

Selectmen's Meeting
January 14, 2008

A regular meeting of the Board of Selectmen was held on Monday, January 7, 2008 at 7:30 p.m. in the Selectmen Meeting Room, Town Office Building. Chairman Krieger, Mr. Kelley, Mr. Cohen, Mr. Manz, Mr. Burnell; Mr. Valente, Town Manager; and Ms. Pease, Executive Clerk, were present.

Public Comment

Sue Cusack, member of the Commission on Disability, requested that the Town have a strategic plan to ensure access at public meetings for people with disabilities. She stated that the Town is responsible for ensuring public access to all public meetings and that means that a plan should be in place in the event a location becomes inaccessible for any reason. She gave the excessive ice on the Cary Hall ramp and the sometimes dangerous accessible entrance to Town Hall as examples. The Commission requests that a near-term plan for relocating meetings in the event that public access is compromised for Cary Hall or Town Hall be developed immediately and that a more comprehensive plan for all public forums follow.

The Selectmen will look into how to correct the problems.

Selectmen Concerns and Liaison Reports

Mr. Manz updated the Board on LexMedia operations.

Mr. Manz reported that he went on a tour of all the temporary DPW work locations with Mr. Hadley, Director of Public Works. They are spread out over several different locations, but are making things work.

Town Manager Report

Mr. Valente and Fire Chief Middlemiss updated the Board on the snowstorm that started shortly after midnight on Sunday and continued through part of Monday. A tractor-trailer took down 6 telephone poles and power lines on Route 2; 651 residents were without power. Nstar hopes to have power back by noon on Tuesday. A reverse 911 call was sent out to the affected residents. A 2nd reverse 911 call was sent to let affected residents know that there was shelter available in Cary Memorial Building in Estabrook Hall. A 3rd reverse 911 call was sent to let students of Bowman School know that due to the power outage the school would be closed on Tuesday.

Human Rights Organizing Committee

Mr. Zabin, Chair of the Selectmen's Ad Hoc Human Rights Committee, presented a report to the Selectmen that included a charter and charge for a Human Rights Committee and additional issues that may come up as the new committee is formed and suggestions on how to handle them.

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Upon motion duly made and seconded, it was voted 5-0 to accept the report of the Selectmen's Ad Hoc Human Rights Organizing Committee.

The Selectmen decided to keep the Selectmen's Ad Hoc Human Rights Organizing Committee active until the charge and membership is finalized. The Selectmen will discuss membership at an upcoming Selectmen's Meeting and the Board should think about possible membership.

Lexington Youth on Forum

Bill Blout, Youth Services Council, came before the Selectmen to ask for its support of a Lexington Forum on Youth titled "Overstressed and Under Pressure: Surviving Adolescence in Lexington" to be held Saturday, February 2, 2008, in Cary Auditorium from 8:30 a.m. to 12:30 p.m.

Upon motion duly made and seconded, it was voted 5-0 to support the Lexington Forum on Youth to be held on February 2, 2008.

Budget Presentation

Mr. Valente presented the proposed FY2009 recommended budget and financing plan. The current shortfall is \$1,290,949. If the split will be 28.6 municipal and 71.4 schools, the shortfall for municipal will be \$232,260 and schools \$1,058,690. Revenues are projected to increase \$6,967,000 (5.5%) over FY2008 revenues. Reasons for increase include: tax levy increase, higher state aid and the use of insurance proceeds. This figure does not include \$416,000 in free cash that will be discussed at the Summit on Wednesday. The Town Manager is also looking to see if there is any additional revenue in the overlay account.

The Selectmen's financial/budget priorities included: reduce PILOT Payments (\$187,500); reduce indirect water/sewer charges (\$61,549); continue building reserves and consider SPED reserve; maintain infrastructure; increase cash capital; begin funding of post employment benefits liability; and manage increase in health insurance costs. Progress has been made on all items except managing health insurance costs.

The budget expenses are broken down as follows: Education - \$65,097,299; Shared Expenses - \$39,802,546; Municipal - \$25,759,310; and Cash Capital - \$1,525,750. Public facilities is included in the shared expenses.

Significant changes in the operating budget include:

Education	\$3,627,338 (5.9%)
All Municipal Departments	\$1,309,243 (5.4%)
Health Insurance	\$2,025,551 (10.2%)
Debt Service	\$ 204,404 (5.4%)
Cash Capital	\$ 170,750 (12.6%)

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AC Reserve Fund	\$ 80,132 (17%)
SPED Reserve (new)	\$ 350,000
OPEB Reserve (new)	\$ 400,000

The AC reserve fund was increased because of a concern that energy costs will increase. The SPED Reserve will be funded over a 3-year period to reach \$1,000,000. The OPEB Reserve is being partially funded with a \$300,000 rebate from the Federal government for Medicare D.

FY2009 Reserve recommendations are:

Reserve Fund	\$550,000
Continuing Balance Reserve	\$450,027
Stabilization Fund	\$6,500,000
Special Education	\$350,000
Post Employment Benefits	\$400,000

The Town Manager reviewed his recommended program restoration and improvements. Of the total departmental requests totaling \$1,306,227, he is only recommending restoration or improvements totaling \$306,318.

The capital budget includes: General Fund Debt - \$4,183,928; Water Enterprise Fund Debt - \$1,800,000; Wastewater Enterprise Fund Debt - \$1,300,000; Cash Capital - \$1,525,750; and CPA Requests - \$1,381,000. The Superintendent has been asked to reduce operating revenues from cash capital by \$265,000. Tax Levy amounts have increased for Street Improvements and Building Envelope. The Town Manager plans to increase by 2-1/2 percent each year.

The budget includes a consolidated Department of Public Facilities budget in shared expenses. It also includes the change of moving the School Crossing Guards from the School budget to the Police Department budget. Also included is the debt excluded from Proposition 2-1/2 of \$5,691,000 for the DPW project.

Outstanding issues include: State Aid – waiting for Governor's budget around January 24; Free Cash – how to use the \$461,000 available, will discuss at the Wednesday Summit; Minuteman Voc-Tech Assessment - currently using estimate, final number may be lower; CPA Funding – waiting for the Committee recommendations; School Capital – waiting for \$265,000 reductions from School; and Overlay Surplus – checking to see if any funds are available to use.

Next steps include: continue to look for any additional savings in the budget; respond to Selectmen, Appropriation, Capital Expenditures questions; propose split between general government and schools at the Wednesday Summit; target for Selectmen's budget recommendation is February 14; target for budget to financial committees and Town Meeting Members is February 29.

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Selectmen were very please with the presentation and appreciate all the work done by the Town Manager and his staff.

Mr. Cohen suggested that the Selectmen should invite Lexington's representatives and senators to a meeting to discuss state aid and try to get them interested in lobbying for Lexington's needs.

Munroe Process

Mr. Kelley, Mr. Cohen and Mr. Valente have discussed options for the Munroe building. They would like to have arts the preferred use as long as it can comply with zoning. They hope to bring a draft proposal and timeline to the Selectmen at the January 28 meeting. The Selectmen want the process to be open and want the current tenant to be an integral part of the planning. If the Selectmen agree that they favor an art-education user then the proposal will be structured for the arts. Mr. Burnell thought that there should be a public meeting to discuss how the facility should be used and wants to hear other options. He is also concerned about outstanding issues regarding the White House study. Mr. Cohen suggests sending the RFP out to see what responses are received; the RFP is no guarantee that the Board will go forward. The Selectmen want to be sure financial stability and maintaining the building are part of the criteria for the RFP. The current tenant should also be able to remain in place during the process of selling.

The Selectmen and Town Manager will begin putting together an RFP as quickly as possible, but all agreed it is an extensive process. The proposal will include sale of the building, lease of the land and a buyback option; it also will include the Board's interest in having an arts education center that would comply with zoning and include the necessary time period so it does not interfere with current tenant programs.

Mrs. McKenna is concerned about the time and process if plan is to sell the building and feels it is premature to go forward with an RFP. She is not sure Town Meeting would consider it the best options.

Upon motion duly made and seconded, it was voted 4-1 (Burnell abstained) to ask the Town Manager to develop an RFP for the sale of the Munroe School Building and lease of the land for a preferred use as a community arts education center that complies with the underlying zoning regulations.

Approve and Sign Master Lease with AvalonBay

The Town, Avalon Bay and LexMedia have completed negotiations for the lease of Kline Hall. The estimate for buildout is 3 months.

Upon motion duly made and seconded, it was voted 5-0 to approve and sign the lease agreement between the Town of Lexington and Avalon Bay Communities, Inc. for the building known as Kline Hall.

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Sign Warrant

Upon motion duly made and seconded, it was voted 5-0 to sign the Warrant for the Presidential Primary on February 5, 2008.

Use of Battle Green/Walk on Mass. Avenue – Martin Luther King Day

Upon motion duly made and seconded, it was voted to approve the use of the Battle Green and the plan to walk along Massachusetts Avenue to Cary Memorial Building for the Martin Luther King Day Commemoration on Sunday, January 20, 2008 beginning at approximately 2:00 p.m.

The Selectmen acknowledge the hard work of the CommUNITY Commemoration Planning Committee and suggest that residents participate in this very important event.

Future Meetings

The Selectmen will have a meeting on February 4. Future meetings will be discussed further at the next Selectmen's Meeting.

Town Manager Statement Regarding Lexington Police Association

Mr. Valente read the following statement:

"Last week, the Executive Board of the Lexington Police Association sent a letter to all Town meeting members. This letter deals with two very different and separate issues.

"The first issue is that this Union is without a new collective bargaining contract for the fiscal year period of 2005 thru 2007 and accuses the Town of refusing to negotiate a new contract.

"The second issue is the matter of discipline imposed by the Town regarding the president of the union.

"Let me address the collective bargaining matter first.

"By way of clarification, the Lexington Police Association is the Union that represents police officers and sergeants. It does not represent lieutenants and captains who are in a separate bargaining group.

"When a town and a police union, after many bargaining sessions, are unable to reach a collective bargaining agreement, state law provides that an independent arbitrator be called in to hear the matter and make a decision. That is the process we are currently in. On December 19 the union and the Town both made their proposals to an independent arbitrator during a 6- hour hearing. I expect the arbitrator to make his decision by March.

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“Let me share with you the Union's and the Town's proposals as made to the arbitrator.

“The union is looking for four types of salary increases:

1. The first is an across the board salary increase which totals 9 percent over the three-year contract.
2. Second, in addition to this 9 percent increase, the union proposed a 4 percent hazardous duty payment on top of their base pay.
3. Third, for officers who work nights, which is about 2/3 of the force, the union is looking for another 2 percent night differential on top of the 6 percent night differential they already receive for working nights.
4. Finally the union is looking to add another \$750 to each of their two top steps in their salary schedule. Each \$750 is worth about 1.5 percent on their salary.

“The Town has offered an across the board salary increase of just over 5.5 percent plus an additional 1% hazardous duty payment, for a total of just over a 6.5 percent increase over the three-year contract. The lowest increase is in the first year, FY05, when the Town and all of its unions were dealing with the cutbacks which resulted from the failed override and state aid cuts.

“To give you a sense of the magnitude of the union and town proposals, the town's proposals would cost the taxpayers approximately \$420,000. The union's proposal would cost approximately \$1,500,000. The difference, over \$1,000,000 amounts to over \$25,000 per officer.

“Given all the circumstances, it is reasonable to ask, is the Town's proposal fair?

“The Town's proposal may be seen as modest, but it is fair. It is important to understand the context of the Town's proposal.

“One must first remember that we are talking about a collective bargaining contract for the period of 2004 through 2007. The Town was dealing with the failure of a \$5 million dollar override vote. The police budget was cut by \$412,000 and reduced by 12 positions. In both municipal departments and the school department, a total of 80 positions were cut. Further, because the State was dealing with its own financial crisis it cut Lexington's state aid by \$2,000,000 in the period between FY2003 and 2005. The Town had to draw down its financial reserves and put less money into its pension fund in FY2004 just to maintain basic services and keep from cutting more positions.

“Moody's Investor Services, which provides our credit rating, gave Lexington a “negative outlook” because of the Town's, and I quote, “diminished financial position.”

“In light of all of this, we still had to reach collective bargaining settlements with our 10 unions. And we did with 9 of them. To their credit, the Fire, Police Captains, Public Safety Dispatchers, DPW, Custodians, and Library unions all recognized the Town's “diminished financial position” and settled for the cost of living increase that we have offered to the Police Union. Three other

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bargaining units, which include management, supervisors and administrative staff, settled for slightly less of an increase. It was only the Police Lieutenants who we settled for more than this overall wage pattern. That was because we found that the differential between our Sergeants and Lieutenants had dropped dramatically over the prior 3-year period and we tried to make some modest progress to restore this salary differential. Police Lieutenants have substantial supervisory responsibilities that clearly justified a salary adjustment to try to restore the historical difference in wages between Sergeants and Lieutenants.

“A collective bargaining contract is about more than just wages, however. One must also look at the value of benefits. As has been discussed many times with the Selectmen and Town Meeting, Lexington's health insurance contribution, at 87% of the premium during this contract period, was about 10 percent higher than the average for our comparable communities. That difference is worth over \$1,000 per year in tax-free contributions to the family plan that most Lexington police officers have chosen.

“Further, in exchange for wage considerations negotiated in previous contracts, the Police Union has negotiated substantially greater amount of vacation days and a higher hourly rate for detail work than our comparable communities.

“What does this all mean in terms of gross wages? In calendar year 2006 the average member of the Lexington Police Union earned \$70,000 in base wages and overtime and another \$14,000 in detail pay. That year, 2006, we had 9 officers earn over \$100,000 and 10 officers earn between \$80,000 and \$100,000.

“A few minutes ago I asked the question, is the Town's wage proposal fair? At the end of the day, an independent arbitrator will decide what is fair in terms of the collective bargaining agreement. By law, both the Town Manager and Board of Selectmen must go before Town Meeting and advocate for whatever settlement the arbitrator decides.

“As I started my remarks I said that the Police Union has raised two very separate issues in its letter to Town Meeting Members. The second issue is related to the termination of Michael Rizzo, who happens to hold the position of Union president.

“Let me first begin by making a very clear statement to you and our residents. Chief Casey and I believe that we have an excellent Police Department in Lexington. Part of maintaining that excellence is holding officers accountable for actions that violate Police Department policy. The characterization of the Town's discharge of Michael Rizzo, made by the leadership of the Police Union, is unfair, untrue and unsupported by the facts of the case. Let me also state that I offer this rebuttal to the Union's charge reluctantly. As a general principle, I consider this incident as a personnel matter that should be treated confidentially. Notwithstanding this position, the Union has chosen to make this a public issue so I am forced to respond.

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“The Town discharged Officer Rizzo because he violated the Department’s Use of Force Policy, while on duty, injuring a young adult resident of our community. This young man has now had three surgeries to deal with the injury inflicted by Officer Rizzo. After a full hearing, which lasted five days and included the testimony of nine witnesses, he was also found to have made untruthful statements about the incident, which hindered the Department’s investigation. At this hearing, Officer Rizzo had the opportunity to account for his actions, but failed to testify on his own behalf. His discharge was a regrettable but necessary action. The matter concerning Officer Rizzo’s discharge has been appealed to the Civil Service Commission, which will hear this matter.

“Chief Casey and I have every confidence in the men and women who day in and day out do a wonderful and professional job in policing our community. Our goal is to be competitive in our compensation with all of our employees while being mindful of the increasing tax burdens shouldered by our residents. The Selectmen and the community should be assured that we will soon have a new contract with the Lexington Police Association.

“With the Board’s permission, I would like to draft a response to Town Meeting Members covering the very points I made here tonight related to the collective bargaining situation.

“Thank you for allowing me this time to respond to the very important topic for our community.”

Upon motion duly made and seconded, it was voted 5-0 to allow the Town Manager to draft a response to Town Meeting Members covering the points made above regarding the collective bargaining agreement.

Consent Agenda

Water/Sewer Commitments and Adjustments

Upon motion duly made and seconded, it was voted 5-0 to approve the following commitments and adjustments of water and sewer charges:

Commitment of Water/Sewer Charges for 12/12/07 (Cycle 9)	\$139,929.32
Commitment of Water/Sewer Charges for 1/10/09 (Cycle 9)	\$155,455.62
Commitment of Water/Sewer Charges for 11/1/07 to 11/30/07 (Final Bills)	\$5,075.44
Commitment of Water/Sewer Charges for 12/1/07 to 12/31/07 (Final Bills)	\$2,349.79
Adjustments of Water/Sewer Charges for 11/1/07 to 11/30/07	-\$147,711.66

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Ratify Poll Vote – Letters of Objection to Runway Expansion at Hanscom

Upon motion duly made and seconded, it was vote 5-0 to sign and send letters of objection to runway expansion at Hanscom to U.S. Army Corps of Engineers and Mass DEP Wetlands Program.

Upon motion duly made and seconded, it was voted to adjourn at 9:40 p.m.

A true record; Attest:

Lynne A. Pease
Executive Clerk