TOWN OF LENOX

ANNUAL TOWN MEETING - May 2, 2019

At 7:19 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 137 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.

The Moderator John J. McNinch addressed the attendees to remind them that all non-voters sit to the far right towards the back. Point of Order request from Kathleen McNulty Vaughan, 10 Post Rd.: Please ask non-voters to move to the cafeteria. Moderator McNinch stated they are already separated and we have the overflow attendees in the cafeteria with 2 assistant Moderators, Linda Procopio Messana and Jenifer Picard. Outgoing Selectman Kenneth Fowler is not seeking reelection so he took time before introducing Christopher J. Ketchen’s budget presentation to thank the Boards, Town Administrative Officer Christopher J. Ketchen, the Board of Selectmen, the Department of Public Works, his wife Fran Fowler, recently retired Florence “Peg” Ammendola as well as fondly remembering, George L “Gige” Darey and John J. Pignatelli.

The moderator recognized Theodore S Silverman, 520 East St. who made a motion to Table his Citizen’s Petitions, Articles 20 and 19 at this time. Both motions were moved, seconded and approved unanimously.

ARTICLE 1. It was moved, seconded and approved unanimously 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. It was moved, seconded and unanimously approved that the Town appropriate the sum of $50,000 for snow and ice removal costs, said sum to be transferred from Free Cash as certified on July 1, 2018 and added to the amount appropriated to the Snow and Ice line item under Article 3 of the Warrant for the 2018 Annual Town Meeting. (It was noted during the reading of the motion that the motion was edited

from the published Town Meeting Warrant which read under Article 2 of the Warrant for the 2018 Town Meeting)

ARTICLE 3. It was moved, seconded and unanimously approved that the Town raise and appropriate from available funds for the operating expenses of the Town for Fiscal Year 2020 as follows:

|  |  |  |
| --- | --- | --- |
| DEPARTMENT ACCOUNT | FY 19 | **FY 20** |
|  | JULY 1, 2018 - JUNE 30, 2019 | **JULY 1, 2019 - JUNE 30, 2020** |
| 1. Admin. & Finance | 243,727 | 247,081 |
| 2. Town Clerk | 147,363 | 69,689 |
| 3. Town Treasurer/Collector | 85,261 | 129,380 |
| 4. Compensation Reserve | 70,000 | 93,000 |
| 5. Operations Support | 96,200 | 96,468 |
| 6. Elections & Registration | 8,870 | 13,420 |
| 7. Economic Dev/Advertising | 90,000 | \*90,000 |
| 8. Town Debt & Interest | 290,000 | 13,000 |
| 9. Audit, Reserve Account | 628,718 | 655,816 |
| 10. Insurance & Bonds, OPEB | 1,076,641 | 1,033,770 |
| 11. Land Use Department | 485,691 | 521,480 |
| 12. Town Buildings | 108,097 | 117,227 |
| **General Government Subtotal** | 3,330,568 | **3,080,331** |
| 13. Police Department | 1,138,874 | 1,182,006 |
| 14. Fire Department | 531,030 | 538,519 |
| 15. Emergency Management | 30,201 | 30,958 |
| 16. Ambulance Squad | 400,049 | 410,040 |
| **Public Safety Subtotal** | 2,100,154 | **2,161,523** |
| 17. Lenox Public Schools | 12,917,715 | 13,399,103 |
| 18. Vocational Education | 85,000 | 87,550 |
| **Education Subtotal** | 13,002,715 | **13,486,653** |
| 19. Highway Department | 604,264 | 613,063 |
| 20. Snow & Ice | 257,005 | 257,005 |
| 21. Cemetery | 111,409 | 112,708 |
| **Public Works Subtotal** | 972,678 | **982,776** |
| 22. Board of Health | 181,578 | 188,079 |
| 23. Veterans Services | 70,113 | 70,113 |
| **Human Services Subtotal** | 251,691 | **258,192** |
| 24. Community Center | 373,766 | 381,046 |
| 25. Cultural Council Grants | 0 | 4,500 |
| 26. Academy Building | 7,824 | 7,824 |
| 27. Historical Commission | 10,950 | 10,950 |
| 28. Celebrations | 2,200 | 2,200 |
| **Cultural & Recreation Subtotal** | 394,740 | **406,520** |
| 29. Lenox Library | 341,251 | 415,004 |
| **Lenox Library Subtotal** | 341,251 | **415,004** |
| **Totals** | $20,393,797 | **$20,790,999** |
|  | APPROVED BY BOARD OF SELECTMEN | |
|  | APPROVED BY SCHOOL COMMTTEE (Line #17) | |
|  | \* ALL ITEMS APPROVED BY FINANCE COMMITTEE (COMMITTEE BELIEVES AN INCREASE IN LINE #7 WOULD ENHANCE TAX REVENUE) | |

ARTICLE 4. It was moved, seconded and unanimously approved that the Town make the following appropriations to fund the Fiscal Year 2020 budget for the Water Department;

1. Water Operations $635,219

2. Debt Service $717,525

3. Capital Expenditures $130,000

$1,482,744

And further, to provide for said appropriations from the following sources of revenue and available funds.

User Charges $1,352,744

Retained Earnings $ 130,000

TOTAL $1,482,744

ARTICLE 5. It was moved, seconded and unanimously approved to make the following appropriations to the Fiscal Year 2020 budget for the Sewer Department.

1. Sewer Operations $855,727
2. Debt Service $765,619

3. Capital Expenditures $ 480,000

$2,101,346

And further, to provide for said appropriations from the following sources of revenue and available funds:

User Charges $1,631,585

Retained Earnings $469,761

TOTAL $2,101,346

ARTICLE 6. It was moved, seconded and unanimously approved to authorize the Town to raise and appropriate the sum of $1,214,500 for the following capital expenditures:

1. Highway Department Expenditures $ 605,000

2. School Department Expenditures $ 370,200

3. Fire Department Expenditures $ 25,000

4. Police Department Expenditures $ 3,500

5. Town Buildings/Equipment Expenditures $ 160,000

6. Community Center Expenditures $ 40,800

7. Land Use Expenditures $ 10,000

And further, to provide for said appropriations, to transfer from Free Cash as certified on July 1, 2018, the sum of $1,060,080.

ARTICLE 7. It was moved, seconded and unanimously approved that the Town  
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 8. It was moved, seconded and unanimously approved to authorize the Town to raise and appropriate from the Community Preservation Fundannual revenues in the amounts recommended by the Community Preservation Committee for project debt service in fiscal year 2020, with each item to be considered a separate appropriation.

Library Debt Service $124,000 (General Unreserved)

ARTICLE 9. It was moved, seconded and unanimously approved to authorize the Town to appropriate or reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in fiscal year 2020, with each item to be considered a separate appropriation.

**Appropriations:**

FY 2020 estimated revenues for Administrative Expense $ 18,750

**Reserves:**

FY 2020 estimated revenues for Historic Resources Reserve $ 37,500

FY 2020 estimated revenues for Community Housing Reserve $ 37,500

FY 2020 estimated revenues for Open Space Reserve $ 37,500

FY 2020 estimated revenues for General Unreserved $ 262,500

Total $ 375,000

Estimated new surcharge collections for FY 2020 $ 300,000

Estimated State Match for FY 2020 $ 75,000

Total $ 375,000

ARTICLE 10. It was moved, seconded and unanimously approved to authorize the Town to appropriate or reserve from the Community Preservation Fundannual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses and community preservation projects and other expenses in fiscal year 2020 with each item to be considered a separate appropriation. Chair of the Community Preservation Fund, Anthony P. Patella thanked Albert B. Harper and Eugene R. Chague for their dedication to the Committee.

Frelinghuysen Morris House $25,000 (Historic Preservation)

BNRC North Yokun Ridge Trail $50,000 (Open Space/Rec, Undesignated)

MA Audubon Barn Improve. $300,000 (Undesignated)

ARTICLE 11. It was moved, seconded and unanimously approved to raise and appropriate the sum of $175,000 for the Fire Engine Stabilization Fund.

ARTICLE 12. It was moved, seconded and unanimously approved to transfer the sum of $50,000 to the Special Education Reserve Fund from funds appropriated to the Lenox Public Schools under Article 3 of Warrant for the May 3, 2018 Annual Town Meeting.

ARTICLE 13. It was moved, seconded and approved by a voice vote to authorize the Town to transfer the care, custody and control of a parcel of land, being a portion of certain property, commonly known as Kennedy Park, located on Main Street, being Assessor’s Map 21, Parcel 8, said parcel containing 1.546 acres, shown as Lot 1 on a plan entitled “Survey of Land in Lenox, Massachusetts Prepared for John Fontaine,” dated February 26, 2019; and further, to authorize the Board of Selectmen to convey said parcel on such terms and conditions, and for such consideration, as the Board of Selectmen deems appropriate; and further, to authorize the Board of Selectmen to submit a petition to the General Court for a special act authorizing the transfer of said parcel under Article 97 of the Amendments to the Massachusetts Constitution; and further, to satisfy the Executive Office of Energy and Environmental Affairs’ “no net loss policy,” to acquire and dedicate a parcel of land, being a portion of certain property, located at 66 Hubbard Street, being Assessor’s Map 47, Parcel 1, said parcel shown on a plan entitled “Plan of Land Prepared for John G. Paladino and Emily Rechnitz, Hubbard Street, Lenox, MA,” dated March 10, 2019, for conservation and open space purposes, to be held by the Conservation Commission, pursuant to G.L. c. 40, s. 8C, and/or such other parcel or parcels of land dedicated by the Board of Selectmen in its discretion, and dedicate said property to conservation and open space purposes in perpetuity, with the foregoing dedication of the land located at 66 Hubbard Street and/or the parcels dedicated by the Board of Selectmen to become effective upon the enactment of the Article 97 legislation.

ARTICLE 14. It was moved, seconded and approved by a voice vote to authorize the Board of Selectmen to acquire, by gift, from John G. Paladino and Emily Rechnitz, or the current owner, a certain parcel of land, containing twenty-five acres, more or less, said parcel shown on a plan entitled “Plan of Land Prepared for John G. Paladino and Emily Rechnitz, Hubbard Street, Lenox MA,” dated March 10, 2019, said land being a portion of property at 66 Hubbard Street, described in a deed recorded with the Berkshire Middle District Registry of Deeds in Book 3706, Page 95, being Tax Map 47-1-0, said property being acquired for the purpose of park, conservation and open space and also as mitigation for the conveyance by the Town of a parcel containing 1.546 acres, as shown on a plan entitled “Survey of Land in Lenox, Massachusetts Prepared for John Fontaine,” dated February 26, 2019; and further, to authorize the Board of Selectmen to take such actions and execute such documents as are deemed necessary to acquire said property, upon such terms and conditions as the Board of Selectmen deems appropriate.

Moderator McNinch recused himself for Article 15 and Article 16 and appointed temporary moderator Janet H. Pumphrey, 317 Under Mountain Rd.

ARTICLE 15. Marybeth Mitts, Chair of the Affordable Housing Committee asked Moderator Pumphrey if Elton Ogden of the Berkshire Housing Development Corporation and Tim Geller of the Community Development Corporation of Southern Berkshire could speak to the voters. Moderator Pumphrey asked the voters and they unanimously approved by hand count. Mr. Geller and Mr. Ogden spoke of the history of the project dating back to 2011 which the ownership model was preferred but soon became unattainable due to the economy. In 2015 and 2016 grants became available to continue with rental and ownership. Mr. Ogden spoke of the collaborative history Berkshire Housing Development Corporation has in the Berkshires, showing slides of similar projects in the community.

ARTICLE 15. Motion was made to authorize the Board of Selectmen to convey, for no monetary consideration, a parcel of land known as the Sawmill Brook Property, or Map 45, Parcel 1 on the Lenox Assessors Map, to the Berkshire Housing Development Corporation and its partner the Community Development Corporation of Southern Berkshire, for the purpose of constructing affordable rental housing subject to the conditions of a Developer Designation Agreement, to be negotiated and executed between the Town of Lenox and the Berkshire Housing Development Corporation and its partner the Community Development Corporation of Southern Berkshire, pursuant to a proposal submitted by the Berkshire Housing Development Corporation and its partner the Community Development Corporation of Southern Berkshire dated February 5, 2019.

Rinaldo DelGallo, 24 Orchard St. asked about Environmental, Financial and Traffic studies. Mr. DelGallo handed the Moderator an amendment to Article 15 in writing but he declined to read it or make the motion. Chair Mitts stressed that until the land is conveyed to BHDC and CDC of SB these studies can’t be done.

Motion Not Made on Amendment 15.

Peter Arment, 27 Bentrup Ct. made the motion that this project is very controversial and asked for a secret ballot. Moderator Pumphrey asked the voters; motion was tabled until the assistant moderators in the cafeteria were polled which they did before the vote began. It was unanimously approved to conduct a secret ballot on Article 15.

Motion was defeated by secret ballot that failed to garner 2/3 of the 565 votes.

Yes 304

No 261

ARTICLE 16. It was moved, seconded and approved by a 2/3 voice vote to amend the Zoning Bylaw by inserting adult marijuana uses into Section 5.2, “Schedule of Uses”, and deleting the existing Section 8.13, “Temporary Moratorium on the Sale and Distribution of Recreational Marijuana”, and inserting a new section 8.13, “Adult Use of Marijuana” as on file in the Office of the Town Clerk.

Richard A. Defazio, 22 Pine Knoll Rd., felt that with the uncertainty of his Citizens Petition and other State Regulations, please vote Yes on Article 16.

Rinaldo DelGallo, 24 Orchard St. filed an amendment to delete the words “subject to a special permit” and replace it with “by way of right” and to delete the language “place a number of the marijuana retail establishments allowed in Lenox”. Amendment defeated by

voice vote.

ARTICLE 17. It was moved, seconded and unanimously approved to accept G.L. c. 64N, s. 3 to impose an excise on the retail sales of marijuana for adult use at the rate of 3%.

ARTICLE 18. Richard A. Defazio, 22 Pine Knoll Rd. by Citizens Petition moved to amend the Town’s Zoning Bylaw by deleting Section 8.13, “Temporary Moratorium on the Sale and Distribution of Recreational Marijuana,” in its entirety and replacing it with a new Section 8.13, “Prohibited Recreational Marijuana Establishments,” as follows:

8.13   PROHIBITED RECREATIONAL MARIJUANA ESTABLISHMENTS

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical adult use “marijuana establishments” as defined in G.L. c.94G, §1 and 935 CMR 5001.002, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed adult use marijuana-related businesses, shall be prohibited within the Town of Lenox.

And further, this bylaw shall take effect upon passage of a ballot question at a Town election approving this bylaw. Citizen Petition

After a voice vote motion does not carry.

It was voted unanimously to adjourn the meeting at 10:57 PM.

A true copy attest:

/s/Kerry L Sullivan

Kerry L. Sullivan

Lenox Town Clerk