

Selectmen's Meeting
March 7, 2006

A regular meeting of the Board of Selectmen was held Tuesday, March 7, 2006, at 7:30 p.m. in the Selectmen's Meeting Room. Chairman Krieger, Mr. Kelley, Mr. Pagett, Mr. Cohen, Mr. Manz; Mr. Valente, Town Manager; Mr. Lahey, Town Counsel; and Ms. Pease, Executive Clerk were present.

Public Comment

Mr. Bicknell thanked the Selectmen for all their support and expressed his pleasure that the CPA question was approved by the citizens of Lexington.

Selectmen Concerns and Liaison Reports

Mr. Kelley thanked the community for its support in getting him reelected. He mentioned that some incorrect information was passed around and he asked citizens to contact the Selectmen's Office in order to talk with a Selectman to make sure they have the correct information.

Mr. Cohen attended the Meriam Hill forum where the dangers of winter moths were discussed. He asked that DPW look into the need for spraying the trees in Lexington.

Commitments and Adjustments of Water and Sewer Charges

Upon motion duly made and seconded, it was voted 4-0-1 (Manz abstained) to approve the following commitment/ adjustments:

Adjustments of Water/Sewer Charges for the period from 1/1/06 to 1/31/06 -\$68,201.24

Board of Health

Ms. Wendy Heiger-Bernays presented information on the work that the Board of Health and Health Department have done on emergency planning for a flu pandemic, where they stand relative to other communities in Massachusetts and where resource gaps limit their ability to plan and respond to likely emergency situations.

The public health community has been concerned about another pandemic flu since 1963 and only recently has been given orders, but not resources, to proceed with planning. The most effective tool is education.

If there is a pandemic flu, there is little means to prevent it. The major task is consequence management at the local level. There is a multi-pronged approach that we are taking as part of a larger regional public health effort that is directed by the Massachusetts Department of Public Health. Cooperation with the police and fire departments is critical for effective

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response. The Board of Health suggests the formation of an LEPC (local emergency preparedness committee) to initiate formal coordination plans across responders in Town.

Lexington has met the requirements and deliverables for preparedness set by the Massachusetts Department of Public Health. Since no resources are available for planning, this work is done at the expense of other Health Department responsibilities.

Article Presentations

Article 4 – Inclusionary Zoning

Ms. Manz, Planning Board Chair, presented information to the Board on Article 4 – Zoning By-Law, Inclusionary Zoning. One of the goals of the Comprehensive Plan is diversity in Lexington's housing stock. If approved, the inclusionary zoning by-law would require landowners/developers to provide as part of their project some percentage of affordable housing.

Mr. Hornig, Vice Chair of the Planning Board, has simplified the proposed by-law to make it clearer and fairer for both small and large subdivisions. It also provides flexibility and there are many options.

Selectmen have received calls from landowners and developers who feel this would be an unfair by-law; that the burden is on the landowner/developer. The Selectmen would like further information on how the by-law will be administered and enforced.

The Planning Board's purpose for the by-law was to find a way to increase the affordable housing and to maintain a diverse community.

Mr. Kelley felt a legal review should be done. Chapter 40A, Section 9 of the MGL may provide information needed.

Mr. Manz feels that the landowners who sell are changing the affordable housing numbers and it is fair and this by-law proposes a solution to the problem.

One-third of Massachusetts's communities have some sort of by-law or regulation for inclusionary zoning. Mr. Canale hopes to put together a table of comparable data to be presented at Town Meeting. It would be helpful to include in the analysis at what level the by-law kicks in, how long it has been in place in other communities, what land is available for subdivisions/clusters and what the minimum number of units is.

Ray Gabler, Summer Street, Peter Staecker, Cedar Street, and Kay Tiffany, Reed Street, felt the by-law was unfair to landowners. Mr. Michelson, Emerson Gardens, is concerned they feel the burden of the 10% affordable housing and felt there needs to be a discussion with the Emerson Garden Condominium Association.

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Article 12 – Authorize Inter-municipal Agreement for Mutual Aid Among Public Health Agencies

Mr. Fullerton, Health Director, stated this article would allow the Town to negotiate an inter-municipal agreement with individual communities of our choice. Currently there are similar agreements for the Fire and Police Departments.

Article 15 – Amend General By-Laws to Create Energy Committee

Mr. Weiss is requesting that an Energy Committee be created that would save the Town money. The committee would be appointed by the Town Moderator and modeled after the Appropriation Committee.

The Selectmen would like to give the new Energy Conservation Committee some time to see if they can make any progress.

Article Assignments

The Selectmen received a proposed list of article assignments. If the Board members wish to make any changes it should be done soon.

Budget

Mr. Valente will be working to put together the budget books to send out by Monday, March 13, 2006, in time to meet the requirement of distribution 4 weeks prior to discussion at town meeting.

Selectmen discussed the following items on the at-risk list:

Item 41 – Eliminate Mailing of State Election Notice (\$5,000). This will be removed from the at-risk list because a by-law change would need to be done.

Item 45 – New CRT Recycling Fee (\$25,000). After discussion with Town Counsel and the Appropriations Committee it was decided to remove it from the at-risk list because it is not consistent with the current by-law.

Mr. Valente suggested not restoring a position until January of 2007 as a way to reduce a salary to cover the \$30,000 discussed above for CRT Fee and State Election Notice.

Mr. Kelley questioned the legality of reducing by \$25,000 the \$500,000 commitment for roads. Mr. Lahey will look into it. Mr. Valente responded that the Department of Revenue says an override commitment is for 1st year and that Town Meeting cannot be bound after that. He will work with Town Counsel on a more complete answer.

Mr. Manz suggested if the Board is not going to charge for CRT then the Town should not offer the service.

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Selectmen want to look into changing the solid waste by-law.

Discussed eliminating Item 32 – Do Not Fund Handicapped Access Ramp at Town Office Building – and replace with \$150,000 capital management fund dedicated to cash capital or similar projects.

Upon motion duly made and seconded, it was voted to create a continuing balance account for cash capital items for asset management.

The final item to be resolved involved getting the \$25,000 reduction of the Street Paving Program (Item 25) off the at-risk list.

Upon motion duly made and seconded, it was voted 4-1 (Krieger opposed) put the cost of CRT collection (\$25,000) on the at-risk list and take off the \$25,000 reduction for the Street Paving Program.

Mr. Pagett read the statement below prior to the motion to adopt the budget.

“I have been troubled by the development of the FY07 budget. We have now reached the point of a Selectmen's vote on the total town budget without having achieved the basic agreements that have been characteristic of the past. The school budget has come to us with a 4-1 vote of support by the prior School Committee, the vote on our own at-risk list was not unanimous, and tonight when we vote on the total town budget there will also be a lack of unanimity.

I have not been comfortable with two major assumptions that have gone into developing this budget, but have acquiesced to them in the hopes that together they would allow us to develop a budget with an override question that this community could join together in supporting. I had reservations about drawing down \$2 million dollars in reserves to support the operating budget, as well as under funding the cash capital budget by just under \$1 million dollars, shortchanging our important capital program by that amount. Even with these budget sweeteners, totaling some \$3 million dollars, this budget as presented tonight will require an override of \$6.6 million dollars to bring it into balance. Altogether, the drawdown on reserves, the under funding of the capital program, and the required override, means we have a structural imbalance in this budget that approaches \$10 million dollars. And some are already saying we will need to go back for another operating override next year.

I will be voting against the budget as currently constructed, but with the hope that in the few weeks before Town Meeting begins debating this budget we will be able to work with the School Committee to arrive at a compromise that we can all support. As it currently stands, the schools are requesting \$5.1 million more than the current division of new revenue can accommodate, and the municipal side of the budget is requesting \$1.5 million more.

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Reasonable arguments can be made for any and all of the items that such an override would fund, but there remains the question of what is practically possible. I am worried that asking for \$6.6 million dollars at one time could lead to the failure of the entire override, regardless of how creatively any override questions are structured.

Let us go back, look again at what we are hoping to achieve, and develop alternatives that postpone to the future fulfilling some of our needs. Mrs. Gutttag has suggested reasonable alternatives that are worthy of examination and I encourage my school committee colleagues to consider them seriously.

As the budget currently stands, I must vote NO.”

Upon motion duly made and seconded, it was voted 4-1 (Pagett opposed) to approve the recommended budget to Town Meeting less \$36,000 for solid waste enforcement, \$5,000 for State election notice, \$25,000 revenue for CRT fees, adjustment for float of hiring and removing \$25,000 for the Street Paving Program and putting CRT collection on the at-risk list.

The Selectmen requested that the budget reflect the 4-1 vote to approve the recommended budget in the Town budget book.

Town Manager Review

Performance Review Period: July 11, 2005 through February 28, 2006

We undertake this review of Carl's performance recognizing that he has just begun to contribute to Lexington. All that we and our external reviewers can comment on are initial perceptions. We like what we see. Carl is exceeding our individual and collective expectations, is learning his way and gaining the respect of the community.

Composite assessment: Exceeds expectations

Management of Town Finance – We concur that preparation and management of the budget is perhaps the most critical aspect of the Town Manager's job and has consumed a great deal of Carl's time. We are uniformly impressed by Carl's ability and willingness in the absence of a Comptroller/ Finance Director to manage the finances associated with the fall special town meeting, support the efforts of the Finance Policy Review Committee and come forward with a credible budget. We acknowledge his clear, complete budget presentation, his mastery of Massachusetts municipal finance law and his awareness of innovative ideas and metrics from other communities. Carl has initiated some additions to an already commended budget process including: clarification of accounting and presentation of the enterprise funds, supporting the recommendation to eliminate PILOT payments to the enterprise funds, providing greater control for gift accounts and a sound rationale for revenue projections.

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Any concerns about his financial management practices reflect our individual biases and no single concern was shared by more than two members of the Board. Among the areas of concerns were the combination of the school and municipal benefits under Shared Expenses, disagreement with the use of free cash to balance the budget in an override year, increased use of in-levy debt and decreased use of cash to fund capital projects and a hesitance to come forward with the specifics of the municipal at-risk list. We all agree that Carl has clearly and succinctly explained the rationale for his recommendations and listened to our concerns.

Communication with Selectmen – Carl's weekly reports are informative, relevant and concise. He keeps us well informed of trends and events. e.g. invitation to participate in the Keyspan crisis review sessions. One of us would like quarterly budget exception reports. When our individual recommendations differ from his, he clearly explains the rationale for his recommendation, relying on precedent and fact. He has made himself available, exhibiting an "outstanding open door policy". In general he has been very flexible, dealing with our individual perspectives and weaving our interests into his recommendations.

Communication with Other Boards -- Carl has quickly learned the expectations of Lexington's many committees. We cannot comment about the relationships he has developed, but can comment on the manner of his interactions. Carl operates with the same informed, thoughtful style with other Committees as he does with the Board of Selectmen. The limited responses from the external reviewers applaud his depth of knowledge, cooperation "and willingness to bridge gaps and bring people together".

Negotiation of Contracts and with Bargaining Units and Vendors - Carl has kept the Selectmen fully informed as union negotiations have progressed. He has demonstrated good grasp of the issues necessary for success in his initial efforts. It is no easy task to enter into a negotiating situation as the new guy. Carl's sound knowledge and personal manner should ensure success in bargaining. Carl is thorough and cautious in his review of Town contracts.

Community Relations Carl is open, accessible and impartial. He has not backed away from the tough issues. He knows how to team with individual Selectmen to further community relations and has good instincts about validating his recommendations with appropriate community groups. We hear "people really appreciate his straight-forward, no nonsense manner and the speed with which he gets back to them on issues they have raised".

Personnel and Management – Hires have been limited. Carl appears to have guided the Comptroller/Finance Director search in the right direction. One of us is critical of the Water and Sewer business manager hire. In contrast, another of us has found the Business Manger extremely knowledgeable and helpful.

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Town personnel appear to appreciate Carl's style. To his credit Carl has sustained the collegial team environment that has been the hallmark of the senior staff's mode of operation. Carl appears to respect his staff and allows them to take credit for their accomplishments. New approaches are being encouraged i.e. on-line bill payment, a commitment to implementing GIS, website improvements.

Leadership, Problem Solving, Integrity - Carl's leadership skills were proven by the Keyspan incident. He empowered his staff, followed through and in so doing gained the respect of all players.

Uniformly we are impressed by Carl's work ethic, follow through and thoroughness. We marvel at his ability to rapidly learn his way around Lexington, our people, our strengths and our issues.

We are impressed by his outstanding judgment of when to involve others from his staff and members of the community.

One staff member would like Carl to share information more broadly, involve people beyond their immediate functional responsibility and encourage more interaction thereby tapping into the energy and culture that exists already in the organization to avail himself of the different perspectives each manager brings to his work.

One of the external reviewers observed, "appears to be a big picture person, but understands that the smallest of details can have significant positive or negative impact on final outcome".

More than one reviewer commented on Carl's excellent presentation skills, particularly of financial policies and data.

We have the utmost respect for Carl's sense of integrity.

Summary - Carl has made strides toward introducing transparency on the budgeting process. In the short time he has been here he has accomplished a great deal. His style and manner are great assets. We have every reason to believe Carl will be an outstanding Town Manager for Lexington

Composite assessment: Exceeds expectations

Town Manager Appointments

Upon motion duly made and seconded, it was voted to approve the Town Manager's recommendation to appoint Nicholas Santosuosso and Shirley Buck to the Council on Aging for three-year terms to expire May 31, 2008.

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Consent Agenda

Discovery Day Request

Upon motion duly made and seconded, it was voted to approve the request of the Lexington Retailers to have exclusive use of the Muzzey Street/Waltham Street parking lot on Saturday, May 27, 2006 (rain date June 3) from 5:00 a.m. to 5:00 p.m. for the annual Discovery Day and for permission to erect seven temporary signs; park flat bed trailer in Lexington Center; and provide free parking.

Minutes

Upon motion duly made and seconded, it was voted to approve the minutes of February 9, 2006, February 13, 2006, and February 27, 2006.

Upon motion duly made and seconded, it was voted 4-0-1 (Cohen abstained) to approve the minutes of February 17, 2006 and February 17, 2006 (Budget Collaboration).

Executive Session Minutes

Upon motion duly made and seconded, it was voted to approve the executive session minutes of February 13, 2006 and February 27, 2006.

Upon motion duly made and seconded, it was voted to adjourn at 11:00 p.m.

A true record, Attest:

Lynne A. Pease
Executive Clerk