

Town of Lanesborough, Massachusetts
Minutes of the Annual Town Meeting
June 9, 2020
Fiscal Year 2021

The Annual Town Meeting was held on June 9, 2020 at the Lanesborough Elementary School. Moderator, Christopher Dodig called the meeting to order at 6:04 p.m. Fran Kelly, Betsy Bean and Shirley Zurrin checked in registered voters. There were 81 registered voters in attendance.

Electronic voting devices were dispensed at check in and will be used for all votes. The Moderator gave instructions along with a trial run.

The head table was introduced which consisted of Select Board Members John Goerlach, Henry Sayers, Gordon Hubbard, the Town Manager Kelli A. Robbins, Town Clerk Ruth Knysh, Town Secretary Diane Stevens and Town Counsel Jeffrey Blake. Finance Committee members Jodi Szczepaniak-Locke, Stephen Wentworth, Ron Tinkham and Kevin Towle.

Moderator Dodig noted a quorum was met and the warrant properly posted.

It was voted unanimously to waive the reading of the warrant.

A motion was made and seconded to postpone the Annual Town Meeting until July 7, 2020 at the Lanesborough Elementary School; 6:00 pm.

Vote: Nays have it.

ARTICLE 1. To elect the necessary Town Officers on one ballot;
One Selectman for three years
Finance Committee members:
 One member - one year term and
 One member - three year term;
One Moderator for one year;
One Library Trustee for three years;
One Planning Board member for five years;

No action necessary.

ARTICLE 2. To fix the compensation of all elected Town Officers as provided by G.L. c. 41, § 108, as amended, and to hear the budget, act thereon and raise and appropriate, borrow or transfer from available funds a sum or sums of money to defray charges and expenses of the Town for the ensuing year, or take any other action relative thereto.

Budget line item holds as follows:

#132 Motion made and seconded to reduce from \$40,000 to Zero. Vote – Nays have it.

#141 Assessor's - no change.

#145 Town Treasurer - no change.

#146 Town Collector - no change.

#151 Law Account – Motion made and seconded to increase to \$65,000.00.

Vote: Nays have it.

#161 Town Clerk – Motion made and seconded to increase salary by \$10,000.00.

Vote: Nays have it.

#182 Economic Development – no change

#196 Consultancy – no change.

#210 Police Department – Motion made and seconded to decrease by \$70,000.00.

Vote: Nays have it.

#211 Police Baker Hill Road District. Motion made and seconded to reduce from \$247,252 to \$240,740. Vote: Ayes have it.

#220 Fire Department - no change.
#245 Electrical Inspector - no change.
#292 Animal Control Officer - no change.
#310 Lanesborough Elementary School - no change.
#312 School Health Insurance - no change.
#321 Special Tuition - no change.
#322 Non Regional Expenses - no change.
#330 Mount Greylock Regional High School - no change.
#335 McCann Tech Regional - no change.
#339 Non Region Tech Costs - no change.
#420 Public Works – Motion made and seconded to add \$125,000.00 - motion made and seconded to table. Vote: Ayes have it by 2/3 vote.
#422 DPW Baker Hill Road District - motion made and seconded to amend to \$114,900.00. Vote: Ayes have it.
#439 Landfill Monitoring - no change.
#490 Stormwater Management - no change.
#543 Veteran’s Services - no change.
#680 Pontoosuc Clean Lakes Program - no change
#710 Retirement of Debt & Interest - no change.

Motion made to amend the budget total from \$10,250,186.00 to \$10,268,474.00

Vote: Ayes have it.

ARTICLE 3. To see if the Town will vote to transfer **\$225,000.00** for a rescue vehicle for the Fire Department as follows:

Transfer from BHRD Fire Truck Fund **\$50,000.00**;
Transfer from Fire Equipment Stabilization, **\$70,000.00**;
Transfer from Capital Stabilization, **\$105,000.00**
Or take any other action relative thereto.

Motion made and seconded to amend by striking the word “capital” after the word from and before the word Stabilization. Moderator read the motion as follows:

To see if the Town will vote to transfer **\$225,000.00** for a rescue vehicle for the Fire Department as follows:

Transfer from BHRD Fire Truck Fund **\$50,000.00**;
Transfer from Fire Equipment Stabilization, **\$70,000.00**;
Transfer from Stabilization, **\$105,000.00**

Vote – Ayes have it by a 2/3 vote.

ARTICLE 4. To see if the Town will vote raise and appropriate, borrow, transfer from available funds a sum of money for the purchase and equipping of a police vehicle in the amount of **\$25,432.46** with or without a trade, and further to transfer from the Baker Hill Road District Fund the sum of **\$25,432.46** for said purpose; or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 5. To see if the Town will vote to authorize the Board of Selectmen to accept the donation of the land and buildings known as Assessors Map 101 parcel 42, and described in a deed recorded at the Berkshire North Registry of Deeds in Book 1024, Page 606, consisting of 5.1 acres, more or less, on such terms and conditions as the Board of Selectmen deems appropriate; and authorize the Board of Selectmen to execute any and all documents to carry out the intent of this Article, or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 6. To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain the land known as Assessors Map 228 parcel

8.1, and described in a deed recorded at the Berkshire North Registry of Deeds in Book 1208, Page 863, consisting of 4.988 acres, more or less, on such terms and conditions as the Board of Selectmen deems appropriate; transfer from Free Cash the sum of **\$75,000.00** for the purpose of acquiring said property; and authorize the Board of Selectmen to execute any and all documents to carry out the intent of this Article, or take any other action relative thereto.

Vote – Ayes have it by 2/3 vote.

ARTICLE 7. To see if the Town will vote to authorize the Treasurer to make expenditures from the Transportation Bond Bill for the repair and maintenance of roadways in Lanesborough in anticipation of revenue and allow for the carry over of the funds from year to year until expended, or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 8. To see if the Town will vote to authorize payment of bills of prior fiscal years and as funding therefor, to raise and appropriate or transfer from available funds a sum of money for such purposes or take any action relative thereto.

(Requires a 4/5 vote)

Vote – Ayes have it by a 4/5 vote

ARTICLE 9. To see if the Town will vote to appropriate for the operation of the Ambulance Enterprise **\$18,000.00** for salaries and expenses, to be raised as follows: Departmental Receipts **\$18,000.00** or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 10. To see if the Town will transfer from Ambulance Enterprise Surplus the amount of **\$ 12,000.00** to cover unforeseen costs of FY 2020 or take any other action relative thereto

Vote – Ayes have it.

ARTICLE 11. To see if the Town will vote to appropriate for the operation of the Sewer Enterprise **\$58,925.00**, to be raised as follows: transfer **\$2,000.00** from expenses and budgeted surplus and **\$56,925.00** to be raised from user fees, or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 12. To see if the Town will vote to appropriate and transfer from funds to be received from the Baker Hill Road District, the sum of **\$247,452.00** to the Baker Hill Road District Police Salaries and Expenses Account for Fiscal Year 2020 pursuant to the provisions of G.L. Chapter 44, Section 53E, or take any other action relative thereto.

Motion made to appropriate and transfer from funds to be received from the Baker Hill Road District, the sum of \$240,740.00 to the Baker Hill Road District Police Salaries and Expenses Account for Fiscal Year 2021.

Vote – Ayes have it.

ARTICLE 13. To see if the Town will vote to appropriate for the operation of the Local Access Television Enterprise Fund **\$15,000.00** for salaries and expenses, to be raised as follows: Departmental Receipts - **\$15,000.00**; or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 14. To see if the Town will vote to raise and appropriate the sum of **\$ 58,000.00** to pay for the repair of the sidewalks on the grounds of the Lanesborough Elementary School, or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 15. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$24,000.00** for 10% matching grant funds to purchase radios through a regional radio grant, or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 16. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$3,000.00** for 5% matching grant funds to purchase new jaws of life through a grant, or take any other action relative thereto.

Unanimous consent to change term from Jaws of Life to Hydraulic Extraction.

Motion made to pass Article 3 as amended.

Vote – Ayes have it.

ARTICLE 17. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$ 9,000.00** to cover the cost of replacement of the 10 expired ballistic vest of the latest design or take any other action relative thereto.

Vote – Ayes have it.

ARTICLE 18. To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$276,000.00** to replace the reduction of Unrestricted General Government Local Aid funds not provided by the Commonwealth and thereby stabilize the tax rate or take any other action relative thereto.

Unanimous consent to remove the word not.

Vote – Ayes have it.

ARTICLE 19.

To see if the Town will vote to accept the provisions of MGL Chapter 39, Section 23D to provide that a member of any Town board, committee or commission holding an adjudicatory hearing, shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received, provided that before any such vote, the member shall certify in writing that he/she has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof: or take any other action thereon.

Commentary: Under a provision of Massachusetts law known as the Mullen Rule, all members of town boards, committees or commissions must have attended all hearing sessions to be eligible to vote on a final ruling on an adjudicatory hearing. Since, on occasion, several hearings on separate dates may precede a final vote, travel or other obligations of volunteer members may prevent all members from being available to attend all hearings on a particular matter. In these circumstances, the board, committee, or commission may be precluded from issuing a final ruling if a quorum of eligible voting members cannot be assembled. While this is not a regular occurrence, we have been faced with this issue in the past, especially in cases of long and legally complex matters. Currently, we are required to repeat the process in order to attain the proper voting quorum, to the great waste of time and effort by members, town officials, and parties to the matter. The voluntary provision of Massachusetts law referred to in this article permits a member who has had to miss one hearing to nonetheless vote on the final decision provided that the missing evidence has been reviewed so that all voting members have the same basis for ruling.

Submitted by Zoning Board of Appeals

Vote – Ayes have it.

CITIZEN PETITIONS (3)

ARTICLE 20. – To see if the Town will vote to amend its General Bylaws by adding to Section 31 as follows:

The number of Marijuana Facility Cultivators of any type permissible to be located in the Town shall be limited to two (2).

The number of Marijuana Facility Manufacturers of any type permissible to be located in the Town shall be limited to two (2).

Or take any other action relative thereto.

Vote – Nays have it.

ARTICLE 21. – To see if the Town will vote to amend its General Bylaws by adding the following new Section [number] as follows:

Recreational Marijuana Sales Tax

In accordance with Massachusetts Acts of 2017, Chapter 55, Section 13, and pursuant to

M. G. L. c. 64N, Section 3, the Town of Lanesborough hereby adopts a local three (3%) percent gross sales tax applicable to Marijuana Retailers operating within the Town upon the sale or transfer of Marijuana or Marijuana products to anyone other than a Marijuana establishment. The Marijuana Retailer shall pay the local sales tax imposed under this Bylaw to the Commissioner at the same time and in the same manner as the sales tax due to the Commonwealth, to be distributed, credited and pay by the treasurer receiver-general to the Town in proportion to the amount of the sums received in the Town.

Or take any other action relative thereto.

Adoption of G.L. c. 64N § 3 was voted at a Special Town Meeting in 2017 at 3% tax. Article unnecessary.

Motion made and seconded to indefinitely postpone.

Vote – Ayes have it.

ARTICLE 22. – To see if the Town will vote to amend the provisions relating to Marijuana in the Zoning Bylaw as follows:

A. Amend the Zoning Bylaw by modifying Article 2 of the Use Regulations adopted February 13, 2018 to read as follows:

COMMERCIAL USES	R	RA	B	LB	MR
Marijuana Retail PBP	NO	NO	PBP	PBP	PBP
Marijuana Facility PBP	NO	NO	PBP	PBP	PBP

B. Add the following Intensity Regulations under Section VIII-SPECIAL PROVISIONS, Subsection O. MARIJUANA LAND USE: by creating a new Subparagraph Number 3 to read as follows:

3. INTENSITY REGULATIONS relating to all Medical Marijuana Treatment Centers and to all Marijuana Establishments (MARIJUANA RETAIL AND MARIJUANA FACILITY), including but not limited to all Retailers, Cultivators and manufacturers, however else described:

3a. Setback of two hundred (200') feet, from any street or road.

3b. Minimum of one hundred fifty (150') feet between any outer wall of a building or structure on the property, which is the subject of an application for a Special Permit, and any outer wall of a building locate in an R or RA zone used as a residence, measured from the nearest point of one such wall to the other such wall.

3c. Two and one half (2 ½) acre minimum lot size requirement.

C. Add the following Requirements under Section VIII- SPECIAL PROVISIONS, Subsection O. MARIJUANA LAND USE: by creating a new Subparagraph Number 4 to read as follows:

4. REQUIREMENTS relating to all Medical Marijuana Treatment Centers and to all Marijuana Establishments (MARIJUANA RETAIL AND MARIJUANA FACILITY),

including but not limited to all Retailers, Cultivators and Manufacturers, however else described:

4a. All proposed Medical Marijuana Treatment Centers, and Marijuana Establishments i.e. (1) Marijuana Retailer, (2) Marijuana Cultivator using Indoor Cultivation, (3) Craft Cultivator Cooperative using Indoor Cultivation, (4) Marijuana Independent Testing Laboratory, (5) Marijuana Research Facility, (6) Marijuana Product Manufacturer, (7) Marijuana Transporter, or (8) Marijuana Microbusiness, as defined in 935 CMR 500.002 shall be subject to Planning Board Site Plan Review. See SECTION IX-PERMITS, Subsection C. SITE PLAN REVIEW.

4b. Special Permits – All applicants shall obtain a special permit from the Planning Board for the Town of Lanesborough. See SECTION IX – PERMITS, Subsection B. SPECIAL PERMITS.

4c. A Special Permit pursuant to the Amendment of this Bylaw shall be further subject to the following:

4c1. The cumulative area of enclosed building or buildings, greenhouses or other structures for cultivation shall not exceed ten thousand (10,000) square feet.

4c2. No Marijuana facility of any nature shall be sited within a radius of five hundred (500') feet of a school, daycare center, public library, playground, public park, place of worship, or any facility in which children commonly congregate. The distances referenced are to be measured in a straight line from the nearest point of the property line of the proposed Medical Marijuana Treatment or Marijuana Establishment to the nearest point of the property line of the protected school, daycare center, public library, playground, public park, place of worship, or any facility in which children commonly congregate.

D. Add the following Conditions under Section VIII – SPECIAL PROVISIONS, Subsection O. MARIJUANA LAND USE: by creating a new Subparagraph Number 5 to read as follows:

5. CONDITIONS relating to all Medical Marijuana Treatment Centers and to all Marijuana Establishments (MARIJUANA RETAIL AND MARIJUANA FACILITY), including but not limited to all Retailers, Cultivators and Manufacturers, however else described;

5a.1) Nothing in this Bylaw shall allow for the consumption of Marijuana on the premises where Marijuana is sold. 5a.2) Ventilation: all Marijuana Establishments shall be ventilated in such a manner that (a) no pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and (b) no odor from Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment. 5a.3) the Marijuana Establishment shall adequately address issues of traffic demand, circulation, and parking, particularly at peak periods, to minimize potential impacts to neighboring uses and maximizes pedestrian and vehicular safety on-site, including points of ingress and egress. 5a.4) The Planning Board reserves the right to hire a consultant, at the Applicant's expense, if deemed necessary to further review plans or supporting data as per M.G.L. Chapter 44, Section 53G. 5a.5) Any marijuana cultivation area regulated under this section shall not result in a nuisance or adversely affect the health, welfare, or safety of the nearby residents by creating dust, glare, heat, noise noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to the use of storage of materials, processes, products or wastes.

E. Add the following Other Provisions under Section VIII – SPECIAL PROVISIONS, Subsection O. MARIJUANA LAND USE: by creating a new Subparagraph Number 6 to read as follows:

6. OTHER PROVISIONS relating to all Medical Marijuana Treatment Centers and to all Marijuana Establishments (MARIJUANA RETAIL AND MARIJUANA FACILITY), including but not limited to all Retailers, Cultivators and Manufacturers, however else described:

6a. Subject further to and including, but not limited to, the following other provisions of the Zoning Bylaw:

SECTION IV – USE REGULATIONS, Subsection D. PERFORMANCE STANDARDS, Subsections 1, through 6, inclusive.

SECTION V – INTENSITY REGULATIONS, Subsection D. BUFFER ZONES

6b. Controlling Provisions If and when any Intensity Regulations set forth under this Amendment conflict with those listed under SECTION V of the INTENSITY REGULATIONS of the regular Zoning Bylaw, those listed in this Amendment to the Marijuana Bylaw shall take precedence. However, the Special Permit Granting Authority shall have the right to impose front, side or rear yards greater than the minimum required by either pursuant to SECTION IX - PERMITS, Subparagraph B. SPECIAL PERMITS, Subsection 5 CONDITIONS, SAFEGUARDS AND LIMITATIONS.

6c. Severability A determination by a Supreme Judicial Court for the Commonwealth of Massachusetts that any portion or provision of this Amendment of the Marijuana Bylaw is invalid or unenforceable shall not invalidate any other portion or provision hereof. or take any other action relative thereto:

Motion was made and seconded to indefinitely postpone.

Vote – Ayes have it.

The meeting adjourned at 10:40 pm.

Respectfully submitted,

Ruth A. Knysh
Town Clerk