

*Minutes of the October 16, 2018
Special Fall Town Meeting
of the Town of Essex*



The October 16, 2018 Special Fall Town Meeting of the Town of Essex, held at the Essex Elementary School Gymnasium, 12 Story Street, was called to order at 7:30 p.m. by Moderator Jeffrey D. Jones. A quorum of 371 voters was present at the time the meeting was called to order with a final total of 420 voters present at the height of the meeting.

The following people were appointed as Tellers: Madeline Albani, Dawn Burnham, Robert Fitzgibbon, Karen Greene, Elizabeth Guerin, Robyn Lafata, James O'Donnell and Joan Perrigo.

There were no objections to the Tellers appointed.

The Moderator then called for the attendance to recite the Pledge of Allegiance. A moment of silence was observed in memorium for those town officials who have passed since the last town meeting: Evelyn Hickey, Joseph Guerin, and Thayme Symmes.

Moderator Jeffrey Jones recognized Michelle Dyer, who has retired from the Finance Committee, for her service to the town.

Lisa O'Donnell presented service awards to the following employees: James Albani - 25 years, Travis Good – 30 years, Jason Heath – 35 years, Ernest Nieberle, Jr. 35 years, Dorothy Elwell – 35 years and Peter Silva – 30 years. The Volunteer of the Year Award was presented to Anne Cameron and the Employee of the Year was presented to Sergeant Paul Francis. Selectmen Andrew Spinney then presented a 10 year service award to Lisa O'Donnell.

The Moderator requested the Finance Committee to declare their position on all monetary articles in the Warrant. Ben Buttrick, Chair of the Finance Committee, declared their approval of all monetary articles being voted on.

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

Approved Unanimously declared by the Moderator

NOTE: Articles 5, 7, 12 and 13 were voted to be taken out of sequence but are in sequence in the minutes for ease of reference.

ARTICLE 1: RATIFICATION OF VOTES FROM AUGUST 27, 2018 SPECIAL TOWN MEETING

To see if the Town will vote to ratify the votes taken pursuant to the following articles on the warrant for the Special Town Meeting held on August 27, 2018; or take any other action relating thereto:

1. Article 7 - transfer from Free Cash the sum of \$14,500 for repairs and renovations, furnishings and equipment for the Centennial Grove Cottage and its adjacent garage, including the cost of any design, engineering, construction, installation and/or related services and everything incidental and related thereto. Said funds shall be expended by the Board of Selectmen;
2. Article 8 - to amend the vote taken under Article 6 of the May 7, 2018 Annual Town Meeting by adding a VOIP telephone expense line in the Police Department Budget for fiscal year 2019 and to transfer the sum of \$4,750 from Free Cash to this new VOIP Telephone line item; and
3. Article 9 - transfer from Free Cash the sum of \$16,000 to replace the Fire Department's base radio transmitter, including all costs for removing and disposing of the old transmitter, if necessary, and installing the new transmitter.

Motion: Lisa J. O'Donnell moved that the Town vote to ratify the votes taken pursuant to articles 7-9 on the warrant for the Special Town Meeting held on August 27, 2018, as shown in the Fall Town Meeting warrant. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

ARTICLE 2: WASTEWATER SEWER MAINTENANCE FY19

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 Wastewater Department's sewer maintenance line item for fiscal year 2019; or take any other action related thereto.

Motion: Trescott DeWitt, moved that the Town vote to transfer from Wastewater Free Cash the sum of \$25,000 to be added to the Wastewater Department's sewer maintenance line item for fiscal year 2019. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 3: FIBER OPTIC MUNICIPAL AREA NETWORK

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase and install all necessary switchgear and related devices and services, or anything related or incidental thereto to make the Town's fiber optic municipal area network functional after its construction is complete; or take any other action relating thereto.

Motion: Peter Phippen moved that the Town vote to transfer from the PEG Access and Cable Related Fund the sum of \$15,700 to purchase and install necessary switchgear and related devices and services, or anything related or incidental thereto to make the Town's fiber optic municipal area network functional. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 4: SENIOR CITIZEN TRANSPORTATION SERVICES

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to contract for senior citizen transportation services; or take any other action relating thereto.

Motion: Susan Coviello moved that the Town vote to transfer from Free Cash the sum of \$7,000 to contract for senior citizen transportation services. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 5: PUBLIC SAFETY BUILDING DESIGN SERVICES

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to retain the services of a designer to assist the Town and its Owner's Project Manager (OPM) with the development and comparison of various design options for the future renovation and/or replacement of the Town's existing public safety building, either at the existing site or at some other site, and either as a combined facility on one site or as separate police and fire facilities on separate sites; and further, to develop design plans and an associated cost estimate for the recommended option through the 60% construction document (CD) design phase, including all costs incidental or related thereto; or take any other action relating thereto.

Motion: Lisa J. O'Donnell moved that the Town vote to transfer from the Sale of Real Estate Fund the sum of \$637,000 to retain the services of a designer to assist the Town and its Owner's Project Manager (OPM) with the development and comparison of various design options for the future renovation and/or replacement of the Town's existing public safety building, either at the existing site or at some other site, and either as a combined facility on one site or as separate police and fire facilities on separate sites; and further, to develop design plans and an associated cost estimate for the recommended option through the 60% construction document (CD) design phase, including all costs incidental or related thereto. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

ARTICLE 6: POLICE DEPT. PRISONER PROCESSING AND EVIDENCE AREA

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to a) design and renovate space within the Police and Fire Headquarters building at 24 Martin Street into a Police Department prisoner processing area and all costs incidental or related thereto; and b) to purchase, set in place, equip, and wire a storage container to be placed outside the building to serve as the Police Department evidence area and all costs incidental or related thereto; or take any other action relating thereto.

Motion: Andrew Spinney moved that the Town vote to transfer from Free Cash the sum of \$16,000 to a) design and renovate space within the Police and Fire Headquarters building at 24 Martin Street into a Police Department prisoner processing area and all costs incidental or related thereto; and b) to purchase, set in place, equip, and wire a storage container to be placed outside the building to serve as the Police Department evidence area and all costs incidental or related thereto. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 7: MANCHESTER MEMORIAL ELEMENTARY NEW CONSTRUCTION BORROWING

To see if the Town will approve the \$52,232,925 borrowing authorized by the Manchester Essex Regional School District, for the purpose of paying costs of the Manchester Memorial Elementary School new school construction project, for replacement of the school at 43 Lincoln Street in Manchester-by-the-Sea, Massachusetts, including the payment of all costs incidental or related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the School Building Committee. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project

costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities. Any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and ninety-three one hundredths of a percent (35.93%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; or take any other action relating thereto.

Motion #1: Anne Cameron moved that the Town hereby approve the \$52,232,925 borrowing authorized by the Manchester Essex Regional School District, for the purpose of paying costs of the Manchester Memorial Elementary School new school construction project, for replacement of the school at 43 Lincoln Street in Manchester-by-the-Sea, Massachusetts, including the payment of all costs incidental or related thereto (the “Project”), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended at the direction of the School Building Committee; that the Town acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that District may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and ninety-three one hundredths of a percent (35.93%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; provided that the approval of the District’s borrowing by this vote shall be subject to and contingent upon an affirmative vote of the Town to exempt its allocable share of the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2 1/2); and that the amount of borrowing authorized by the District shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA. The motion was duly seconded.

Motion #2: John Guerin moved to conduct the vote on Article 7 by Secret Ballot. The motion was duly seconded.

Action Motion #2: *Approved by over 20% of voters declared by the Moderator.*

Action Motion #1: *Secret Ballot vote passed by more than 2/3 vote – Yes 314 No 91.*

ARTICLE 8: ANIMAL CONTROL BYLAW – LATE FEE PERIOD TO LICENSE DOGS

To see if the Town will vote to amend Section 4-16.6(e) of the Town of Essex Animal Control Bylaw, which currently reads, in part:

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.

By changing “July 1st” to “April 1st”; or take any other action relating thereto.

Motion: Lisa O’Donnell moved that the Town vote to amend Section 4-16.6(e) of the Town of Essex Animal Control Bylaw as shown in Article 8 of the Fall Town Meeting warrant. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

ARTICLE 9: CONOMO POINT SEAWALL STATE GRANT MATCH

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be used as a match to a State grant program for the design and/or construction of renovations and improvements to the Conomo Point seawall system; or take any other action relating thereto.

Motion: Peter Phippen moved that the Town vote to transfer from Free Cash the sum of \$16,500 to be used as a match to a State grant program for the design and/or construction of renovations and improvements to the Conomo Point seawall system. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

ARTICLE 10: CREATE CONOMO POINT REPAIR, MAINTENANCE AND IMPROVEMENT STABILIZATION FUND

To see if the Town will vote to establish a new Stabilization Fund known as the Conomo Point Repair, Maintenance, and Improvement Fund for the purpose of providing funding for repairs, maintenance and improvements to common areas and structures on the Town-owned land known as Conomo Point; 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 thereto.

Motion: Andrew Spinney moved that the Town vote to establish a new Stabilization Fund known as the Conomo Point Repair, Maintenance, and Improvement Fund for the purpose of providing funding for repairs, maintenance and improvements to common areas and structures on the Town-owned land known as Conomo Point; and to transfer from Free Cash the sum of \$100,000 to be added to said Fund. The motion was duly seconded.

Action: *Approved by 2/3 vote declared by the Moderator*

ARTICLE 11: AMEND ZONING BYLAW TO PROHIBIT RECREATIONAL MARIJUANA ESTABLISHMENTS WITHIN THE TOWN OF ESSEX

To see if the Town will vote to amend the Town’s Zoning Bylaw by adding a new Section 6-14.4, RECREATIONAL MARIJUANA ESTABLISHMENTS that would provide as follows:

Section 6-14.4

Consistent with G.L. c.94G, § 3(a)(2), all types of recreational marijuana establishments as defined in G.L. c.94G, §1(j), including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Essex.

This Section shall be effective upon passage by the voters at a Town Election.

; or take any other action relating thereto.

Motion: Lisa J. O’Donnell moved to refer Article 11 back to the Planning Board. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

ARTICLE 12: AMEND ZONING BYLAW TO EXTEND TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the Town’s Zoning Bylaw by revising Section 6-14, **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, which temporarily prohibits 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, by extending the moratorium’s date in Section 6-14.3 as set forth below:

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~~ **June 30, 2019, or until such time as the Town votes to adopt Zoning Bylaw amendments approved by the Attorney General that prohibit or regulate recreational marijuana establishments, whichever occurs earlier.** 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.

Motion: Lisa J. O’Donnell moved that the Town vote to amend the Town’s Zoning Bylaw by revising Section 6-14.3, **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, by extending the present moratorium as shown in Article 12 of the Fall Town Meeting warrant. The motion was duly seconded.

Action: *Approved by 2/3 vote declared by the Moderator*

ARTICLE 13: SENIOR CENTER TREE AND SHRUB MAINTENANCE

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for tree and shrub maintenance and/or removal work at the Essex Senior Center property at 17 Pickering Street and all costs incidental or related thereto; or take any other action relating thereto.

Motion: Susan Coviello moved that the Town vote to transfer from Free Cash the sum of \$2,150 for tree and shrub maintenance and/or removal work at the Essex Senior Center property at 17 Pickering Street and all costs incidental or related thereto. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 14: FUND YOUTH COMMISSION BUDGET

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 Essex Youth Commission operating budget for the remainder of fiscal year 2019; or take any other action relating thereto.

Motion: Stacie Capotosto moved that the Town vote to transfer from Free Cash the sum of \$440 to be added to the Essex Youth Commission operating budget for the remainder of fiscal year 2019. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 15: CEMETERY FUNDS

To see if the Town will vote to amend the vote taken under Article 6 of the May 7, 2018 Annual Town Meeting by revising the amounts transferred to/from various cemetery funds; or take any other action relating thereto.

Motion: Paul Rullo moved that Article 15 be indefinitely postponed. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 16: SEWER DEBT REAPPROPRIATION

To see if the Town will vote to amend the vote taken under Article 8 of the May 7, 2018 Annual Town Meeting by revising the amounts designated for sewer construction debt; or take any other action relating thereto.

Motion: Paul Rullo moved that the Town vote to amend the vote taken under Article 8 of the May 7, 2018 Annual Town Meeting by rescinding the sewer debt repayment, principal and interest appropriation of \$350,284 to be raised by taxation and, in its place, appropriating the sum of \$328,911 to be raised by taxation. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 17: BICENTENNIAL FUND

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 Bicentennial Fund; or take any other action relating thereto

Motion: Dawn Burnham moved that the Town vote to transfer from Free Cash the sum of \$10,000 to be added to the Bicentennial Fund. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 18: SEWER CAPACITY – GREAT MARSH BREWING CO, 99 MAIN ST

To see if the Town will vote to authorize the Great Marsh Brewing Company at 99 Main Street to purchase additional gallons of sewer capacity in accordance with Section 7-7.5 of the Town of Essex Bylaws; or take any other action relating thereto.

Motion: Andrew Spinney moved that the Town vote to authorize the Great Marsh Brewing Company at 99 Main Street to purchase 2,500 additional gallons of sewer capacity in accordance with Section 7-7.5 of the Town of Essex Bylaws. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

ARTICLE 19: OPEB TRUST FUND

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.

Motion: Benjamin Buttrick, move that the Town vote to transfer from Free Cash the sum of \$200,000 to be added to the Town's Other Post-Employment Benefits (OPEB) Trust Fund. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 20: STABILIZATION FUNDS

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, and/or Town Hall/Library repair and maintenance fund, and/or municipal street lighting repair and maintenance fund; or take any other action relating thereto.

Motion: Benjamin Buttrick moved that the Town vote to transfer from Free Cash the following sums of money to be added to the following stabilization funds: building capital improvements fund, \$20,000; recreational capital improvements fund, \$20,000; purchase of vehicles and major equipment that qualify as capital purchases fund, \$20,000; Town Hall/Library repair and maintenance fund, \$20,000; and municipal street lighting repair and maintenance fund, \$3,000. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 21: FINANCE COMMITTEE RESERVE FUND - FY 19

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 2019; or take any other action relating thereto.

Motion: Benjamin Buttrick moved that the Town vote to transfer from Free Cash the sum of \$17,000 to replenish the Finance Committee's Reserve Fund for fiscal year 2019. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 22: TOWN STABILIZATION FUND

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.

Motion: Michael Flynn moved that the Town vote to transfer from Free Cash the sum of \$100,000 to be added to the Town's Stabilization Fund. The motion was duly seconded.

Action: *Approved by the Majority declared by the Moderator*

Motion made by the Moderator at 10:13 pm to dissolve the meeting. The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

A True Copy:

Attest: _____
Pamela B. Thorne, Town Clerk