

2017
Commonwealth of Massachusetts
Town of Essex
Warrant for Special Town Meeting

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet in said Essex at the Essex Elementary School on Monday, November 13, 2017 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 amend Section 2-1.1a of the Town bylaws, which presently reads:

2-1.1a FALL TOWN MEETING. A fall town meeting shall be held in November, exactly two Mondays preceding Thanksgiving, and shall begin not earlier than 7:30 p.m.

by deleting the existing text and replacing it with the following:

2-1.1a FALL TOWN MEETING. A fall town meeting shall be held in November, exactly two Mondays preceding Thanksgiving, unless that Monday is the day that Veterans' Day is observed by the Commonwealth of Massachusetts in a particular year, in which case the date of the Fall Town Meeting shall be chosen by the Board of Selectmen. The Fall Town Meeting shall begin not earlier than 7:30 p.m.

; or take any other action relating thereto.

ARTICLE 2

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the management of property at Conomo Point including but not limited to renovation, demolition, and management of structures and maintenance and outfitting of all outdoor areas; or take any other action relating thereto.

ARTICLE 3

To see if the Town will vote to transfer the following, Town-owned properties from the Board of Selectmen, acting as Conomo Point Commissioners, which properties are currently held for purposes of lease, to the Board of Selectmen, acting as Conomo Point Commissioners, for general municipal purposes:

9 Beach Circle, Map 108, Lot 80
1 Robbins Island Road, Map 108, Lot 20

; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to authorize the Board of Selectmen to petition the Massachusetts General Court for special legislation, as set forth below, to allow police officers retiring from the Town of Essex to work police details; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT RELATIVE TO THE APPOINTMENT OF RETIRED POLICE OFFICERS IN THE TOWN OF ESSEX.

Be it enacted, etc., as follows:

SECTION 1. Subject to the approval of the Board of Selectmen, the Chief of Police may appoint to serve at his pleasure, as he deems necessary, retired Town of Essex police officers as special police officers for the purpose of performing police details or any police duties arising therefrom or during the course of police detail work, whether or not related to the detail work. Such retired police officers must have been regular full time Town of Essex police officers who voluntarily retired from the town and not elsewhere based upon superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of General Laws. Such special police officers must, prior to their appointment, pass a medical examination by a physician chosen by the town, to determine that they are capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officers, and shall provide certification to the town that they are covered by personal health insurance.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or to section 99A of chapter 41 of the General Laws.

SECTION 3. Special police officers appointed under this act shall, when performing the duties under section 1, have the same power to make arrests and to perform other police functions as do regular police officers of the town of Essex.

SECTION 4. Special police officers shall be appointed for an indefinite term to serve at the pleasure of the Police Chief, subject to removal by the Police Chief at any time with a 14-day written notice.

SECTION 5. Special police officers appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements of the Chief of Police of the town of Essex, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms qualifications and licensing requirements, regarding uniforms and equipment. Compliance with all requirements will be at no cost to the town of Essex. Special police officers appointed under this act shall not be subject to section 96B of chapter 41 of the General Laws.

SECTION 6. Special police officers appointed under this act shall be sworn before the town clerk who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate either when a physician designated by the town determines that the disability no longer exists or when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving a town is increased from 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided here in to special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H or 85H1/2 of said chapter 32, nor eligible for any benefits pursuant thereto.

SECTION 8. Appointment as a special police officer under this act shall entitle any individual appointed as such to assignment to any detail. Special police officers shall be paid the detail rate applicable to regular full-time officers but shall not be entitled to any other town benefits.

SECTION 9. Retired Essex police officers, serving as special police officers under this act, shall be subject to the limitations on hours worked and on payments to retired town employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

SECTION 10. This act shall take effect upon its passage.

; or take any other action relating thereto.

ARTICLE 5

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

6-14 TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS

6-14.1 *PURPOSE*

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017) requires a

Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018. Currently under the Zoning Bylaw, a non-medical Marijuana Establishment (hereinafter, a “Recreational Marijuana Establishment”), as defined in G.L. c. 94G, §1, is not specifically addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

6-14.2 *DEFINITION*

“Recreational Marijuana Establishment” shall mean a “marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana- related business.”

6-14.3 *TEMPORARY MORATORIUM*

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to amend the Town’s Zoning Bylaws to correct certain typographical errors as follows:

1. In Section 6-5.5 change the reference to “Section 6-5.14” to “Section 6-6.3”, so that the last sentence of that section reads “Any driveway must conform to the requirements of Section 6-6.3 and shall not be within 10 feet of a side or rear lot line, nor pass within 20 feet of a residential structure that such driveway does not serve.”
2. In Section 6-5.8, change the reference to “subsection 6-3.6” in subsection d to “Section 6-2.2 Definitions”, so that subsection d reads “Junk yards, as defined in Section 6-2.2 Definitions shall not be permitted in the town.”

3. In Section 6-5-10, change the reference to “subsection 6-6.1” to “Section 6-3.2”, so that the section reads “Where dimensional or other requirements for a use of a lot are influenced by the land use on adjoining lots, any adjoining lot not occupied by a use specified in subsection 6-3.2 of this chapter shall assume the character of the lot being influenced for purposes of determining the aforementioned requirements.”
4. In Section 6-3.5, change the title of the subsection following subsection 6-3.5.2 from “6-3.4.4 Criteria” to “6-3.5.3 Criteria”; and
5. In Section 6-5.11 change the reference to “paragraph c” in subsection b to “paragraph d”, so that subsection b reads “There shall be no change in the outside appearance of the building or premises, except as provided by paragraph d below, or other visible conduct of such home occupation other than one sign as permitted accessory use.”

; or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to appropriate from the special revenue fund known as the PEG Access and Cable Related Fund a sum of money for the design and construction of a Municipal Fiber Optic Network, or anything incidental or related thereto; or take any other action relating thereto.

ARTICLE 8

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to increase the Custodian Wages budget line item in the Town Property budget, as voted under Article 10 at the May 1, 2017 Annual Town Meeting, from \$20,254 to \$32,254; or take any other action relating thereto.

ARTICLE 9

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase and equip a police cruiser and to authorize the Board of Selectmen to dispose of the cruiser being replaced by the purchase by sale or trade; 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 to fund the Town’s Other Post-Employment Benefits (OPEB) Trust Fund; or take any other action relating thereto.

ARTICLE 11

To see if the Town will vote to amend Section 2-26 Revolving Funds of the Town bylaws as follows (deletions shown in cross out):

2-26 Revolving Funds

There are hereby established in the Town of Essex pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds:

Revolving Fund	Spending Authority	Revenue Source	Allowed Expenses
Animal Control Officer	Board of Selectmen	Payments from dog owners seeking to claim impounded dogs	Compensating the ACO for the care of impounded dogs and reimbursing the ACO for all associated expenses
Board of Health – Youth Triathlon	Board of Health	Donations, grants and fees collected for the youth triathlon	Purchase of supplies and services for planning and execution of the Annual Youth Triathlon
Board of Health – Health, Safety and Emergency	Board of Health	Donations, grants and fees collected for the purpose of health, safety and/or emergency planning, preparation and education	Purchase of supplies and services for the purpose of health, safety and/or emergency planning, preparation and education
Board of Health – Public Health Nurse	Board of Health	Medicare and other reimbursements relating to contracted labor, pharmaceuticals and other reimbursements relating to the services of the Public Health Nurse	Purchasing supplies and pharmaceuticals for the Public Health Nurse and for Public Health nurse labor

Expenditures from each revolving fund shall be subject to the limitations established by Town Meeting, and to any additional limitations as otherwise set forth in General Laws Chapter 44, §53E½; or take any other action relating thereto.

ARTICLE 12

To see if the Town will vote to amend the General Bylaws by adding a new Article 4-17 relative to enforcement of bylaws through non-criminal disposition, as set forth below:

4-17 NONCRIMINAL DISPOSITION

4-17.1 *ENFORCEMENT BY NONCRIMINAL DISPOSITION.* Any bylaw of the Town of Town of Essex, or rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws. The non-criminal fine for each such violation, if not otherwise specified, shall be \$300.

4-17.2 *DEFINITION.* “Enforcing person” as used in this bylaw, shall mean: any Town of Essex police officer with respect to any offense; as well as the Building Inspector and his designee, the members of the Conservation Commission and its designee, the members of the Board of Health, its Health Agent or other designee, the Animal Control Officer, the Harbormaster, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

; or take any other action relating thereto.

ARTICLE 13

To see if the Town will vote to establish a new Section 3C to Chapter 4-16 of the Town’s general bylaws dealing with dog waste, as set forth below:

4-16.3C. Removal and Disposal of Dog Waste

It shall be the duty of each person owning or having the care, custody, or control of any dog to remove and properly dispose of, in a sanitary manner, any feces left by such dog upon any sidewalk, street, thoroughfare, beach, or wetland, in or upon any public property, or in or upon the property of persons other than the owner or persons having the care, custody, or control of such dog. Anyone having the care, custody, or control of a dog in a public place where dogs are allowed shall have in their possession a device or equipment to pick up and remove dog feces. Individuals with disabilities aided by service dogs and law enforcement, emergency or rescue officials with dogs carrying out official duties are exempt from this section.

; or take any other action relating thereto.

ARTICLE 14

To see if the Town will vote to amend sections of the General Bylaws relating to kennels, by imposing a limit on the maximum number of dogs that may be kept on a single premises at any one time, and/or by imposing conditions or restrictions on the operation of kennels so as to prevent nuisance conditions, or take any other action relating thereto.

ARTICLE 15

To see if the Town will vote to amend Section 4-16.8 Enforcement and Penalties [of the Town's Animal Control Bylaw] by deleting said section in its entirety and replacing it with the following:

4-16.8 *ENFORCEMENT AND PENALTIES*

The Animal Control Officer or any police officer of the Town shall be empowered to enforce provisions of this Bylaw.

In addition to the remedies set forth in this Bylaw and in GL c. 140, §§136A to 174E, inclusive, including but not limited to GL c. 140, §157A, or any other applicable provision of law, this Bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to G.L. c. 40, §21D. If non-criminal disposition is elected, then any person who violates any provision of this by-law shall be subject to the following penalties:

First Offense:	Written Warning
Second Offense:	\$100 fine
Third and subsequent Offense:	\$300 fine

Subsequent offenses shall be determined as offenses occurring within twelve months of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Animal Control Officer or any Town of Essex police officer may seize and impound any dog found outside of its enclosure in violation of this Bylaw or any order issued by the Animal Control Officer, the Board of Selectmen or a court.

The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.

; or take any other action relating thereto.

ARTICLE 16

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money including, without limitation, funds under the Community Preservation Act, to replace the footings for the two historic lamp posts in front of Town Hall, including any necessary electrical work or work appurtenant thereto, and to restore and preserve the decorative artwork on the historic safe doors that are mounted in the lobby of Town Hall; or take any other action relating thereto.

ARTICLE 17

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Sewer Enterprise Fund Maintenance line item for fiscal year 2018, as voted under Article 11 of the May 1, 2017 Annual Town Meeting; or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Department of Public Works' Storm Water Compliance budget line item for fiscal year 2018, as voted under Article 10 of the May 1, 2017 Annual Town Meeting; or take any other action relating thereto.

ARTICLE 19

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum or sums of money to be added to the Police Department's Sick Leave Buyback, Inservice Training Expense, Uniform Allowance, and Part-Time Police Salaries budget line items for fiscal year 2018, as voted under Article 10 of the May 1, 2017 Annual Town Meeting; or take any other action relating thereto.

ARTICLE 20

To see if the town will vote to establish a new Stabilization Fund known as the Town Hall/Library Repair and Maintenance Fund and to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to said Fund; or take any other action relating.

ARTICLE 21

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

ARTICLE 22

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to replenish the Finance Committee's Reserve Fund for fiscal year 2018; 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 to be added to the Town's Stabilization Fund; 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 to pay unpaid bills from past fiscal years; or take any other action relating thereto.

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

Given under our hand this 16th day of October, two thousand seventeen.

Lisa J. O'Donnell, Chairman

David A. Doane

Andrew C. Spinney

BOARD OF SELECTMEN
TOWN OF ESSEX

Return of the Warrant:

Date: _____

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

Constable