

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 Monday, 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.

Moderator Rolf P. Madson turned over the podium to the Deputy Moderator, David J. Lane.

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 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 22

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 23

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; said consultant to report to the Board of Selectmen; or take any other action relating thereto.

ARTICLE 24

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 25

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 26

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 27

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 28

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 29

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 30

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 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 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 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 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 29th day of March, two thousand ten.

Jeffrey D. Jones, Chairman

Mark W. Lynch

A. Raymond Randall, Jr.

BOARD OF SELECTMEN
TOWN OF ESSEX

Attest: _____
Constable

Date:

