

TOWN OF LENOX
ANNUAL TOWN MEETING
May 4, 2017

At 7:12 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 155 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 unanimously approved 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. After budget presentations by Town Manager Christopher Ketchen and School Committee Chair Robert Vaughan it was moved, seconded and unanimously approved to raise and appropriate funds for the operating expenses of the Town for Fiscal Year 2018 as follows.

DEPARTMENT ACCOUNT	FY 18 <u>JULY 1, 2017 - JUNE 30, 2018</u>
1. Admin. & Finance	272,905
2. Town Treasurer/Clerk	145,700
3. Town Collector	92,585
4. Compensation Reserve	70,000
5. Operations Support	94,700
6. Elections & Registration	8,870
7. Economic Development	65,000
8. Town Debt & Interest	304,000
9. Audit, Reserve Account	592,657
10. Insurance & Bonds, OPEB	1,039,335
11. Land Use Department	444,363
12. Town Buildings	108,097
General Government Subtotal	3,238,212
13. Police Department	1,128,689
14. Fire Department	444,182
15. Emergency Management	29,466
16. Ambulance Squad	405,062
Public Safety Subtotal	2,007,399
17. Lenox Public Schools	12,614,020
18. Vocational Education	84,790
Education Subtotal	12,698,810
19. Highway Department	595,182
20. Snow & Ice	257,005
21. Other Storm Emergencies	0
22. Cemetery	122,395
Public Works Subtotal	974,582
23. Board of Health	135,863
24. Veterans Services	70,113
Human Services Subtotal	205,976
25. Community Center	365,694
26. Academy Building	7,824
27. Historical Commission	10,950
28. Celebrations	2,200
29. Historic District Commission	100
Cultural & Recreation Subtotal	386,768
Totals	19,511,747

ARTICLE 3. It was moved, seconded, and unanimously approved to make the following appropriations, to the Fiscal Year 2018 budget for the Water Department.

1. Water Operations	\$631,422
2. Debt Service	\$720,054
3. Capital Expenditures	<u>\$ 0</u>
	\$1,351,476

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

User Charges	\$1,351,476
Retained Earnings	<u>\$0</u>
TOTAL	\$1,351,476

ARTICLE 4. It was moved, seconded and unanimously approved to make the following appropriations to the Fiscal Year 2018 budget for the Sewer Department.

1. Sewer Operations	\$830,433
2. Debt Service	\$777,878
3. Capital Expenditures	<u>\$ 70,000</u>
	\$1,678,311

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

User Charges	\$1,608,311
Retained Earnings	<u>\$ 70,000</u>
TOTAL	\$1,678,311

ARTICLE 5. It was moved, seconded and unanimously approved to raise and appropriate the sum of \$268,822 for the Lenox Library Association in Fiscal Year 2018.

ARTICLE 6. It was moved, seconded and unanimously approved to raise and appropriate the sum of \$1,221,200 for the following capital expenditures:

1. Highway Department Expenditures	\$	180,000
2. School Department Expenditures	\$	370,200
3. Fire Department Expenditures	\$	20,000
4. Police Department Expenditures	\$	20,000
5. Town Buildings/Equipment Expenditures	\$	300,000
6. Community Center Expenditures	\$	13,500
7. Land Use Expenditures	\$	127,500
8. Town Clerk Expenditures	\$	25,000
9. Ambulance Expenditures	\$	165,000

And further, to provide for said appropriations, to transfer from Free Cash as certified on July 1, 2016, the sum of \$1,221,200.

ARTICLE 7 It was moved seconded and unanimously approved to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Board of Selectmen shall determine, permanent and/or temporary easements on the parcels of land shown on plans entitled "Massachusetts Department of Transportation Highway Division Plan of Walker Street Reconstruction

Walker Street in the Town of Lenox Berkshire County,” dated December 12, 2016, as said plans may be amended, said plans on file with the Town Clerk, for public way purposes, including, but not limited to, the construction, alteration, maintenance, improvement, repair and/or replacement of roads, the replacement of water and sewer pipes and for drainage, utility and slope work, traffic signal improvements, driveway reconstruction and grading, tree protection and landscaping, including all costs incidental and related to the foregoing; and, further, I move that the Town vote to authorize the Board of Selectmen to enter into all agreements and take all related actions necessary or appropriate to carry out said acquisitions and other acts authorized herein.

It was moved, seconded and unanimously approved to appropriate \$1,200,000 million to pay the costs of designing and constructing new water and sewer mains running from Routes 7 & 20 along Walker Street to Lenox Dale, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow \$1,200,000 under and pursuant to M.G.L. c.44, ss. 7(1) and 8(5), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore.

ARTICLE 8.

It was moved, seconded and unanimously approved to appropriate the sum of \$850,000, for designing and constructing a new water main and related site work, repair and repaving from the intersection of Lee Road and Plunkett Street to the Lee town line including Rosebank Drive. and, further, to provide for said appropriation, to transfer the sum of \$500,000 from available capital funds in the water enterprise fund and, further, in accordance with M.G.L. c. 44, s.20, the unencumbered balance of \$350,000 for water system improvements appropriated and borrowed under Article 17 of the May 5, 2016 Annual Town Meeting warrant, which balance is no longer needed to complete the project for which it was initially borrowed, be transferred to meet the remaining portion of the \$850,000 appropriation.

ARTICLE 9.

It was moved, seconded and unanimously approved to appropriate the sum of \$550,000 to the Permanent Building Committee, for the replacement of the boiler/heating system located at the Community Center.

And, further, to provide for said appropriation, to transfer the sum of \$550,000 from Free Cash certified as of July 1, 2016.

ARTICLE 10.

It was moved, seconded and unanimously approved to raise and appropriate or otherwise provide, the sum of \$650,000, or any other sum, to the Board of Selectmen for the purchase of fire apparatus and related equipment.

And further, to provide for said appropriation, to raise and appropriate the sum of \$175,000 and transfer the sum of \$475,000 from available funds.

ARTICLE 11.

It was moved, seconded and unanimously approved 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.

Library Debt Service	\$123,500	(General Unreserved)
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Appropriations:**Reserves:**

Estimated new surcharge collections for FY 2018	\$300,000
Estimated State Match for FY 2018	<u>\$100,000</u>
Total	\$400,000

The Mount Stable Restoration \$75,000 (Historic Preservation/Unreserved)

Ventfort Hall	\$30,000 (Historic Preservation/Unreserved)
Emergency Masonry Stabilization	

And further, to authorize the use of a revolving fund under Section 53E½ of Chapter 44 of the General Laws, for the purpose of funding supplemental inspectional services, said funds to be expended under the direction of the Land Use Department, annual expenditures not to exceed \$25,000 for the fiscal year beginning July 1, 2017.

ARTICLE 16. It was moved, seconded and unanimously approved to accept the provisions of Chapter 40, Section 13E of the Massachusetts General Laws to create a Special Education Reserve Fund, consistent with the vote of the Lenox School Committee, for future payments of unanticipated or unbudgeted costs of special education, out-of-district tuition or

transportation, provided, however, that the monies in such fund shall be expended only with the approval of the School Committee and the Board of Selectmen;

And, further, to transfer the sum of \$100,000 to the Special Education Reserve Fund from funds appropriated to the School Department under Article 3 of the May 5, 2016 Annual Town Meeting warrant.

ARTICLE 17. It was moved, seconded and unanimously approved to amend the Lenox Historic District Commission By-laws adopted in 1975 to ensure greater consistency with M.G.L. Chapter 40C and to create greater clarity for property owners, as exhibited through the amended version on file with the Town Clerk.

ARTICLE 18. It was moved, seconded and unanimously approved to amend existing zoning district boundaries in the Lenox Dale neighborhood to bring existing uses and activities into greater conformity with current zoning regulations. The proposed district boundary amendments will be adjusted as reflected in the Amended Zoning Map available in the Town Clerk’s office.

ARTICLE 19. I move that the Town vote to amend Section 7.1., “Parking and Loading Requirements” of the Lenox Zoning Bylaw so as to add the following new section, 7.1.20.

7.1.20 Commercial “C” Zoning District Exemptions.

- 1. The following exemptions promote adaptive re-use of existing Buildings and Structures and the replication of historic massing and density in the Commercial “C” zoning district:

Buildings and Structures in the Commercial “C” District are exempt from Sections: 7.15 (Parking Space Quantity Requirements) 7.1.7.1 (Parking Design Standards) 7.1.10.2 (Off-Street Parking Layout) 7.1.18 (Loading Bays)	
As follows:	
Change of Use	Exempt
Construction with no Substantial Building or Structure Change	Exempt
A “substantial Building or Structure Change” is any alteration that increases the Gross Floor Area by more than 25% or 1,000 square feet, whichever is smaller.	

- 2. Any Substantial Building or Structure Change, including new construction on a vacant Lot, is not exempt from any requirements of this section.
- 3. Restaurants, theaters and other places of assembly are not exempt from any requirements of this section.

Motion was made to amend Warrant Article 19 to remove Item 3 from Section 7.1.20.3. The amendment passed on a non-unanimous voice vote. A vote was then taken on the main motion as amended and passed unanimously.

- ARTICLE 20.

It was moved, seconded and unanimously approved to amend the Lenox Zoning By-laws by moving the regulatory language from the definitions to create new special use sections for regulatory language as depicted in the materials available for review in the office of Town Clerk.
- ARTICLE 21.

It was moved, seconded and unanimously approved to amend the Section 5.2 "Table of Uses" of the Lenox Zoning By-law to clarify differences between uses and to enumerate each use for the purpose of navigability and as depicted in the materials available for review in the office of Town Clerk.
- ARTICLE 22.

It was moved, seconded and unanimously approved to amend the Lenox Zoning Bylaws by moving footnotes 1-5 in Section 6.1.1 "Table of Dimensional Requirements" to new special use sections and further, by moving Footnotes 6 & 7 of Section 6.1.1 "Table of Dimensional Requirements" to Section 9, Special Residential Regulations, as depicted in the copy of proposed Zoning Bylaw amendments on file with the Town Clerk.
- ARTICLE 23.

It was moved, seconded and unanimously approved to amend the Lenox Zoning Bylaws by replacing subsection 5 in the Table of Dimensional Requirements (Section 6.1.1) in its entirety so the Table will depict the following.

Requirements	R-3 A	R-I A	R-30	R-15	C-3A	C-1A	C	I
5. Maximum Building or structure height and stories	In all districts, except as allowed by Section 6.1.8, the maximum height shall be 35' and the maximum number of stories shall be two.							

And further to amend existing Footnote 3 in Section 6.1.1 by Inserting the bold language as follows and further by converting said footnote, as amended, into a new Section 6.1.8, "Maximum Height/Number of Stories Restrictions" :

Maximum building or structure height restrictions shall not apply to chimneys, water towers, skylights and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy. The Board of Appeals may allow greater height **and more stories** when permitting Planned Unit Office, Great Estates, Gateway Mixed Use Developments, and uses located in the Commercial Zone. In no instance shall height, not including exemptions as stated **in section 6.1.1**, exceed 50 feet and **the number of stories exceed four (4)**.

- ARTICLE 24.

It was moved, seconded and unanimously approved to amend the Lenox Zoning Bylaws, Home Occupation Basic Regulations, Section 9.9.1.5, by inserting the bold language so that it is consistent with the Table 5.2 - Schedule of Uses, section H, Accessory Uses and General Off-street Parking, which allows "[n]ot more than one commercial vehicle per lot associated with a permitted home occupation".

5. The maximum number of off-street parking spaces for employee and customer parking shall be two. There shall be no outside parking of more than ~~two~~ **one** commercial vehicles as defined by the Registry of Motor Vehicles in 540 CMR 4.02.
- ARTICLE 25.

I move that the Town vote to amend the Town’s Zoning Bylaw, Section 5.2, "Schedule of Uses", by incorporating the following line to Section F, "Retail and Consumer Service Establishments":

	R3A	R1A	R30	R15	C3A	C1A	C	I	Reference
Registered Medical Marijuana Dispensary	N	N	N	N	Y	Y	BA	Y	Section 8.12

And amending Section 8, "Special Regulations" by adding a new Section 8.12, "Medical Marijuana Dispensaries" as available on file with the Town Clerk.

Motion was made to amend Warrant Article 25 to change the use BA to not allowed. The amendment was voted on unanimously. A vote was then taken on the main motion as amended and passed unanimously.

- ARTICLE 26.

It was moved, seconded and unanimously approved to amend the Town’s Zoning Bylaw by adding a new Section 10.4, TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS and further to amend the Table of Contents to include "Section 10.4, Temporary Moratorium on Recreational Marijuana Establishments", as available on file with the Town Clerk.
- ARTICLE 27.

It was moved, seconded and unanimously approved to clarify language in Section 10.3 "Wireless Telecommunications Overlay district (WTOD)" so that Section 10.3.18 reads as "General Requirements for F/TSP and RSP" and item 16(h) is an independent paragraph, Section 10.3.18 (19).
- ARTICLE 28.

It was moved, seconded and unanimously approved to authorize the Selectmen to petition the Legislature to enact Legislation relative to placing a conservation restriction on Town owned land as published under Article 28 of the warrant for this Annual Town Meeting provided, that the Legislature may reasonably vary from the form and substance of the requested legislation within the scope of the general public objectives of this petition.
- ARTICLE 29.

It was moved, seconded and unanimously approved to transfer the care, custody, management and control of two (2) parcels of Town-owned land, located on Yokun Ridge, and being the "Fire Tower Lot" (Map 26, Parcel 1) and the "School Lot" (Map 26, Parcel 2), from the board or commission having the care, custody and control thereof, to the Board of Selectmen, for the purpose of conveyance to Massachusetts Audubon Society, Inc., and to authorize the Board of Selectmen to convey said properties to Massachusetts Audubon Society, Inc. in exchange for two (2) parcels of land to be conveyed to the Town by Massachusetts Audubon Society, Inc., being the "Piretti Lot" (Map 22, Parcel 10) and the "Costello Lot" (Map 21, Parcel 4), the "Piretti Lot" and the "Costello Lot," together, commonly known as a portion of "Kennedy Park," to be held by the Board of Selectmen, in perpetuity, for conservation and recreational purposes, and to authorize the Board of Selectmen to accept said properties from Massachusetts Audubon Society, Inc., which properties shall be designated for and dedicated to the protections of Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts; further, provided that the Board of Selectmen shall be authorized to petition the General Court for special legislation pursuant to Article 97 of the Articles of Amendment of the Commonwealth of Massachusetts, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition, and to authorize the Board of Selectmen to approve such amendments; and, further, authorize the Board of Selectmen to execute such documents and instruments or take any action needed to effectuate the vote taken hereunder, upon such terms and conditions as the Board of Selectmen may deem appropriate.

ARTICLE 30. It was moved, seconded and approved by a hand-count to authorize the Board of Selectmen to take the steps necessary to enter into a Tax Increment Financing (TIF) Agreement between Morrison Home Improvement and the Town of Lenox, in substantially the form on file with the Town Clerk (The Morrison Home Improvement TIF Agreement”), pursuant to Chapter 40, Section 59 of the General Laws and any other enabling authority, for the property located at 25 Pittsfield Road (Assessors’ Map 17, Parcel 37); authorize the Board of Selectmen to execute the TIF Agreement and any documents relating thereto, and to take such other actions as are necessary or appropriate to implement the Agreement; and to authorize the Board of Selectmen to submit the necessary documents and forms to the Economic Assistance Coordinating Counsel for the Morrison Home Improvement Center TIF Agreement and any project application or other submissions required for the Agreement.

Hand Count Totals:	In Favor	169
	Opposed	92

ARTICLE 31. It was moved, seconded and defeated by a Hand Count to authorize the Board of Selectmen to enter into a Special Tax Assessment (STA) agreement with 130 Pittsfield-Lenox Road LLC or its successor, in substantially the form on file with the Town Clerk, pursuant to the provisions of Massachusetts General Laws, including Sections 3A to 3F of Chapter 23A, Section 59 of Chapter 40, Section 5 of Chapter 59 and any other enabling authority, in connection with the redevelopment of the property located at 130 Pittsfield Road (Assessors’ Map 22, Parcel 36), as described in the Economic Development Incentive Program Application prepared by 130 Pittsfield-Lenox Road LLC; and to authorize the Board of Selectmen to take such action as is necessary to obtain approval of that application and implement the Special Tax Assessment agreement.

Hand Count Totals:	In Favor	120
	Opposed	159

ARTICLE 32. It was moved, seconded and defeated by a Hand Count to authorize the Board of Selectmen to enter into a Special Tax Assessment (STA) agreement with Brushwood LLC or its successor, in substantially the form on file with the Town Clerk, pursuant to the provisions of Massachusetts General Laws, including Sections 3A to 3F of Chapter 23A, Section 59 of Chapter 40, Section 5 of Chapter 59 and any other enabling authority, in connection with the development of the property at 70 Pittsfield Road (Assessors’ Map 17, Parcel 41-1), as described in the Economic Development Incentive Program Application prepared by Brushwood LLC; and to authorize the Board of Selectmen to take such action as is necessary to obtain approval of that application and implement the Special Tax Assessment agreement.

Hand Count Totals:	In Favor	88
	Opposed	180

ARTICLE 33. The moderator moved that the Town bring their votes for one or more members of each of 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
- 2 School Committee Members for three years
- 1 Planning Board Member for five years
- 1 Planning Board Member for two years

It was voted unanimously to adjourn the meeting at 10:38 PM

Attest:

Kerry L. Sullivan, Town Clerk