

**Town of Lanesborough, Massachusetts**  
**Minutes of the Annual Town Meeting**  
**June 9, 2015**  
**Fiscal Year 2016**

The Annual Town Meeting was held on June 9, 2015, at the Lanesborough Elementary School. Moderator, Robert A. Reilly called the meeting to order at 7:00 p.m. The head table was introduced which consisted of the Board of Selectmen, the Town Administrator, Finance Committee members, the Town Clerk and the Town Secretary. Acting Police Chief, Timothy Sorrell was also formally introduced to attendees and the Pledge of Allegiance was said. There were 277 registered voters in attendance.

Mr. Reilly called for a moment of silence for Bill Stevens, Mary Dilego and Mary Phelps.

A motion was made and seconded to consider the budget as proposed.

A motion was made by Russell Freedman to move Article 27, Kinder Morgan Pipeline Petition to directly after the budget, seconded. Vote: Ayes have it.

**MOTIONS ON ARTICLES**

**ARTICLE 1.** To elect the necessary Town Officers on one ballot;

One Selectman for three years;  
One Cemetery Committee member for three years;  
Two Finance Committee members for three years;  
One Lanesborough School Committee member for three years;  
One Lanesborough School Committee member for one year;  
One Planning Board member for five years;  
One Planning Board member for four years;  
One Sewer Commissioner for three years;  
One Sewer Commissioner for one year;  
One Library Trustee for three years;  
One Library Trustee for two years;  
One Moderator for one year;

And to vote on the following questions:

- (1) Shall the Town vote to have its elected Sewer Commission become an appointed Sewer Commission of the Town?
- (2) Shall the Town vote to have its elected Tree Warden become an appointed Tree Warden of the Town?

Mr. Reilly, Moderator moved to pass over Article 1 – so moved

**ARTICLE 2.** To fix the compensation of all elected Town Officers as provided by M.G.L. c. 41, s. 108, as amended, and to hear the budget, act thereon and raise and appropriate 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.

Mr. Reilly, Moderator, moved that the Town raise and appropriate the sum of \$10,181,324, and transfer an additional \$230,239 from offset receipts from the Baker Hill Road District, for a total of \$10,411,563, for the maintenance and operation of the Town in Fiscal Year 2016 as recommended by the Finance Committee and printed in the Annual Town Report for 2014, including debt and interest, and to fix the salary of all elected officials, as printed in the Warrant. Motion seconded. Vote: Ayes have it.

Moderator Reilly went through the Operating Budget line numbers. Lines numbers held were as follows:

132 – Reserve Fund

Motion by Richard Cohen to remove \$25,000 from the fund and add it to the Lanesborough School line item #310, seconded. Vote: Ayes have it (115 yes / 103 no)

169 – Wired West Collaborative

Resident: Would like the Board of Selectmen to push for broad band service. No motion made, the line item stands.

177 – Berkshire Spring

Resident: What is Berkshire Spring? Town Administrator, Paul Sieloff explained that the money is for testing which is required by Department of Environmental Protection. No motion made, the line item stands.

241 – Building Inspector

Moderator Reilly called item again. No hands. The line item stands.

242 – Gas Piping Inspector

Moderator Reilly called item again. No hands. The line item stands.

310 – Lanesborough School

Motion made by Robert Barton to reduce line item by \$40,000, seconded. Elementary Committee Chair Regina DiLego and Interim Superintendent Noseworthy gave rebuttals. Vote: Nays have it.

312 – School Health Insurance

Thomas Mierzejewski inquired as to who receives these insurance benefits. Mr. Sieloff responded that current and retired school employees receive benefits. Robert Barton asked if there was a cushion due to cuts in Elementary School teachers. Mr. Sieloff stated there was not due to fact that things change during course of year in that other teachers could be hired or current employees status could change (i.e. get married and switch to family plan). Mr. Sieloff was asked what the split was between the cost to the Town and the cost to the employee. Mr. Sieloff stated that it was an 80% (Town) / 20% (employee) split for current employees and an 85% (Town) / 15% (employee) split for retirees. No motion made, the line items stands.

315 – Lanesborough School Lunch

Moderator Reilly called line item again. No hands, the line item stands

330 – Mt. Greylock Regional School

Ronald Tinkham opposed the line item. Superintendent Noseworthy gave rebuttal. No motion, line item stands.

Moderator Reilly asked for vote for budget as a whole. Ayes have it.

**ARTICLE 27.** To see if the Town will support the following Kinder Morgan Pipeline Petition:  
**(Moved up per motion) [Petitioned Article]:**

The citizens of Lanesborough call upon the Selectmen to send a letter to Rep. Gail Cariddi, Sen. Ben Downing, Governor Baker, Secretary of the ERC, Senators Markey and Warren, Congressman Neal, the FERC, the Speaker of the State House of Representative and Majority Leader of the State Senate urging them to do all they can to stop the TNG pipeline from being built in the Commonwealth of Massachusetts.

Whereas a proposed High-Pressure Pipeline carrying natural gas and assorted chemicals obtained through hydraulic fracturing has been designated to come through Lanesborough and neighboring communities, bringing said fuel to Dracut, Mass; and

Whereas said pipeline goes against current Massachusetts commitments to renewable energies and combating global climate change; and

Whereas the existence of a gas pipeline in our town would have a devastating impact on property values and the ability of citizens to sell their land when necessary; and

Whereas said pipeline would impact unknowable amounts of forest, conservation land, farmland, the recharge area for the Lanesborough town water supply; and

Whereas a high-pressure gas pipeline must be vented periodically releasing gas and dangerous carcinogens into the air and, by its nature, carries potential for leaks, rupture, or devastating explosion causing untold damage to property, lives, and our drinking water; and

Whereas the cost of said pipeline would require Massachusetts citizens to pay a utility bill tariff as well as environmental costs not required by law for Tennessee Gas Pipeline Company, LLC (“TGP”, a subsidiary of Kinder Morgan Energy Partners, L.P.), making ratepayers bear financial risk for the endeavors of a private corporation; and

Whereas the projected route of the pipeline traverses the Water Supply Protection Overlay District of the Lanesborough zoning bylaw which was established to “preserve and protect existing and potential sources of drinking water supplies and prevent temporary and permanent contamination of the environment.” ; and

Whereas the pipeline traverses the Flood Plain/Wetlands Protection Overlay District of the Lanesborough zoning bylaw which was established to “protect, preserve and maintain the water table and the water recharge areas within the town so as to preserve present and potential water supplies for the public health and safety of the residents of the town of Lanesborough;” and

Whereas, we the citizens of Lanesborough, Massachusetts, which became a Green Community in 2014, choose not to participate in such encumbrances to the life, vibrancy, economic stability, and general well being of our community and wherever hydraulic fracturing is occurring and the pressurized pipeline is running; now, therefore be it

Resolved, that the people of Lanesborough, Massachusetts:

Hereby call on our Selectmen to stand in opposition to TGP’s high pressured pipeline and not allow it within our town borders:

1. Oppose said pipeline, and any pipeline carrying natural gas obtained through hydraulic fracturing, within the borders of our Commonwealth or our nation; and
2. Stand in solidarity with nearby communities working to disallow the Pipeline within its borders and ban its construction in our region, including (as of 12/20/2014) Becket, Dalton, Hinsdale, Lenox, North Adams, Pittsfield, Peru, Richmond, Sandisfield, Washington, Windsor, Chesterfield, Cummington, Northampton, Pelham, Plainfield, Worthington, Ashfield, Buckland, Conway, Deerfield, Gill, Greenfield, Leverett, Montague, Northfield, Orange, Shelburne, Warwick, Wendell, Ashburnham, Athol, Berlin, Bolton, Royalston, Templeton, Winchedon, Ashby, Dunstable, Groton, Pepperell, Townsend, Tyngsborough, Brookline; and
3. Cause a copy of this resolution to be presented to the Town of Lanesborough’s state and federal legislative representatives, FERC and the Governor and Secretary of the Department of Conservation and Recreation, asking them to take action to prevent construction of the Pipeline within the borders of the Commonwealth of Massachusetts and to enact legislation and take such other actions as are necessary to disallow such projects that go against our commitments to life, the environment, our economic well being and our bodily safety and instead to legislate more stringent energy efficiency and further exploration of subsidies for renewable energy sources.

Mr. Freedman moved that the Town vote to approve Article 27 as printed in the Warrant for this meeting (stopping pipeline), seconded.

Mr. Spatz stated the Board of Health adopted the recommendation of the Greenfield Board of Health banning Kinder Morgan from conducting business in Town.

Donald Dermeyer stated that the petition which was signed by the residents states that opposition is for fracked gas, not safety issues and wondered if residents knew what they were signing.

Vote: Ayes have it.

**Mr. Reilly moved to have future Town Meetings begin at 6:00 p.m. seconded. Vote: Ayes have it.**

**Articles 24 & 25** – Motion to move Articles 24 & 25 up to next Article, seconded. Vote: Ayes have it.

**ARTICLE 24.** To see if the Town will vote to amend the General Bylaws by adding the following new Chapter 25:

**Chapter 25: Docks**

- A. Purpose, Approval Requirements
  1. This “Docks By-Law” applies to Pontoosuc Lake which is the only great pond partially or totally within Lanesborough. The purpose of this By-Law is to define requirements and policies for the installation and use of docks on Pontoosuc Lake, accessible through Town or private residential properties or rights-of-way, so as to prevent conflicts among Lake users, protect public access to the Lake, and ensure public safety.
  2. All docks on a Great Pond must be licensed pursuant to Massachusetts General Law (M.G.L.) Chapter 91, and docks on Pontoosuc Lake must comply with a Final Order of Conditions issued by Lanesborough Conservation Commission (or DEP) with respect to M.G.L. Chapter 131 Section 40 and 310 CMR 10.00 (Wetlands Protection Act). Commercial docks are not the subject of this By-Law, but any application for a Chapter 91 license for commercial property also requires review by the Conservation Commission under the Wetlands Protection Act.
  3. This By-Law imposes restrictions on dock placement and size, in addition to those in the Massachusetts Department of Environmental Protection (“DEP”) regulations. Any dock license application presented to DEP, must also be presented to the Lanesborough Conservation Commission for review and approval under the provisions of this By-Law.

4. Any dock with a valid chapter 91 license from DEP on the date this By-Law is adopted, or with application received by DEP prior to this date (a “pre-applied” license), is exempt from requirements of this By-Law. However, once such an existing or pre-applied license expires, any renewal or new license must comply with this By-Law.
5. The Conservation Commission may enact regulations concerning applications and procedures for approval under this By-Law.

B. Process Management

1. The Lanesborough Board of Selectmen will seek to coordinate regulation and licensing of docks under this By-Law with DEP oversight of licensing under Chapter 91. Copies of this By-Law and any amendments shall be provided to the DEP Western Region Office in Springfield.
2. Requests for exceptions to this By-Law or appeals of Conservation Commission rulings related to this By-Law shall be heard by the Lanesborough Board of Selectmen, and decisions shall be reported to DEP.
3. The Board of Selectmen may approve placement of a dock in or adjacent to a Public Right-of-way, so long as a Chapter 91 license for that dock and location is granted by DEP. Notwithstanding such approval by the Board of Selectmen, such approval shall be a license only and not the grant of an interest in land, and the Board of Selectmen may, at its discretion, rescind its permission at a later date. In this event, the dock in question may no longer be placed/used in or adjacent to the Public Right-of-Way. If a licensed dock loses Board of Selectmen approval in this fashion, its DEP license may remain valid, but the dock may not be re-installed unless/until the Board of Selectmen renews its approval at this location.
4. The Board of Selectmen must hold a public hearing before allowing a dock in a Public Right-of-Way, granting a By-Law exception, or considering a By-Law appeal.
5. Public Hearings must be announced by written notification/invitation mailed to abutters and persons within 300 feet of the property line in the manner provided in Section IX-B-2 of the Lanesborough Zoning By-Law, and announced in public “postings” following guidelines required for Special Town meetings.
6. When an applicant for a DEP dock license receives the license, s/he must provide a copy and any related correspondence to the Lanesborough Conservation Commission. This requirement is in addition to the DEP requirements for other copies and for recording the license with the Registry of Deeds.
7. Moorings, rafts, floats, and buoys on Pontoosuc Lake may be approved or denied only by the Lanesborough Harbormaster, the designated permitting authority under 310 CMR 9.07. Approved permits are valid for only one year. See “By-Law on Floats, Rafts, Buoys, and Moorings” for details.

C. Definitions

1. DOCK- Any fixed or floating structure, including a boat-lift, extending from the upland into the water, capable of use for vessel mooring and other water-dependent recreational activities.
2. RAFT or FLOAT- A floating platform anchored to the lake bottom for swimming.
3. MOORING- A floating object anchored to the lake bottom for attaching a boat.
4. BUOY - Any floating object anchored to the bottom of the lake which is not a raft or a boat mooring, including but not limited to navigation buoys, markers for a water-ski course, and temporary markers for a sailboat race.
5. NARROW RIGHT-OF-WAY- A right-of-way which has less than 20 feet of shoreline.
6. WIDE RIGHT-OF-WAY – A right-of-way which has 20 feet or more of shoreline.
7. PRIVATE RIGHT-OF-WAY - A right-of-way intended for use by those residents who have the right of access based on language in their property deeds.
8. PUBLIC RIGHT-OF-WAY—Town property or easement over which the public has a right to pass.

D. Rules for Properties without Right-of-Way

1. No dock should be longer than needed to provide water access, and in no case may a dock extend more than 50 feet offshore. Because Pontoosuc is such a small body of water, and because of environmental concerns, no dock may exceed 200 square feet in area, not counting any boat-lift equipment.
2. Side set-backs—No dock shall be closer than 25 feet from a boundary of an adjoining property, if possible, and, in no case, closer than 5 feet unless there is an agreement, in writing, between the adjoining property owner(s). Abutters can share a dock on their shared property line, if in agreement.
3. The angle of the dock into the lake shall generally be perpendicular to the shore, and in no case may it impede access to the lake from an abutter’s property.
4. No portion of a boat at a dock can extend beyond the sideline (including the projection of the sideline across the water) of the property for which the dock is licensed.
5. All docks must display their DEP license number in a manner that is easily visible and legible to a passenger in a boat passing within 10 feet of the dock.

6. Two or more docks are allowed on a single shoreline property but the total area of such docks shall not exceed 200 sq. ft., and all other requirements of this section shall apply. Properties with shorelines greater than 100 feet are allowed two or more docks with total area equal to 200 sq. ft. times the property shoreline length in hundreds of feet.
7. No dock is permitted to restrict public right of lateral passage along the perimeter of a lake within five feet of the lake's high-water line. During the time of a lake draw-down, this 5-foot passageway would likely be dry ground, whereas with the lake full, it would be in the water. Public access to this passageway may only be through a public right-of-way, not across private property. If a dock blocks reasonable ease of passage, the owner must provide a safe, obvious means for pedestrians to pass over or around the obstruction and to continue traversing the lake's perimeter. (See 310 CMR 9.35(3) (b).)
8. All docks shall be kept in good repair and free from defects that might cause a hazard to persons or watercraft.

E. Rules for Rights-of-Way

1. Application for installation of a dock in a right-of-way must include written evidence of the right to place such a dock. This evidence may be permission from the right-of-way owner or the Town, language in a deed, or other documentation.
2. For docks in Rights-of-Ways, all provisions of Section D must be honored, except for the side set-backs which are restricted as described in the following paragraph.
3. Any equipment on, or in the water in front of a right-of-way shall not interfere with lake access for swimming, fishing, and boating by others who have the right to use the right-of-way. Specifically, a dock in a narrow right-of-way should be located at the projected boundary of an adjoining property, and no boats may be tied to or left on such a dock overnight. At a wide right-of-way, the dock shall be located within 5 feet of the projected side boundary. At any right of way, no boat may be kept closer than 15' from the water's edge, and no dock may be placed in a manner that reduces the width of lake access to less than 7 feet.
4. A dock on, or adjacent to, a Public Right-of-Way shall be accessible to all town residents.
5. A dock licensed for a right-of-way may not be stored in that right-of-way, but may be stored on the area of dry lake-bed in front of that right-of-way that is exposed during winter draw-down, so long as it is done in a manner that is safe for passers-by, does not restrict access to the lake, and does not impede property maintenance activities.
6. Other than following the procedures in this By-Law, the Town will not get involved in disputes over the use of private rights-of-way and related docks, as these issues involve private property.

F. Enforcement

1. Violations of DEP dock licensing processes or of terms of a DEP license are enforced only by DEP and should be reported to the DEP Western Region office in Springfield. The Lanesborough Town Administrator will have available contact information for the person at DEP responsible for waterways enforcement. Reports of violations sent to DEP must be copied to the Town Administrator for information purposes.
2. By-Law Violations—Complaints about violations of this By-Law must be made in writing to DEP, with a copy to the Lanesborough Town Administrator. The Administrator will contact DEP, the parties involved, and as needed, the Conservation Commission to seek an early solution. Within 21 days of a violation being reported, the Administrator will advise DEP whether s/he has a resolution that would be agreeable to all parties.
3. If the complaint cannot be resolved, the situation will be called for a hearing with the Lanesborough Board of Selectmen. If the Board of Selectmen determines that the By-Law has been violated, the Board may issue such orders as the Board deems necessary to ensure compliance with the By-Law. The Board may impose a fine of not more than \$100 for each violation of the By-Law.

Mr. Barton moved to approve Article 24, seconded. Mr. Barton rescinded motion. Mr. Barton moved to repeal the General Bylaw on Docks, Floats and Moorings approved by the Town at the July 31, 2012 Special Town Meeting, Article 2 in its entirety and replace with the General Bylaw as printed in Article 24 in the Warrant of this meeting, seconded.

Ron Tinkham opposed Articles and moved to table Articles, seconded. Motion to table failed by a vote of (47 yes/28 no [not 2/3 vote]). Motion to call the vote, seconded by Ron Tinkham. Vote: Nays have it (33 yes/45 no).

**ARTICLE 25.** To see if the Town will vote to amend the General Bylaws by adding the following new Chapter 26:

**Chapter 26: Floats, Rafts, Buoys, and Moorings**

A. Purpose

This By-Law applies exclusively to Pontoosuc Lake which is the only great pond partially or totally within Lanesborough. The purpose of this by-law is to define requirements and policies for the installation and use of buoys, moorings, rafts, and floats, accessible through Town or private residential properties, or rights-of-way, by annual permits, as provided by M.G.L. c. 91, § 10A and 310 CMR 9.07. The By-Law also establishes requirements for placement of buoys used for navigation, safety, and other purposes.

## B. Definitions

RAFT or FLOAT— A floating platform anchored to the lake bottom for swimming

MOORING— A floating object anchored to the lake bottom for attaching a boat.

BUOY —Any floating object anchored to the bottom of the lake which is not a raft or a boat mooring, including but not limited to navigation buoys, markers for a water-ski course, and temporary markers for a sailboat race.

NARROW RIGHT-OF-WAY- A right-of-way which has less than 20 feet of shoreline.

## C. Permitting Process

As established under 310 CMR 9.07(2), applications for permits for moorings, rafts, buoys, and floats anchored to the bottom may be approved or denied only by the Harbormaster, and approved permits are valid for only one year. Application must be made in writing to the Harbormaster and must describe the size and type of anchor and line (including length), the placement of the anchor, and details on the proposed floating object. Applicants may appeal Harbormaster rulings to the Department of Environmental Protection (DEP). Any float or other equipment approved for a Public Right-of-Way by the Board of Selectmen and/or the Harbormaster prior to the date that this By-Law becomes effective is exempt from its requirements until the end of the current calendar year.

## D. General Requirements

Any material such as anchors, lines, and pipes which will be in contact with lake water must be certified free of invasive water species. Any material which has been in a waterbody suspected to have invasive water plant or other invasive must be cleaned in accordance with an approved cleaning protocol.

## E. Floats, Rafts, Moorings for Properties without Rights-of-Way

1. No raft or float may exceed 150 square feet in area.
2. Placement of anchor(s) for a raft, float, or mooring shall not be more than 75 feet from shore.
3. The swing circle for a moored boat, float, or raft shall not be less than 25 feet from a licensed dock or other conforming structure, or from shoreline. The swing circle is defined as perimeter of the area to which any portion of a moored boat or dock will extend under influence of wind or other conditions. The swing circle shall not be closer than 10 feet from a projected boundary of an adjoining property, if possible, and, in no case closer than 5 feet except with written agreement between potentially affected parties.
4. All sides of a raft or float must be equipped with reflective material.
5. All rafts, floats, and moorings must display their permit number in a manner that is easily visible and legible to a passenger in a boat passing nearby.
6. Winter restrictions—Moorings must be removed or sunk below water surface over winter. Rafts and floats must be removed over the winter. Removal may be accomplished by securing equipment close to shore, so it is out of water during winter draw-down, provided it does not restrict public right of lateral passage along the perimeter of the lake, within five feet of the water's edge. (See 310 CMR 9.35(3) (b).)
7. No shoreline property will be allowed more than one float or raft per 100 ft. of shoreline.
8. All moorings, floats and rafts must be maintained in a safe structural condition.

## F. Use of Right-of-Ways for Floats, Rafts, Moorings

1. The restrictions in Section E on location and size apply to floating objects located on or adjacent to rights-of-way with the exception of narrow rights-of-way. For these, the five foot swing-circle limit in Section E (3) is zero feet.
2. If the right-of-way is privately owned, the applicant must present to the Harbormaster written documentation of his right to install the subject equipment in or adjacent to the right-of-way.
3. If the Town is the right-of-way owner, the harbormaster may provide to the owner permission to install the subject equipment in or adjacent to the right-of-way.
4. The placement of the float, raft, or mooring shall not interfere with lake access by others who have the right to use the right-of-way.
5. A float or raft on or adjacent to a right-of-way must be shared with others who have use of the right-of-way. It is recommended that the applicant solicit interest from others who use the right-of-way, and enlist their help in designing and building the raft.

6. Other than following the procedures in this By-Law, the Town will not get involved in disputes over use of private rights-of-way and related equipment, as these issues involve private property.

G. Buoys

1. Any buoy in the lake must serve the public good, and not restrict access to the lake by the public.
2. Buoys must be held by anchoring systems sufficient to prevent high winds from moving them from their intended location.
3. Buoys must be removed or sunk below the water surface over the winter.
4. All anchoring-system material must be removed at end of the permitted period, except a system which will be reused in subsequent years may be left in place provided it is at least 15 feet from shore and provisions are made to retrieve everything left in the lake, to allow reuse during the following summer.

H. Enforcement

1. In most cases, By-Law enforcement action will not start until a Lanesborough resident or taxpayer makes a complaint to the Harbormaster or Town Administrator; however, the Harbormaster may undertake enforcement action on his/her own initiative.
2. By-Law Violations—Concerns about By-Law violations are likely best resolved locally. Presuming the Town Administrator receives a written complaint related to this By-Law, s/he will be in touch with the complainant, the target of the complaint, and as needed, the Harbormaster to find an early solution, but if none is reached within 21 days of a complaint, the situation will be called for a hearing with the Lanesborough Board of Selectmen. If the Board of Selectmen determines that the By-Law has been violated, the Board may issue such orders as the Board deems necessary to ensure compliance with the By-Law. The Board may impose a fine of not more than \$100 for each violation of the By-Law. Further appeals may be made to DEP, under 310 CMR 9.07(5).
3. Fines or penalties not paid within 30 days of levy are subject to additional penalty and monthly interest charges.
4. Pursuant to MGL c. 40, s.58, if a fine or penalty is not paid within 90 days of levy, the Town Clerk will place a lien on the property which will have weight equal to a real estate tax lien.

Motion that the Town vote to approve Article 25 as printed in the Warrant for this meeting, seconded.

Vote: Nays have it.

**ARTICLE 3.** To see if the Town will vote to raise and appropriate for the operation of the Ambulance Enterprise **\$70,625.00** for salaries and expenses, to be raised as follows: Departmental Receipts - **\$57,125.00**; Retained Earnings - **\$13,500.00** or take any other action relative thereto.

Mr. Wolf, Finance Committee Member, moved that the Town vote to approve Article 3 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 4.** To see if the Town will vote to raise and appropriate for the operation of the Sewer Enterprise **\$34,805.00** for expenses and budgeted surplus and that **\$34,805.00** be raised from user fees, or take any other action relative thereto.

Mrs. Galib, Finance Committee Member, moved that the Town vote to approve Article 4 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 5.** To see if the Town will vote to appropriate and transfer from funds to be received from the Baker Hill Road District, the sum not to exceed **\$230,239.00** to the Baker Hill Road District Police Salaries and Expenses Account for Fiscal Year 2016 pursuant to the provisions of M.G.L. Chapter 44, Section 53E, or take any other action relative thereto.

Mr. Tinkham, Finance Committee Member, moved to approve Article 5, seconded. Vote: Ayes have it.

**ARTICLE 6.** To see if the Town will vote to re-authorize the following revolving fund accounts through the receipt of fees, fines, grants, gifts, donations, and other receipts in accordance with M.G.L. Chapter 44, Section 53 E 1/2 and to authorize expenditures as noted for each account, or take any other action relative thereto.

<u>Revolving Account</u>	<u>Expenditures</u>
LACTV2 Cable Commission	\$10,000.00
Fire and Building Inspectors Code Enforcement Training & Services	\$ 2,500.00
Lanesborough Agricultural Commission	\$ 5,000.00
Police Department Canine Fund	\$ 5,000.00
Lanesborough Tree and Forest	\$ 3,000.00

Mr. Wentworth, Finance Committee Member, moved that the Town vote to approve Article 6 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 7.** To see if the Town will vote to appropriate the sum of **\$150,000.00** for the construction of a waterline extension to the vicinity of the Town's closed landfill on Orebed Road, and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of **\$150,000.00** for said appropriation under applicable sections of Chapter 44 of the General Laws, or take any other action relative thereto.

*( $\frac{2}{3}$  vote required)*

Mr. Wolf moved that the Town vote to approve Article 7 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it (by 2/3 vote).

**ARTICLE 8.** To see if the Town will vote to authorize the Board of Selectmen to transfer and convey to the Lanesborough Village Fire & Water District certain waterline or lines and related appurtenances thereto, and such easements as may be reasonably required in order to operate, maintain, repair and replace said water facilities, all as shown on a plan entitled "Water Main Installation Plan for Old Orebed Road Lanesborough, MA," dated May 15, 2015, prepared by Berkshire Engineering, a copy of which plan is on file with the Town Clerk, as said plan may hereinafter be revised, upon such terms and conditions as the Board of Selectmen shall determine to be appropriate, and further to authorize the Board of Selectmen to enter into all agreements and take all related actions necessary or appropriate to carry out this transfer and conveyance, or take any other action relative thereto.

*( $\frac{2}{3}$  vote required)*

Mr. Goerlach moved that the Town vote to approve Article 8 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it (by 2/3 vote).

**ARTICLE 9.** To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$20,000**, or any other sum, to pay the Town's contribution to the Other Post Employment Benefits Liability Trust Fund, or take any other action relative thereto.

Mrs. Galib, Finance Committee Member, moved that the Town vote to appropriate and transfer from Free Cash the sum of **\$20,000** to pay the Town's contribution to the Other Post-Employment Benefits Liability Trust Fund, seconded. Vote: Ayes have it.

**ARTICLE 10.** To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$20,000.00** to make needed repairs to the Town Hall building, or take any other action relative thereto.

Mr. Tinkham moved that the Town vote to approve Article 10 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 11.** To see if the Town will vote to transfer **\$20,000.00** from Free Cash into the Stabilization Fund, or take any other action relative thereto.

*( $\frac{2}{3}$  vote required)*

Mr. Wentworth moved that the Town vote to approve Article 11 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it. (by 2/3 vote).

**ARTICLE 12.** To see if the Town will vote to appropriate the sum of **\$480,000.00** for the purchase of a Fire truck with attachments and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of **\$230,000.00** for said appropriation, under applicable sections of Chapter 44 of the General Laws, and further to transfer from the Fire Truck Expenditure Stabilization Fund the sum of \$100,000.00 and transfer from the Baker Hill Road District Fund the sum of \$50,000.00 and transfer from Free Cash \$100,000 for said appropriation; or take any other action relative thereto.

*( $\frac{2}{3}$  vote required)*

Mr. Wolf, moved that the Town vote to approve Article 12 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it (by 2/3 vote).

**ARTICLE 13.** To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$10,000.00** for energy conservation projects related to the Green Communities program, or take any other action relative thereto.

Mr. Ericson moved that the Town vote to approve Article 13 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 14.** To see if the Town will vote to appropriate and transfer from Free Cash the sum of **\$15,000.00** for repair, design and professional services for the improvement of roads around and near Pontoosuc Lake, or take any other action relative thereto.

Mr. Tinkham moved that the Town vote to approve Article 14 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

Mr. Terranova, Chair of the Finance Committee pointed out an error on the Warrant wherein the text states that this Article was “Not” recommended by the Finance Committee when in fact it was recommended.

**ARTICLE 15.** To see if the Town will vote to rescind the FY15 authorization to borrow \$50,000 or a lesser amount for the purpose of making repairs to Mt. Greylock High School, or take any other action relative thereto.

Mr. Wentworth moved that the Town vote to rescind the borrowing of \$50,000 or a lesser amount authorized by vote taken under Article 31 of the June 2014 Annual Town Meeting, seconded. Vote: Ayes have it.

**ARTICLE 16.** To see if the Town will vote to amend the General Bylaws by adding the following new Chapter 10-E - Article E:

**Ch. 10 - Article E. Removal of snow and ice from paved sidewalks**

- A. Removal of snow and ice from paved sidewalks is required to maintain safe and clear passage along the public right-of-way on those streets where sidewalks have been installed and maintained by the town or the state. The tenant and, in case there is no tenant, the owner or any person having the care or control of any building or lot land bordering on any street or parts or portions of streets within the limits of the Town shall not allow any snow or ice to remain upon any sidewalk in front of such lot or building for 24 consecutive hours but shall cause the same, within that time, to be removed from the entire width of such walks. In the event that snow and ice on a sidewalk have become so hard that they cannot be removed without the likelihood of damage to the sidewalk, the person or entity charged with their removal shall, within the time mentioned herein, cause enough sand or other abrasive to be put on the sidewalk to make travel thereon safe and shall then, as soon thereafter as weather permits, cause said sidewalk to be thoroughly cleaned. Any person or entity found to be violating the provisions of this section, may be assessed a fine of \$100.00.
- B. The Chief of Police or his/her designee shall be authorized to enforce this Chapter.

Several Town residents expressed their concerns with the proposed Article. Residents who live on Main Street said it would be impossible to keep up with snow and ice removal on their property due to the State plow trucks constantly pushing debris and would not want to be fined by the Town if it was not removed.

Mr. Goerlach moved that the Town vote to approve Article 16 as printed in the Warrant for this meeting, seconded. Vote: Nays have it.

**ARTICLE 17.** To see if the Town will vote to appropriate the sum of **\$60,000.00** for the purchase of a Skid-steer or similar apparatus with attachments, and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of **\$60,000.00** for said appropriation under applicable sections of Chapter 44 of the General Laws, or take any other action relative thereto.

*(2/3 vote required)*

Mr. Goerlach moved that the Town vote to approve Article 17 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it. (by 2/3 vote).

**ARTICLE 18.** 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.

Mrs. Galib moved that the Town vote to approve Article 18 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 19.** To see if the Town will vote to appropriate and transfer from Free Cash a **sum of money** to be used by the Assessors to reduce the tax rate for Fiscal Year 2016, or take any other action relative thereto.

Mr. Tinkham moved that the Town vote to appropriate and transfer from Free Cash \$129,600 to be used by the Assessors to reduce the tax rate for Fiscal Year 2016, seconded. Vote: Ayes have it.

**ARTICLE 20.** To see if the Town will vote to appropriate and transfer from Overlay Surplus **\$35,700** to be used by the Assessors to reduce the tax rate for Fiscal Year 2016, or take any other action relative thereto.

Mr. Wentworth moved that the Town vote to approve Article 20 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 21.** To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 40 subsection 6C to permit the Town to expend public funds to remove snow and ice from private ways in the Town, and to further place on the ballot at the next Annual Town Election the following ballot question: “Shall the Town of Lanesborough vote to accept the provisions of section six C of chapter forty of the General Laws, which authorize cities and towns to appropriate money for the removal of snow and ice from private ways therein open to public use”; or take any other action relative thereto.

Mr. Goerlach moved that the Town vote to approve Article 21 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**ARTICLE 22.** To see if the Town will vote to amend the General Bylaws by adding the following new Chapter 10-F Article F:

**Ch. 10 - Article F. Temporary Repairs to Private Ways**

**A. Purpose and applicability.**

1. Pursuant to Massachusetts General Laws Chapter 40, Section 6N, the Board of Selectmen is hereby authorized to make temporary repairs to private ways which have been open to the public for a period of at least one (1) year, out of funds appropriated for said purpose by Town Meeting. In situations requiring extensive repairs, the Board of Selectmen may require that a portion or the entire cost be assessed as betterment on those properties which benefit from the repairs. Repair does not mean new construction.
2. The repairs shall be those required by public necessity, including but not limited to
  - a. The necessity of providing adequately drained ways so as to reduce ecologically harmful runoff into the Town’s brooks and ponds; and
  - b. The necessity of providing adequate passable ways for public safety vehicles from public ways to residences, Town facilities and resources including access to Town conservation land.
  - c. The Board of Selectmen shall make the determination of public necessity.

**B. Types of Repairs.**

1. The repairs must be temporary in nature, such as filling, grading, patching and surface coating, and may include such repairs to drainage swales, conduits and structures as are necessary to preserve the integrity of surface repairs to the roadway, and shall not be such as to constitute a reconstruction of the roadway.
2. Temporary repairs may be undertaken on a way subject to this bylaw, or to a continuous portion of such way, which portion begins and ends at an intersection or conjunction with another way.

**C. Petition.**

A When the Board of Selectmen determines that the repairs require betterment assessment, a minimum of seventy five percent (75%) of the owners of property abutting the portion of the way proposed to be repaired must petition for the repair, with each ownership entity counting as one. The Board of Selectmen is authorized to waive this requirement.

**D. Betterment charges.**

1. When the Board of Selectmen determines that the repairs require betterment assessment, the owners of land abutting such way who derive benefit from said repairs shall be assessed betterment charges by the Board of Selectmen. Betterment charges, in an amount up to 100% of the aggregate cost to plan, prepare and repair the private way may be assessed on a per lot basis or on the proportion of the lot frontage on the way or portion of the way to be repaired to the frontage of said repaired way or other proportional method as may be required by the Board of Selectmen or provided by relevant law.
2. The Town may be considered an abutter if property under the care, custody and control of the Town abuts said way to be repaired.

E. Status of way.

1. This bylaw does not confer any obligation or duty on the Town or its agents to either initially place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair.
2. The making of such temporary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the Town of such private ways as public ways, nor does it constitute a way being "maintained and used as a public way" under the Massachusetts Subdivision Control Law.
3. Any private way repaired under the provisions of this bylaw need not be brought up to full Town standards and may continue to remain a private way. Repaired private ways may be brought to Town Meeting for acceptance as a public way pursuant to state law and any relevant Town procedures.

F. Liability.

The Town, in making repairs under this section shall not be liable for any damages to persons or property caused by negligent repair or maintenance of the private way.

G. Indemnity Agreement.

No repair of a private way shall be undertaken until the Board of Selectmen has in its possession agreements executed by at least 85% of abutting owners on the portion of the way to be repaired holding the Town harmless from any additional damage arising from any negligent repair, and which includes the following provisions:

- a. that the Town assumes no liability to such owners by making the repairs;
- b. that abutting owners shall, jointly and severally indemnify and hold harmless the Town with respect to such statutory liability and any and all other liability for claims of injury, death or property damage to such owners or third parties caused by alleged defects in the way, including attorneys' fees and other costs of defense;
- c. that should the Town decide not to continue to provide temporary repairs to such way, the owners will themselves keep such way in good repair so as to minimize the liability of the Town for having undertaken such repairs;
- d. that such repair shall not constitute "maintenance" of such way, so as to give the way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law; and
- e. that if assessed for repairs, the owners will not appeal the amount of the assessment and agree that the assessment may be apportioned over the number of years of the expected lifetime of the repair to be determined by the Board of Selectmen.

H. Continually Open to Public Use.

Repairs or maintenance under this section shall not be performed on private ways that do not remain open to public use for at least twenty years.

Or, to take any other action relative thereto.

Mr. Ericson moved that the Town vote to approve Article 22 as printed in the Warrant for this meeting.

Mr. Dermeyer moved to delete the final sentence in Section C "The Board of Selectmen is authorized to waive this requirement", seconded. Vote: The Ayes have it.

Lee Hauge moved to delete item "c" from Section G, seconded. Vote: The Nays have it.

Mr. Mierzejewski moved to delete item "e" from Section G, seconded. Vote: The Ayes have it.

Motion to approve Article 22 as amended, seconded. Vote: The Ayes have it.

**ARTICLE 23.** To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise, permanent and temporary easements in certain parcels of land as depicted on a certain plan entitled "Water District Annexing Plan Detail For Old Orebed Road Lanesborough Massachusetts," dated March 19, 2015, revised through May 18, 2015, prepared by

Berkshire Engineering, a copy of which plan is on file with the Town Clerk, as said plan may hereinafter be revised, for the purpose of installing, constructing, operating, repairing and replacing certain waterlines and appurtenances thereto and for the purpose of conveying said easements and waterlines and appurtenances to the Lanesborough Fire and Water District; or take any other action relative thereto.

Mr. Goerlach moved that the Town vote to approve Article 23 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**Articles 24 & 25 (moved up in meeting).**

**ARTICLE 26.** To see if the Town will vote to amend the General Bylaws by adding the following new Chapter 10-G – Article G:

**Chapter 10 - Article G: Towing**

A. Authority

In accordance with the provisions of Chapter 40, section 22D of the Massachusetts General Laws, the following bylaw provisions provide for the removal of vehicles parked or standing in such manner, or in such areas as are hereinafter described on any way under the control of the Town and unaccepted streets and ways where parking restrictions apply.

B. Authority of police.

The moving or towing of any vehicle under the provisions of this article shall be by and at the direction of the chief of police or his/her designee.

C. Fees.

- (a) Removal or towing fee. Not to exceed the maximum allowed by statute.
- (b) Storage fees. Not to exceed the maximum allowed by statute,

D. Liability for damage during removal or storage.

The contractor/towing company shall be liable to the owner of any vehicle towed pursuant to the Article for any damage arising out of negligence caused to a vehicle in the course of removal and storage.

E. Where parking prohibited – Generally

No person shall stand or park or allow, permit or suffer any vehicle to stand or park in any of the following places. Vehicles removed or towed away under the provisions of this section except those specifically exempt by law, shall be removed to a convenient place under the direction of an officer of the police department and the owner of the vehicle so removed, or towed away, shall be liable to the cost of such removal and storage, if any, as set forth in Section C above. The owner of any vehicle removed or towed away under the provisions of this section shall also be subject to the penalties in Chapter 90, Section 20A of the Massachusetts General Laws.

- (a) Upon any sidewalk.
- (b) Upon any crosswalk.
- (c) Upon any way within 15 feet of an intersecting way except alleys.
- (d) Upon a way within five feet of a fire hydrant.
- (e) In front of a public or private driveway.
- (f) Upon any tree belt or median strip.
- (g) Upon the improved or paved surface of any street for a continuous period of time in excess of 72 hours.
- (h) Any properly designated fire lane.

F. Police to keep record of towed vehicles.

The police department shall keep a record of all vehicles towed or removed under the provisions of this Article. Such record shall be retained for one year and shall contain the following information:

- (1) The registration of the vehicle.
- (2) The location from which it was towed, the time and date of tow order.
- (3) The location to which it was moved.
- (4) The fee charged for towing.
- (5) Name of towing contractor, if any.
- (6) Name and rank of officer who authorized towing.

G. Handicapped parking spaces declared tow-away zones.

Any vehicle parked in a designated handicapped parking space which does not have the proper distinguishing plates as required by MGL c.90, §2, may be removed under the direction of a police officer as directed herein. This shall apply to both public and private parking areas.

Mr. Ericson moved that the Town vote to approve Article 26 as printed in the Warrant for this meeting, seconded. Vote: Ayes have it.

**Article 27 (moved up in meeting).**

The business meeting at which Articles 2 through 27 will be acted upon will commence at 7:00 P.M., Tuesday, June 9, 2015. The election, or action on Article 1, will take place on Tuesday, June 16, 2015, and the polls will be open at noon and close at 8:00 P.M.

Adjournment

Motion to adjourn meeting made by Robert Ericson, seconded by John Goerlach. Unanimously voted. Meeting adjourned at 10:25 p.m.

Respectfully submitted,

Ruth A. Knysh  
Town Clerk