterprise Fund for the remainder of fiscal year 2010; 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 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 Massachusetts General Laws chapter 71, section 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 ten; or take any other action relating thereto.

ARTICLE 12

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 13

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for a designer to undertake a feasibility study relative to the construction of new Town buildings and/or renovations to existing Town buildings at various locations including but not limited to the Town-owned parcel at 30 Martin Street (site of the existing Town Hall/Library building); the Town-owned parcel at 24 Martin Street (site of existing Fire and Police Headquarters); and a vacant portion of a Town-owned parcel abutting John Wise Avenue (presently an un-utilized portion of the Spring Street Cemetery). Said study shall include but not be limited to comparing various options as recommended by the Town Building Committee with options that were considered but not incorporated into the Committee's final recommendation in order to verify the Committee's analysis before returning to the Town Meeting with actual design and construction recommendations; or take any other action relating thereto.

ARTICLE 14

To see if the Town will vote, pursuant to Town of Essex Bylaws, Chapter II, Section 2-20 to consider appointments to the Conomo Point Planning Committee, including the appointment of new members, or the reappointment or termination of current members of the Committee; or take any other action relating thereto.

ARTICLE 15

To see if the Town will vote to transfer from available funds a sum of money to be added to the amount appropriated under Article 6 of the May 4, 2009 Annual Town Meeting; Item 423 Snow and Ice overtime, contractors and expenses for the purpose of funding the fiscal year 2010 deficit; or take any other action relating thereto.

ARTICLE 16

To see if the Town will vote to appropriate or reserve from the Community Preservation Fund, including FY2011 estimated annual revenues, a sum or sums of money for Community Preservation projects or purposes, including acquisitions of interests in land, all as recommended by the Community Preservation Committee; or take any other action relating thereto.

ARTICLE 17

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, "Zoning", as currently in effect, by replacing the entire text of Chapter VI with the text shown in a document entitled "Town of Essex, Massachusetts, Chapter VI of By-Laws, Zoning, Proposed Re-Format 2010", dated March 7, 2010, a copy of which is on file with the Town Clerk and available at www.essexma.org, solely for the purpose of re-organizing and re-arranging the zoning bylaws of the Town without changing current zoning requirements; or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, "Zoning", by inserting the following in the "Definitions" section (which is Section 6-3 of the current Bylaws, and is to be renumbered as Section 6-2.2 upon approval of the "Proposed Re-Format" referenced in Article 17):

BUSINESS

The transaction or carrying on of a trade or commercial enterprise, not manufacturing, operating for profit or for a livelihood, or as a non-profit entity.

; or take any other action relating thereto.

ARTICLE 19

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, "Zoning", by deleting the current definitions of "Dwelling, Multi-Family," "Dwelling, Single Family," "Dwelling, Two-Family," "Dwelling Unit," and "Family" that are contained in the "Definitions" section (which is Section 6-3 of the current Bylaws, and is to be renumbered as Section 6-2.2 upon approval of the "Proposed Re-Format" referenced in Article 17), and inserting the following definitions in place of the deleted provisions (except for the definition of "Family," which is to be deleted and not replaced):

DWELLING, MULTI-FAMILY

A detached building containing three or more dwelling units, other than a trailer or mobile home.

DWELLING, SINGLE FAMILY

A single detached dwelling unit other than a trailer or mobile home.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units, other than a trailer or mobile home.

DWELLING UNIT

A room or suite of rooms providing complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking, and sanitation.

; or take any other action relating thereto.

ARTICLE 20

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, "Zoning", by inserting the following in the "Definitions" section (which is Section 6-3 of the current Bylaws, and is to be renumbered as Section 6-2.2 upon approval of the "Proposed Re-Format" referenced in Article 17):

USE, CHANGE OF

A change of use occurs when the change is from one principal use category to another, as listed in Section 6-3 **Land Use Regulations** of this bylaw.

USE, MIXED

Two or more principal uses occupying the same land or building, each of which is independent of and unrelated to the other.

USE, PRINCIPAL

The main or primary purpose for which land or buildings are arranged or intended, or for which it may be used, occupied, or maintained under this bylaw.

And, further, in the "Definitions" section, to re-title "**ACCESSORY USE**" as "**USE, ACCESSORY**" in order to conform with the titles of other use definitions.

; or take any other action relating thereto.

ARTICLE 21

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, "Zoning", by inserting a new section (to be numbered as Section 6-11 upon approval of the "Proposed Re-Format" referenced in Article 17):

6-11 Southern Conomo Point Zoning District.

6-11.1. Purpose: The purpose of the Southern Conomo Point Zoning District ("SCPZD") is to facilitate the subdivision of the previously developed area south of Robbins Island Road while minimizing disruption to the existing historical building configuration. The SCPZD will institute the building and site development standards of scale, height and density that support the traditional development patterns in the Southern Conomo Point neighborhood while protecting residents from over-development.

6-11.2. Establishment: The SCPZD is a new zoning district shown on the Town's Zoning Map (see Exhibit 1) and is subject to all provisions of Chapter VI of the Essex bylaws except as specifically defined below. Based on the existing land use patterns within the SCPZD, the SCPZD consists of two sub-districts as follows (see Table of Dimensional Regulations following at Section 6-11.6(E)):

- A. Single Family Sub-District
- B. Seasonal Cottage Sub-District

6-11.3. Definitions: In addition to the definitions set forth in Section 6-2.2 of the Zoning By-Law, the following definitions shall apply only in the SCPZD:

Seasonal Cottage – A detached residential dwelling unit, other than a mobile home, of 1½ stories or fewer and 1,800 square feet or under, to be used for seasonal occupancy only between April 15 and October 15 of any given year.

Single Family Dwelling – A detached residential dwelling unit, other than a mobile home, to be used year-round.

Floor Area, Gross – The area of all floors located within the principle structure enclosed within exterior walls, including the thickness of the walls. Unfinished or

finished storage areas, attics, or basements more than 50% above the ground, shall be included as floor area.

Floor Area Ratio (FAR) – The ratio of the Gross Floor Area of all principal structures on a lot divided by the Lot Area as herein defined.

(Example: 3,000 SF Gross Floor Area / 30,000 SF Lot Area = FAR .1)

Lot Building Coverage – The percentage of the Lot Area covered by the area of all roofs on a lot, including all principle and accessory buildings or structures.

(Example: 2,000 SF roof area / 30,000 SF Lot Area = 6.67% Lot Building Coverage)

Impervious Surface Coverage – The percentage of the Lot Area covered by material on the ground which does not allow water to penetrate into the soil, including Lot Building Coverage and all patios, walkways, driveways and parking areas covered with asphalt, concrete, compacted sand, gravel, clay or similar impervious materials.

(Example: 1,200 SF / 6,000 SF Lot Area = 20% Impervious Surface Coverage)

6-11.4. Permitted Principle Uses:

A. Single Family Sub-District – Single Family Dwellings are permitted as of right and may be used year-round.

B. Seasonal Cottage Sub-District – Seasonal Cottages are permitted as of right, but use and occupancy shall be limited to seasonal use only between April 15 and October 15 of any given year.

6-11.5. Permitted Accessory Structures and Uses:

A. Accessory Buildings or Structures – Accessory Buildings or Structures are permitted as of right in both sub-districts, subject to the following limitations:

- a maximum of 2 Accessory Buildings and/or Structures per lot;
- total gross floor area of all Accessory Buildings and/or Structures on each lot shall not be greater than 576 SF;
- maximum permitted height of 15 feet.

B. Home Occupations – Home Occupations are permitted as of right in both sub-districts, subject to the following additional limitations:

- No more than one employee who does not reside in the building or structure;
- No more than one commercial vehicle shall be parked on the property;
- No external display or sale of goods or services shall be permitted.

6-11.6. Dimensional and Density Regulations:

A. General Requirement: All lots, new construction and reconstruction of or additions, alterations or extensions to any principle or accessory buildings or

structures shall comply with the dimensional regulations listed in Table 1 at Section 6-11.6(E).

B. Exceptions: This Section contemplates that new lots will be created through a subdivision to accommodate the principle and accessory buildings or structures in the SCPZD existing at the time of adoption of this Section. The following exceptions to the dimensional regulations in Table 1 at Section 6-11.6(E) shall apply within the SCPZD:

1. East of Conomo Point Road - Notwithstanding the dimensional requirements set forth in Table 1 at Section 6-11.6(E), new lots approximating the currently shown lease areas may be created on the eastern side of Conomo Point Road within the SCPZD (currently identified as Assessor's Map 19, Lots 116, 117 and 118) to accommodate the existing buildings and structures, even if the new lots do not comply with the lot area or frontage requirements in Table 1 at Section 6-11.6(E), and even if the new lot lines render the existing buildings or structures nonconforming – so long as the new lots have a minimum lot area of 3,500 square feet and a minimum frontage of 80 feet and the existing buildings and structures on each such newly created lot comply with minimum front yard and side yard setbacks of 5 feet and a rear yard setback of 1 foot.
2. West of Conomo Point Road - Notwithstanding the dimensional requirements set forth in Table 1 at Section 6-11.6(E), new lots complying with the lot area and frontage requirements in Table 1 at Section 6-11.6(E) may be created within the areas of the SCPZD west of Conomo Point Road to accommodate the existing buildings and structures, even if the new lot lines render the existing buildings or structures nonconforming.

C. Regulation of Nonconforming Lots and Structures: All newly-created nonconforming lots created pursuant to this Section and all existing buildings and structures rendered nonconforming as a result of the newly-created lots created pursuant to this Section are hereby deemed to be lawful nonconforming lots and lawfully existing nonconforming buildings or structures. Future reconstruction, alterations, extensions and/or additions to such nonconforming lots and buildings/structures are subject to the following:

1. As-of-Right Changes: Any reconstruction, alteration, extension or addition to any existing nonconforming building or structure (including any structure on a nonconforming lot) that conforms to the dimensional requirements listed in Table 1 at Section 6-11.6(E) and does not increase any existing nonconformity shall be permitted as-of-right.
2. Variance Changes:
 - (a) Any extension of an existing building or structure that is on a lot that does not comply with the lot area or frontage requirements in Table

1 at Section 6-11.6(E) shall be deemed to increase the nonconforming nature of the structure and shall require a variance from the Board of Appeals.

(b) Any reconstruction, alteration, extension or addition to an existing nonconforming building or structure that does not conform to the dimensional requirements listed in Table 1 at Section 6-11.6(E) or increases any nonconformity shall require a variance from the Board of Appeals.

(c) Any reconstruction, alteration, extension or addition to a building or structure on a nonconforming lot created on the eastern side of Conomo Point Road pursuant to 6-11.6(B)(1) shall require a variance from the Board of Appeals.

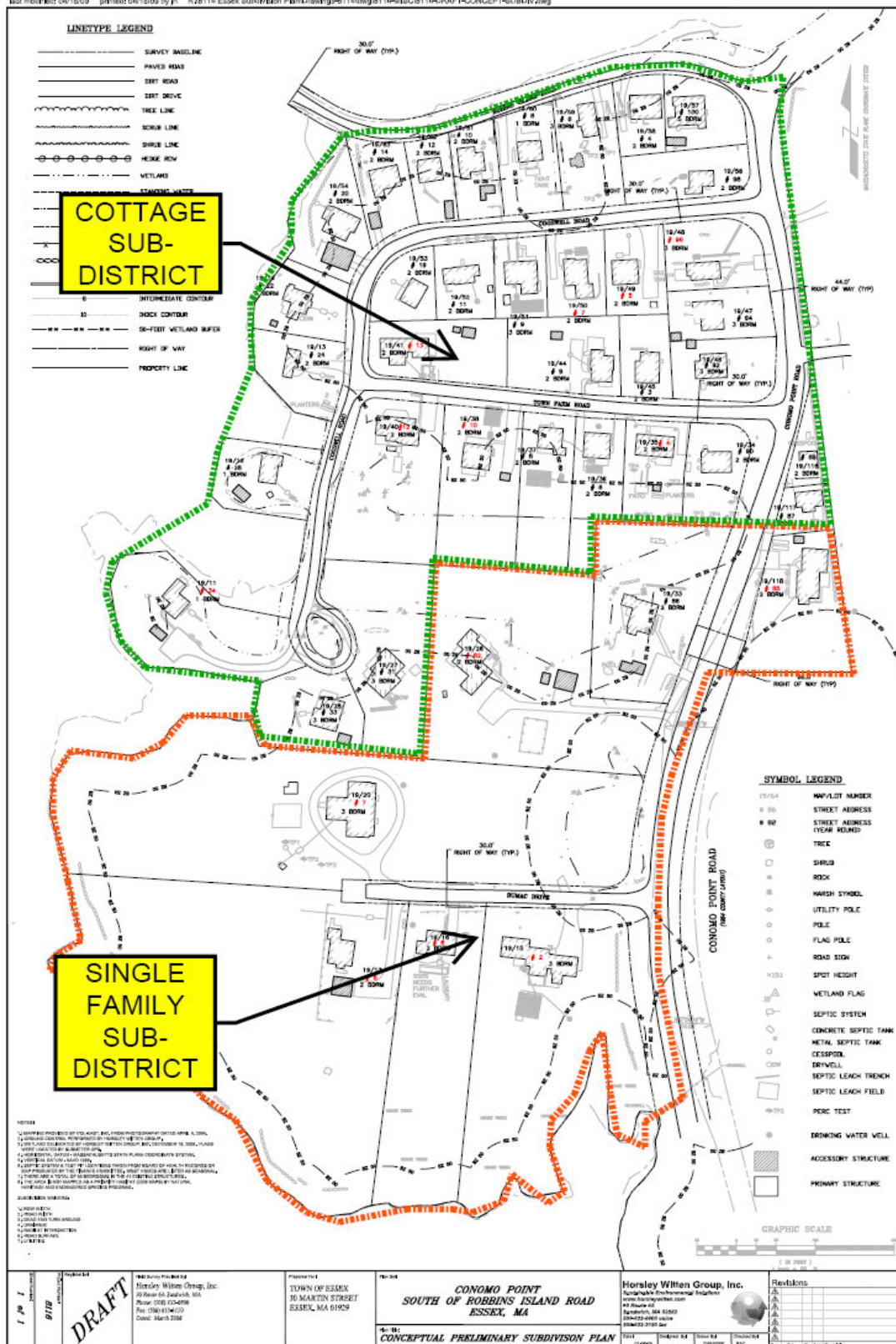
D. Merger: Within the SCPZD, adjoining lots that are held in common ownership shall retain their status as separate lots, and shall not be deemed to have merged into a single lot for purposes of zoning solely on the basis of such common ownership.

E. Table of Dimensional Regulations:

Table 1 – Dimensional Regulations – Permitted As-of-Right:

Sub-District		A	B
Dimensional Controls		Single Family Sub-District	Seasonal Cottage Sub-District
1	Minimum Lot Size in square feet	30,000	6,000
2	Minimum Frontage in feet	100	60
3	Minimum Front Yard Setback in feet	25	15
4	Minimum Side Yard Setback in feet	25	10
5	Minimum Rear Yard Setback in feet	25	25
6	Maximum Height in feet	20	15
7	Maximum Floor Area Ratio	.1	.2
8	Maximum Lot Building Coverage	5%	15%
9	Maximum Impervious Surface Coverage	10%	20%
10	Maximum Number of Stories	2	1.5

EXHIBIT 1 - SOUTHERN CONOMO POINT - DRAFT ZONING MAP



ARTICLE 22

To see if the Town will vote to amend the Town of Essex Bylaws by adding a new section to Chapter IV to be known as "Section 4-15. DEMOLITION DELAY/REVIEW." as follows:

4-15. DEMOLITION DELAY/REVIEW.

4-15.1 Intent and Purpose.

The purpose of this bylaw is to encourage the preservation and protection of significant buildings and structures within the Town of Essex that constitute or reflect distinctive features of the Town's architectural, cultural, economic, political or social history and to limit the adverse effect that demolition may have on the character of the Town.

(Italics in the following sentences indicate terms defined in the next section).

Under this bylaw, *applicants* for *permits to demolish* any *building* or *structure* deemed *preferably preserved* are encouraged to pursue alternatives to demolition that will preserve, rehabilitate or restore the building or structure, and to alert residents to impending demolition of buildings or structures that are deemed preferably preserved. To achieve this purpose, the *Commission* is empowered to advise the *Building Inspector* with respect to applications for *Permits to Demolish*. The issuance of Permits to Demolish is regulated as provided by this bylaw.

4-15.2 Definitions.

The terms that follow shall have the meanings set forth below unless context requires otherwise:

1. ***Applicant.*** Any person or entity that files an application for a Permit to Demolish. If the applicant is not the owner of the building or structure specified in the application, the owner's assent shall be filed with or attached to it.
2. ***Building.*** A combination of materials constructed to provide shelter to persons, animals or property.
3. ***Structure.*** A combination of materials assembled at a fixed location intended to provide support or access such as a bridge, trestle, tower, cribwork, retaining wall, streetscape or the like.
4. ***Building Inspector.*** The Building Inspector of the Town of Essex or any other person who may be authorized to issue a Permit to Demolish.
5. ***Commission.*** The Historical Commission of the Town of Essex or its designee.
6. ***Demolition.*** The act of pulling down, destroying, removing, dismantling or razing a building or structure or the commencement of work of total or partial demolition with intent of completing the same.
7. ***Permit to Demolish.*** The permit issued by the Building Inspector for the demolition of a building or structure.
8. ***Significant Building or Structure.*** Any building or structure within the Town of Essex that is in whole or in part at least fifty years old and has

been determined by the Commission to be significant based upon any one or more of the following criteria:

- The building or structure is listed on, or is within an area listed on, The National Register of Historic Places; or
- The building or structure has been deemed eligible for inclusion on The National Register of Historic Places; or
- The building or structure is importantly associated with one or more historic events or persons or is associated with the architectural, cultural, political, economic or social history of the Town of Essex or the Commonwealth of Massachusetts; or
- The building or structure is historically or architecturally important (in terms of period, style or method of its construction); or
- The building or structure is associated with a recognized architect or builder either by itself or in the context of a group of buildings or structures.

9. ***Preferably Preserved.*** Any significant building or structure that, by the determination of the Commission and following a public hearing, is deemed best preserved rather than demolished. Demolition of a preferably preserved building or structure is subject to a six (6) month delay period under this bylaw.

4-15.3 Procedure.

1. All applications for a permit to demolish a building or structure in the Town of Essex (whatever its age) shall include the actual (or if not ascertainable, the estimated) date or dates of construction.
2. A Permit to Demolish for a building or structure that is in whole or in part at least fifty (50) years old shall be issued only in accordance with the provisions of this bylaw. If a building or structure is of unknown age, it shall be assumed to be at least fifty years old for the purposes of this bylaw.
3. An applicant proposing to demolish a building or structure in the Town of Essex any part of which is at least fifty years old shall file with the Building Inspector (in duplicate) an Application for a Permit to Demolish containing (at a minimum) the following:
 - The physical address of the building or structure to be demolished;
 - The owner's name, address and telephone number;
 - A written description of the building or structure;
 - The reason for requesting a Permit to Demolish;
 - The reason the applicant believes the building or structure is not significant or is not preferably preserved, if that is the applicant's position;
 - A written description of the reuse, reconstruction or replacement, if any;
 - Such plans and specifications as shall be required by the Building Inspector; and

- Photographs of the building or structure to be demolished. These shall include at least one photograph of each building or structure elevation.
- 4. The Building Inspector shall within seven (7) days of receipt forward a copy of the application to the Commission.
- 5. The Commission shall within fifteen (15) days of its receipt of the application determine in writing whether or not the building or structure is significant.
- 6. Should the Commission determine that the building or structure is not significant, the Commission shall notify both the Building Inspector and applicant in writing. The Building Inspector may then issue a Permit to Demolish provided that all other applicable requirements have been met.
- 7. Should the Commission determine that the building or structure is significant, the Commission shall so notify the Building Inspector and applicant in writing, and a Permit to Demolish shall not be issued at that time. If the Commission does not notify the Building Inspector within fifteen (15) days of its receipt of the application, the Building Inspector may issue a Permit to Demolish provided that all other applicable requirements have been met.
- 8. If the Commission finds that the building or structure is significant, it shall hold a public hearing within thirty (30) days after its written notification to the Building Inspector.

9. Public notice of the time, place and purpose of the hearing shall be published in a newspaper of general circulation in the Town of Essex at the applicant's expense and posted in a conspicuous place in Town Hall at least seven (7) days before the hearing. The Commission shall also notify the Building Inspector and the applicant in writing of the time and place of the hearing.
10. The Commission shall decide at the hearing or within thirty days after completion of the hearing whether the building or structure is preferably preserved. To the extent agreed to by the applicant, the determination of the Commission may be postponed.
11. If the Commission determines that the building or structure is not preferably preserved, the Commission shall promptly give written notice of its determination to the Building Inspector and the applicant. The Building Inspector may then issue the Permit to Demolish provided that all other applicable requirements have been met.
12. If the Commission determines that the building is preferably preserved, the Commission shall promptly give written notice of its determination to the Building Inspector and the applicant. No Permit to Demolish may be issued for a period of six (6) months from the date of the Commission's determination unless agreed to by the Commission.
13. If the Commission does not, within thirty days after completion of its hearing, provide the Building Inspector written notice that it has determined that the building or structure is preferably preserved, the

Building Inspector may issue the Permit to Demolish provided that all other applicable requirements have been met.

14. No Permit to Demolish a preferably preserved building or structure may be issued until all plans for future use and development have been filed with the Building Inspector and the Commission, and have been found to be in compliance with all laws pertaining to the issuance of a Building Permit. All approvals necessary for the issuance of a Building Permit including without limitation any zoning variances or special permits must be granted and all appeals to the granting of such approval must be concluded prior to the issuance of a Permit to Demolish.

15. Subject to the requirements of Section 14 and any other applicable requirements, the Building Inspector may issue a Permit to Demolish for a preferably preserved building within the six months if the Commission notifies the Building Inspector in writing that the Commission, after further review and receipt of updated plans, finds that the intent and purpose of this bylaw are served.

16. Subject to the requirements of Section 14 and any other applicable requirements, and following the six-month delay period, the Building Inspector may issue the Permit to Demolish.

4-15.4 Administration.

1. After appropriate notice and a public hearing, the Commission may adopt such rules and regulations it considers appropriate for the administration of this bylaw.

2. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw.
3. The Commission may delegate authority to make initial determinations of significance to one or more of its members or to a municipal employee.
4. The Commission may adopt and from time to time amend a list of one or more buildings or structures or both that it has determined are significant.

4-15.5 Emergency Demolition.

If after an inspection, the Building Inspector finds that a building subject to this bylaw poses a threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, the Building Inspector may issue an Emergency Permit to Demolish. The Building Inspector shall promptly submit a report to the Commission explaining the condition of the building and the basis for his decision.

4-15.6 Enforcement and Remedies.

The Commission and/or the Building Inspector are each specifically empowered to institute any and all actions and proceedings, in law or in equity, that they may deem necessary or appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.

Any person who has demolished or has authorized or agreed to the demolition of a significant building or structure without complying with the provisions of this bylaw shall be subject to a fine of three hundred dollars (\$300). Each day the violation exists shall constitute a separate offense until a faithful restoration of the building or structure is completed or unless agreed otherwise by the Commission.

Such violations may be enforced by the noncriminal procedure authorized by M.G. L. c. 40, sec. 21D and included in Sec. 2-21 of the Town Bylaws.

If a significant building or structure is demolished and the owner or any other person responsible for the demolition has not complied with this bylaw, no Building Permit shall be issued for a period of two (2) years from the date of demolition on the parcel of land where the building or structure was located or any adjoining parcel of land under common ownership and control, unless the Building Permit is for faithful restoration as referred to above or unless agreed otherwise by the Commission.

4-15.7 Severability.

If any provision of this bylaw is ruled invalid by a court, this bylaw shall be deemed amended to the extent necessary to remove the invalidity and as so amended shall continue in full force and effect.

; or take any other action relating thereto.

ARTICLE 23

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 a new, equipped ambulance; and further to authorize the Board of Selectmen to dispose of any equipment that might be replaced by the new equipment by trade or sale for such price as is deemed reasonable by the Board of Selectmen; or take any other action relating thereto.

ARTICLE 24

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for a consultant to develop concept plans for "pocket parks" in the downtown "village" area of the Town in the vicinity of the causeway on Main Street; or take any other action relating thereto.

ARTICLE 25

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter IV, Section 4-

4A.6, that 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. The fee for a temporary mooring permit is \$10.00. The fee for a transient mooring permit is \$25.00 per day per vessel.

By increasing the per-foot fee to \$6.00 and the minimum fee to \$90.00 as follows:

4-4A.6 The fee for a mooring permit is \$6.00 per foot per vessel per year with a minimum total fee of \$90.00. 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. The fee for a temporary mooring permit is \$10.00. The fee for a transient mooring permit is \$25.00 per day per vessel.

; or take any other action relating thereto.

ARTICLE 26

To see if the Town will vote to increase the transfer station sticker fee from \$100 to \$150 per year for residents under the age of 65 with a corresponding increase in the cost of a transfer station sticker for residents who are 65 years of age or older from \$50 to \$75 per year; or take any other action relating thereto.

ARTICLE 27

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 28

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 2011 in accordance with the terms of repayment for Community Septic Management Program loan funds; or take any other action relating thereto.

ARTICLE 29

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 30

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to authorize a revolving fund for the Dog Officer for the purpose of compensating the Dog Officer for the care of impounded dogs and for reimbursing the Dog Officer for all associated expenses. Payments from dog owners seeking to claim impounded dogs shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Selectmen up to a maximum of \$10,000; or take any action thereto.

ARTICLE 31

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Board of Health for the purpose of purchase of supplies and services as deemed necessary by the Board of Health for the purpose of the planning and execution of an annual youth triathlon or other exercise program. Donations, grants and fees collected for said purpose shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Health up to a maximum of \$12,000; or take any action thereto.

ARTICLE 32

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Board of Health for the purpose of purchase of supplies and services as deemed necessary by the Board of Health Department for the purpose of health, safety, and/or emergency planning, preparation and education. Donations, grants and fees collected for said purpose 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 33

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Board of Health for the purpose of purchasing supplies and pharmaceuticals as needed by the Public Health Nurse and for the payment of Public Health Nurse wages. Medicare and other reimbursements relating to said programs and donations for the purpose of purchasing supplies and pharmaceuticals and for Public Health Nurse labor 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.

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 XX day of X, two thousand ten.

Jeffrey D. Jones, Chairman

DRAFT

Mark W. Lynch

A. Raymond Randall, Jr.

BOARD OF SELECTMEN
TOWN OF ESSEX

Attest:

Constable

Date:
