

# *Commonwealth of Massachusetts*

**BERKSHIRE, SS.**

**To One of the Constables of the Town of Lenox:**

## **GREETING:**

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Lenox qualified to vote in town affairs, to meet in the

**Lenox Memorial Middle High School in said Lenox, on Thursday, May 7, 2009  
at 7:00 o'clock p.m., then and there to act upon the following:**

- ARTICLE 1. To authorize 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. To see whether the Town will 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; or take any other action in relation thereto.
- ARTICLE 3. To see if the Town will vote to raise and appropriate or transfer from available funds in the treasury, money for the operating expenses of the Town for Fiscal Year 2010 as follows; or take any other action in relation thereto.



\$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); or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
APPROVED BY SCHOOL COMMITTEE

**NOTE: In addition, Article 3 contains the town's obligation of \$1,198,829 for school debt service and the allocation of \$52,838 for school insurance & bonds, bringing the total for the School Department to \$12,493,196.**

ARTICLE 5. To see if the Town will vote 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 Fiscal Year 2010; or take any other action in relation thereto.

1. Water Operations	\$529,537
2. Debt Service	\$577,541
3. Capital Expenditures	\$379,400

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
APPROVED BY CIC

ARTICLE 6. To see if the Town will vote to transfer the sum of \$128,260 from Sewer Enterprise Fund Retained Earnings; to appropriate from the Fiscal Year 2010 receipts of the Sewer Department, the sum of \$1,830,950 for the operation, debt service and capital expenses of the Sewer Department for Fiscal Year 2010; or take any other action in relation thereto.

1. Sewer Operations	\$798,016
2. Debt Service	\$434,194
3. Capital Expenditures	\$727,000

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
APPROVED BY CIC

ARTICLE 7. To see if the Town will vote 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; or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE

ARTICLE 8. To see if the Town will vote to raise and appropriate the sum of \$236,452 for library services to be provided by the Lenox Library Association; or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE

ARTICLE 9. To see if the Town will vote to raise and appropriate or transfer from the Town's Undesignated Fund Balance or other available funds, the sum of \$1,397,500 for the following capital expenditures; or take any other action in relation thereto.

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

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
APPROVED BY CIC

ARTICLE 10. To see if the Town will vote to raise and appropriate or transfer from the Town's Undesignated Fund Balance or other available funds, the sum of \$145,000 to the Fire Engine Special Stabilization Fund; or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
APPROVED BY CIC

ARTICLE 11. To see if the Town will vote to authorize the Board of Selectmen to enter into a lease agreement for a new fire truck, at a cost not to exceed \$145,000 annually, using funds available in the Fire Engine Special Stabilization Fund; or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE

ARTICLE 12. To see if the Town will vote to transfer from the Ambulance Enterprise's Retained Earnings or other available funds in the treasury, the sum of \$45,000 for the current FY09 Ambulance Department budget; or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE

ARTICLE 13. To see if the Town will vote 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; or take any other action in relation thereto.

ARTICLE 14. To see if the Town will vote to appropriate the sum of \$400,000 in previously awarded Chapter 90 Funds for the maintenance, repair and construction of Town ways and bridges; or take any other action in relation thereto.

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE

ARTICLE 15. To see if the Town will vote 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; or take any other action in relation thereto.

1. Committee Administrative Expenses	\$ 16,770
2. CDC South Berkshire for Sawmill Brook Affordable Housing Direct Construction Costs	\$110,000
3. Lenox Housing Authority - Curtis Porch Restoration	\$ 15,000
4. Baczek Property Land Purchase (partial funding)	\$100,000
5. Library Debt Service	\$138,000

TOTAL \$379,770

APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
SPONSORED BY COMMUNITY PRESERVATION COMM.

ARTICLE 16. 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 2010, with each item to be considered a separate appropriation; or take any other action in relation thereto.

Appropriations:

From FY10 estimated revenues for Committee Administrative Expenses	\$16,770
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Reserves:

From FY10 estimated revenues for Historic Preservation Reserve	\$33,540
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From FY10 estimated revenues for Community Housing Reserve	\$33,540
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From FY10 estimated revenues for Open Space Reserve	\$33,540
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From FY10 estimated revenues for Budgeted Reserve	\$100,620
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APPROVED BY BOARD OF SELECTMEN  
APPROVED BY FINANCE COMMITTEE  
SPONSORED BY COMMUNITY PRESERVATION COMM.

ARTICLE 17. To see if the Town will vote 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 more or less at the corner of Crystal and Housatonic Streets to be held and managed by the Board of Selectmen for public use; or take any other action in relation thereto.

ARTICLE 18. To see if the Town will vote 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; or take any other action in relation thereto.

ARTICLE 19. To see if the Town will vote to amend the By-laws of the Town of Lenox, Massachusetts by adding the following language to Section 9 under Chapter XIII, Miscellaneous Provisions; or take any other action in relation thereto.

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.

ARTICLE 20. To see if the Town will vote to amend the By-laws of the Town of Lenox, Massachusetts by adding the following new Section 16 under Chapter XIII, Miscellaneous Provisions; or take any other action in relation thereto.

Chapter XIII, Miscellaneous Provisions, Section 16

Section 16. It shall be prohibited for any business to display or sell any goods or merchandise within the right of way of any public way located within the Town of Lenox.

ARTICLE 21. To see if the Town will 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, a copy of which is on file with the Town Clerk; or take any other action in relation thereto.

- ARTICLE 22. To see if the Town will vote to discontinue the public's right of access to New Lenox Road from just east of the current turn-around near the Washington/Lenox town line eastward to the town line. A map depicting the proposed road discontinuance is on file with the Town Clerk; or take any other action in relation thereto.
- ARTICLE 23. To see if the Town will vote to adopt and place into effect January 1, 2010 the Massachusetts Stretch Energy Code as allowed by the State Board of Building Regulations and Standards as part of the required building code for all new residential and commercial construction; or take any other action in relation thereto.
- ARTICLE 24. To see if the Town will vote to accept Massachusetts General Laws Chapter 43C, Section 11, and establish a consolidated department of municipal finance; or take any other action in relation thereto.
- ARTICLE 25. To see if the Town will vote to establish a Charter Review committee as described below for the purpose of reviewing the Town's Special Act Charter, created under Chapter 155 of the Acts of 1991; or take any other action in relation thereto.
- Said committee shall consist of five members who will be chosen as follows: The Lenox Democratic Town Committee shall designate one person; The Lenox Republican Town Committee shall designate one person; The Finance Committee shall designate one person; and the Board of Selectmen shall designate two persons, one of which shall be a representative of the Lenox business community. Committee designations shall be completed within 30 days and the Committee shall meet to organize within 30 days of that date. No Committee member shall be a full time town employee. The Committee shall prepare a report of their review, to include recommendations for any proposed amendments to said Special Act Charter, to be submitted to the Board of Selectmen on or before January 15, 2010. Upon receipt of the report, the Board of Selectmen shall, within 30 days, hold a public hearing to receive community input on the report. (Petition Article).
- ARTICLE 26. To see if the Town will vote to amend section 3.2 of the Lenox Zoning Bylaw by changing the Zoning Map to include in the Commercial C Zone the portion of the premises as shown on the submitted Plan of Land as Parcel 1 and Parcel 2 with frontage on Main Street and to include in the Residential R-30 Zone a 10 foot wide strip of land with frontage on Cliffwood Street. The premises are owned by Yokun Ridge Property Management, LLC as acquired from William-Henry Burlingame Jaques, Suzanne V. Huguley, and William H. McCance by deed recorded in the Berkshire Middle District Registry of Deeds in Book 3735, Page 167 and are identified on the Lenox Assessors Map as Map 43, Parcels 69 and 69-1; or take any other action in relation thereto. A map depicting the parcels is on file with the Town Clerk. (Petition Article).

You are also directed to notify and warn the inhabitants of the Town of Lenox qualified to vote on Town affairs to meet in the Town Hall in said Lenox on Monday, May 11, 2009 at 7:00 A.M. to bring their votes for the following Town Officers:

- 1 Moderator for one year
- 2 Selectmen for three years
- 1 Board of Health Member for three years
- 1 Assessor for three years
- 1 Assessor for one year unexpired term
- 3 School Committee Members for three years
- 1 Planning Board Member for five years
- 1 Planning Board Member for a two year unexpired term
- 1 Housing Authority Member for five years

The polls will be open from 7:00 A.M., and may be closed by 7:00 P.M.

And you are directed to serve this warrant by posting an attested copy of the warrant therefore in three public places in the Town not less than seven days before the meeting.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk or the Selectmen, at the time and place of said meeting.

Given under our hand the 15th day of April in the year of Our Lord Two Thousand and Nine.

Signed

A true copy, ATTEST:

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Constable of Lenox.

Selectmen of Lenox