

**Minutes to the 193rd
Annual Town Meeting
of the Town of Essex**

May 7 & 9, 2012

The 193rd Annual Town Meeting of the Town of Essex was called to order at 7:30 p.m. by Moderator Rolf P. Madsen. A quorum of over 300 voters was present at the time.

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:

Assessor for three years
Moderator for one year
Selectman for three years
Board of Health member for three years
Two Constables for one year
School Committee member for three years
School Committee member to fill a vacancy for one year
Board of Library Trustee for three years
Planning Board Member for five years
Housing Authority Member for five years

AND, to bring in their votes on the following questions:

Shall the Town of Essex be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds to be issued in order to acquire real property for the relocation of the Town offices from the present Town Hall at 30 Martin Street and for the design, construction, reconstruction, renovation and improvement of such property for use as town offices, including the furnishing and equipping of such offices, moving expenses, site improvements, and all other costs incidental or related to the project?

_____ Yes _____ No

Shall the Town of Essex be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds to be issued in order to make renovations to the Town Hall and Library building at 30 Martin Street to improve health, safety, and the working environment?

_____ Yes _____ No

Shall the Town of Essex be allowed to assess an additional \$190,000 in real estate and personal property taxes for the purpose of the purchase, refurbishment, and equipping of a used aerial ladder truck for the Fire Department and for any renovations to the Fire Station necessary to accommodate said truck, for the fiscal year beginning July 1, 2012?

_____ Yes _____ No

AND, to do this by vote on one ballot. The polls will be open on Monday, May 14, 2012 at 7:00 o'clock A.M. and will close at 8:00 o'clock P.M. at the Essex Fire and Police Headquarters.

The following people were appointed as tellers: Wendy Fossa, Karen Greene, Dawn Burnham, Sandy Ginn, Priscilla Doucette, Rosemarie Carr, Carolyn Knowlton, Diane Patrician, Genevieve Guerin and Nancy Muniz.

There were no objections made to the tellers appointed.

A motion was made and duly seconded to waive the reading of the warrant.

Voted unanimously.

A motion was made and duly seconded to appoint David J. Lane as the deputy moderator.

There were no objections made to the deputy moderator appointment.

ARTICLE 1: TO TRANSFER LOTS AT SOUTHERN CONOMO POINT FOR SALE

Motion made by Jeffrey Jones, duly seconded, that the Town vote to transfer the 41 numbered lots depicted on the approved Definitive Subdivision Plan, Southern Conomo Point which is on file with the Essex Town Clerk, from the Conomo Point Commissioners for purposes of lease to the Board of Selectmen for the purpose of conveyance, and further, to authorize the Board of Selectmen to convey any or all of said lots, and to authorize the Board of Selectmen, in their capacity as Conomo Point Commissioners, to enter into all agreements and to execute any and all instruments as may be necessary or convenient on behalf of the Town to affect said conveyance, subject to terms and conditions as the Board of Selectmen deem appropriate. This vote is subject to the passage of Special Legislation allowing for a certain degree of preference for the present Conomo Point tenants and the approval of the November 14, 2011 amendment to the Conomo Point Procurement Bylaw that is presently pending with the Office of the Attorney General.

Discussion on the motion ensued.

Motion made by Annie Cameron, duly seconded, to amend Article 1 by adding to the end of the motion after the word "appropriate," as a new sentence: "This vote is also subject to the Town receiving, in the aggregate, at least the sum of the "as if vacant land only" values for said lots as contained within the real estate appraisal report of Mark F. Tyburski dated April 30, 2012 as amended May 4, 2012.

Discussion on the motion ensued.

Motion fails.

Discussion on the initial motion continued.

Motion made and duly seconded to move the question.

Motion carries.

Voice vote taken. Moderator is in doubt and called for a counted vote.

Motion made Jeffrey Jones, duly seconded, to consider articles 7-10 while the vote for Article 1 is being counted.

Motion carries.

ARTICLE 7: ELECTION OF TOWN OFFICERS

Motion made by Jeffrey Jones, duly seconded, that the Town authorize the Board of Selectmen to appoint a Surveyor of Bark and Lumber.

Voted by the majority.

ARTICLE 8: REPORT OF TOWN OFFICIALS

Motion made by Susan Gould-Coviello, duly seconded, that the Town receive the Reports of the Town Officials, Boards and Committees contained in the Annual Town Report with the following correction: that the standing vote counts found on page 93 be corrected to read “Yes – 152” and “No - 73.”

Voted unanimously.

ARTICLE 9: FISCAL YEAR 2013 WAGE AND SALARY SCALE

Motion made by Mark Osburn, duly seconded, that the Town vote to approve the Wage and Salary scale for fiscal year 2013 in accordance with the recommendations of the Personnel Board Report.

Voted by the majority.

ARTICLE 10: COMPENSATION OF ELECTED OFFICERS

Motion made by Mark Osburn, duly seconded, that the Town 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 2013 in accordance with the recommendations of the Personnel Board Report.

Voted unanimously.

Motion made by James Horrocks, duly seconded, to consider Article 33 before Article 2.

Voted by the majority.

ARTICLE 33: UNPAID BILLS

Motion made by James Horrocks, duly seconded, that Article 33 be indefinitely postponed.

Voted unanimously.

Motion made by Susan Gould-Coviello, duly seconded, we postpone consideration of the remainder of the warrant until after the return of the count on Article 1.

Motion carries.

The Moderator called for a ten minute recess.

The meeting reconvened.

Results of counted vote on Article 1:

Yes – 253

No – 197

Motion fails.

Motion made by Stuart Pratt, duly seconded, that Article 1 be reconsidered.

Discussion on the motion ensued.

Standing counted vote for reconsideration of Article 1:

Yes – 301

No – 71

Motion carries.

Motion made by Jeffrey Jones, duly seconded, that the Town vote to amend Article 1 by adding the words “this vote is subject to the Town receiving a minimum total sale price of \$8,308,000.”

Discussion on the amendment ensued.

Motion made by Jeffrey Jones, duly seconded, that his previous amendment be withdrawn.

Motion carries.

Motion made by Lisa O'Donnell, duly seconded, to amend the main motion by requiring the Selectmen to collect at least the "as if vacant value" for each lot as determined by Mr. Tyburski, the appraiser.

Discussion on the amended motion ensues.

Motion made by Dave Lenzi, duly seconded, to move the question.

Motion fails.

Discussion on the amended motion continues.

Motion made by Raymond Randall, duly seconded, to move the question.

Declared 2/3rd vote.

Vote to accept the motion as amended.

Motion carries.

Motion made by Raymond Randall, duly seconded, to move the question.

Motion carries.

Standing counted vote of the reconsideration of Article 1, as amended:

Yes – 296

No – 99

Motion carries.

ARTICLE 2: NORTHERN CONOMO POINT ZONING DISTRICT

Motion made by Mark Lynch, duly seconded, to refer this article back to the Planning Board for further study.

Voted unanimously.

Motion made and duly seconded at 11:17 p.m. to recess the meeting until 7:30 p.m. on Wednesday, May 9, 2012 at the Essex Elementary School.

Motion carries.

The meeting reconvened on Wednesday, May 9, 2012 at the Essex Elementary School gymnasium and with a quorum of over 200 voters being present was called to order at 7:30 pm.

ARTICLE 3 – CONSULTANT FOR WATERFRONT DESIGNS AND ACCESS

Motion made by, Lisa J. O'Donnell, duly seconded, that the Town vote to raise and appropriate the sum of \$50,000 for the funding of a consultant to provide the Board of Selectmen and Conomo Point Planning Committee with various future waterfront access designs and scenarios.

Voted by the Majority.

ARTICLE 4 – FUNDS TO IMPLEMENT PHYSICAL RENOVATIONS TO SCPZD

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to raise and appropriate the sum of \$70,000 to implement any physical renovations to the Town’s property at Conomo Point that are required by the Planning Board’s approval of the Definitive Subdivision Plan, Southern Conomo Point.

Voted by the Majority.

ARTICLE 5 – FUNDS FOR MAINTENANCE OF PROPERTY AT CONOMO POINT

Motion made by Susan Gould-Coviello, duly seconded, that the Town vote to raise and appropriate the sum of \$50,000 for the management of property at Conomo Point including but not limited to renovation, demolition, and contents management of structures and maintenance of all outdoor areas.

Voted by the Majority.

ARTICLE 6 – NOMINATIONS TO THE CONOMO POINT PLANNING COMMITTEE

Motion made by, Lisa J. O’Donnell, duly seconded, to open the floor for nominations for the vacancy on the Conomo Point Planning Committee.

Michael Dyer and Gail Pepe are nominated.

Counted Vote: Dyer: 132
Pepe: 103

Michael Dyer wins the seat on the Committee.

Note to reader: Articles 7-10 were visited earlier in the meeting, prior to Article 2.

Motion made by Gregory Carroll, duly seconded, to consider Article 14 at this time.

Voted by the Majority.

ARTICLE 14 – REGIONAL SCHOOL SYSTEM BUDGET

Motion made by Susan Gould-Coviello, duly seconded, that the Town vote to raise and appropriate the sum of \$6,329,146 to fund the Town’s assessment from the Manchester Essex Regional School 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 twelve.

Voted by the Majority.

ARTICLE 11 – FINANCE COMMITTEE REPORT

Motion made by Jeffrey Soulard, duly seconded, that the Town vote to appropriate the sum of \$6,004,190 and to a) raise by taxation the sum of \$1,013,609 for debt repayment, principal and interest; b) transfer from the Cemetery Sale of Lots Fund the sum of \$11,400 to the Cemetery Budget; c) transfer from the Cemetery Lot Care Fund the sum of 15,800 to the Cemetery

Budget; d) transfer from the Cemetery Perpetual Care Fund the sum of \$300 to the Cemetery Budget; e) transfer from the Wetlands Protection Fund the sum of \$3,500 to the Conservation Commission Budget; f) transfer from free cash the sum of \$234,863 to the Health Insurance Budget; g) transfer from the Overlay Surplus to the Health Insurance Budget the sum of \$21,410; h) transfer from the Ambulance Fund the sum of \$75,112 to the Ambulance Budget; i) to raise and appropriate by taxation the sum of \$ 4,628,196 to be allocated between the salaries and expenses of the Town according to the remaining budget items as indicated in the Finance Committee Report.

Voted Unanimously.

ARTICLE 12 – SEWER ENTERPRISE FUND BUDGET

Motion made by Paul Rullo, duly seconded, that the Town vote to appropriate the sum of \$1,894,326 for the Sewer Enterprise Fund Budget as follows: a) debt repayment, principal and interest – the sum of \$990,891 from sewer betterments and the sum of \$293,691 to be raised by taxation; and b) funds to be allocated between the salaries and expenses of the Wastewater Department – \$549,744 from departmental receipts and the sum of \$60,000 from Sewer Enterprise Fund Free Cash; all as indicated in the Finance Committee Report.

Voted Unanimously.

ARTICLE 13 – WATER ENTERPRISE FUND BUDGET

Motion made by Paul Rullo, duly seconded, that the Town vote to appropriate the sum of \$706,646 for the Water Enterprise Fund Budget as follows: a) debt repayment, principal and interest – the sum of \$13,556 from water betterments and the sum of \$55,856 from departmental receipts; and b) funds to be allocated between the salaries and expenses of the Water Department – \$637,234 from departmental receipts; all as indicated in the Finance Committee Report.

Voted Unanimously.

Note to reader: Article 14 was visited earlier in the meeting prior to Article 11.

ARTICLE 15 – NORTH SHORE REGIONAL VOCATIONAL SCHOOL DISTRICT

Motion made by George Harvey, duly seconded, that the Town vote to raise and appropriate the sum of \$74,630 to pay the Town's share of the costs of the North Shore Regional Vocational School District for the fiscal year commencing July 1, 2012.

Voted Unanimously.

ARTICLE 16 – SEWER SERVICE AREA BYLAW

Motion made by Trescott DeWitt, duly seconded, that Article 16 be indefinitely postponed.

Voted Unanimously.

ARTICLE 17 – SEWER SERVICE MORATORIUM

Motion made by Trescott DeWitt, duly seconded, that the Town vote to amend Section 7-7.5 of the Town of Essex Bylaws by replacing the year 2012 with the year 2013 in both instances.

Voted Unanimously.

ARTICLE 18 – ZONING BYLAW DEFINITION CHANGE – “ABUTTER”

Motion made by Westley Burnham, duly seconded, that Article 18 be indefinitely postponed.

Voted Unanimously.

ARTICLE 19 – ZONING BYLAW DEFINITION CHANGE – “STREET”

Motion made by Westley Burnham, duly seconded, that the Town vote to amend Chapter 6, Section 6-2.2 of the Town of Essex Bylaws as indicated under Article 19 in the warrant.

As appeared under Article 19 in the warrant:

To see if the Town will vote to amend Chapter 6, Section 6-2.2 of the Town of Essex Bylaws by deleting the definition of “street”, which presently reads:

A public thoroughfare 30 feet or more in width established or maintained under public authority or a recorded way plotted and laid out for public use and which affords principle means of access to abutting property. No new street shall be less than 44 feet in width;

and by replacing it with the following:

A public thoroughfare 30 feet or more in width established or maintained under public authority or a recorded way plotted and laid out for public use and which affords principal means of access to abutting property. No new street should be less than 44 feet in width;

Declared 2/3rd vote.

ARTICLE 20 – ZONING BYLAW CHANGE – FLOOD PLAIN OVERLAY DISTRICT

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to amend the Town of Essex Bylaws Chapter 6-10.2 Flood Plain Overlay District as indicated under Article 20 in the warrant.

Motion Fails.

The Moderator rules that Article 21 and Article 22 may be discussed together, as the discussion relates to both Articles. They will be voted on individually.

ARTICLE 21 – PURCHASE OF A NEW BUILDING FOR TOWN HALL

Motion made by Lisa O'Donnell, duly seconded, that the Town vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain, real property in the Town of Essex known as 74 Martin Street and appearing as Lot 96 on Essex Assessors' Map 36 for the relocation of the Town offices from the present Town Hall at 30 Martin Street and to enter into all such agreements necessary in connection with such purpose, subject to terms and conditions as may be established by the Board of Selectmen; and further that the Town vote to appropriate the sum of \$1,100,000 for such acquisition and for the design, construction, reconstruction, renovation and improvement of such property for use as town offices, including the furnishing and equipping of such offices, moving expenses, site improvements, and all other costs incidental or related to the project; and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,100,000 under G.L. c.44, §7(3) and (3A) or any other enabling authority; and that the Board of Selectmen is authorized to take any other action necessary

necessary to effectuate the purposes of this vote.

Standing Counted Vote: Yes: 158
 No: 17
 Motion carries.

ARTICLE 24 – SOLID WASTE CONTRACT

Motion made by Trescott DeWitt, duly seconded, that the Town vote to authorize the Board of Selectmen to enter into a contract extension with Covanta Haverhill, Inc., for a term of ten years, for the receipt, processing, and disposal of municipal solid waste and the operation of the Town's transfer station.

Voted Unanimously.

ARTICLE 25 – TRANSFER STATION STICKER FEE

Motion made by Trescott DeWitt, duly seconded, that the Town vote to increase the transfer station sticker fee from \$150 to \$170 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 \$75 to \$85 per year.

Voted by the majority.

ARTICLE 26 – TRANSFER STATION BULK ITEM FEE

Motion made by Trescott DeWitt, duly seconded, that the Town vote, pursuant to Chapter 7-2 of the Town's General Bylaws, to establish a \$10 per item transfer station fee for the disposal of bulky items, including but not limited to mattresses, box springs, couches, love seats, recliners, large rugs, tables, large toys, or any other large items that transfer station personnel determine large enough to inhibit efficient compaction.

Voted by the majority.

ARTICLE 27 – PARKING PROHIBITIONS BYLAW UPDATE

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to amend the Town of Essex Bylaws, Chapter V, Article 4, Section 1, Subsection o as indicated under Article 27 in the warrant.

As appeared under Article 27 in the warrant:

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter V, Article 4, Section 1, Subsection o, which presently reads:

o. 30-minute maximum parking on the north side (Joe's Market side) of Martin St. from Route 133 (Main St.) to the west side of Winthrop; 30-minute maximum parking both sides of Pickering St. for 100 feet north of Martin St; 30-minute maximum parking both sides of Winthrop St. for 100 feet north of Martin St.; no parking on the south side of Martin St. from Route 133 (Main St.) to the fire station.

by deleting “(Joe’s Market side)” and replacing it with “(odd-numbered side)”; or take any other action relating thereto.

Voted by the majority.

ARTICLE 28 – LOCAL ACCEPTANCE OF M.G.L. CH. 272 § 73A

Motion made by Susan Gould-Coviello, duly seconded, that the Town vote to accept the Provisions of §73A of Chapter 272 of the General Laws, allowing for the removal of gravestones and other memorials for repair or reproduction.

Voted unanimously.

ARTICLE 29 – COMMUNITY PRESERVATION FUND

Motion made by Vickie Cataldo, duly seconded, that the Town appropriate or reserve from Fiscal Year 2013 Community Preservation Fund estimated annual revenues, or other available funds, all as specified on the Community Preservation Act Town Meeting Handout, the amounts recommended by the Community Preservation Committee for Open Space Reserve, Historic Resources Reserve, Community Housing Reserve, Budgeted Reserve, administrative expenses, and specific projects.

Voted by the majority.

ARTICLE 30 – OUTBOARD MOTOR FOR HARBORMASTER DEPARTMENT

Motion made by Westley Burnham, duly seconded, that the Town transfer from the Waterways Fund the sum of \$7,400 for the purchase and installation of a new outboard motor for the Harbormaster Department; or take any other action relating thereto.

Voted by the Majority.

ARTICLE 31 – PURCHASE OF A BACKHOE

Motion made by Paul Rullo, duly seconded, that the Town transfer from Sewer Enterprise Free Cash the sum of \$29,700 and from Water Enterprise Free Cash the sum of \$29,700 to purchase a fully-equipped backhoe, and to authorize the Board of Public Works to enter into a purchase agreement on such terms and conditions as the Board deems in the best interest of the Town in order to replace one of the existing backhoes; and to authorize the Board of Public Works to dispose of the backhoe replaced by the new backhoe by sale or trade and to take other action as necessary to effectuate the purposes of this vote.

Voted by the Majority.

ARTICLE 32 – FREE CASH TRANSFER TO RESERVE FUND

Motion made by Gordon Martin, duly seconded, that the Town transfer from free cash the sum of \$30,000 to be used to replenish the Finance Committee's Reserve Fund for the remainder of fiscal year 2012.

Voted Unanimously.

Note to reader: Article 33 was visited earlier in the meeting prior to Article 2.

ARTICLE 34 – RESCIND A PREVIOUS BORROWING AUTHORIZATION

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to rescind the \$426,347 unissued portion of the following borrowing authorization: Article 10, Annual Town Meeting of May 1, 2000, Sewer System Funding.

Voted Unanimously.

ARTICLE 35 – FUND A DEFICIT IN TOWN’S CHAPTER 90 FUND

Motion made by Paul Rullo, duly seconded, that the Town vote to transfer from Free Cash the sum of \$1,136.66 to fund a deficit in the Town’s Chapter 90 Fund.

Voted Unanimously.

ARTICLE 36 – REPAYMENT FOR COMMUNITY SEPTIC MANAGEMENT PROGRAM LOANS

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to transfer from the Town Septic Betterment Fund the sum of \$26,242 for the purpose of making necessary payments to the Massachusetts Water Pollution Abatement Trust during fiscal year 2013 in accordance with the terms of repayment for Community Septic Management Program loan funds.

Voted Unanimously.

ARTICLE 37 – REVOLVING FUND FOR THE DOG OFFICER

Motion made by Jeffrey D. Jones, move that the Town vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize 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.

Voted Unanimously.

The Moderator allows Articles 38-40 be read together at the request of the reader.

ARTICLE 38 – YOUTH TRIATHLON REVOLVING FUND

Motion David Driscoll, move that the Town 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.

Voted by the majority.

ARTICLE 39 – BOARD OF HEALTH REVOLVING FUND

Motion made by David Driscoll, duly seconded, that the Town 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.

Voted by the majority.

ARTICLE 40 – PUBLIC HEALTH NURSE REVOLVING FUND

Motion made by David Driscoll, duly seconded, that the Town 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.

Voted by the majority.

Motion made and duly seconded to dissolve the meeting at 11:10pm.

Voted Unanimously.

A true copy.

Attest: _____
Christina J. Wright, Town Clerk