

Selectmen's Meeting  
June 12, 2006

A regular meeting of the Board of Selectmen was held on Monday, June 12, 2006, at 7:30 p.m. in the Selectmen's Meeting Room. Chairman Krieger, Mr. Kelley, Mr. Pagett, Mr. Cohen, Mr. Manz; Ms. Vine, Assistant Town Manager; Mr. Lahey, Town Counsel; and Ms. Pease, Executive Clerk were present.

Selectmen Concerns and Liaison Reports

Met State

Met State has been officially purchased by Avalon Bay on June 2. They have an aggressive plan and hope to have some occupancy by January 2007. There is a Draft Resource Plan for the Expanded Beaver Brook Reservation that will be combined with the Met State open space.

Goal Setting

A Goal Setting meeting has been scheduled for Tuesday, July 11, 2006, from 9:00 a.m. to 1:00 p.m. at the Depot Building to discuss operating functions. The Selectmen will receive a matrix from last year's goals. There will be a discussion of new goals that the staff has put together and new goals from the Selectmen. Selectmen should think about items to be included and get to the Town Manager at least a week prior to the Goal Setting meeting.

Outcome of Override

Mrs. Krieger read a statement regarding the outcome of the override. She thanked the voters for support of Questions 3 and 4, which will allow the Town to operate more efficiently and resources will be available to maintain schools and municipal buildings. But losing 30 school positions because of the no vote on Questions 1 and 2 will erode the quality of the education programs.

Mrs. Krieger believes there are a number of steps that need to take place to reduce dependence on the residential property tax, including the commercial properties. The Selectmen will be meeting jointly with the Planning Board to develop a process for examining the Floor Area Ratio in the commercial districts. The Town will also be adding an economic development officer who will be able to help.

Mrs. Krieger feels the Town should continue to lobby for increased state aid and appropriate funding for mandated federal and state programs. The School Committee has been active and we all need to join them.

Mrs. Krieger believes the Town needs to consider the total compensation package and consider ways to reduce the rapid growth of health care costs. We also need to reduce energy costs and continue to examine fee structures and deliver services as efficiently as possible. This is what goal setting is about.

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Mrs. Krieger believes there will be another override and we should continue to work to make the community understand the services offered, if they are the right set of services and if they will support delivery of those services.

### Farmers' Market

The Farmer's Market will open on Tuesday, June 13, 2006, at 2:00 p.m. on the School Administration grass area. Mr. Manz will ring the bell and there will be a "Lexington Selects" show taped.

### Commitment of Water/Sewer Charges

Upon motion duly made and seconded, it was voted to approve the following adjustment:

Adjustments of Water/Sewer Charges for the period 4/1/06 to 4/30/06   -\$93,215.80

### Grants of Location

Mr. Fitzgibbon was at the meeting representing Verizon and Maureen Carroll was at the meeting representing Nstar.

#### Verizon – Bennington Road

The Selectmen questioned whether the cable companies were aware that the work on Bennington Road was being done and if it would affect the abutters.

Upon motion duly made and seconded, it was voted to approve the petition of Verizon to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of Bennington Road from existing Verizon pole #8/1, on the northwesterly side of Bennington Road, place conduit in a southwesterly direction, then west-northwesterly, a total distance of 255 feet(±) into private property at #7 Bennington Road. Also, Verizon will be removing pole numbers 8/3 and 8/2. This motion was approved subject to Engineering checking to see what other companies have wires on the poles that would be affected by removing the poles and putting underground.

#### Nstar – Bennington Road

Upon motion duly made and seconded, it was voted to approve the petition of Nstar Electric to construct, and a location for, a line of conduits and manholes with the necessary wires and cables therein to be located under the surface of Bennington Road southerly, approximately 140 feet south of Elliot Road, a distance of about 250 feet – conduit at pole 8/1. This motion was approved subject to Engineering checking to see what other companies have wires on the poles that would be affected by removing the poles and putting underground.

The grants of location requests below are for work being done prior to road repaving. Mr. Chalpin, Town Engineer, stated that all utilities affected are notified several months prior to when the repaving will be done.

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Verizon – Tyler Road

Upon motion duly made and seconded, it was voted to approve the petition of Verizon to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of Tyler Road from existing pole on the southeasterly side of Tyler Road, place conduit in a northwesterly direction, a distance of 40 feet (+) to proposed new handhold number 1 at 25 Tyler Road.

Verizon – East Emerson Road

Upon motion duly made and seconded, it was voted to approve the petition of Verizon to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of East Emerson Road.

Plan # D06 31B. Replace existing pedestal, located on the northerly side of E. Emerson with handhole # 9; from proposed handhole #9 place conduit in a southeasterly direction, a distance of 74 feet (+) to proposed new handhole in the grass, located 4 feet (+) easterly of the driveway between 250 and 252 E. Emerson; also, place new handhole #254 in the grass, located 4 feet (+) easterly of the driveway between 254 and 256 E. Emerson; also, from proposed new handhole #254, place conduit in a northerly direction, a distance of 50 feet (+), to private property.

Plan # D06 31C. Replace existing handhole #54/201, at 237 E. Emerson; from handhole #54/201, place conduit in an easterly direction, a distance of 140 feet (+), to proposed new handhole #231, at edge of pavement in the grass area.

Plan # D06 31D. Replace existing handhole #54/202, located 13 feet (+) southerly of driveway between 221 and 217 E. Emerson; also, from handhole #54/202, place conduit in a westerly direction, a distance of 73 feet (+), to proposed new handhole #240 at edge of sidewalk; also, from handhole #54/202, place conduit in a westerly, then southerly, then westerly direction, a distance of 88 feet (+) to proposed new handhole #216.

Plan # D06 31E. Replace existing handhole # 54/203, located 20 feet (+) southerly of driveway between 211 and 209 E. Emerson; also, from handhole #54/203, place conduit in a southwesterly direction, a distance of 63 feet (+), to proposed new handhole at edge of sidewalk.

Plan # D06 31F. Replace existing handhole # 54/205, located 11 feet (+) easterly of driveway between 199 and 205 E. Emerson; also, from handhole #54/205, place conduit in a southerly direction, a distance of 50 feet (+), to proposed new handhole #196 at edge of sidewalk, at a point which is 69 feet (+) westerly of driveway between 196 and 200 E. Emerson.

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Plan # D06 31G. Replace existing handhole #54/207, located on the southeasterly side of E. Emerson, near 177 E. Emerson; also, from handhole #54/207, place conduit in a northwesterly direction, a distance of 44 feet ( $\pm$ ), to proposed new handhole #172 at edge of pavement.

Plan # D06 31J. From existing handhole #54/209, located on the northwesterly side of E. Emerson, place conduit in an easterly direction, a distance of 87 feet ( $\pm$ ), to proposed new handhole #150 at edge of pavement; also, from existing handhole #54/209, place conduit in a southwesterly, then southeasterly, direction, 109 feet ( $\pm$ ), to proposed new handhole #162 at edge of pavement.

Plan # D06 31K. From existing handhole #54/210, located on the westerly side of E. Emerson, place conduit in a northerly, then easterly, direction, a distance of 67 feet ( $\pm$ ), to proposed new handhole #136 at edge of pavement, and 2 feet ( $\pm$ ) northerly of hydrant.

Plan # D06 31L. From existing handhole #54/211, located on the northerly side of E. Emerson, place conduit in an easterly, then southerly, direction, a distance of 216 feet ( $\pm$ ), to proposed new handhole #122 at edge of pavement, and 2 feet ( $\pm$ ) easterly of light post.

Plan # D06 31M. From existing handhole #54/213, located on the northerly side of E. Emerson, place conduit in a southwesterly direction, a distance of 94 feet ( $\pm$ ), to proposed new handhole #104 near edge of pavement, and 15 feet ( $\pm$ ) easterly of light post.

#### Verizon – Maureen Road

Upon motion duly made and seconded, it was voted to approve the petition of Verizon to lay and maintain underground conduits and manholes with the wires and cables to be placed therein, under the surface of Maureen Road at a point which is 153 feet ( $\pm$ ) south of East Street, on the westerly side of Maureen Road, replace existing Verizon pedestal with a new handhold \$54,200; also place conduit in an easterly direction across Maureen Road from said handhole, a distance of 87 feet ( $\pm$ ), to a proposed new handhole #2 in the grass at edge of pavement, at a point which is 114 feet ( $\pm$ ) south of East Street, also, from handhole #54/200, place conduit in an easterly, then southerly, then easterly again, direction for a total distance of 217 feet ( $\pm$ ) to proposed new handhole in the grass on the easterly side of Maureen Road, 30 feet ( $\pm$ ) southerly of the existing driveway at #6 Maureen Road.

#### Verizon – Sanderson Road

Upon motion duly made and seconded, it was voted to approve the petition of Verizon to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of Sanderson Road at a point which is 62 feet ( $\pm$ ) easterly of the driveway between 7 and 11 Sanderson Road, place new handhole #7 in the northerly grass strip; also from this proposed handhole #7, place conduit in a southeasterly direction, a distance of 43 feet ( $\pm$ ) to proposed new handhole #8, to be located on the southerly side of Sanderson, in the grass, at point which is 110 feet westerly of the driveway between #6 and #2 Sanderson Road.

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Verizon – Jonas Stone Circle

Upon motion duly made and seconded, it was voted to approve the petition of Verizon to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of Jonas Stone Circle, replacing existing handhole #7, located on the southwesterly side of Jonas Stone Circle; also from the handhole, place conduit in an easterly direction, a distance of 34 feet ( $\pm$ ) to proposed new handhole on the northeasterly side of Jonas Stone; also replace handhole #3 on the southwesterly side of Jonas Stone Circle.

Water Issues

Mr. Hadley, DPW Director, discussed the recent wet weather the Town has experienced during the last two months and the impact it has had on the community, especially the Colony Road/Grant Street area and Bartlett Avenue. He also addressed the drainage issue in the Lake Street area and updated the Board on the progress of the Keyspan street restoration. Mr. Chalpin, Town Engineer, Mr. Cannon, Assistant Town Engineer, and Mr. Flamang, Senior Civil Engineer, were also present to answer any questions.

Colony Road Area

During the week of May 8-12, DPW prepared for the rain by checking and cleaning the brook culverts, catch basins in low lying areas and flushed known trouble spots within the wastewater system. Pumps were set up and DPW organized a supply of sump pumps in case they were needed. Also DPW staff was put on notice.

DPW's plan was to monitor the sewer system and wait for the first call of street flooding. During the Sunday morning assessment the system was nearing capacity and 24-hour monitoring was put in place and assistance scheduled. Bypass pumping at the main pumping station began at 11:05 Sunday morning.

Surcharging calls started coming in from Colony Road, Grant Street, and Bartlett Avenue. 63, 70, and 66 Colony Road were impacted by the wastewater system surcharging and had sewer in their basements, as did 171, 178 and 181 Grant Street. 40 and 42 Bartlett Avenue also experienced sewer in their basement.

DPW arrived to offer sump pumps, phone numbers for cleaning companies, moral support and an explanation of why. The 15 inches of rain inundated the system.

For a best solution and to secure MWRA approval of the necessary improvements, DPW will be performing a thorough evaluation of the system. The evaluation will incorporate weather variations over all four seasons and will involve redistribution of flows to the MWRA collection system.

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DPW has retained Tutela Engineering to evaluate the system and recommend solutions. Tutela started work on this project in March 2006 with concentration on the Colony Road/ Grant Street area. Tutella has installed recording flow meters in key locations in the town. The study has four phases and for each phase data collection will be for a 3-month period.

Tutella's report will contain recommendations to remedy capacity problems system-wide and in the Colony Road/Grant Street area specifically. The report will provide support information for the recommendations and enable a plan to be approved by Mass DEP and the MWRA. The final report will be done in March 2007 with possible construction in the Spring of 2008. It is expected that the report will recommend identifying illegal connections such as sump pumps connected to the sewer system.

It was suggested that residents install a gate valve or a check valve, which will reduce the potential for the type of damage they all experienced. Sewerage from homes is not a result of the Town discharging. If a homeowner has shower, toilet, or a washer in basement, there is much greater likelihood of discharge.

Debbie Hogan, 63 Colony Road, spoke on behalf of all the neighbors affected in her area. They are concerned about the many financial implications and health impacts, and they are worried about the new Fiske School and whether it will be safe for children when it reopens.

Ms. Hogan mentioned that when the plans for her home were submitted for approval no one questioned installing a basement bathroom. She was also told that installing a check value would violate the building code. She stated that homeowners want the town to pay to install check valves and also pay damages for homeowners who do not have insurance.

Ms. Vine believes there are many questions on what to do for the short-term. She will put together necessary staff to discuss and decide what the next step should be. The Selectmen suggested the need for better communication that is consistent between departments.

The Selectmen requested that the Town Manager connect with all parties and provide an update at a Selectmen's meeting within the next 30 days.

Ms. Hogan said it was suggested to her a possible solution would be to run a parallel 12 inch line next to the existing 24 inch line and that might relieve pressure.

#### Lake Street Area

Mr. Hadley discussed the drainage problems near Lake Street.

The goal is to do the project in FY 2008 after a Spring 2007 Town Meeting approval of funds. There may be a need for easements. Mr. Flamang will be the resident's contact. The short-term plan is to pump the yards and provide some mosquito control.

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Beverly Shank, 2243 Mass. Avenue, discussed the 3-5 feet of water in her backyard. She is aware of the long-term plan, but they need a short-term solution. Mr. Shank is concerned about the long-term health and safety affects on having sitting water in yard for such a long period of time and also his liability. Mr. Shank is hoping there can be a Fall Town Meeting where the project could be approved and the work could begin earlier.

The Selectmen requested that as the plans are formulated for the project that the neighbors affected are kept informed. Mr. Flamang will be the contact person for the neighbors.

Marilyn Denton, 4 Lake Street, spoke about her frustration with the problems and wants to see the long-term problem fixed.

### Street Repair

Mr. Hadley has been negotiating with Keyspan to repave streets affected by the incident last November. They have agreed to a square footage of streets to be repaired and in principal the idea that the final amount will be given to the Town and the Town will have its own contractors do the work. Keyspan understands the Town's need to get the streets done prior to next winter. Keyspan is going back to its people to hopefully get final approval and will get back to the Town by June 23. Questions were raised about the adequacy of Keyspan's reimbursements to cover the full cost of repairing all the road damage caused by this event. Mr. Hadley will plan to come to the first Selectmen's meeting in July with the detailed plan for repair of main streets. Any sidewalks that were damaged will be included in the project.

Mr. Kelley asked when it would be appropriate to connect with the state and if the process does not get resolved can the Town take money from the Street Repaving Program to get the repaving done and postpone streets that were scheduled for repaving this season.

Mr. Hadley says that the goal is to get the scheduled paving as well as the Keyspan damaged streets done, and there are contractors working on streets now. Mr. Hadley hopes that if an agreement is reached by July 1 with Keyspan he will be able to make arrangements with the contractors to continue working and complete all the streets.

### Liquor License Compliance

Representatives from Berman's Wine and Spirits and Lexington Liquor Mart were asked to come to the Selectmen's meeting for a hearing regarding a penalty for a 2<sup>nd</sup> offense of selling alcohol to a person under the age of 21.

Police Chief Casey reviewed the information provided to the Selectmen. The Police want to get on a schedule of conducting alcohol compliance checks every 6 or 7 months. Violations are tracked on 3-year periods. Lt. Ferro conducted an Alcohol Compliance Check on April 19, 2006 of Lexington's 23 licensed establishments. Five establishments were found in violation: Berman's Wine and Spirits, Lexington Liquor Mart, Bertucci's, Bollywood, and

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Vinebrook Bottle Shop. Prior alcohol compliance checks were done on September 9, 2004 and November 2, 2005.

Berman's Wine and Spirits and Lexington Liquor Mart had a prior violation from an Alcohol Compliance Check on September 9, 2004.

Selectmen discussed the need to receive proof of alcohol awareness training for all employees of the 1<sup>st</sup> offenders. Suggestions were made to amend the Enforcement Regulation or clarify the letter sent to the offending establishments. Also the training requirement should be monitored and proof of training provided during the liquor license renewal process.

Mr. Berman, Berman's Wine and Spirits, has fired the employees who sold to minors, has installed a machine to check licenses, will start having stings done by a former ABCC agent, and has signed up a majority of his employees for alcohol awareness training.

Mr. Woodward, Lexington Liquor Mart, has provided alcohol awareness training to all employees.

Selectmen want all clerks who work the registers at package store establishments to have alcohol awareness training and to provide proof to the Town. Alcohol awareness training should be provided every three years.

Selectmen were very concerned that since the 1<sup>st</sup> alcohol compliance check on September 4, 2004 there are seven establishments that are 1<sup>st</sup> offenders and two 2<sup>nd</sup> time offenders.

Several suggestions were made regarding a penalty for the 2<sup>nd</sup> offense. One suggestion was a 3-day suspension, with 2 days put in abeyance and closing the establishment for one day on a Friday or Saturday. Another was to consider a 3-day suspension but to suspend for one year, but if another offense occurs in the year to suspend for six days.

Selectmen requested that all establishments with liquor licenses receive notification of the results of this hearing, but will wait until the appeal process has passed.

When Lexington Liquor Mart receives approval from the ABCC for transfer of its liquor license, the new owner will start with a clean slate and the current offenses will go away.

Selectmen asked the Police if compliance checks should be done more frequently. Chief Casey has spoken to the ABCC and they say it is important to be consistent and will continue to try to do compliance checks every 6 to 7 months.

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Upon motion duly made and seconded, it was voted 3-2 (Pagett and Manz opposed) to suspend the package store liquor licenses of Berman's Wine and Spirits and Lexington Liquor Mart for a period of 3 days with 3 days put into abeyance unless there is another violation within 1 year.

Consent Agenda

Use of Battle Green – Flag Day

Upon motion duly made and seconded, it was voted to approve the request of the Lexington Elks to use the Battle Green on Wednesday, June 14, 2006, at 7:00 p.m. for the annual Flag Day ceremony.

Petition General Court – Amend Chapter 215 of Acts of 1929

Upon motion duly made and seconded, it was voted to petition the General Court for an Act to amend Section 8 of Chapter 215 of the Acts of 1929.

Ratify – Met State Hospital Land Task Force Letter Regarding Draft Resource Plan

Upon motion duly made and seconded, it was voted to approve the Chairman signing and sending a letter as Chair of the Met State Hospital Land Task Force regarding comments on the Draft Resource Plan.

Minutes

Upon motion duly made and seconded, it was voted to approve the minutes of June 6, 2006.

Executive Session Minutes

Upon motion duly made and seconded, it was voted to approve the executive session minutes of June 6, 2006.

Upon motion duly made and seconded, it was voted to adjourn at 10:00 p.m.

A true record; Attest:

Lynne A. Pease  
Executive Clerk