

Town of Lanesborough, Massachusetts
Minutes of the Special Town Meeting
December 1, 2015
Fiscal Year 2016

The Special Town Meeting was held on December 1, 2105, at the Lanesborough Elementary School. Moderator, Robert A. Reilly called the meeting to order at 6:00 p.m. The head table was introduced which consisted of the Board of Selectmen, the Town Administrator, Members of the Finance Committee, Town Counsel, Mount Greylock School Committee Chair Carrie Greene and Superintendent Douglas Dias, the Town Clerk and the Town Secretary. The Pledge of Allegiance was said. There were 161 registered voters in attendance. Shirley Zurrin, Betsy Bean and Frances Kelly checked in registered voters.

A motion was made and seconded to consent to the entire Warrant. No objection. So moved.

MOTIONS ON ARTICLES

ARTICLE 1. To see if the Town will vote to accept the amended Mount Greylock Regional Agreement, as attached. The deleted language is notated by a strikethrough, and added language is underlined.

(Recommended 3-0 by the Board of Selectmen)
(Recommended by the Finance Committee 4-1)

Mount Greylock Regional High School Committee Chair Carrie Greene thanked the Board of Selectmen for calling the meeting. Ms. Greene stated that the only major change at the local level on the Agreement was the apportionment of capital costs which was located in Section 6 on page 5 of the Agreement. Moderator Reilly asked if there were any questions. Ron Tinkham stated that the EQV does not include tax exempt properties, that the tuition portion does not have Hancock or New Ashford contributing towards capital costs and that there are issues regarding choice student calculations which he would like to see addressed.

A Motion was made and seconded that the Town approve the amended Mount Greylock Regional Agreement as attached to the Warrant. Vote: Ayes have it.

ARTICLE 2. To see if the Town will vote to transfer **\$4,000** from Town Accountant Expenses account to the Town Accountant Salaries account, or take any other action relative thereto.

(Recommended 3-0 by the Board of Selectmen)
(Recommended 5-0 by the Finance Committee)

A Motion was made and seconded that the Town transfer \$4,000 from Town Accountant Expenses account to the Town Accountant Salaries account. Vote: Ayes have it.

ARTICLE 3. To see if the Town will vote to add a new Section 25 to the General Bylaws of the Town of Lanesborough as follows:

ANIMAL REGULATION BY-LAW

SECTION 1 – Purpose: To protect the public health of the Town of Lanesborough, the Town hereby adopts this By-law to regulate the amount of certain domesticated animals including, rabbits, turkeys, geese, ducks, hens, chickens, roosters, pigeons, and other fowl and animals within certain areas of the Town, but excluding dogs and cats. The intent of this By-law is to enhance the quality of life of the Town’s citizens and to protect the general public from damage, injury or illness that may be caused by unregulated animals and fowl.

SECTION 2 – Animal Regulation: To protect the public health and safety of Town residents, the raising or keeping of rabbits or fowl, including chickens (hens but not roosters) for private purposes by the owner(s) of property located in the Residential and Residential Agricultural Districts, shall be permitted and regulated under the provisions of this By-law and other applicable local and state laws and regulations. The provisions of this By-law shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

1. All individuals who keep certain domestic animals, as set forth in this Chapter, shall engage in best management practices to minimize the risk to public health and safety. Information or assistance on these practices is available from the Massachusetts Department of Agricultural Resources.
2. Property owners on lots less than one acre in size in the Town’s Residential and Residential-Agricultural Zoning Districts may keep animals and fowl, as defined in this Chapter, provided that the following requirements are met:
 - a. No more than six (6) individual animals or fowl, as defined in this Chapter, may be kept on lots less than one acre in size. Roosters shall not be permitted on lots less than one acre in size.
 - b. Any person or persons who have in their possession or control any domestic animal shall keep said animal on the premises at all times and the premises shall be kept free of offensive odors and filth at all times.
 - c. Any nuisance declared by the Board of Health or its Agent to exist due to failure to conform to these requirements, shall be abated without delay by the person or persons responsible, who shall also remove any of said animals or birds entirely if it is decided by the Board of Health that there is no other satisfactory way to abate the nuisance.

SECTION 3- Enforcement and Penalties:

1. The Animal Control Officer and/or the Board of Health or their designees shall enforce the provisions of this By-law.
2. Violation of this By-law may be subject to a penalty of \$50.00 for each offense, with each day the violation continues constituting a separate offense.
3. Non-Criminal Disposition- Any enforcing person, as set forth herein, taking cognizance of a violation of this By-law, may, as an alternative to initiating criminal proceedings, enforce this bylaw non-criminally pursuant to M.G.L. Chapter 40, Section 21D. The specific penalty for violation shall be the amount established in this By-law.

SECTION 4- Compliance Deadline: Property owners shall have six (6) months from the effective date of this By-law to comply with its requirements.

SECTION 5- Severability: The provisions of this By-law shall be deemed severable, so that the invalidity of any one provision of the By-law shall not affect the validity of another provision, and if any part of this bylaw shall be adjudged unconstitutional, inconsistent with state law, or otherwise invalid, such judgment shall not affect any other valid part of this By-law.

(Recommended 3-0 by the Board of Selectmen)

A Motion was made and seconded that the Town amend the General Bylaws of the Town of Lanesborough by adding a new **CHAPTER 25**, Animal Regulation By-law as printed in the Warrant.

Vote: Ayes have it.

Kara Zaks opposed the Article and gave a summary of why she believed the Bylaw should not be passed. Rich Cohen made a motion to pass over the Article, seconded by Gordon Zaks. Vote: Ayes have it.

ARTICLE 4. To see if the Town will vote to add Chapter 10 of the General Bylaws of the Town of Lanesborough by adding a new Section, Section 10-G to Ban Overnight Parking, by adding the following text:

Ch. 10- Article G. Overnight Parking Ban- November 1 through March 31

1. No driver may park any vehicle on any public way in the Town of Lanesborough between the hours of 10:00 p.m. and 6:00 a.m. from November 1 through March 31 on any day of the week unless authorized by the Board of Selectmen or its designees.
2. The requirements of this Chapter shall be enforced by the Chief of Police or his designees.
3. Whoever violates this section shall pay a fine of \$100.00 for each such violation.
4. Any owner of a vehicle that violates this Article shall pay any incurred towing costs associated with non-compliance.

(Recommended 2-0 by the Board of Selectmen)

Mr. Sieloff explained that the Article helps the Highway Department with plowing during winter storms. David Seaman asked if there will be signs posted. Mr. Sieloff stated that he would look into that with the DPW Director. Chris Dodig asked if this would be for all public ways and Mr. Sieloff stated that it would. A resident stated that it seemed excessive for 25% of the year not to have parking. Mr. Sieloff stated that the ban was originally to the end of April but it was moved up until March and stated that much of the Town has off-street parking. Rich Cohen asked is someone could get an exemption. Mr. Goerlach stated that the Town would work with residents in special circumstances. Another resident asked if the \$100 fine has always been in place. Police Chief Sorrell stated that it has been but the Department will work to have vehicles moved before fines are imposed.

A Motion was made and seconded that the Town amend the General Bylaws of the Town of Lanesborough by adding a new Chapter 10, Article G, Overnight Parking Ban as printed in the Warrant.

Vote: Ayes have it.

ARTICLE 5. To see if the Town will vote to add a new Chapter 26 to the General Bylaws of the Town of Lanesborough as follows:

Chapter 26: Solicitation and Canvassing Door-to-Door

1.1 Purpose

This article, adopted pursuant to G.L. c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in canvassing or solicitation door-to-door in the Town of Lanesborough in order to protect its citizens from disruption of the peaceful enjoyment of their residences, from the perpetration of fraud or other crimes; and to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

1.2 Definitions

For the purpose of this By-law, the following definitions shall apply:

1.2.1 “Soliciting” shall mean and include any one or more of the following activities conducted door-to-door:

- (a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- (b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- (c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- (d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization;
- (e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

1.2.2 “Canvassing” shall mean and include any one or more of the following activities door-to-door or on a public way:

- (a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;
- (b) seeking to enlist membership in any organization for commercial purposes;
- (c) seeking to present, in person, organizational information for commercial purposes.

1.2.3 “Residence” shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

1.2.4 “Registered solicitor” shall mean any person who has obtained a valid certificate of registration from the Town as required by this By-law.

1.2.5 “Charitable organization,” “Professional solicitor” and “commercial co-venturer” shall be defined as set forth in G.L. c. 68, § 18.

1.3 Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Lanesborough must apply for a permit with the Chief of Police at least fourteen (14) business days in advance by filing a registration application form with the Chief of Police.

1.3.1 Organization application forms shall include the following information:

(a) The name and address of the organization applying for registration, and the names and addresses of the organizations’ principal officers. If the organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General’s Division of Public Charities must be provided with this application. Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon.

If the organization is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.

(b) The name, title and phone number, as well as a photo identification of the persons filing the application form.

(c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Lanesborough.

(d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60 day period).

(f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired.

(g) Insurance information and license, if applicable.

1.3.2 Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Section 1.3.1 hereof. Individual registration forms shall contain the following information:

(a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years.

(b) Date of birth.

- (c) Name, address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.
- (d) Name and address of employer during the past three years if other than listed in Section 1.3.1 hereof.
- (e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60 day period).
- (f) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date.
- (g) Photo identification and recent passport-sized photograph of the applicant to be affixed to registration card.
- (h) Make, model and registration number and owner of any vehicle to be used by the applicant while soliciting or canvassing.

1.4 Registration Fee

Each applicant for registration or re-registration shall pay to the Town an application fee of \$25.00 and a fee of \$5.00 for the cost of a registration card.

1.5 Registration Cards

1.5.1 The Police Chief, after a review, but in no event more than fourteen (14) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

- (a) The name of the person.
- (b) A recent photograph of the person.
- (c) The name of the organization (if any) which the person represents.
- (d) A statement that the individual has been registered with the Town of Lanesborough Police Department but that registration is not an endorsement of any individual or organization.
- (e) Specific dates or period of time covered by the registration.

1.5.2 Persons engaged in solicitation or canvassing as defined in this Bylaw must display their Town issued registration card on the outermost portion of their clothing at all times while soliciting or canvassing and show such card to any person solicited or upon the request of any police officer.

1.5.3 Registration cards are non-transferable and valid only for the specific dates or time period specified thereon and in no case for longer than 60 days.

1.5.4 The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this by-law within the previous two year period, or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

1.6 Exceptions

1.6.1 Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business; however, best efforts will be made for government officials to notify the Chief of Police of such official business in Town.

1.6.2 Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers accepted.

1.7 Duties of Persons Going Door-to-Door

1.7.1 Upon going into any residential premises in the Town of Lanesborough, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

1.7.2 Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

1.7.3 Immediately upon gaining entrance to any residence, each solicitor or canvasser as defined in this by-law must do the following:

- (a) Present his registration card for inspection by the occupant.
- (b) Request that the occupant read the registration card.
- (c) Inform the occupant in clear language of the nature and purpose of his or her business and, if he/she is representing an organization, the name and nature of that organization.
- (d) It shall be the duty of every organization employing solicitors or canvassers within the definition of this by-law to notify the Police Department daily as to what area(s) of the Town they will be operating in.

1.8 Restrictions on Methods of Solicitation or Canvassing Activities

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

- (a) Falsely represent, directly or by implication that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official.
- (b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant.
- (c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 9:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities.
- (d) To utilize any form of endorsement from any department head currently employed or serving the Town of Lanesborough.
- (e) Solicit, canvass or conduct any other activity at any residence or on any public way in a threatening, abusive, or illegal fashion.

1.9 Penalty

1.9.1 Any person or organization that violates any of the provisions of this by-law or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to, Mass. G.L. c. 68, shall be subject to a fine not to exceed \$300.00 for each offense. Each day that a person solicits or canvasses without a license shall constitute a separate offense.

1.9.2 Any person or organization who for himself, itself, or through its agents, servants or employees shall violate any provision of sections 1.7 or 1.8 of this by-law, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to M.G.L. c. 68, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

1.9.3 Nothing in this bylaw shall preclude the Police Department from enforcing any applicable state or federal law, including, but not limited to, G.L. c. 101.

1.10 Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within five (5) days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make a determination within thirty (30) days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

1.11 Severability

Invalidity of any individual provision of this section shall not affect the validity of the by-law as a whole.

or take any other action relative thereto.

(Recommended 3-0 by the Board of Selectmen)

Police Chief Sorrell explained that this Bylaw will require solicitors to register with the Police Department which will protect citizens. Russell Freedman stated that he believes that this violates the 1st Amendment (Freedom of Speech). Town Counsel Jeffrey Blake stated that the Bylaw is for commercial vendors only and that exemptions are in place for political and religious organizations as well as those under the age of 18.

A Motion was made and seconded that the Town amend the General Bylaw of the Town of Lanesborough by adding a new Chapter 26, Solicitation and Canvassing Door-to-Door as printed in the Warrant. Vote: Ayes have it.

Adjournment

A Motion was made and seconded to adjourn the meeting. Meeting adjourned at 6:45 p.m.

Respectfully submitted,

Ruth A. Knysh, Town Clerk

Footnotes:

[#1] Warrant for Annual Town Meeting

[#2] Motions – Lanesborough ATM