

Town of Lenox  
Annual Town Meeting  
May 10, 2010

At 7:00 p.m. the Annual Town Meeting held at the Lenox Memorial Middle High School was called to order. A quorum for the meeting was met with over 153 present at the opening. It was voted unanimously to waive the reading of the warrant and return of service thereof and to authorize the moderator to declare a 2/3rds vote on voice votes if he deems it so.

ARTICLE 1. It was moved, seconded and voted unanimously for the Selectmen to choose all Minor Town Officers to wit: Field Drivers, Pound Keepers, Fence Viewers, Surveyors of Lumber, Wood and Bark, Sextons and Sealer of Weights and Measures.

ARTICLE 2. It was moved, seconded and voted unanimously to authorize the Treasurer to enter into a compensating balance agreement or agreements for Fiscal Year 2011 pursuant to Chapter 44, Section 53F of the General Laws.

ARTICLE 3. It was moved and seconded to raise and appropriate or transfer from available funds in the treasury, money for the operating expenses of the Town for Fiscal Year 2011 as follows.

A motion was made and seconded to reduce item # 11 to \$50,000. A hand count was taken, yes to reduce and no to leave as is.

Yes	No
104	200

The motion failed and a vote was then taken on the original article. It passed by majority vote.

DEPARTMENT/ACCOUNT**	FY 10 <u>July 1, 2009-June 30,2010</u>	FY 11 <u>July 1, 2010-June 30,2011</u>
1. Moderator	0	0
2. Admin & Finance	266,766	274,449
3. Assessors	86,350	87,322
4. Town Treasurer/Clerk	101,332	104,776
5. Town Collector	108,456	111,682
6. Operations Support	80,100	81,500
7. Elections & Registration	6,774	8,491
8. Conservation Commission	7,581	7,876
9. Planning Board	75,701	77,100
10. Zoning Board	19,396	19,735
11. Economic Development	19,000	95,000
12. Town Buildings	150,660	153,448
13. Audit, Reserve Account	84,400	84,400
14. Debt Services	1,875,542*	1,615,664*
15. Insurance & Bonds	196,250**	187,800**
<b>General Government Subtotal</b>	<b>3,078,308</b>	<b>2,909,243</b>
16. Police Department	1,035,589	1,087,386
17. Fire Department	304,952	315,923
18. Emergency Management	18,302	18,852
19. Inspection Department	73,611	72,509
<b>Public Safety Subtotal</b>	<b>1,432,454</b>	<b>1,494,670</b>
20. Highway Department	510,863	556,619
21. Snow & Ice	249,709	255,130
22. Cemetery	86,302	87,692
<b>Public Works Subtotal</b>	<b>846,874</b>	<b>899,441</b>
23. Board of Health	111,557	110,506
24. Veterans Services	7,015	6,015
<b>Human Services Subtotal</b>	<b>118,572</b>	<b>116,521</b>
25. Community Center	281,293	289,155
26. Academy Building	7,750	7,750
27. Historical Commission	300	300
28. Celebrations	2,100	2,000
29. Historic District Commission	2,836	2,945
<b>Culture &amp; Recreation Subtotal</b>	<b>294,279</b>	<b>302,150</b>
<b>Totals</b>	<b>\$5,770,487</b>	<b>\$5,722,025</b>

ARTICLE 4. It was moved, seconded and voted unanimously to raise and appropriate the sum of \$10,336,529 (anticipated \$8,188,069 net operating plus estimated \$2,148,460 in benefit costs) for the school department's operating budget for the fiscal year beginning July 1, 2010 and ending June 30, 2011 (gross operating budget of \$11,420,029 less \$1,083,500 in anticipated tuition and other receipts).

ARTICLE 5. It was moved, seconded and voted unanimously to transfer the sum of \$521,701 from Water Enterprise Fund Retained Earnings; to appropriate from the Fiscal Year 2011 receipts of the Water Department, the sum of \$1,253,318 for the operation, debt service and capital expenses of the Water Department for Fiscal Year 2011.

1. Water Operations	\$534,215
2. Debt Service	\$578,304
3. Capital Expenditures	\$662,500

ARTICLE 6. It was moved and seconded to transfer the sum of \$109,285 from Sewer Enterprise Fund Retained Earnings; to transfer the sum of \$400,000 from the Town's Undesignated Fund Balance; and to appropriate from the Fiscal Year 2011 receipts of the Sewer Department, the sum of \$1,198,231 for the operation, debt service and capital expenses of the Sewer Department for Fiscal Year 2011.

1. Sewer Operations	\$810,038
2. Debt Service	\$407,478
3. Capital Expenditures	\$490,000

There were several people who spoke against transferring the amount of \$400,000 from the Town's Undesignated Fund Balance since not everyone in town has town sewer. A motion was made and seconded to amend the motion by deleting the \$400,000 to come from the Town's Undesignated Fund Balance and increasing the amount to be raised by sewer fees by \$400,000 to \$1,598,231.

The Moderator explained to vote yes meant you wanted not to use the \$400,000 from the Town's Undesignated Fund Balance and a no vote was to leave the money in. A hand count was taken with a total of 27 YES votes. The Moderator then asked everyone to hold up their card who wished to vote NO. The Moderator called the NO votes a clear won so no hand count was taken and the motion failed.

The vote was then taken on the original article without any changes and it passed by majority vote.

ARTICLE 7. It was moved, seconded and voted unanimously to appropriate from the Fiscal Year 2011 receipts of the Ambulance Squad, the sum of \$365,342 for the operation of the Ambulance Squad for Fiscal Year 2011.

ARTICLE 8.

It was moved and seconded to raise and appropriate the sum of \$200,000 for library services to be provided by the Lenox Library Association.

A motion to amend was made to level fund the library at \$236,452. The Moderator stated that motion was out of order. He noted that it is the Moderator's discretion to allow reasonable amendments to proposed expenditures and that he ruled that a 15% increase is the maximum he will allow. The Moderator also noted a 1920 Attorney General's opinion that disallowed any increase.

The motion was then made and seconded to increase the Library amount to \$230,000. A hand count was taken.

YES	NO
242	107

The motion to amend passed.

ARTICLE 9.

It was moved, seconded and passed by majority vote to raise and appropriate \$1,388,000 and to transfer from the Town's Undesignated Fund Balance \$837,300 for the following capital expenditures.

- |  |             |           |
|--|-------------|-----------|
| 1. Highway Department Expenditures       | \$1,987,000 |           |
| 2. School Department Expenditures        | \$ 62,300   |           |
| 3. Fire Department Expenditures          | \$ 20,000   |           |
| 4. Police Department Expenditures        | \$ 15,000   |           |
| 5. Town Buildings/Equipment Expenditures | \$ 125,000  | to 95,000 |
| 6. Athletic Facilities Expenditures      | \$ 46,000   |           |

A motion was made and seconded to amend #5 from 125,000 to 95,000. The original motion with the amendment to lower item 5 was voted on and passed by majority vote.

ARTICLE 10.

It was moved, seconded and passed unanimously to appropriate the sum of \$547,000 to pay costs of purchasing and originally equipping a new fire truck to replace Engine 1, including the payment of all costs incidental and related thereto, and that to meet this appropriation, \$216,000 is transferred from the Fire Truck Stabilization Fund, \$145,000 is appropriated from the Town's Undesignated Fund Balance (Free Cash), and the Treasurer, with the approval of the Selectmen, is authorized to borrow \$186,000 under and pursuant to Chapter 44, Section 7(9) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore. The vote of the Town approved under Article 11 of the Warrant at the Town Meeting held on May 7, 2009 is hereby rescinded and of no further force or effect.

ARTICLE 11.

It was moved, seconded and passed unanimously to accept funds being provided by the Commonwealth of Massachusetts under the provisions of Chapter 90 of the General Laws, to pay for such costs as allowed by appropriate legislation in connection with the maintenance, repair, and construction of Town ways and bridges.

ARTICLE 12.

It was moved, seconded and voted unanimously after a couple of questions concerning number 3 (Lenox Housing Authority Porch Restoration) and 5 (Library Exterior Restoration) to appropriate from the Community Preservation Fund annual revenues, reserves or the Community Preservation Fund Undesignated Fund Balance in the amounts recommended by the Community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in Fiscal Year 2011, with each item to be considered a separate appropriation.

1. Committee Administrative Expenses	\$ 17,550
2. Historical Commission-Form B, Historic Inventory Forms	\$ 7,800
3. Lenox Housing Authority - Curtis Porch Restoration	\$ 50,000
4. Affordable Housing Trust	\$120,000
5. Library Exterior Restoration	\$ 50,000
6. Library Debt Service	\$135,490
7. Open Space Reserve	\$ 35,100
TOTAL	\$415,940

ARTICLE 13.

A motion was made seconded and voted unanimously to table this article since everything passed in article 12.

To see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in Fiscal Year 2011, with each item to be considered a separate appropriation; or take any other action in relation thereto.

Appropriations:

From FY11 estimated revenues for  
Committee Administrative Expenses  
\$17,550

Reserves:

From FY11 estimated revenues for  
Historic Preservation Reserve  
\$35,100

From FY11 estimated revenues for  
Community Housing Reserve  
\$35,100

From FY11 estimated revenues for  
Open Space Reserve  
\$35,100

From FY11 estimated revenues for  
Budgeted Reserve  
\$100,620

ARTICLE 14.

A motion was made, seconded and voted by majority to amend the By-laws of the Town of Lenox, Massachusetts by amending the following language under Chapter XIII, Miscellaneous Provisions, Section 9. to read as follows.

Chapter XIII, Miscellaneous Provisions, Section 9

No person shall consume any beer, wine, malt or alcoholic beverages, nor have in his possession any open containers thereof upon any public way, sidewalk or Town owned land. \$300 fine.

A motion to amend was made, seconded and approved to add the phrase "unless permitted by the board of selectmen" to the last sentence. The main motion as amended was approved by majority vote.

ARTICLE 15.

It was moved and seconded to amend the By-laws of the Town of Lenox to enact Chapter XXV of the Town of Lenox By-laws, entitled "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy and pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including amendments or modifications thereto.

After some discussion as to what this would mean in additional cost to people and how it applies to existing homes verse new construction the question was called. The vote was taken and passed by majority vote to call the question.

The vote was taken on the article and passed by majority vote.

ARTICLE 16.

It was moved and seconded to authorize the Board of Selectmen to acquire the following land parcels and or rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction of a multi-use bike and recreation path along East Street and Housatonic Street.

	Total # Parcels	Area (square ft.)
Permanent Easements	29	25,635 s.f.
Temporary Easements	20	23,720 s.f.

Further, that the Selectmen may acquire these parcels, or modification of these parcels or other required parcels through all legal means. This includes donations, purchase or eminent domain. The subject parcels are currently identified on plans drafted by Foresight Land Services, dated March 25, 2010, titled Right of Way Plan, 75% Design Submission, Sheets 1-5.

There was some discussion and after a time a motion was made to call the question. The vote was taken and passed to call the question.

The vote was taken on the article and the Moderator called a 2/3 vote.

ARTICLE 17.

It was moved and seconded to amend the Lenox Zoning By-laws by amending Section 3.1.E.3., Laboratory or research facility for medical, dental, technical, scientific uses and uses accessory to them (but excluding direct services to patients) provided that all uses are in enclosed buildings, by allowing it as a By Right use in the Industrial-I District; and amend Section 3.1.E.4., Laboratory or research facility, by allowing it as a By-Right use in the Industrial-I District.

The vote was taken on the article and the Moderator called a 2/3 vote.

ARTICLE 18.

It was moved and seconded to amend the Lenox Zoning Map by rezoning the classification of six acres of property located at the intersection of Housatonic Street and Willow Creek Road, specifically Assessor's Map 8, Parcel 98 from Residential-R-1A to Industrial-I.

The vote was taken by hand count and passed by 2/3 vote of.

YES	NO
110	37

ARTICLE 19.

It was moved and seconded to amend the Lenox Zoning By-laws by removing in its entirety Section 6.7 - Educational and Religious Uses, a copy of which is on file with the Town Clerk.

After some discussion on the pros and cons of removing this language a motion was made to call the question. Vote to call the question was taken and passed by majority.

The vote was taken by hand count and failed to receive the 2/3 vote needed. The article failed.

YES	NO
74	43

At this point a person questioned the quorum and a count was taken. The quorum needed was 153, count was 144.

Lacking a quorum a motion was made and seconded to adjourn. The meeting was adjourned at 11:15 p.m.

Attest;

Marie C. Duby  
Town Clerk/Treasurer