

Town of Lenox
Annual Town Meeting
May 7, 2009

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 and 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 and seconded and voted unanimously to authorize the Treasurer to enter into a compensating balance agreement or agreements for Fiscal Year 2010 pursuant to Chapter 44, Section 53F of the General Laws.

ARTICLE 3. It was moved and seconded and discussion ensued. As the following department accounts were read off, there were questions on line item #1 and #2. After all the items were read we went back to those two line items for the questions. There was a couple of questions on item #1 then the vote was taken and item #1 passed by majority vote. The question was asked if we could move article #24 up to vote before we voted on item #2 but the Moderator said no. A motion was made to table #2 seconded and passed by majority. Items 1 through 29 were approved as presented.
After Article 24 was voted on and failed we returned to Article 3 line item #2. A motion was made and seconded to lower this item by \$10,000 then voted on and passed to lower item #2 from \$275,929 to \$265,929. The total for Article 3 was lowered from \$5,781,211 to \$5,771,211.

Department / Account**	FY 09	FY 10
1. Moderator	356	0
2. Admin & Finance	270,081	265,929
3. Assessors	90,389	86,350
4. Town Treasurer/Clerk	111,204	101,332
5. Town Collector	107,679	108,457
6. Operations Support	83,787	80,100
7. Elections & Registration	8,563	6,775
8. Conservation Commission	9,139	7,581
9. Planning Board	78,220	75,701
10. Zoning Board	20,236	19,396
11. Advertising	20,000	19,000
12. Town Buildings	152,923	150,660
13. Audit, Reserve Account	84,400	84,400
14. Debt Service	1,604,013*	1,875,542*
15. Insurance & Bonds	187,532**	196,250**
General Government Subtotal	2,828,522	3,077,473
16. Police Department	1,048,525	1,035,632
17. Fire Department	273,905	304,951
18. Emergency Management	18,249	18,302
19. Inspections Department	82,213	73,611
Public Safety Subtotal	1,422,892	1,432,496
20. Highway Department	578,404	512,994
21. Snow & Ice	190,366	249,709
22. Cemetery	86,355	86,302
Public Works Subtotal	855,125	849,005
23. Board of Health	119,164	111,557
24. Veterans Services	7,015	7,015
Human Service Subtotal	126,179	118,572
25. Community	285,014	280,679
26. Academy Building	7,668	7,750
27. Historical Commission	400	300
28. Celebrations	2,800	2,100
29. Historical District Commission	1,056	2,836
Culture & Recreation Subtotal	296,938	293,665
Totals	\$5,529,656	\$5,771,211***

- ARTICLE 4. It was moved and seconded and passed by majority vote to raise and appropriate the sum of \$10,213,029 (anticipated \$8,179,942 net operating plus estimated \$2,033,087 in benefit costs) for the school department's operating budget for the fiscal year beginning July 1, 2009 and ending June 30, 2010 (gross operating budget of \$11,241,529 less \$1,028,500 in anticipated tuition and other receipts).
- ARTICLE 5. It was moved and seconded and voted unanimously to transfer the sum of \$154,008 from Water Enterprise Fund Retained Earnings; to appropriate from the Fiscal Year 2010 receipts of the Water Department, the sum of \$1,332,470 for the operation, debt service and capital expenses of the Water Department for a total of \$1,486,478 for Fiscal Year 2010.
- ARTICLE 6. It was moved and seconded and voted unanimously to transfer the sum of \$128,260 from Sewer Enterprise Fund Retained Earnings; to transfer from the Town's undesignated fund balance (Free Cash) the sum of \$407,000; and to appropriate from the Fiscal Year 2010 receipts of the Sewer Department, the sum of \$1,423,949 for the operation, debt service and capital expenses of the Sewer Department for a total of \$1,959,209 for Fiscal Year 2010.
- ARTICLE 7. It was moved and seconded and voted unanimously to appropriate from the Fiscal Year 2010 receipts of the Ambulance Squad, the sum of \$351,036 for the operation of the Ambulance Squad for Fiscal Year 2010.
- ARTICLE 8. It was moved and seconded and passed by majority vote to raise and appropriate the sum of \$236,452 for library services to be provided by the Lenox Library Association.
- ARTICLE 9. It was moved and seconded and passed by majority vote to raise and appropriate the sum of \$495,000; to transfer from the remaining Library bond funds for additional renovation work to the library the sum of \$29,000 and to transfer from the Town's undesignated fund balance (Free Cash) the sum of \$873,500 for a total of \$1,397,500 for the following capital expenditures.
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| 1. Highway Department Expenditures | \$1,140,000 |
| 2. School Department Expenditures | \$ 67,500 |
| 3. Fire Department Expenditures | \$ 17,000 |
| 4. Police Department Expenditures | \$ 25,000 |
| 5. Town Buildings/Equipment Expenditures | \$ 87,000 |
| 6. Community Center Expenditures | \$ 11,000 |
| 7. Athletic Facilities Expenditures | \$ 50,000 |
- ARTICLE 10. It was moved and seconded and voted unanimously to transfer from the Town's Undesignated Fund Balance the sum of \$145,000 to the Fire Engine Special Stabilization Fund.

ARTICLE 11. It was moved and seconded and discussion ensued. A motion was made and passed by majority to amend the article to read: I move that the town vote to authorize the Board of Selectmen to either repair Engine 1 using up to \$145,000 from the Fire Engine Stabilization Fund or to purchase a new Fire Truck to replace Engine 1. The purchase may be either through a lease purchase arrangement at a cost not to exceed \$145,000 a year utilizing the Fire Engine Stabilization Fund or by appropriating a sum not to exceed \$700,000 and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$700,000 under Chapter 44 of the General Laws or any other enabling authority and that the Board of Selectmen is authorized to take any other action necessary to carry out this acquisition or repair.
The main motion as amended passed by a 2/3 vote which was called by the Moderator.

ARTICLE 12. It was moved and seconded and vote unanimously to transfer from the Ambulance Enterprise's Retained Earnings, the sum of \$45,000 for the current FY09 Ambulance Department budget.

ARTICLE 13. It was moved and seconded and voted 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 14. It was moved and seconded and voted unanimously to appropriate the sum of \$400,000 in previously awarded Chapter 90 Funds for the maintenance, repair and construction of Town ways and bridges.

ARTICLE 15. It was moved and seconded and voted unanimously after a couple of questions concerning number 1 (committee Admin Expenses) and 4 (Baczek land purchase). For the Town to appropriate or reserve 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 2010, with each item to be considered a separate appropriation.

1. Committee Administrative Expenses (ADMIN)	\$16,770
2. CDC South Berkshire for Sawmill Brook	
Affordable Housing Direct Construction Costs (AFFD HSNG)	\$110,000
3. Lenox Housing Authority - Curtis Porch Restoration (HIST)	\$15,000
4. Baczek Property Land Purchase (partial funding) (open space)	\$100,000
5. Library Debt Service (HIST & OPEN SPACE)	\$138,390
TOTAL	\$380,160

ARTICLE 16. It was moved and seconded and voted unanimously to table Article 16. This article was tabled since the minimums were met in article 15.

ARTICLE 17. It was moved and seconded and voted unanimously to authorize the Board of Selectmen to accept, as a gift, a parcel of land known as the Triangle at Lenox Station, in Lenox, Massachusetts as shown on Assessors Map 9, Parcel 13 and consisting of 21,780 square feet (corner of Crystal and Housatonic Streets) to be held and managed by the Board of Selectmen for public use.

ARTICLE 18. It was moved and seconded and voted unanimously to table article 18. The Planning Board requested to table this article in order to analyze this portion of the by-laws before proceeding with changes.

ARTICLE 19.

It was moved and seconded to amend the By-laws of the Town of Lenox, Massachusetts by adding the following language to Section 9 under Chapter XIII, Miscellaneous Provisions.

Chapter XIII, Miscellaneous Provisions, Section 9

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, s. 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town, or any of its agents or subdivisions; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place open or accessible to the public. Any person under suspicion of possessing or using marijuana or tetrahydrocannabinol in violation of this by-law, or in violation of G.L. c. 94C, s. 32L, shall provide his or her identity in a manner sufficient for town officials to confirm their truthful identification and issue a citation where applicable.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by noncriminal disposition pursuant to G.L. c. 40, s. 21D by the Board of Selectmen, the Town Manager or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be separate from and/or in addition to any civil penalty imposed under G.L. c. 94C, s. 32L.

After some discussion regarding the reason to increase the fine, would the police be harassing the kids and that the alcohol fine for drinking in public should be higher a motion was made to call the question. The vote on calling the question was taken and passed unanimously.

The Moderator called for a hand count for the vote on the main article which passed by a majority vote of:

<u>Yes</u>	<u>No</u>
148	79

ARTICLE 20.

A motion was made and seconded for the Town to vote on amending the By-laws of the Town of Lenox, Massachusetts by adding the following new section 16 under Chapter XIII, Miscellaneous Provisions. These provisions dealt with preventing unregulated use of public right of ways for private gain. After some discussion a motion was made and seconded to table the article which passed by majority vote.

ARTICLE 21.

It was moved and seconded and passed by majority vote to accept the provisions of Massachusetts General Laws Chapter 44, Section 55C, establishing a trust to be known as the Lenox Affordable Housing Trust, whose purpose shall be to provide for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households, and in implementation thereof will vote to amend the By-laws of the Town of Lenox by adding a new by-law, Chapter XXIV, Affordable Housing Trust.

ARTICLE 22.

It was moved and seconded and voted unanimously to Table Article 22, an article to close a portion of New Lenox Road.

ARTICLE 23.

It was moved and seconded and voted unanimously to Table Article 23, which relates to the adopting the Massachusetts Stretch Energy Code for new residential and commercial constructions.

ARTICLE 24.

It was moved and seconded and failed by majority vote to accept Massachusetts General Laws Chapter 43C, Section 11.

With the article failing we then went back to Article 3, Line 2 to vote on removing the \$ 10,000 from the Admin & Finance budget line.

ARTICLE 25.

It was moved and seconded to see if the town would vote to establish a Charter Review committee as described in the warrant for the purpose of reviewing the Town's Special Act Charter, created under Chapter 155 of the Acts of 1991.

After some discussion on the pros and cons of this article a vote was called. The Moderator called for a hand count and the article failed to pass with results as follows:

<u>Yes</u>	<u>No</u>
55	71

ARTICLE 26.

It was moved and seconded and voted unanimously at the request of the petitioner to table petition article 26, which would of amended section 3.2 of the Lenox Zoning By-laws by changing the Zoning Map to include a portion of their property in the Commercial C Zone:

It was voted unanimously to adjourn the meeting at 10:00 p.m. and reconvene on Monday, May 11, 2009 at the Lenox Town Hall for the purpose of voting for Town Officers.

Attest:

Marie C. Duby
Town Clerk