

**Selectmen's Minutes
Town Hall, 2nd Floor Stage Conference Area, 30 Martin Street**

October 21, 2019

Present: Chairman Andrew C. Spinney, Selectman Peter D. Phippen, Selectman Ruth R. Preen, Town Administrator Brendhan Zubricki, and Selectmen's Assistant Pamela J. Witham.

Also Present: Town Accountant Virginia Antell; Manchester Cricket Reporter Erika Brown; Stephen and Alison Bryer; Bicentennial Committee Chair Dawn Burnham; John Collins and Attorney Stephen Miller; Council on Aging Director Kristin Crockett; Brian Desrosiers; Greg Foster; Gloucester Times Reporter Neal Cronin; Finance Committee members Guy Bradford, Benjamin Buttrick; Rob Fitzgibbon, Michael Flynn, and Richard Ross; Paul Fitzpatrick; Library Director Debbie French; Town Moderator Jeff Jones; Police Chief Paul Francis, Sergeant Dan Bruce, and Sergeant Tom Shamshak; Tina Lane; Dan Mayer; Dean McFarland; Antonella Muniz; Architect Bill Nolan and Project Manager Michael Cerbone; Board of Assessors member Steve Poulos; Tom Riordan; School Committee member Rachel Fitzgibbon; Shellfish Constable William Knovak; Treasurer/Collector Jeff Soulard; John Tremblay, Theresa Tremblay, and Mike Ingersol; and others.

Chairman Spinney called the meeting to order at 6:00 p.m. in the 2nd floor Stage Conference Area of the Town Hall and announced that the Board would hear Public Comment. No one offered any comment.

Mr. Zubricki discussed an item in his Town Administrator's Report for the period October 5th, 2019 through October 18th, 2019, regarding the following:

Status of Plans for Line Striping and Signage in Downtown Area: Mr. Zubricki reported that it is necessary for the firm that the Town hired for this project to consult with MassDOT regarding certain aspects of the project and requested that the Board sign an attestation authorizing the engineering firm to act as the Town's agent. The Board agreed and a motion was made, seconded, and unanimously voted to sign the authorization letter, which was notarized by Dawn Burnham.

A motion was made, seconded, and unanimously voted to approve Thomas Riordan's request to continue closure of the Ripple Restaurant through March 1, 2020. Thomas Riordan left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$757,723.45.

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 10/10/2019 warrant pursuant to subsection (d) of said Section.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ernie Nieberle	Nieberle's	09/24/2019	\$ 181.00	Police

Ernie Nieberle	Nieberle's	09/24/2019	\$ 50.00	Fire
Ernie Nieberle	Nieberle's	09/24/2019	\$ 113.00	Fire

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 10/17/2019 warrant pursuant to subsection (d) of said Section.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ernie Nieberle	Nieberle's	09/24/2019	\$ 632.26	Highway

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's October 7, 2019, Open Meeting and Executive Session.

A motion was made, seconded, and unanimously voted to ratify the Chairman's declaration of a State of Emergency with respect to the recent windstorm, from 2:00 a.m. on October 17, 2019 through 9:00 a.m. on October 18, 2019.

A motion was made, seconded, and unanimously voted to accept and sign the retiree health insurance renewal pricing for calendar year 2020.

A motion was made, seconded, and unanimously voted to accept a gift from the Essex Lions Club of an iPod Touch to the Essex Youth Commission.

A motion was made, seconded, and unanimously voted to approve and sign a contract between the Massachusetts Cultural Council and the Town for the Local Cultural Council Allocation for the Essex Cultural Council in the amount of \$4,800.

The Board reviewed the ballot for the Boston Region Metropolitan Planning Organization. All the positions were uncontested except for the Metro West Regional Collaborative. The Board agreed to vote for the candidate from Ashland. A motion was made, seconded, and unanimously voted to approve and authorize the Chairman's signature on the absentee ballot for the November 6, 2019 MPO Election.

Mr. Zubricki asked the Board to consider a contract amendment with the project management firm NV5 for the construction administration phase of the approved public safety facility construction project, increasing the scope of work and their overall fee to \$619,000, and a motion was made, seconded, and unanimously voted to approve the increase.

Mr. Zubricki also asked the Board to approve a contract amendment with the architectural firm Johnson Roberts Associates, also regarding an increase in the scope of work for the construction administration phase of the public safety facility project and an increase in their overall fee to \$1.1 million. A motion was made, seconded, and unanimously voted to approve the additional scope of work and associated cost.

Mr. Zubricki said that he had recently met with the abutter of 11 John Wise Avenue. The water line supplying that abutter's property passes from the Town water main, over the Town's

property at 11 John Wise Avenue and then onto the abutter's property. Mr. Zubricki said that the abutter is willing to allow the Town to hire a contractor to connect a new service line between an unused service tap on his property to the house. The Board had previously authorized this work. The Board agreed that, since the abutter is opting to not have the Town's contractor restore his driveway apron and driveway in-kind after those are disturbed by the waterline trench (since he has his own plans to change materials), the Town should pay for a portion of the new materials, to be installed by others. Also, the abutter would like the ability to comment on the Town's plan for screening along the property line as the project unfolds. The Board agreed that his request for open communication is reasonable.

The Board reviewed a communication from Chief Francis advising the Board that Pickering Street, Winthrop Street, and Maple Street will be closed to traffic on Thursday, October 31 between the hours of 5 and 8 p.m. for trick or treating.

Chairman Spinney reported that there was nothing new to report regarding offers to purchase the Town's vacant lot at 0 Sumac Drive, Map 110, Lot 7.

The Board discussed the replacement of the Centennial Grove sign and were in favor of replacing it with a similar sign with a scenic picture instead of one with people. Mr. Zubricki said he would obtain a proof of the proposed sign for the Selectmen's consideration.

Architect Bill Nolan and Project Manager Mike Cerbone of Savoie Nolan Architects, came before the Board to discuss proposed renovations to the structure at 175 Conomo Point Road. Following Mr. Nolan's presentation, Selectman Phippen moved that the Board of Selectmen, in its capacity as Conomo Point Commissioners, approve a request made by Stephen and Allison Bryer, to renovate the dwelling located at 175 Conomo Point Road (Map 108, Lot 30), subject to the following terms and conditions:

1. The work shall be done in accordance with the terms and conditions set forth in Sections 2 and 3 of Article IX and Article X of the Land Lease commencing on January 1, 2017 (the "Lease"), which terms and conditions are expressly made part of this approval.
2. The renovated dwelling shall be considered the "Improvements" for purposes of the Lease.
3. The Lessee acknowledges that nothing in this vote is intended to convey or imply any right, title or interest in the Town's property, or any portion thereof, and that nothing herein is intended to extend the term of the Lease or to waive the Town's right of termination pursuant to Article XI thereof, and further that the Town expressly reserves the right to assert ownership of the newly constructed dwelling in accordance with Article V of the Lease.

4. The Lessee shall sign a written acknowledgment of his agreement to these conditions, which acknowledgement shall be countersigned by the Town Administrator on behalf of the Board.
5. The renovation may be completed to a lesser extent than depicted by the building envelope on the below-referenced plans, but may not exceed said envelope without seeking approval from this Board, which may be denied.

The Chairman will initial the proposed project plans and the project routing form and the Town Administrator will countersign a form whereby the lessees acknowledge the vote, after the lessees sign it.

The motion was seconded and unanimously voted. The Bryers, Mr. Nolan and Mr. Cerbone thanked the Board and left the meeting.

The Board began to review a suggestion from a resident to hold a one-time meeting comprised of 3 representatives from the business community, 3 residents, Selectman Spinney, and the Town Administrator to discuss concerns and thoughts for the formulation of an outdoor entertainment noise policy. The Board agreed to resume this discussion later in the meeting, since it was time for a public hearing to begin.

Brewery owner and Manager John Collins, and his attorney Stephen Miller, joined the Board at 6:30 p.m. A motion was made, seconded, and unanimously voted to open the Public Hearing regarding Great Marsh Brewery's request for a Section 19 Farmers Series Pouring Permit. Attorney Miller briefly reviewed the plans for the establishment. The Board had a few questions and the Chairman asked those present if there were any questions or comments. There were none and a motion was made, seconded, and unanimously voted to close the hearing. The Board was in agreement and a motion was made, seconded, and unanimously voted to approve and sign the application paperwork which will be forwarded to the ABCC for final approval. Mr. Collins and Attorney Miller thanked the Board and left the meeting.

The Board reviewed a proposed contract amendment with Covanta for solid waste disposal services, and a motion was made, seconded, and unanimously voted to approve the amendment contingent upon the Board of Public Work's approval, the Fall Town Meeting moving funds from the DPW's contracted services line item to the appropriate Town personnel wage line item, and a final review by Town Counsel.

It was agreed to table discussion concerning a proposal to automate collection of boat launching fees on weekdays for non-residents, and also, whether the existing launch fee should be changed.

Mr. Zubricki continued the presentation of his Town Administrator's Report for the period October 5th, 2019 through October 18th, 2019, regarding the following:

Summary of Filed Sub-bids for New Public Safety Facility: Mr. Zubricki reported that he had not received the final tabulation of sub-bids from the Project Manager as yet, but that most sub-bids have come in at or below budget and the aggregate of the bids is below budget. Since sub-bids comprise about 40% of the total project cost, this is good news. General bids are set to be opened on October 30, 2019 and the Board will discuss the successful bid at its next meeting.

Possible Agreement with Ipswich for Street Light Conversion & Maintenance: Mr. Zubricki reported that the Town of Ipswich is interested in bidding on the Town's project for LED conversion of the Town's street lights and future maintenance of the converted lights. The Board agreed that Mr. Zubricki should continue his discussions with Ipswich on this matter.

Possible Acquisition of Apple Street Parcel/Rights at Future Town Meeting: Mr. Zubricki said that there was no new information regarding the possible acquisition of the Apple Street property and that efforts by a third party to contact the owner of the property on the Board's behalf regarding this matter would continue.

The Board was reminded of the following meetings:

- The next regular Board of Selectmen's meeting will take place on Monday, November 4, 2019, at 6:00 p.m. in the 2nd floor Stage Conference area of the Town Hall on Martin Street.
- There will be a public hearing held by the Zoning Board of Appeals on Wednesday, November 6, 2019, in the 3rd Floor Auditorium of the Town Hall regarding the Great Marsh Brewery's request for a larger sign at the brewery on Main Street.
- The Fall Town Meeting will be held in the cafeteria at the Essex Elementary School on Story Street on Monday, November 18, 2019, starting at 7:30 p.m.

Chairman Spinney welcomed the representatives from various Town departments, boards, and committees to the Quarterly Department Heads Meeting. Mr. Zubricki began this segment of the Selectmen's meeting with a review of the proposed articles to be voted at the Fall Town Meeting scheduled for November 18.

Following discussion of the warrant articles, Bicentennial Chairman Dawn Burnham gave everyone present a handout *listing all the events* planned for the remainder of the Town's Bicentennial year. She said that the fireworks and Senior banquet had been a great success, as well as all the events that had been planned this year, with the exception of the Grove Family Day which was cancelled because of severe weather. She also reported that the Town has received \$35,000 in grant money to reimburse the Town for bicentennial expenses and she is providing the State with expense documentation.

Council on Aging Director Kristin Crockett informed everyone that the Center's contacts with seniors has increase by 140% over the last two years. Currently, she has been helping seniors assess their medicare coverage to maximize their benefits and save money. Also, the Town has collaborated with Manchester and been awarded a grant to provide senior transportation to

healthy food sources and physical exercise. The Center is planning an educational campaign alerting seniors to scams directed at elderly people. Currently, the Center is participating in a fundraiser. They are collecting old cell phones, which they can submit in batches of 50, and in return they will receive grant money for each batch submitted, no limit on the number that may be submitted. She announced that the Senior Christmas Boutique has been planned for early November.

School Committee member Rachel Fitzgibbon provided an update on the progress of the Memorial Middle School rebuilding project. In addition, she said there is a new website called the ME Hub portal designed to provide information regarding health issues to students and parents and answer questions.

Shellfish Constable Billie Knovak reported that the truck and the boat are in good working condition. He said that due to the huge amount of rain we have received lately, the flats have been closed a lot. He announced that the Town is again the recipient of a State grant to pay for the trapping and termination of green crabs which prey on clams.

Head Assessor Steve Poulos reported that his Board has finished their data collection for FY2020 and are ready to create their valuation model. They hope to set the tax rate in early December and will have their residential factor public hearing in late November, just before Thanksgiving.

Town Moderator Jeff Jones had nothing to report.

Chief Francis reported that the Police Department has made more than twice as many traffic stops since July of this year than they made during all of last year. For the most part, they have issued warnings and citations. The Department is planning a community outreach event to be held at the Senior Center where people can stop by for coffee and a chat with a policeman.

Library Director Deb French said that the Library's Summer Reading Program was a huge success, as were the many other programs/events that they have offered. One of the programs was a bookmark design contest. The Library continues to work on its strategic plan which is nearing completion.

Town Accountant Virginia Boutchie Antell reported that Free Cash has already been certified for this fiscal year. Currently, she is working towards the completion of the Schedule A for the Town, after which she will prepare the Tax Rate Recap for the Town. The auditing firm has completed their audit of last fiscal year's records.

Treasurer/Collector Jeff Soulard informed those present that this quarter's real estate taxes are due November 1, and to date, he has received approximately 75% of the taxes owed. He plans to begin the bond process soon to secure favorable financing for the new public safety building.

Essex Cultural Council Chair Rob Fitzgibbon (who is also a member of the Finance Committee) reported that this past year the Council has spent approximately \$8,000 in grant money for

Library programs, Bicentennial events, and other cultural programs. He also said that he will be stepping down as Chair and that Robyn Kanter will be taking his place.

Finance Committee Chair Ben Buttrick said that the Committee has been considering their recommendations for the monetary articles which will be voted at the Fall Town Meeting on November 18, 2019

Chairman Spinney thanked the department heads and chairpersons for attending.

Jeff Jones, Deb French, Jeff Soulard, Kristin Crockett, Rachel Fitzgibbon, Richard Ross, and Dawn Burnham left the meeting.

Regarding the scheduled Fall Town Meeting:

- A motion was made, seconded, and unanimously voted to include the articles as they appear on the October 21, 2019 draft warrant, for the November 18, 2019 Fall Town Meeting.
- A motion was made, seconded, and unanimously voted to close the warrant.
- A motion was made, seconded, and unanimously voted to approve and sign the warrant (which is attached hereto).

The Board resumed discussion regarding a suggestion to hold a one-time private meeting with respect to the development of an outdoor entertainment noise policy and it was agreed that Mr. Zubricki would ask the Chamber of Commerce and the Essex Merchants Group to recommend a total of three persons to attend the meeting, which would also include Selectman Spinney, the Town Administrator, and three people from the citizens group the has been outspoken on this matter in the past. The goal of the meeting will be to see if some common ground can be identified in advance of the EDC taking up the matter in mid-November.

Finance Committee members Guy Bradford, Rob Fitzgibbon, Michael Flynn, and Chair Ben Buttrick joined the Board at the table, along with Town Accountant Virginia Antell, to review the current draft of the amounts to be requested at the Fall Town Meeting. Chairman Buttrick stated that the Committee is uncomfortable using so much free cash so early in the fiscal year to fund the articles at the Fall Town Meeting, and suggested reductions in several of the items. The Board agreed with the Finance Committee's recommendations.

Virginia Antell, Guy Bradford, Ben Buttrick, Rob Fitzgibbon, and Michael Flynn left the meeting.

John and Theresa Tremblay, the owners of BB Botanics, and their Vice President of Operations, Mike Ingersol, joined the Board to discuss the proposed pathway towards creating a Host Community Agreement. Mr. Tremblay said that there is an eight month waiting period for State review of a permit application and that he would like to complete a host agreement as soon as possible so he can get in line for the State review. The Board was in favor of Mr. Tremblay

having most of his permits in place before starting negotiations on an agreement. As yet, Mr. Tremblay has not applied for a building permit and has not decided if he will demolish the building on the site and rebuild or whether he will remodel it to suit his needs. The Board asked if he intended to apply for a site plan review. Mr. Tremblay was not sure if one was required and the Board asked if he would get one even if one was not required. Mr. Tremblay said that he would. The Board said that they were considering forming an advisory committee to help with the Host Community Agreement. They also asked Mr. Tremblay to begin the permitting process and work on a building permit. In that way, the Host Community Agreement and the regular municipal permitting process can be worked on simultaneously.

The Board discussed various aspects of a committee to provide resources for the Board to negotiate a Host Community Agreement with Mr. Tremblay for the proposed retail marijuana dispensary at the corner of Eastern Avenue and Harlow Street. The Board had discussed at its last meeting possibly allowing the Committee to be directly involved in negotiations. However, after further consideration, the Board decided that the Committee should only operate in an advisory role. The Selectmen will handle the negotiation process, maybe using a negotiating team. After being asked by the Board, Mr. Zubricki advised that the committee should be limited to seven members or less and the Board agreed. Everyone also agreed that the Police should have a presence on the committee and Chief Francis said that Sgt. Bruce would be assisting with this project. There was a lot of discussion regarding what the profile of the other members should be and how they would be selected. The Board finally agreed to consider the matter for continued discussion at their next meeting on November 4, 2019.

There being no further business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 9:17 p.m.

Documents used during this meeting include the following:

Bicentennial Events Planned for the Remainder of the Year

Prepared by: _____
Pamela J. Witham

Attested by: _____
Peter D. Phippen

2019
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 18, 2019 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 Chapter 6 section 6-2.2 Definitions, USE, CHANGE OF, of the Town of Essex Zoning By-law by making the following changes:

Amend by deleting the definition which presently reads:

A change of use occurs when the change is from one principal use category to another, as listed in the section titled Land Use Regulations of this bylaw.

And replace it with the following:

A change of use occurs when the change is from one principal use category to another, as listed in the section titled Land Use Regulations of this bylaw. Any change affecting currently undefined or not categorized land use will be considered a change of use.

; or take any other action relating thereto.

ARTICLE 2

To see if the Town will vote to amend Chapter 6 section 6-3.2.1 Table of Dimensional Requirements, of the Town of Essex Zoning By-law by making the following changes:

- 1. Delete reference to Note b from Residential, Single and Two Family, Minimum Lot area (sq ft) from Table on page 608.**
- 2. Amend Section 6-3.2.2 Notes for Dimensional Requirements: by deleting the Note b. which presently reads:**

b. 40,000 square foot minimum per dwelling unit in the Water Resource Protection District.

And replace it with the following:

b. Deleted at FTM 2019

; or take any other action relating thereto.

ARTICLE 3

To see if the Town will vote to amend Chapter 6 section 6-3.4.5 Radio, Telecommunications, Cellular and Television Facilities, Including Free Standing Tower Type Structures, of the Town of Essex Zoning By-law by making the following changes:

Delete paragraphs a and c, which currently read:

a. Citizen band radio, VHF and short-wave (ham) radio towers for private use are excluded from the provisions of this section. Any change from such excluded use to a use not excluded by this section shall require a special permit.

c. No Tower shall be located closer than two (2) miles from any other Tower.

And replace them with the following:

a. Citizen band radio, VHF, UHF and short-wave (ham) radio towers for private or municipal use are excluded from the provisions of this section. Any change from such excluded use to a use not excluded by this section shall require a special permit.

c. No Tower shall be located closer than ½ mile from any other Tower.

; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to amend Chapter 6 section 6-3.5.2 Projects Requiring Site Plan Review, of the Town of Essex Zoning By-law by making the following changes:

Delete the paragraph which currently reads:

No building permit for the new construction, reconstruction, or relocation of any building with a ground floor footprint of greater than or equal to 2,500 square feet, or any change of use for any building or site, shall be given except in conformity with a site plan approval by the Planning Board. Required approval includes proposals for commercial,

industrial, office, multifamily dwelling, residential development, municipal, utility, and recreational purposes.

And replace it with the following:

No building permit for the new construction, reconstruction, or relocation of any building with a ground floor footprint of greater than or equal to 2,500 square feet, or any change of use for any building or site, shall be given except in conformity with a site plan approval by the Planning Board. Required approval includes proposals for commercial, industrial, office, multifamily dwelling, residential development, municipal, utility, and recreational purposes. Single Family Residential use is excluded from this requirement.

; or take any other action relating thereto.

ARTICLE 5

To see if the Town will vote to amend Chapter 6 section 6-5.8 Unregistered and Inoperative Motor Vehicles, Junk Yards, of the Town of Essex Zoning By-law by making the following changes:

Add a new subparagraph e (shown in italics below) so that the section reads as follows:

6-5.8 Unregistered and Inoperative Motor Vehicles, Junk Yards.

a. There shall be no unregistered or inoperative motor vehicles permitted in a front yard.

b. No more than two operative unregistered motor vehicles shall be permitted in a back yard or side yard.

c. No inoperative cars shall be allowed unless they are in an enclosed building or screened from public view.

d. Junk yards, as defined in subsection 6-2.2 shall not be permitted in the town.

e. *Business land use shall be exempted from a, b, and c above if the sole primary business is related to repair, reconditioning, rebuilding and / or sale of motor vehicles not to exceed a total of 20 unregistered or inoperative motor vehicles on premises outside of enclosed buildings at any time.*

; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to amend Chapter 6 section 6-14 Temporary Moratorium on Recreational Marijuana Establishments, of the Town of Essex Zoning By-law by making the following changes:

Delete Section 6-14 which currently reads:

6-14 TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA
ESTABLISHMENTS in its entirety

And replace it with the following:

6-14 TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA
ESTABLISHMENTS
6-14.1 Deleted in entirety at FTM 2019.

; or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to amend the Town's General Bylaws by adding a new Section 7-9 titled "**Bylaw Regulating the Use of Certain Plastics by Commercial Establishments in the Town of Essex**", as follows:

7-9 BYLAW REGULATING THE USE OF CERTAIN PLASTICS BY COMMERCIAL ESTABLISHMENTS IN THE TOWN OF ESSEX

7-9.1 STATEMENT OF PURPOSE AND FINDINGS

Numerous studies have shown that the production and use of single-use plastics and polystyrene have significant adverse impacts on the marine and land environments, especially in coastal communities, such as the Town of Essex. Some of these impacts include: injuries and potential death of marine animals through ingestion and entanglement, clogging of storm drainage systems, burdens on solid waste collection and recycling facilities, and the use of oil and other fossil fuels in the manufacturing process.

Even if recycled, many single-use plastics become a burden on recycling facilities, and they often end up in our streets and sewage systems, on our beaches, and in the ocean. It is well-known that plastic and polystyrene products do not degrade quickly, and as a result, the adverse impacts from these materials can last for years or even decades.

Studies have also shown that reducing the use of thin-film, single use plastic bags, polystyrene containers and table ware and plastic straws, stirrers and hotstoppers, results in improvements to the surrounding environment and benefits public health by freeing up space in landfills, storm drains and sewage treatment facilities. By requiring establishments to stop using these products and replace them with more environmentally appropriate alternatives, Essex residents will be able to greatly reduce their carbon footprint and improve the environmental and public health resources on which they have come to rely upon and enjoy.

7-9.2 DEFINITIONS

ASTM Standard – refers to materials meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 and D6868 for biodegradable

and compostable plastics, as those standards may be amended from time-to-time. Materials meeting these standards must be clearly labeled so as to be easily identified by consumers and regulators.

Board – the Town of Essex Board of Health.

Biodegradable – entirely made of wood, paper, bamboo, bagasse, or cellulose.

Compostable – materials that will completely degrade into, or otherwise become part of usable compost (e.g. soil conditioning material, mulch) in a safe and timely manner.

Compostable materials must meet ASTM standards for compostability.

Consumer – means any person purchasing or receiving food and other products from an Establishment.

Establishment – means any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting.

Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board shall be considered an establishment for purposes of this bylaw.

Expanded Polystyrene – The term means and includes blown polystyrene and expanded and extruded foams (sometimes called "Styrofoam," a Dow Chemical Co. trademarked form of EPS insulation) also referred to as EPS, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene); and in this chapter is referenced as "Foam Polystyrene." Foam Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons. The term also means and includes clear or solid polystyrene, which is also known as "oriented," and referenced in this chapter as "Rigid Polystyrene." "Rigid Polystyrene" is generally used to make clear clamshell containers, and clear or colored straws, lids and utensils.

Hotstopper – any device, include so-called "splash sticks", intended for blocking the hole in lids for hot-liquid cups, that is made or manufactured for single use and is made of polypropylene, polyethylene, polystyrene, or any other material that does not meet the ASTM Standard.

Plastic Straw – any straw intended for consuming liquids that is made or manufactured for single use and is made of polypropylene, polyethylene, polystyrene, or any other material that does not meet the ASTM Standard.

Plastic Stirrer – any stick, hollow or otherwise, intended for mixing liquids that is made or manufactured for single use and is made of polypropylene, polyethylene, polystyrene, or any other material that does not meet the ASTM Standard.

Service Ware - All containers, bowls, plates, trays, cartons, cups, lids, straws, forks, spoons, knives, and other items designed for one-time or non-durable uses on or in which any establishment directly places or packages prepared foods or other products or which are used

to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at food establishments.

Single Use Plastic Bag – a bag, typically with handles, made of plastic with a thickness of 4.0 mils or less, that is provided at the point of sale for transport of purchased food or other products. This includes, but is not limited to, bags made of high-density polyethylene, low-density polyethylene or other materials that do not meet the ASTM Standard.

7-9.3 DISPOSAL PLASTIC STRAWS, STIRRERS AND HOT STOPPERS

- a. No Establishment shall provide single-use plastic straws, stirrers and/or hot stoppers in connection with the sale or distribution of beverages to consumers.
- b. Establishments may provide consumers with straws, stirrers and hot stoppers made from compostable/biodegradable material such as paper, wood, or bamboo, or from other materials meeting the ASTM Standard.
- c. Establishments may provide consumers with straws, stirrers and/or hot stoppers made from durable reusable material such as glass, stainless steel or ceramic, provided that the straw, stirrer or hot stopper is not removed from the premises and is sanitized and reused by the establishment, or provided that the straw, stirrer or hot stopper was manufactured for reuse and is sold to the consumer for a fee in addition to the fee charged for the beverage.
- d. Nothing in this section shall prohibit a consumer from using their own straw, stirrer or hot stopper that is not provided by the establishment.
- e. Nothing in this section shall prohibit an establishment from selling straws, stirrers and/or hot stoppers when they are packaged for retail sale for use outside of the premises of the establishment.
- f. Should an establishment choose to offer paper straws, stirrers, or hot stoppers that contain gluten, the establishment must post a notice clearly advising customers about the presence of gluten in those items.

7-9.4 DISPOSABLE SERVICE WARE

- a. No Establishment shall use disposable or single-use service ware made from expanded polystyrene (EPS) for the sale, distribution or consumption of food or other products to consumers.
- b. Establishments may provide consumers with disposable service ware made from compostable and/or biodegradable material, such as paper, wood or bamboo, or from other materials meeting the ASTM Standard.
- c. Establishments may provide consumers with service ware made from durable reusable material, such as glass, stainless steel or ceramic, provided that the service ware is not removed from the premises and is sanitized and reused by the establishment, or provided that the service ware was manufactured for reuse and is sold to the consumer for a fee in addition to the fee charged for product sold in the container.

- d. Nothing in this section shall prohibit a consumer from using their own service ware that are not provided by the Establishment.
- e. Nothing in this section shall prohibit an Establishment from selling polystyrene service ware when they are packaged for retail sale for use outside of the premises of the establishment.
- f. Nothing in this section shall prohibit an Establishment from selling or distributing foods or other products in polystyrene containers when the food was packaged in such container by the manufacturer or wholesaler and purchased by the Establishment in such package.

7-9.5 SINGLE-USE PLASTIC BAGS

- a. No Establishment shall use single-use plastic bags for the sale or distribution of food or other products to consumers.
- b. Establishments may use single-use plastic bags that are without handles and which are used: (1) to transport produce, bulk food, candy, meat or other products from a part of the establishment to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; (3) to distribute newspapers and magazines; or (4) to protect clothing distributed by dry cleaning establishments.
- c. Establishments may provide consumers with reusable bags or bags made from compostable and/or biodegradable material such as paper, wood, or bamboo, or from other materials meeting the ASTM Standard.
- d. Nothing in this section shall prohibit a consumer from using their own single-use plastic bags or any other type of bags that are not provided by the Establishment.
- e. Nothing in this section shall prohibit an Establishment from selling single use plastic bags when they are packaged for retail sale for use outside the premises.
- f. Nothing in this section shall prohibit an Establishment from selling or distributing food or other products in single-use plastic bags when the food or product was packaged in such bag by the manufacturer or wholesaler and purchased by the Establishment in such package.

7-9.6 VARIANCES

- a. The Board of Health may vary application of any provision of this Bylaw, upon written application, by the owner or operator of an Establishment.
- b. No variance will be granted unless the applicant demonstrates that strict enforcement of the provision from which a variance is sought would result in undue hardship. For purposes of this Bylaw, "undue hardship" is defined as a situation unique to the Establishment in which there are no reasonable alternatives to the use of materials prohibited by this Bylaw, and that compliance with this Bylaw would create significant economic hardship for the Establishment.

- c. Prior to granting a variance, the Board of Health shall conduct a public hearing, notice of which shall be published once in a newspaper circulated in the Town at least seven days prior to the hearing and shall be posted on the Town's website for at least seven days prior to the hearing. The costs of such publication shall be borne by the applicant.
- d. The Board of Health may impose such conditions upon the granting of a variance as it deems necessary to protect public health and the environment, including but not limited to a requirement that the variance will expire after a specified period of time.

7-9.7 ENFORCEMENT

- a. This Bylaw may be enforced by the Board of Health and/or its duly authorized agents.
- b. Any person who violates this Bylaw may be penalized by non-criminal disposition as provided by Massachusetts General Laws, Chapter 40, Section 21D. If non-criminal disposition is elected, then any person who violates the provisions of this bylaw shall be subject to penalties as follows:

First Offense – twenty-five dollars (\$25.00)

Second Offense - fifty dollars (\$50.00)

Third Offense - one hundred dollars (\$100.00)

Fourth and Further Offenses - three hundred dollars (\$300.00)

- c. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- d. The Board of Health, after a public hearing conducted in accordance with the procedures set forth in 105 CMR 590.14, may suspend or revoke the food permit of any Food Establishment failing to comply with this bylaw.
- e. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- f. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

7-9.8 SEVERABILITY

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

7-9.9 INTERACTION WITH OTHER LAWS

In the case of a conflict between the requirements of this bylaw and any other federal, state or local law concerning the materials regulated herein, the more stringent requirements shall apply.

7-9.10 EFFECTIVE DATE

This bylaw shall take effect on January 1, 2021.

; or take any other action relating thereto.

ARTICLE 8

To see if the Town will vote to amend Chapter V, Article 4, Section 1, Subsection (p) of the Town of Essex Bylaws, by deleting the final sentence of Subsection (p), concerning Resident Parking Stickers, which currently reads:

“Resident Parking Stickers shall be valid until December 31 of the year of issue.”

; 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, if desired; or take any other action relating thereto.

ARTICLE 10

To see if the Town will vote to amend the fiscal year 2020 budget as voted under Article 8 at the May 6, 2019 Annual Town Meeting by increasing the Selectmen's budget line item known as “Advertise Town Resources”, from zero to some other figure; and to raise and appropriate, transfer from available funds, or borrow a sum of money to fund said increase; or take any other action relating thereto.

ARTICLE 11

To see if the Town will vote to amend the fiscal year 2020 budget as voted under Article 8 at the May 6, 2019 Annual Town Meeting by increasing the Selectmen's budget line item known as “Town Events, Incidental Expenses”, from zero to some other figure; and to raise and appropriate, transfer from available funds, or borrow a sum of money to fund said increase; or take any other action relating thereto.

ARTICLE 12

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund a deficit in the Cemetery Perpetual Care Fund; or take any other action relating thereto.

ARTICLE 13

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to serve as a match to a Federal/State grant program for the provision, configuration, and installation of radio equipment for the Essex Fire Department; or take any other action relating thereto.

ARTICLE 14

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 15

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 Conomo Point Repair, Maintenance, and Improvement fund, and/or municipal street lighting repair and maintenance fund; 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 to complete the interconnection of the Town's own Fiber Optic Municipal Area Network (FMAN) with similar networks from other communities, including the costs of police details and/or anything incidental or related thereto; 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 for the purchase and installation of computer equipment and any related software and peripherals; or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to amend the fiscal year 2020 budget as voted under Article 8 at the May 6, 2019 Annual Town Meeting to increase the "Operator Wages" line item in the Department of Public Works' Highway Department budget; and to raise and appropriate, transfer from available funds, or borrow a sum of money to fund said increase; 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 of money to replace the roof at the Essex Water Filtration Plant, including anything incidental or related thereto; and to authorize the Board of Public Works to manage appropriated funds and carry out the work; or take any other action relating thereto.

ARTICLE 20

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to conduct activities necessary to remain in compliance with the Municipal Separate Storm Sewer System (MS4) regulations of the United States Environmental Protection Agency, including anything incidental or related thereto; and to authorized the Board of Public Works to manage appropriated funds to carry out the work; or take any other action related thereto.

ARTICLE 21

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 2020; 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 be added to the Town's Stabilization Fund; 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 for unpaid bills from a past fiscal year; 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 21st day of October, two thousand nineteen.

Andrew C. Spinney

Peter D. Phippen

Ruth Pereen

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