

***Minutes of the October 3, 2020
Special Town Meeting
Of the Town of Essex***



The October 3, 2020 Special Town Meeting of the Town of Essex, held outside at the Essex Elementary School, 12 Story Street, was called to order at 1:00 p.m. by Moderator Jeffrey D. Jones. A quorum of 163 voters was present for the meeting. Because of the coronavirus pandemic, the special town meeting was rescheduled from November to October to take advantage of warmer weather so the meeting could be safely held outside.

The following people were appointed as Tellers: Dawn Burnham, Vickie Cataldo, Robyn Kanter and Jim Sanford.

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 of those town officials who have passed since the last Town Meeting:

Kenneth Collins
Christina St. Pierre

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

Action: Approved Unanimously declared by the Moderator

Benjamin Buttrick, Chair of the Finance Committee, declared the Committee supports approval of all monetary articles being put before Town Meeting.

ARTICLE 1: TOWN CEMETERY FLOWERS ACCOUNT

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to eliminate a deficit in the Fiscal Year 2021 Cemetery Flowers account; or take any other action relating thereto.

Motion: Virginia Antell moved that the Town vote to transfer from free cash the sum of \$205.51 to eliminate a deficit in the Fiscal Year 2021 Cemetery Flowers account.

The motion was duly seconded.

Action: Approved by the Majority declared by the Moderator

ARTICLE 2: BUILDING PERMIT FEE

To see if the Town will vote to amend Section 2-7A of the Town's General bylaws by increasing the minimum fee for a building permit from \$35 to \$50; or take any other action relating thereto.

Motion: Ruth R. Pereen moved that the Town vote to amend Section 2-7A of the Town's General bylaws by increasing the minimum fee for a building permit from \$35 to \$50.

The motion was duly seconded.

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

ARTICLE 3: CUSTODIAN FOR PUBLIC SAFETY FACILITY

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for either a contracted vendor or a Town employee to provide custodial and other related services for Town buildings, including but not limited to the new public safety facility at 11 John Wise Avenue; or take any other action relating thereto.

Motion: Daniel Doucette moved that the town vote to transfer from free cash the sum of \$8,500 for an additional, part-time Town Property Custodian (a Town employee) to provide custodial and other related services for the new public safety facility at 11 John Wise Avenue, for the remainder of fiscal year 2021.

The motion was duly seconded.

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

ARTICLE 4: MUNICIPAL WATER SYSTEM

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to design, engineer and construct repairs, upgrades, improvements and/or replacements to any aspect of the municipal water system, and anything incidental or related thereto; or take any other action relating thereto.

Motion: John Filias moved that Article 4 be indefinitely postponed.

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

ARTICLE 5: MUNICIPAL SEWER SYSTEM – GRINDER PUMPS

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to design, engineer and construct repairs, upgrades, improvements and/or replacements to any aspect of the municipal sewer system and anything incidental or related thereto; or take any other action relating thereto.

Motion: John Filias moved that the Town vote to transfer from Sewer Enterprise Free Cash the sum of \$200,000 to replace grinder pumps in the municipal sewer system, including any and all costs for design, purchase, installation, and anything related thereto.

The motion was duly seconded.

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

ARTICLE 6: MARIJUANA AND SOCIAL CONSUMPTION AT MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the Town's General bylaw, Section 4-17 MARIJUANA LICENSING, as adopted pursuant to Articles 15 and 16 at the June 13, 2020 Annual Town Meeting, to prohibit social consumption of all product containing marijuana or its derivatives within the Town as follows:

1. Add the following new section: **4-17.3.1. Social Consumption Prohibited.** No person shall consume or use or be permitted to consume or use any product containing marijuana or its derivatives on the premises of any Marijuana Establishment. Social Consumption Establishments as defined in 935 CMR 500.000, are hereby prohibited in the Town of Essex.
2. Amend the Table in Section 4-17.7 to add a new row to the end of the table as follows:

Type of Marijuana Establishment	Number Permitted
Social Consumption Establishment	0

; or take any other action relating thereto.

Motion: Antonella Muniz moved that the Town vote to amend the Town's General bylaw, Section 4-17 MARIJUANA LICENSING, as adopted pursuant to Articles 15 and 16 at the June 13, 2020 Annual Town Meeting, to prohibit the consumption of marijuana and its derivatives on the premises of marijuana establishments and to prohibit marijuana social consumption establishments in the Town of Essex, all as shown in the Fall Town Meeting warrant.

The motion was duly seconded.

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

ARTICLE 7: BYLAW UPDATE 4-7.1 - SIGNS AND OBSTRUCTIONS PROHIBITED

To see if the Town will vote to amend Chapter 4 of the Town's General Bylaws by amending Section 4-7.1 Signs and Obstructions Prohibited as follows, with additions shown in bold and deletions shown in ~~strike through~~:

4-7.1 SIGNS AND OBSTRUCTIONS PROHIBITED. No person shall place any post, pipe, pole, barrier, box, container, sign, article, or advertising matter, in any street, way or sidewalk, or annex or affix to any building, pole, street, or structure, any building material, advertising matter, or other material which extends over a street, way or sidewalk, ~~without first having obtained a permit from the board of selectmen. However, no permit shall be required to~~ **Residents may** place a barrel or container, with rubbish therein, at the edge of the sidewalk or street adjacent to the property of any

owner for rubbish collection. ~~Neither shall a permit be required for~~ or an RFD mailbox at the side of a street or way.

; or take any other action relating thereto

Motion: Guy D. Bradford moved that the Town vote to amend Chapter 4 of the Town's General Bylaws by amending Section 4-7.1 Signs and Obstructions Prohibited, all as shown in the Fall Town Meeting warrant.

The motion was duly seconded.

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

ARTICLE 8: RESCIND M.G.L. CHAPTER 90, SEC 20A – PARKING VIOLATIONS

To see if the Town will vote to rescind the Town's acceptance of M.G.L. Chapter 90, Section 20A, relating to the maximum fine for a standard parking violation, thereby allowing Chapter 90, Section 20A ½ (which the Town had also adopted in the past) to control; resulting in authorization for the Board of Selectmen to increase the maximum parking fine from \$25 to \$50, and associated late fees, all in accordance with Section 20A ½; or take any other action relating thereto.

Motion: Peter D. Phippen moved that the Town vote to rescind the Town's acceptance of M.G.L. Chapter 90, Section 20A, relating to the maximum fine for a standard parking violation, thereby allowing Chapter 90, Section 20A ½ (which the Town had also adopted in the past) to control; resulting in authorization for the Board of Selectmen to increase the maximum parking fine from \$25 to \$50, and associated late fees, all in accordance with Section 20A ½.

The motion was duly seconded.

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

ARTICLE 9: ACCEPTANCE OF M.G.L. CHAPTER 32, SECTION 4(2)(b ½)

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 32, Section 4(2)(b ½), to allow permanent, intermittent or call firefighters to be credited with full-time service for the purpose of calculating retirement benefits in accordance with Chapter 32 of the Massachusetts General Laws and other applicable laws and collective bargaining agreements; or take any other action relating thereto.

Motion: Ruth R. Pereen moved that the Town vote to accept the provisions of Massachusetts General Laws, Chapter 32, Section 4(2)(b ½), to allow permanent, intermittent or call firefighters to be credited with full-time service for the purpose of calculating retirement benefits in accordance with Chapter 32 of the Massachusetts General Laws and other applicable laws and collective bargaining agreements.

The motion was duly seconded.

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

Town of Essex Special Town Meeting Minutes October 3, 2020

ARTICLE 10: OPEB TRUST FUNDING

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 moved that the Town vote to transfer from free cash the sum of \$400,000 to fund the Town's Other Post-Employment Benefits (OPEB) Trust Fund.

The motion was duly seconded.

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

ARTICLE 11: ESTABLISH MARIJUANA REVENUE STABILIZATION FUND

To see if the Town will vote to establish a special stabilization fund in which will be deposited 25% of all marijuana-related local revenue; or take any other action related thereto.

Motion: Ruth R. Pereen moved that Article 11 be indefinitely postponed.

The motion was duly seconded.

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

ARTICLE 12: TOWN FUNDS APPROPRIATION

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, and/or Public Safety Building repair and maintenance fund, and/or dredging match fund, and/or Town celebrations fund; or take any other action relating thereto.

Motion: Robert Fitzgibbon moved that the Town transfer from free cash the sum of \$160,000, with \$20,000 of such sum to be added to each of the following funds: the Town's building capital improvements fund, recreational capital improvements fund, purchase of vehicles and major equipment that qualify as capital purchases fund, Town Hall/Library repair and maintenance fund, Conomo Point Repair, Maintenance, and Improvement fund, Public Safety Building repair and maintenance fund, dredging match fund, and the Town celebrations fund; and that the Town vote to transfer from free cash the sum of \$3,000 to be added to the municipal street lighting repair and maintenance fund; for a total appropriation of \$163,000.

The motion was duly seconded.

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

Town of Essex Special Town Meeting Minutes October 3, 2020

ARTICLE 13: FY21 SEWER ENTERPRISE FUND

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to replenish the Sewer Maintenance line item in the Sewer Enterprise fund budget for fiscal year 2021; or take any other action relating thereto.

Motion: John Filias moved that Article 13 be indefinitely postponed.

The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 14: FY21 FINANCE COMMITTEE RESERVE FUND

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 2021; or take any other action relating thereto.

Motion: Benjamin Buttrick moved that Article 14 be indefinitely postponed.

The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 15: 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 Unanimously declared by the Moderator*

ARTICLE 16: FY21 OPERATING BUDGET AMENDMENT

To see if the Town will vote to amend any aspect of the fiscal year 2021 operating budgets (General Fund, Water Enterprise Fund, Sewer Enterprise Fund), and to raise and appropriate, transfer from available funds, or borrow a sum of money to effectuate any amendments that are made; or take any other action relating thereto.

Motion: Peter D. Phippen moved that the Town vote to transfer from free cash the sum of \$109 to be added to the Town Administrator's sick time buy back line item in the fiscal year 2021 operating budget, due to a typographical error in the budget approved by Town Meeting.

The motion was duly seconded.

Action: *Approved Unanimously declared by the Moderator*

ARTICLE 17: FY20 UNPAID BILLS

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.

Motion: Guy D. Bradford moved that the Town vote to transfer from free cash the sum of \$273 for an unpaid bill from fiscal year 2020.

The motion was duly seconded.

Action: *Approved by Unanimous Vote declared by the Moderator*

ARTICLE 18: SIX-MONTH MORATORIUM ON THE TOWN'S CONSIDERATION OF ALL PERSONAL WIRELESS COMMUNICATION FACILITIES (CELLULAR TOWERS) (CITIZEN PETITION)

To see if the Town will vote on the following citizen petition:

Six-Month Moratorium on the Town's Consideration of all Personal Wireless Communication Facilities (Cellular Towers)

We would like the Town's registered voters to vote in the Special Town Meeting on whether the Town should place a six-month moratorium on the Town's consideration of all Personal Wireless Communication Facilities (Cellular Towers). We are in the process of asking the Town to augment its current By-Laws regarding PWCFs (Personal Wireless Communication Facilities) to ensure the safety of our residents and preserve the aesthetic beauty of the town.

Motion #1: Andrea Bradbury moved that the Town of Essex place a 6 month moratorium on review of all cell towers. The motion was duly seconded.

Motion #2: Antonella Muniz moved to amend Article 18 by adding the sentence: *"The moratorium shall be in effect from October 3, 2020 through April 3, 2021."* The motion was duly seconded.

Town Counsel opined that the article must be considered as a Zoning Bylaw amendment, therefore requiring a 2/3 majority approval of Motion #1.

Action Motion #2: *Approved by a Majority declared by the Moderator*

Action Motion #1: *Failed by Standing Vote of 101 Yes 57 No
A second Standing Vote was requested and allowed by the Moderator which also failed 101 Yes 62 No
(Neither vote met the 2/3 threshold for approval)*

Motion made by the Moderator at 2:23 pm to dissolve the meeting. The motion was duly seconded.

Action: Approved by a Majority declared by the Moderator

A True Copy:

Attest:

Pamela B. Thorne, Town Clerk