

**Minutes to the 194th
Annual Town Meeting
of the Town of Essex**

May 6th and 7th 2013

The 194th Annual Town Meeting of the Town of Essex was called to order at 7:36 p.m. by Moderator Rolf P. Madsen. A quorum of over 250 voters was present at the time.

The following people were appointed as tellers: Diane Patrican, Priscilla Doucette, Vickie Cataldo, Suzanne Lynch, Betsy Ridge-Madsen, Patricia Soulard, Genevieve Guerin and Letizia Donati.

There were no objections to the tellers appointed.

Following the salute to our National Flag, a moment of silence was observed in memory of Glenn C. Boutchie, Sr., Shirley Duffy, Karin Symmes, Janice Farnham, Sam Hopkins, and Mary Mears.

A moment of silence was observed for the victims of the Boston Marathon bombing, as well as extending our thanks to the Essex emergency, police and medical personnel who aided the City of Boson.

In the name of the Commonwealth of Massachusetts you are hereby directed and warned as 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
- Board of Library Trustee for three years
- Two Planning Board Members for five years
- Planning Board Member to fill a vacancy for four years
- Housing Authority Member for five years
- Housing Authority Member to fill a vacancy for one year

AND, to do this by vote on one ballot. The polls will be open on Monday, May 13, 2013 at 7:00 o'clock A.M. and will close at 8:00 o'clock P.M. at the Memorial Fire Station, 24 Martin Street, Essex.

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

Voted unanimously.

ARTICLE 1: ELECTION OF TOWN OFFICERS

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

Voted unanimously.

ARTICLE 2: REPORT OF TOWN OFFICIALS

Motion made by Lisa J. O'Donnell, duly seconded, that the Town receive the Reports of the Town Officials, Boards, and Committees contained in the Annual Town Report.

Voted by the majority.

ARTICLE 3: FISCAL YEAR 2014 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 2014 in accordance with the recommendations of the Personnel Board Report.

Voted unanimously.

ARTICLE 4: COMPENSATION OF ELECTED OFFICIALS

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 2014 in accordance with the recommendations of the Personnel Board Report.

Voted unanimously.

ARTICLE 5: PAYMENTS TO MASSACHUSETTS WATER POLLUTION ABATEMENT TRUST

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to transfer from the Town Septic Betterment Fund the sum of \$26,291 for the purpose of making necessary payments to the Massachusetts Water Pollution Abatement Trust during fiscal year 2014 in accordance with the terms of repayment for Community Septic Management Program loan funds.

Voted unanimously.

ARTICLE 6: REVOLVING FUND FOR ANIMAL CONTROL OFFICER

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Animal Control Officer for the purpose of compensating the Animal Control Officer for the care of impounded dogs and for reimbursing the Animal Control 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.

ARTICLE 7: REVOLVING FUND FOR BOARD OF HEALTH–YOUTH TRIATHLON/EXERCISE PROGRAM

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 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 8: REVOLVING FUND FOR BOARD OF HEALTH – PURCHASE OF SUPPLIES AND SERVICES

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 unanimously.

ARTICLE 9: REVOLVING FUND FOR BOARD OF HEALTH – PUBLIC HEALTH NURSE

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, contracted labor, 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 \$12,000.

Voted unanimously.

ARTICLE 10: CENTRAL CONOMO POINT ZONING DISTRICT

Motion made by Susan Gould-Coviello, duly seconded, that the Town vote to amend the Town of Essex Bylaws, Chapter VI, “Zoning”, by inserting a new section, to be numbered as Section 6-12, as shown in Article 10 of the Annual Town Meeting Warrant.

Discussion on the article ensued.

*Moderator calls for a standing counted vote: Yes – 194
No – 67*

Motion Passes.

Motion made by Stuart Pratt, duly seconded, to reconsider Article 10.

Motion for reconsideration of Article 10 fails.

ARTICLE 11: FUNDS FOR THE MANAGEMENT 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 12: DESIGN CONSULTANT

Motion made by Lisa J. O’Donnell, duly seconded, that the Town vote to raise and appropriate the sum of \$150,000 to retain the services of a design consultant to develop final construction plans for waterfront access improvements at northern Conomo Point and for the management of the actual construction of such improvements.

Motion fails.

Motion made by Jeffrey Jones, duly seconded, that Article 30 be visited prior to Article 13.

Motion carries.

ARTICLE 30: NORTH SHORE REGIONAL VOCATIONAL SCHOOL DISTRICT

Motion made by George Harvey, duly seconded, that the Town raise and appropriate the sum of \$106,275 to pay the Town's share of the operating cost of the North Shore Regional Vocational School District for the fiscal year commencing July 1, 2013.

Voted unanimously.

ARTICLE 13: WATERFRONT ACCESS IMPROVEMENTS AT CONOMO POINT

Motion made by Lisa J. O'Donnell, duly seconded, that Article 13 be indefinitely postponed.

Voted unanimously.

ARTICLE 14: SUM OF MONEY FOR PROPERTY APPRAISALS AT CONOMO POINT

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to raise and appropriate the sum of \$26,200 for property appraisals at Conomo Point.

Motion fails.

Note to reader: Moderator Rolf P. Madsen recued himself from moderating the next article. Deputy Moderator David J. Lane shall preside over Article 15.

ARTICLE 15: FISCAL YEAR 2013 CONOMO POINT LEGAL BUDGET

Motion made by Susan Gould-Coviello, duly seconded, that the Town vote to transfer from General free cash the sum of \$100,000 to be added to the Conomo Point Legal Budget for fiscal year 2013.

Standing counted vote: Yes – 101

No – 119

Motion fails.

Note to reader: Deputy Moderator David J. Lane returns the meeting to Moderator Rolf P. Madsen. The 2013 Annual Town Meeting is the last meeting that David J. Lane will assist in presiding. Moderator Madsen thanks Lane for his decades of public service to the Town of Essex and the Commonwealth of Massachusetts.

Motion made by Rolf P. Madsen, duly seconded, to affirm the appointment of Joseph P. Davis III as Deputy Moderator.

Affirmed by the majority.

Motion made by Thomas DeMeo, duly seconded, to consider Article 17 prior to Article 16.

Motion fails.

ARTICLE 16: DIRECTING THE SALE OF SPECIFIED PROPERTIES AT CONOMO POINT.

Motion made by Thomas DeMeo, duly seconded, to consider Article 16 as written in the warrant.

Motion fails.

Motion made, duly seconded, to adjourn the meeting until Tuesday, May 7, 2013 at 7:30 p.m.

Voted by the Majority.

The adjourned session of the 194th Annual Town Meeting was called to order on May 7, 2013 at 7:33 p.m.

A moment of silence was observed in memory of William (Bill) Lundy, Sam Hopkins and David E. Trask.

ARTICLE 17: ARTICLE FOR THE CREATION OF A PARK AT NORTHERN CONOMO POINT
Motion made by Thomas DeMeo, duly seconded, that the Town vote to approve the Article for the Creation of a Park at Northern Conomo Point, as shown in Article 17 on the Town Meeting Warrant.

Motion fails.

Motion made by Alva Ingahrro, duly seconded, to consider Article 29 before Article 18.

Motion carries.

ARTICLE 29: MANCHESTER ESSEX REGIONAL SCHOOL DISTRICT BUDGET

Motion made by Alva Ingaharro, duly seconded, that the Town vote to raise and appropriate the sum of \$6,481,083 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 thirteen.

Voted Unanimously.

ARTICLE 18: TO PLACE A NON-BINDING QUESTION REGARDING PROPERTY AT
NORTHERN CONOMO POINT ON THE NEXT ANNUAL TOWN ELECTION
BALLOT.

Motion made by Elizabeth J. Story, duly seconded, that the Town place the following question on the ballot at the next regular Town election after the Annual Town Election on May 13, 2013:

Do you support setting aside all Town-owned land on the headland at Northern Conomo Point, not including any portions of Robbins Island and Beach Circle that a Master Plan for Conomo Point approved by an Annual Town Meeting may indicate could be sold, for a public park and setting aside 70% of the proceeds from the from the sales of Conomo Point lots that were completed on or before June 30, 2013, and 100% of the proceeds of all additional sales that take place after June 30, 2013, or %5,000,000 of all the proceeds, whichever is less, and all revenues from Northern Conomo Point, such as short-term rents, user fees or concessions, for the development and maintenance of this park?

Motion fails.

Five members of the meeting stood up to challenge the Moderator's declaration.

Standing Counted Vote: Yes – 69

No – 124

Motion fails.

ARTICLE 19: CONOMO POINT COMMISSIONERS BY-LAW AMENDMENT

Motion made by Jeffrey D. Jones, duly seconded, to indefinitely postpone this article.

Voted by the majority.

ARTICLE 20: CONOMO POINT LIFEGUARD

Motion made by Sarah Cushing, duly seconded, to postpone Article 20 indefinitely.

Motion carries.

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ARTICLE 26: PURCHASE & INSTALLATION OF A SEWER GRINDING DEVICE

Motion made by Trescott Dewitt, duly seconded, that the Town vote to transfer from Sewer Enterprise free cash the sum of \$25,000 for the purchase and installation of a grinding device to be installed at sewer lift station four in order to upgrade the performance of the station.

Voted unanimously.

ARTICLE 27: WATER ENTERPRISE FUND BUDGET

Motion made by Paul Rullo, duly seconded, that the Town vote to appropriate the sum of \$684,215 for the Water Enterprise Fund Budget as follows: a) debt repayment, principal and interest – the sum of \$12,752 from water betterments and the sum of \$41,175 from departmental receipts; and b) funds to be allocated between the salaries and expenses of the Water Department – \$630,288 from departmental receipts; all as indicated in the Finance Committee Report.

Motion carries.

ARTICLE 28: DRIVE-BY WATER METER READING UNITS

Motion made by Trescott Dewitt, duly seconded, that the Town vote to transfer from Water Enterprise Free Cash the sum of \$20,000 for the purchase drive-by meter reading units for the water distribution system; or take any other action relating thereto.

Voted by the majority.

Note to reader: Article 29 was visited prior to Article 18.

Note to reader: Article 30 was visited prior to Article 13.

ARTICLE 31: OBTAINING EASEMENTS FOR FUTURE RIVERWALK ACCESS

Motion made by Lisa J. O’Donnell, duly seconded, that the Town vote to authorize the Board of Selectmen to acquire, by gift, permanent easements located upon properties identified as Tax Map 37, Lot 25 (82 Main Street) and Tax Map 37, Lot 26 (112 Main Street), which properties are contiguous to the Essex Causeway, said easements shown on a sketch plan entitled “Essex Riverwalk Main Street Essex, Massachusetts,” dated February 2013, for the purpose of constructing, operating, maintaining, repairing and reconstructing a riverwalk, said easements to include the riverwalk shown on said plan, and land contiguous thereto, sufficient to allow access thereto and to perform the foregoing purposes, and for the purpose of passage and re-passage by members of the public upon said riverwalk, and on such other terms and conditions as are acceptable to the Board of Selectmen.

Motion carries by declared two-thirds vote.

Five members of the meeting stood up to challenge the Moderator’s declaration.

Standing Counted Vote: Yes – 134
No – 18

Motion carries.

ARTICLE 32: APPROPRIATION TO ELIMINATE FEDERAL CHANNEL ENCROACHMENTS

Motion made by Lisa J. O’Donnell, duly seconded, that the Town vote to raise and appropriate the sum of \$50,000 for an engineering consultant to review the present status of the encroachment of structures into the Federal Channel of the Essex River and to work with Town officials and other stakeholders to eliminate encroachments, draft plans for realignment of the Federal Channel, draft plans for reconfiguration of the Federal Channel, and take any other actions to provide all other precursors necessary to apply to the Army Corps of Engineers, the Federal Legislature, or any other entity for Federal dredging assistance against an encroachment-free backdrop, and to authorize the Board of Selectmen to enter into all agreements and to execute any and all instruments as be necessary to affect this

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vote.

Motion fails.

ARTICLE 33: ANIMAL CONTROL LAW BY-LAW AMENDMENT

Motion made by Jeffrey D. Jones, duly seconded, that the Town vote to amend the Town of Essex Animal Control Bylaw by deleting the current bylaw, in its entirety, and by replacing it with the text shown in Article 33 of the Annual Town Meeting Warrant.

Motion carries.

ARTICLE 34: APPROPRIATION FOR A SAFE VESTIBULE FOR FIRE AND POLICE HEADQUARTERS

Motion made by Lisa J. O'Donnell, duly seconded, that the Town vote to raise and appropriate the sum of \$20,000 to design, construct, equip, and furnish a safe vestibule within the Essex Fire and Police Headquarters.

Voted by the majority.

ARTICLE 35: COMMUNITY PRESERVATION FUND

Motion made by Kimberly Drake, duly seconded, that the Town appropriate or reserve from Fiscal Year 2014 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 unanimously.

ARTICLE 36: LOCAL MEALS EXCISE TAX

Motion made by Susan Gould-Coviello, duly seconded, that the Town vote to accept G.L. c. 64L, § 2(a) to impose a local meals excise.

Motion carries.

ARTICLE 37: NORTHEAST MASSACHUSETTS MOSQUITO CONTROL AND WETLANDS MANAGEMENT DISTRICT

Motion made by David Driscoll, duly seconded, that the Town vote to renew its membership and to participate in the Northeast Massachusetts Mosquito Control and Wetlands Management District for a minimum of three years, pursuant to Chapter 258 of the Acts of 1958, as amended by Chapter 410 of the Acts of 1996, G.L. c. 252, ss. 5 and 5A, and other applicable laws, subject to an assessment through a reduction in Cherry Sheet revenue in an amount to be determined annually by the District Commissioners, and to authorize the Board of Selectmen and the Board of Health to enter into all agreements and to execute any and all instruments as may be necessary to affect this vote.

Motion fails.

ARTICLE 38: DEFRAY OPERATIONAL EXPENSES FOR REMAINDER OF FISCAL YEAR 2013

Motion made by Jeffrey Soulard, duly seconded, that Article 38 be indefinitely postponed.

Voted unanimously.

ARTICLE 39: FINANCE COMMITTEE RESERVE FUND

Motion made by Jeffrey Soulard, duly seconded, that the Town vote to transfer from free cash the sum of \$127,921 to be used to replenish the Finance Committee's Reserve Fund for the remainder of fiscal year 2013.

Motion carries.

ARTICLE 40: UNPAID BILLS FROM PREVIOUS FISCAL YEARS

Motion made by Jeffrey Soulard, duly seconded, that Article 40 be indefinitely postponed.

Voted unanimously.

ARTICLE 41: URGING FROM THE TOWN FOR CONSTITUTIONAL AMENDMENTS

Motion made by Phyllis Leland, duly seconded, that we, the citizens of Essex, Massachusetts, respectfully urge the Congress of the United States to pass an amendment to the Constitution that would affirm that corporations are not entitled to the constitutional rights of human beings, and that both Congress and State governments may place limits on both political contributions and spending from any source.

Motion carries.

Motion made and duly seconded to dissolve the meeting at 11:21 p.m.

Voted Unanimously.

A true copy.

Attest: /s CHRISTINA J. WRIGHT
Christina J. Wright, Town Clerk

**EXHIBIT A – FULL TEXT OF WARRANT ARTICLES WHICH WERE REFERENCED
WITHIN THE MINUTES**

ARTICLE 10

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, “Zoning”, by inserting a new section, to be numbered as Section 6-12, as follows; or take any other action relating thereto.

6-12 Central Conomo Point Zoning District.

6-12.1. Purpose: The purpose of the Central Conomo Point Zoning District (“CCPZD”) is to facilitate the subdivision of the central portion of the previously developed area north of Robbins Island Road while minimizing disruption to the existing historical building configuration.

6-12.2. Establishment: The CCPZD is a zoning district shown on the Town’s Zoning Map (see Exhibit 1) that includes a portion of land north of Robbins Island Road located along Robbins Island Road and Beach Circle. The CCPZD is subject to all provisions of Chapter VI of the Essex bylaws except as specifically defined below.

6-12.3. Definitions: In addition to the definitions set forth in Section 6-2.2 of the Zoning By-Law, the following definitions shall apply only in the CCPZD :

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

Floor Area, Gross – The area of all floors located within the principal structure enclosed within exterior walls, including the thickness of the walls. Unfinished or finished storage areas, attics, or basements more than 50% above the ground within the principal structure, shall be included as floor area.

Floor Area Ratio (FAR) – The ratio of the Gross Floor Area of all principal structures on a lot divided by the lot area.
(Example: 2,500 SF Gross Floor Area / 5,000 SF lot area = FAR .5)

Lot Area – The area(s) of a lot above the mean high water elevation.

Lot Building Coverage – The percentage of the lot area covered by the area of all principal and accessory buildings or structures with roofs. (Example: 1,000 SF roof area / 5,000 SF lot area = 20% Lot Building Coverage)

Impervious Surface Coverage – The percentage of the lot area covered by impervious surface. (Example: 1,000 SF impervious surface / 5,000 SF lot area = 20% Impervious Surface Coverage)

Right-of-Way Width - The minimum right of way width for a new or established street within the CCPZD shall be at least 25 feet.

6-12.4. Permitted Principal Uses:

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

B. Storage – Storage buildings or structures are permitted as a principal use provided they: 1) meet the dimensional regulations listed in Table 1 at Section 6-12.6(E); and 2) are restricted to non-commercial storage uses of any type.

C. Municipal Park and Recreational - Municipal uses, including but not limited to, parks, playgrounds, off-street parking facilities and public recreational areas, are permitted as of right as a principal use.

6-12.5. Permitted Accessory Structures and Uses:

A. Accessory Buildings or Structures – Accessory Buildings or Structures are permitted as of right, subject to the following limitations:

- a maximum of two Accessory Buildings and/or Structures per lot;
- total gross floor area of all Accessory Buildings and/or Structures on each lot shall not be greater than 576 SF;
- maximum permitted height of 15 feet.
- minimum side or rear yard setback of 5 feet.

B. Home Occupations – Home Occupations are permitted as of right, subject to the following additional limitations:

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

6-12.6. Dimensional and Density Regulations:

A. General Requirement: Except as provided under Section 6-12.5.A., all lots, new construction and reconstruction of or additions, alterations or extensions to any principal or accessory buildings or structures shall comply with the dimensional regulations listed in Table 1 at Section 6-12.6(E).

B. Exceptions: This Section contemplates that new lots will be created through a subdivision to accommodate the principal and accessory buildings or structures in the CCPZD existing at the time of adoption of this Section. The following exceptions to the dimensional regulations in Table 1 at Section 6-12.6(E) shall apply within the CCPZD:

1. Lots - New lots approximating the currently shown lease areas may be created for the following areas to accommodate the existing buildings, structures and parking areas:

Robbins Island Road:

Assessor's Map 19, Lot 68B, provided that, if it becomes owned in common with Map 19, Lot 68A, such combined lot shall have a minimum

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lot area of 2,500 square feet and a minimum frontage of 25 feet. Map 19, Lot 68B shall not, by itself, be a buildable lot.

Assessor's Map 19, Lot 77, provided such lot shall have a minimum lot area of 4,000 square feet and a minimum frontage of 40 feet.

Conomo Point Road:

Assessor's Map 19, Lot 97, provided such lot shall have a minimum lot area of 4,500 square feet and a minimum frontage of 40 feet.

2. Structures and Parking Areas - New lots complying with the lot area and frontage requirements in Table 1 at Section 6-12.6(E), and the lots for which exceptions from such requirements are provided in Section 6-12.6(B)(1), may be created within the areas of the CCPZD to accommodate the existing buildings, structures and parking areas, even if the new lot lines render the existing buildings, structures or parking areas nonconforming.

C. Regulation of Nonconforming Lots, Structures, and Parking Areas: The lots for which exceptions are made in Section 6-12.6(B)(1), and the existing structures and parking areas that do not comply with the dimensional requirements listed in Section 6-12.6(E), Table 1, are hereby deemed to be lawful nonconforming lots and lawfully existing nonconforming structures and parking areas. Future reconstruction, alterations, extensions and/or additions to such nonconforming lots and structures are subject to the following:

1. As-of-Right Changes:
 - (a) Any reconstruction, alteration, extension or addition to an existing residential structure that does not either (i) create a new nonconformity, or (ii) increase or intensify any existing nonconformity, shall be permitted as-of-right.
 - (b) On a nonconforming lot (i.e., a lot subject to Section 6-12.6(B)(1)), any reconstruction, alteration, extension or addition to an existing residential structure that extends beyond the existing footprint, or that results in an increase in gross floor area or height, even if the Table 1 dimensional requirements are met, shall be deemed to increase or intensify the existing nonconformity of the lot, and shall not be permitted as-of-right.
2. Special Permit Changes:
 - (a) Any reconstruction, alteration, extension or addition to an existing residential structure that increases or intensifies an existing nonconformity, but does not create a new nonconformity, may be allowed by the Planning Board by a special permit, provided that the Planning Board finds that such reconstruction, alteration, extension or addition is not substantially more detrimental to the neighborhood than the existing structure.
 - (b) For an existing non-residential structure on a conforming lot, any reconstruction, alteration, extension or addition that complies with the dimensional requirements in Table 1 may be allowed by the Planning Board

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by a special permit, provided that the Planning Board finds that such reconstruction, alteration, extension or addition is not substantially more detrimental to the neighborhood than the existing structure.

3. Variance Changes:

(a) Any reconstruction, alteration, extension or addition to an existing residential structure that creates a new nonconformity shall require a variance from the Board of Appeals.

(b) Any reconstruction, alteration, extension or addition to an existing non-residential structure on a non-conforming lot, and any such reconstruction, alteration, extension or addition to an existing non-residential structure on a conforming lot that does not comply with the dimensional requirements in Table 1, shall require a variance from the Board of Appeals.

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

E. Table of Dimensional Regulations:

Table 1 – Dimensional Regulations – Permitted As-of-Right for all Principal Uses:

| Dimensional Controls | | |
|-----------------------------|---|-------|
| 1 | Minimum Lot Area (square feet) | 5,000 |
| 2 | Minimum Frontage (feet) | 40 |
| 3 | Minimum Front Yard Setback (feet) | 5 |
| 4 | Minimum Side Yard Setback (feet) | 5 |
| 5 | Minimum Rear Yard Setback (feet) | 10 |
| 6 | Maximum Height (feet) | 15 |
| 7 | Maximum Floor Area Ratio (%) | 30% |
| 8 | Maximum Lot Building Coverage (%) | 25% |
| 9 | Maximum Impervious Surface Coverage (%) | 30% |
| 10 | Maximum Number of Stories | 1.5 |

EXHIBIT 1 – ZONING MAP DISTRICT FOR CENTRAL CONOMO POINT



ARTICLE 16

Article for Directing the Sale of Specified Properties at Conomo Point

To see if the Town will vote that when any existing leases expire for the following lots listed below, as shown on the Town of Essex Assessors' Maps, that said lots shall be transferred from the Conomo Point Commissioners for purposes of lease to the Board of Selectmen for the purpose of conveyance, and further, to direct the Board of Selectmen to convey all of said lots, after said plan has been duly recorded with the Registry of Deeds, and to authorize the Board of Selectmen 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; or take any other action relating thereto.

| | | | |
|----------------|-----------------|------------------|-----------------|
| Map 24, Lot 1 | Map 24, Lot2 | Map 24, Lot 3 | Map 24, Lot 4 |
| Map 24, Lot 5 | Map 24, Lot 6 | Map 24, Lot 7 | Map 24, Lot 8 |
| Map 24, Lot 9 | Map 24, Lot 10 | Map 24, Lot 11 | Map 24, Lot 12 |
| Map 24, Lot 21 | Map 24, Lot 22 | Map 24, Lot 23 | Map 24, Lot 24 |
| Map 24, Lot 25 | Map 19, Lot 81 | Map 19, Lot 82 | Map 19, Lot 83 |
| Map 19, Lot 84 | Map 19, Lot 85 | Map 19, Lot 86 | Map 19, Lot 88 |
| Map 19, Lot 89 | Map 19, Lot 91 | Map 19, Lot 92 | Map 19, Lot 93 |
| Map 19, Lot 65 | Map 19, Lot 66 | Map 19, Lot 67 | Map 19, Lot 68 |
| Map 19, Lot 69 | Map 19, Lot 70 | Map 19, Lot 71 | Map 19, Lot 72 |
| Map 19, Lot 73 | Map 19, Lot 74 | Map 19, Lot 74 A | Map 19, Lot 75 |
| Map 19, Lot 76 | Map 19, Lot 77 | Map 19, Lot 78 | Map 19, Lot 79 |
| Map 19, Lot 95 | Map 19, Lot 96 | Map 19, Lot 97 | Map 19, Lot 98 |
| Map 19, Lot 99 | Map 19, Lot 100 | Map 19, Lot 101 | Map 19, Lot 102 |

ARTICLE 17

Article for the Creation of a Park at Northern Conomo Point

To see if the Town will vote that when any existing leases expire for the following lots listed below, as shown on the Town of Essex Assessor's Maps, that said lots shall be retained for a public park.

| | | | |
|----------------|----------------|------------------|------------------|
| Map 24, Lot 13 | Map 24, Lot 14 | Map 24, Lot 15 A | Map 24, Lot 15 B |
| Map 24, Lot 16 | Map 24, Lot 17 | Map 24, Lot 18 | Map 24, Lot 18 A |
| Map 24, Lot 19 | Map 24, Lot 20 | Map 24, Lot 26 | Map 24, Lot 27 |
| Map 24, Lot 28 | Map 24, Lot 29 | Map 24, Lot 30 | Map 24, Lot 31 |
| Map 24, Lot 32 | Map 24, Lot 33 | Map 24, Lot 34 | Map 24, Lot 35 |
| Map 24, Lot 36 | Map 24, Lot 37 | Map 24, Lot 38 | Map 24, Lot 39 |
| Map 24, Lot 40 | Map 24, Lot 41 | Map 24, Lot 42 | Map 24, Lot 43 |
| Map 24, Lot 44 | Map 24, Lot 45 | | |

ARTICLE 19

To see if the Town will vote to amend the Essex Town Bylaws, Section 2-13 Conomo Point Commissioners:

Delete Section 2-13.8 in its entirety.

Delete in its entirety Section 2-13.13 Section 3: Long-term Leases

In Section 2-13.13 Section 4: Sales, add a new subsection h. as follows:

Provided however, that the Commissioners may not sell any town-owned property in the Northern Conomo Point section of Conomo Point encompassing all town-owned land north of and including Robbins Island Road and Beach Circle, until an Annual Town Meeting approves both 1) a Master Plan for Northern Conomo Point and 2) a Financial Plan for Conomo Point that a) lays out the proposed uses of the proceeds from all land sales at Conomo Point that have already taken place and are anticipated to take place in the future as part of the implementation of the approved Master Plan for Northern Conomo Point, b) proposes a method for segregating revenues from Conomo Point, including but not limited to all lease rents from Northern Conomo Point lots, user fees, and concession receipts, and c) proposes a method and timeline for funding the capital improvements needed to implement the Master Plan for Northern Conomo Point.

ARTICLE 33

To see if the Town will vote to amend the Town of Essex Animal Control Bylaw by deleting the current bylaw, in its entirety, and by replacing it with the following, to be known as Chapter 4-16; or take any other action relating thereto.

4-16 ANIMAL CONTROL BYLAW

4-16.1 *PURPOSE.* The purpose of this bylaw is control of animals to prevent injury to property, persons and animals.

4-16.2 *ADMINISTRATION.*

a. The Board of Selectmen shall annually appoint an Animal Control Officer who shall be responsible for the enforcement of this bylaw and the General Laws relating to the regulation of animals.

b. For purposes of this bylaw and Massachusetts General Laws, Chapter 140, section 157, the Board of Selectmen shall be the Hearing Authority.

4-16.3 *CONTROL OF ANIMALS.* No person owning, harboring or having the custody or control of a dog shall permit such dog to enter or remain upon the following property at the time indicated:

a. *PUBLIC SCHOOL GROUNDS.* No dog shall be allowed upon public school grounds between the hours of 7:30 a.m. and 4:30 p.m., local time, Monday through Friday, during the school year and any special sessions thereof. Dogs shall not be allowed on any school department property while schools in Essex are in session.

b. *BEACHES.* No dog shall be allowed upon any public beach in Essex during June, July, and August in each year.

c. *CEMETERY GROUNDS.* No dog shall be allowed upon any cemetery grounds in Essex, at all times of the year.

d. *PUBLIC PARKS.* No dog shall be allowed in any public park in Essex, at all times of year, except at the Centennial Grove. Supervised dogs on a leash or under the direct control of their owner (not unsupervised dogs) shall be allowed at the Centennial Grove

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except during June, July, and August in each year, during which months dogs shall not be allowed at the Centennial Grove.

4-16.3A *ROAMING AT LARGE.*

- a. No person shall permit a dog owned or kept by them to cause a nuisance to people or other animals or a threat to public safety while roaming at large.
- b. Dogs that are, in the judgment of the Animal Control Officer, causing a nuisance to people or other animals or a threat to public safety while roaming at large may be caught and confined by the Animal Control Officer or any police officer of the Town of Essex. A dog so confined may be held for not more than seven days. If the owner or keeper of the dog claims it and pays the sum of \$40 for each day that the dog has been held, the dog shall be returned to its owner or keeper. Any dog not claimed by the owner or keeper within said seven day period may be subject to euthanization or adoption as set forth in Massachusetts General Laws, Chapter 140, sections 151A and 167, as may be amended from time-to-time.

4-16.3B *NUISANCE AND DANGEROUS DOGS*

- a. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Essex Police Department, the Board of Selectmen, or the Town Administrator, that any dog owned or kept within the Town of Essex is a Nuisance Dog or Dangerous Dog, as those terms are defined in Massachusetts General Laws, Chapter 140, sections 136A and 157, as may be amended from time to time.
- b. The Animal Control Officer shall require that said complaints be in writing and is hereby empowered to make whatever inquiry is deemed necessary to determine the accuracy of said complaint and may make such orders as he or she deems necessary to ensure the protection of public safety and/or to eliminate said nuisance, as provided in Massachusetts General Laws, Chapter 140, section 157, as may be amended from time to time.
- c. Any person aggrieved by an order of the Animal Control Officer may request a hearing before the Board of Selectmen. Said request shall be in writing and received by the Board of Selectmen within five (5) business days of the issuance of the Animal Control Officer's order. If no such request is filed within the time specified herein, the order of the Animal Control Officer shall be final.
- d. Upon receipt of a timely request, the Board of Selectmen shall convene a public hearing, which shall include an examination of the complainant under oath, to determine whether the dog is a Nuisance Dog or Dangerous Dog. Based on the credible evidence and testimony presented at said public hearing, the Board of Selectmen may affirm the Animal Control Officer's order, reverse and nullify the Animal Control Officer's order, or issue any such order as it deems necessary to ensure the protection of public safety and/or eliminate a nuisance, as provided in Massachusetts General Laws, Chapter 140, section 157, as may be amended from time to time. The determination of the Board of Selectmen after a hearing shall be final.
- e. Nothing in this By-law is intended to limit or restrict the authority of the Board of Selectmen to act in accordance with G.L. c. 140, §157.

4-16.4 *DOGS IN SEASON*. Every female dog in heat shall be confined in a building or secure enclosure in such manner that such female dog cannot come into contact with another animal except for planned breeding.

4-16.5 *DOG TAGS*. All dogs shall wear a collar or similar device with the current dog tags (license) attached.

4-16.6 *LICENSING*.

a. All dogs 6 months or over must be licensed, individually or via a kennel license, and tagged. The registering, numbering, and licensing of dogs, if kept in the Town of Essex, shall be conducted in the office of the Town Clerk.

b. The annual License Period shall run from April 1st to March 31st of each calendar year.

c. The annual fees to be charged by the Town of Essex for the issuance of licenses for dogs shall be:

| | |
|---|---------|
| Males and Females | \$24.00 |
| Neutered Males and spayed Females* | \$15.00 |
| *(a certificate of neutering or spaying will be required) | |

d. Kennels – the owner or keeper of a pack or collection of more than 4 dogs, 3 months old or older, on a single premises, shall obtain one of the below types of kennel licenses, as defined in MGL Ch. 140 S. 136A, and pay the required annual fee.

| | <u>5 dogs or less</u> | <u>6 to 10 dogs</u> | <u>11 or more dogs</u> |
|---|--|--------------------------------|-----------------------------------|
| Commercial Boarding or Training Kennel: | \$100 | \$200 | \$300 |
| Commercial Breeder Kennel: | \$100 | \$200 | \$300 |
| Domestic Charitable Corporation Kennel: | No fee if incorporated exclusively for purposes outlined in MGL Ch. 140 S. 137A (c). | | |
| Personal Kennel: | \$ 75 | \$150 | \$200 |
| Veterinary Kennels: | \$100 | \$200 | \$300 |

A Kennel License shall be in lieu of licensing dogs individually.

No Kennel License shall be issued or renewed until the premises have been inspected and approved by the Animal Control Officer.

An owner or keeper of a pack or collection of 4 dogs or less, 3 months or older, on a single premises, may obtain a kennel license in lieu of licensing the dogs individually.

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No Commercial Board or Training Kennel, Commercial Breeder Kennel, or Veterinary Kennel Licenses shall be issued unless the applicant demonstrates compliance with any other applicable laws concerning the operation of a business or commercial enterprise from the subject premises.

e. Further, the Town Clerk will charge a late fee of Fifteen Dollars to obtain an individual or Kennel License after July 1st of any calendar year. All money received from issuance of dog licenses by the Town of Essex, or recovered as fines or penalties by said Town under provisions of Chapter 140 relating to dogs, shall be paid into the Treasury of the town and thereafter shall not be paid over by the Town Treasurer to Essex County.

4-16.7 LICENSING OF DANGEROUS DOGS.

a. The Animal Control Officer shall notify the Town Clerk of all dogs that have been designated as Dangerous Dogs in accordance with Section 3B of this Bylaw and/or Massachusetts General Laws, Chapter 140, section 157.

b. The Owner or keeper of any dog(s) designated as Dangerous Dogs in accordance with Section 3B of this Bylaw and/or Massachusetts General Laws, Chapter 140, section 157 which have not been ordered euthanized shall relicense said dog(s) as "Dangerous" within thirty days of such determination. A unique licensing number shall be assigned to a Dangerous Dog by the Town Clerk. That number shall be noted on the town licensing files.

c. The owner or keeper of a Dangerous Dog shall notify within 12 hours the Animal Control Officer if said dog is unconfined, has attacked, another dog or has attacked a human, or has died or has been sold or given away; the owner or keeper shall also provide the Animal Control Officer with the name, address and telephone number of the new owner of the Dangerous Dog.

4-16.8 ENFORCEMENT AND PENALTIES.

a. Allowing Dog to Cause a Nuisance to People or Other Animals or a Threat to Public Safety While Roaming at Large (Violation of Section 3A)

1. In addition the remedy of impoundment as set forth therein, Section 3A of this Bylaw may be enforced by the Animal Control Officer or any police officer of the Town through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.40, §21, and noncriminal disposition in accordance with G.L. c. 40, §21D, and the Town Bylaws, "Non-Criminal Disposition." When enforced in accordance with G.L. c.40, §21, the maximum penalty shall be \$300.00 and each day a violation exists shall constitute a separate violation.
2. When enforced through noncriminal disposition, the penalties shall be as follows:

| | |
|--|-----------------|
| First violation: | Written Warning |
| Second violation: | \$ 100.00 |
| Third and subsequent violations within | |

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12-month period of first violation: \$ 300.00

- 3. For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation.

b. Violation of Order to Restrain Nuisance or Dangerous Dog (Violation of Section 3B)

- 1. In addition to the remedies set forth therein, Section 3B of this Bylaw may be enforced by the Animal Control Officer or any police officer of the Town through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.140, §157A as may be amended from time-to-time, and noncriminal disposition in accordance with G.L. c. 40, §21D, and the Town Bylaws, "Non-Criminal Disposition." When enforced in accordance with G.L. c.140, §157A, an owner or keeper of a dog who fails to comply with an order of the selectmen or district court shall be punished, for a first offense, by a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

- 2. When enforced through noncriminal disposition, the penalties shall be as follows:

Table with 2 columns: Violation type and Penalty. Rows include First violation (Written Warning), Second violation (\$ 100.00), and Third and subsequent violations within 12-month period of first violation (\$ 300.00).

- 3. For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation.

The Animal Control Officer or any Town of Essex police officer shall 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 the Court.

c. Other

The Essex Board of Selectmen may enforce these Regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Selectmen shall not preclude enforcement through any other lawful means.

A true copy.

Attest: /s CHRISTINA J. WRIGHT
Christina J. Wright, Town Clerk