

Article 18. COUNCIL ON AGING

Motion by Jack P. Schwartz, duly seconded, that the Town vote to raise, assess and appropriate the sum of \$1,500 to be administered by the Council on Aging, with the approval of the Selectmen, to provide services to the elderly citizens of Essex. Voted unanimously.

Article 19. ADULT LEARNING CENTER

Motion by Karen Gertsch, duly seconded, that the Town vote to raise, assess and appropriate the sum of \$1,000 for the purpose of participating in the Adult Learning Center for Cape Ann. Voted unanimously.

Article 20. PUBLIC HEALTH - CIVIL INFRACTION PROCESS

Motion by Michael G. Dyer, duly seconded, that the Town vote to amend Chapter 7-5 of the Town's Bylaws by deleting Chapter 7-5, in its entirety, and inserting in its place the following:

"7-5 ENFORCEMENT BY CIVIL INFRACTION PROCESS

Violations of the foregoing Public Health By-Laws numbered 7-1 through 7-4, and such other regulations as shall be lawfully promulgated by the Board of Health, upon order of the enforcement officer or authority having responsibility for the enforcement of such By-Laws and regulations, may be enforced by the Civil Infraction Procedure as set forth in M.G.L., c. 90C and c.40, sec. 21D and 2-21 of these By-Laws, and an assessment shall be made for each violation thereof in the amount of \$100 for a first offense, \$200 for a second offense, and \$300 for a third and subsequent offense."

Voted.

Article 21. BY-LAW CHANGE - READING OF MOTIONS AND VOTES

Motion by Jack P. Schwartz, duly seconded, that the Town vote to amend Chapter 2-1 of the Town's Bylaws by deleting the following section in its entirety:

"2-1.7 READING OF MOTIONS AND VOTES. The town clerk shall read all motions and votes on each article at the close of each meeting before adjournment is in order."

Voted unanimously.

Article 22. CONOMO POINT LEASES

(FAILED - see next page)

Motion by Ralph C. Pino, duly seconded, that the Town vote, that upon expiration of the current leases or any extensions thereof, to retain for public use all of the Town-owned land at Conomo Point described in the so-called Proctor Deed recorded in the Essex County Registry of Deeds, Book 240, Page 269, including, but not limited to the following lots as shown on the Town of Essex Assessor's maps and listed in the Finance Committee Report [also listed below]

Map 19 Lot 11	Map 19 Lot 66	Map 24 Lot 5
Map 19 Lot 12	Map 19 Lot 67	Map 24 Lot 6
Map 19 Lot 13	Map 19 Lot 68	Map 24 Lot 7
Map 19 Lot 14	Map 19 Lot 69	Map 24 Lot 8
Map 19 Lot 15	Map 19 Lot 70	Map 24 Lot 9
Map 19 Lot 16	Map 19 Lot 71	Map 24 Lot 10
Map 19 Lot 17	Map 19 Lot 72	Map 24 Lot 11
Map 19 Lot 20	Map 19 Lot 73	Map 24 Lot 12
Map 19 Lot 26	Map 19 Lot 74	Map 24 Lot 13
Map 19 Lot 27	Map 19 Lot 74A	Map 24 Lot 14
Map 19 Lot 28	Map 19 Lot 75	Map 24 Lot 15A
Map 19 Lot 33	Map 19 Lot 76	Map 24 Lot 15B
Map 19 Lot 34	Map 19 Lot 77	Map 24 Lot 16
Map 19 Lot 35	Map 19 Lot 78	Map 24 Lot 17
Map 19 Lot 36	Map 19 Lot 79	Map 24 Lot 18
Map 19 Lot 37	Map 19 Lot 81	Map 24 Lot 18A
Map 19 Lot 38	Map 19 Lot 82	Map 24 Lot 19
Map 19 Lot 40	Map 19 Lot 83	Map 24 Lot 20
Map 19 Lot 41	Map 19 Lot 84	Map 24 Lot 21
Map 19 Lot 42	Map 19 Lot 85	Map 24 Lot 22
Map 19 Lot 43	Map 19 Lot 86	Map 24 Lot 23
Map 19 Lot 44	Map 19 Lot 88	Map 24 Lot 24
Map 19 Lot 45	Map 19 Lot 89	Map 24 Lot 25
Map 19 Lot 46	Map 19 Lot 91	Map 24 Lot 27
Map 19 Lot 47	Map 19 Lot 92	Map 24 Lot 28

Map 19 Lot 48	Map 19 Lot 93	Map 24 Lot 29
Map 19 Lot 49	Map 19 Lot 95	Map 24 Lot 30
Map 19 Lot 50	Map 19 Lot 96	Map 24 Lot 31
Map 19 Lot 51	Map 19 Lot 97	Map 24 Lot 32
Map 19 Lot 52	Map 19 Lot 98	Map 24 Lot 33
Map 19 Lot 53	Map 19 Lot 99	Map 24 Lot 34
Map 19 Lot 54	Map 19 Lot 100	Map 24 Lot 35
Map 19 Lot 56	Map 19 Lot 101	Map 24 Lot 36
Map 19 Lot 57	Map 19 Lot 102	Map 24 Lot 37
Map 19 Lot 58	Map 19 Lot 116	Map 24 Lot 39
Map 19 Lot 59	Map 19 Lot 117	Map 24 Lot 38
Map 19 Lot 60	Map 19 Lot 118	Map 24 Lot 41
Map 19 Lot 61	Map 24 Lot 1	Map 24 Lot 42
Map 19 Lot 62	Map 24 Lot 2	Map 24 Lot 43
Map 19 Lot 63	Map 24 Lot 3	Map 24 Lot 44
Map 19 Lot 65	Map 24 Lot 4	Map 24 Lot 45

After much discussion a motion was made by Thomas A. Ellsworth, duly seconded, to terminate debate. Passed by declared 2/3's vote.

Motion by Leah Maher, duly seconded, to vote Article 22 by secret ballot. More that 20% of the voters present requested a secret ballot.

Results of secret ballot - Yes - 206

No - 248

Failed. A22

At 11:10 p.m. a motion was made and duly seconded to adjourn until Tuesday, May 4, 1999 at 7:30 p.m. at the Essex Elementary and Middle School.

Voted.

#### ADJOURNED SESSION OF ANNUAL TOWN MEETING

The adjourned session of the Annual Town Meeting of the Town of Essex was called to order at 7:35 p.m. by Moderator David J. Lane. A quorum of 470 voters was present at that time.

Motion by Edward T. Neal, duly seconded, that Article 27 be considered at this time, before Article 23.

Motion by Arthur Clarke, duly seconded, to terminate debate on the question of changing the position of Article 27. Passed by declared 2/3's vote.

Standing vote on the question of changing the position of article 27 -

Yes - 222

No - 188

Voted.

#### Article 27. CONOMO POINT LEASES (PASSED - see next page)

Motion by James Witham, duly seconded, that the Town vote, that when the leases for the lots currently leased at Conomo Point or any extensions thereof expire, that the waterfront area, including the following lots as shown on the Town of Essex Assessor's maps, and as listed in the Finance Committee Report [also listed below] shall be retained for public use:

Map 19 Lot 65	Map 19 Lot 95	Map 24 Lot 18A
Map 19 Lot 66	Map 19 Lot 96	Map 24 Lot 19
Map 19 Lot 67	Map 19 Lot 97	Map 24 Lot 20
Map 19 Lot 68	Map 19 Lot 98	Map 24 Lot 21
Map 19 Lot 69	Map 19 Lot 99	Map 24 Lot 22
Map 19 Lot 70	Map 19 Lot 100	Map 24 Lot 23
Map 19 Lot 71	Map 19 Lot 101	Map 24 Lot 24
Map 19 Lot 72	Map 19 Lot 102	Map 24 Lot 25
Map 19 Lot 73	Map 24 Lot 1	Map 24 Lot 27
Map 19 Lot 74	Map 24 Lot 2	Map 24 Lot 28
Map 19 Lot 74A	Map 24 Lot 3	Map 24 Lot 29
Map 19 Lot 75	Map 24 Lot 4	Map 24 Lot 30
Map 19 Lot 76	Map 24 Lot 5	Map 24 Lot 31
Map 19 Lot 77	Map 24 Lot 6	Map 24 Lot 32
Map 19 Lot 78	Map 24 Lot 7	Map 24 Lot 33
Map 19 Lot 79	Map 24 Lot 8	Map 24 Lot 34
Map 19 Lot 81	Map 24 Lot 9	Map 24 Lot 35

ATM, 5/3/99

Map 19 Lot 82	Map 24 Lot 10	Map 24 Lot 36
Map 19 Lot 83	Map 24 Lot 11	Map 24 Lot 37
Map 19 Lot 84	Map 24 Lot 12	Map 24 Lot 38
Map 19 Lot 85	Map 24 Lot 13	Map 24 Lot 39
Map 19 Lot 86	Map 24 Lot 14	Map 24 Lot 41
Map 19 Lot 88	Map 24 Lot 15A	Map 24 Lot 42
Map 19 Lot 89	Map 24 Lot 15B	Map 24 Lot 43
Map 19 Lot 91	Map 24 Lot 16	Map 24 Lot 44
Map 19 Lot 92	Map 24 Lot 17	Map 24 Lot 45
Map 19 Lot 93	Map 24 Lot 18	

Motion by Sam Hoar, duly seconded, to amend the motion made by Mr. Witham as follows by adding:

Upon expiration of the current leases, or any extension thereof, the actual time and manner in which the lessees of the lots set forth in Article 27 will be required to vacate said lots will be determined through mediation, which shall proceed as soon as practicable after the adjournment of this Annual Town Meeting, and further that the sum of \$15,000 be raised, assessed and appropriated for this purpose, conditional upon a like sum being appropriated by the Conomo Point Homeowners' Association.

Point of order raised by Bruce E. Fortier concerning the language of the amendment from the words "and further" through the end of the amendment - that no mention of appropriation was in the Warrant. Moderator David J. Lane agreed with Mr. Fortier and those words were removed.

Motion by Claire A. Lane, duly seconded, to terminate debate on the amendment.  
Declared 2/3's vote.

Vote on the amendment - Failed.

Motion by Brian Healy, duly seconded, for a secret ballot.

More than 20% of the voters requested a secret ballot.

Motion by Ralph C. Pino, duly seconded, to terminate debate.

Declared 2/3's vote.

Results of the secret ballot - Yes - 268

No - 202

Passed. A27

#### Article 23. CONOMO POINT - PARK LAND

(FAILED)

Motion by Edward T. Neal, duly seconded, that the Town vote that upon the date of this vote all of the Town-owned land at Conomo Point referenced in Article 27 be designated as park land, as per Massachusetts General Laws Chapter 45, for the benefit of the residents of Essex. This designation as park land to be subject to the rights of the lessees under the existing leases or any extensions thereof.

Motion by Edward T. Neal, duly seconded, that the vote on this article be by secret ballot.  
Declared 20%

Motion by D. Bradford Story, duly seconded, to terminate debate.

Declared 2/3's vote.

Results of secret ballot - Yes - 234

No - 230

2/3's vote required. Failed. A23

#### Article 24. MEDIATION/CONOMO POINT

(PASSED - see next page)

Motion by Samuel Hoar, duly seconded, that the Town vote to authorize the Selectmen, as the Conomo Point Commissioners, to enter into a non-binding mediation with representatives of Conomo Point the primary focus of which will be the fair treatment of the lessees of the lots specified in Article 27 with regard to the timing and manner in which the lessees of said lots are to vacate said lots in accordance with the intent and purposes of Article 27. The mediation will be conducted by an individual mutually acceptable to the Selectmen and the representatives of Conomo Point. I further move that the sum of \$15,000 be raised, assessed and appropriated for this purpose conditional upon a like sum being appropriated by the representatives of Conomo Point. The mediation shall commence as soon as practicable after the adjournment of this Annual Town Meeting with the results thereof to be reported to the next Annual Town Meeting. I further move that the Selectmen place an article in the warrant for the next Annual Town Meeting

ATM, 5/3/99

requesting approval of the results of the mediation.

Motion by Alfred Dente, duly seconded, to amend the main motion by adding the following at the end of the first sentence: And will not include any discussions regarding the Town of Essex purchasing any homes at the termination of the lease.

A motion was made and seconded to terminate debate on Alfred Dente's amendment. Declared 2/3's vote.

Standing vote on amendment - Yes - 209

No - 178

Dente amendment - Voted.

Motion by Frederick Fawcett, duly seconded, to amend by adding: and the findings of such mediation be reported to an open meeting of the Town of Essex at least 60 days prior to the Annual Town Meeting at which it will be presented.

Fawcett amendment - Voted.

A motion was made and seconded to terminate debate on the main motion as amended. Voted unanimously.

#### MAIN MOTION AS AMENDED:

##### Article 24.

The main motion made by Samuel Hoar and amended by Alfred Dente and Frederick Fawcett is as follows:

The Town vote to authorize the Selectmen, as the Conomo Point Commissioners, to enter into a non-binding mediation with representatives of Conomo Point the primary focus of which will be the fair treatment of the lessees of the lots specified in Article 27 with regard to the timing and manner in which the lessees of said lots are to vacate said lots in accordance with the intent and purposes of Article 27, and will not include any discussions regarding the Town of Essex purchasing any homes at the termination of the lease. The mediation will be conducted by an individual mutually acceptable to the Selectmen and the representatives of Conomo Point. I further move that the sum of \$15,000 be raised, assessed and appropriated for this purpose conditional upon a like sum being appropriated by the representatives of Conomo Point. The mediation shall commence as soon as practicable after the adjournment of this Annual Town Meeting with the results thereof to be reported to the next Annual Town Meeting. I further move that the Selectmen place an article in the warrant for the next Annual Town Meeting requesting approval of the results of the mediation and the findings of such mediation be reported to an open meeting of the Town of Essex at least 60 days prior to the Annual Town Meeting at which it will be presented.

Standing vote on main motion as amended - Yes - 258

No - 133

Voted. A24

##### Article 25. CONOMO POINT LEASES

Motion by Judson Pratt, duly seconded, to indefinitely postpone action on this article. Voted unanimously.

##### Article 26. MEDIATION/CONOMO POINT

Motion by Judson Pratt, duly seconded, to indefinitely postpone action on this article. Voted unanimously.

##### Article 27. CONOMO POINT LEASES

Action on this article was taken at the beginning of the adjournment; before Article 23.

##### Article 28. SALE OF LAND - CONOMO POINT

(INDEF. P.P. - see next page)

Motion by James Witham, duly seconded, that the Town vote to authorize the Selectmen, subject to Massachusetts General Law 30B and any other applicable general or special law, to sell only such land at Conomo Point as will:

- (1) be located outside of the 100 year flood plain as delineated in the Flood Insurance Rate Map, established by the Federal Emergency Management Agency;
- (2) be located outside of the "Area of Critical Environmental Concern" as

ATM 5/3/99

- established by the Massachusetts Department of Environmental Protection;
- (3) be located outside of the wetlands as defined by Massachusetts law, regulations and Town of Essex By-laws;
  - (4) be in compliance with Essex Zoning By-laws and
  - (5) not have been designated to be retained for public use by a vote of the Town Meeting under Warrant Article 27 of the 1999 Essex Town Meeting;

Motion by Leah Maher, duly seconded, to indefinitely postpone action on this article.

A motion was made and duly seconded, to terminate debate on the motion to indefinitely postpone. Voted unanimously.

Vote on the motion to indefinitely postpone - Voted. A28

Article 29. CONOMO POINT LEASES (INDEF. P.P.)

Motion by Jerome French, duly seconded, that the town vote to NOT offer, grant, or extend leases of the Town Lands at Conomo Point beyond the present expiration date of the leases in force as of Jan. 1, 1999, such expiration date being understood to be at the end of any ten-year extension allowed for in the present leases, and further, that the Town vote to empower the Conomo Point Commissioners, or Board of Selectmen acting as Conomo Point Commissioners, to rent such of said properties as the Commissioners may choose, on a tenant-at-will basis only, until such time as the Town might vote to make other uses of the property in the interests of the public.

Motion by Ward Spears, duly seconded, to indefinitely postpone action on this article. Voted.

Article 30. PLANNING BOARD

Motion by Westley C. Burnham, duly seconded, that article 30 be referred back to the Planning Board for further study. Voted unanimously.

Article 31. PLANNING BOARD

Motion by Westley C. Burnham, duly seconded, that article 31 be referred back to the Planning Board for further study. Voted unanimously.

Article 32. PLANNING BOARD

Motion by Westley C. Burnham, duly seconded, that article 32 be referred back to the Planning Board for further study.

Article 33. PLANNING BOARD

Motion by Westley C. Burnham, duly seconded, that article 33 be referred back to the Planning Board for further study.

Article 34. RESCINDING OF TEMPORARY EASEMENTS

Motion by Rolf P. Madsen, duly seconded, that the Town vote to rescind the action taken on Article 1 of the Special Town Meeting of July 8, 1998, and release the temporary easement on the properties for the purpose of conducting investigations, including, but not limited to, subsurface borings, install piezometer, test pits and test basins, to determine if those parcels, or any portions thereof, are suitable for the purposes of constructing and maintaining a wastewater discharge system. Voted unanimously.

Article 35. SEPTIC SYSTEM UPGRADE EXPENSES

Motion by Lynn Having, duly seconded, that the Town of Essex will authorize and direct the Board of Selectmen to establish an act that will protect Essex property owners who complied with Title 5 under court order of the Final Judgement to upgrade their septic system, from the undue financial hardship of paying twice to correct the town's wastewater pollution problem: In the event that the town builds a sewage treatment plant and installs sewer pipes, property owners with a current certified Title 5 septic system would be given the option of hooking into the sewer system, if the sewer pipe runs in front of their property, or, could continue using their current Title 5 septic system. The property owner that decides to continue use of their Title 5 septic system may be charged a sewer pipe betterment for the length of the pipe that runs in front of their property, but would not be forced to hook in and pay hook up or sewer use fees based on the cost

ATM, 5/3/99