

SELECT BOARD MEETING
June 17, 2024

A meeting of the Lexington Select Board was called to order at 6:30p.m. on Monday, June 17, 2024, via a hybrid meeting platform. Mr. Lucente, Chair; Mr. Pato, Ms. Barry, Ms. Hai, and Mr. Sandeen, were present, as well as Mr. Malloy, Town Manager; Ms. Axtell, Deputy Town Manager and Ms. Katzenback, Executive Clerk.

EXECUTIVE SESSION

1. Exemption 6: To Consider the Value of Real Property – Parcel 68-44 Located on Lowell Street

VOTE: Upon a motion duly made and seconded, by roll call, the Select Board voted 5-0 at 6:34pm that the Board go into Executive Session under Exemption 6: To Consider the Value of Real Property - Parcel 68-44 Located on Lowell Street. Further, Mr. Lucente declared that an open meeting discussion on this item may have a detrimental effect on the bargaining position of the Town.

The Select Board exited Executive Session at 7:05 pm, and reconvened to open session at 7:07pm

CONSENT AGENDA

The Board pulled item #1 for additional discussion under Individual Items.

1. Approve Battle Green Permit – Semiquincentennial Commission (Lex250) & Road Closure Request on Massachusetts Avenue
This item was moved to the Individual Consideration agenda items.
2. Application: One-Day Liquor License – Wilson Farm, 10 Pleasant St
 - Dinner in the Fields Event

To approve a One-Day Liquor License for Wilson Farm to serve beer and wine for the purpose of their ‘Dinner in the Fields’ event to be held at Wilson Farm, 10 Pleasant Street, outside of farm greenhouse #7, on Thursday, June 27, 2024 from 5:30pm to 9:30pm

3. Accept Select Board Committee Resignation
 - Lexington Tourism Committee – Kerry Brandin
 - Lexington Council for the Arts – Sue Benson

To accept the resignation of Kerry Brandin from the Tourism Committee and Sue Benson from the Lexington Council for the Arts effective immediately.

DOCUMENTS: 2024 Resignation - Tourism Committee From K. Brandin, 2024 Resignation - Council for the Arts - S. Benson

VOTE: Upon a motion duly made and seconded, the Select Board voted 5-0 to approve the Consent Agenda.

ITEMS FOR INDIVIDUAL CONSIDERATION

1. Approve Battle Green Permit – Semiquincentennial Commission (Lex250) & Road Closure Request on Massachusetts Avenue

Semiquincentennial Commission (Lex250 requested permission to use the Battle Green on Saturday, July 13, 2024 from 11:00am to 2:00pm for the purpose of 'The Parker's Prelude' event. The event will have musical performances, cake cutting, children's activities as well as a Lexington Minute Man encampment.

VOTE: Upon a motion duly made and seconded, the Select Board voted 5-0 to approve the request of the Semiquincentennial Commission (Lex250) for the use of the Battle Green for their 'Parker's Prelude' event and the road closure of Massachusetts Avenue from Bedford Street to Harrington Road on Saturday, July 13, 2024 between 11:00am to 2:00pm as proposed.

DOCUMENTS: Battle Green use request letter, Event Map

1. Discuss Request for Proposal For Parcel 68-44 Located on Lowell Street

The Board reviewed and discussed the feedback received from committees and the public regarding the Request for Proposal For Parcel 68-44 Located on Lowell Street.

Elaine Tung, Affordable Housing Trust, stated that the Affordable Trust Fund determined it was appropriate not to add preferences or developer requirements to the RFP, beyond what are recommended. Affordable housing developments are expensive, and getting the subsidies to make them feasible is a long and competitive process. Too many requirements will cause developers to make tradeoffs in the quality of construction, building articulation, and management amenities. In addition, the Trust thinks it is important to allow flexibility for developers to present different methods for addressing key concerns such as sustainability, transportation, and equity.

Mina Makarios, Town Counsel, explained that it is believed that there are other ways to address any issues, through both the proposal submittal process, and through the comprehensive permit process.

Ms. Hai asked about potential funding sources and the timeline for this process. Mr. Makarios stated that the land disposition agreement would identify any funding sources that are required and also the timeline that before any closing by the Town these must be secured or well enough in hand that the closing can proceed.

Mr. Pato expressed concern regarding leaving the wording in the RPF regarding "approximately 40 units." His goal is to optimize the land for affordable use, but he does not want to prejudge what a good design would be. He does not want the wording to imply that less than approximately 40 units would not be considered. Ms. Barry agreed.

Mr. Sandeen stated that he believed "approximately 40 units" would be +/- 15%. While he would be okay with clarifying what "approximately" means, this is the language that was proposed at Town Meeting. Ms. Hai agreed that more discretion on this number is a benefit to the process. She suggested "up-to approximately 40 units." The Board agreed that this language should be added to the draft document.

Ms. Tung noted that many people in the public would like a larger number of units. The change in proposed language may preclude developers from submitting proposals.

Mark Lang, 2 Opi Circle, stated that he is disappointed that these discussions continue without being based in any sort of data. The only data this is based on is financing, which is a disrespectful move to the residents of Lexington and especially the neighbors. He has asked since January 17th for data to support the number of units for this project. Of all the developments within Lexington that have affordable housing components, the proposed density of this project, at 40 units, is 43% higher than the densest

existing development. 25% of this property is not buildable, shoving 40 units on just over two acres. This would not be good for existing neighbors, traffic, or those who wish to live in the new development.

Nancy Sofen, 3 Abernathy Road and member of the Tree Committee, stated that the RFP will be available on June 27, 2024, with proposals due August 22nd, and the project awarded in mid-October. There were bylaw amendments passed at this Spring's Town Meeting which will not be approved by the Attorney General until likely the end of July and may not be enacted until a bit after that. She asked which version of the bylaws will be relevant to this project. Mr. Makarios stated that the applicable requirements are when the application is filed for the comprehensive permit. This would likely occur months after the project is awarded.

Linda Prosnitz, 3 Demar Road and Vice Chair of the Affordable Housing Trust, stated that the Housing Partnership had suggested that the language be at least 40 units. To create and get financed an affordable housing project below 40 units is much more of a challenge. Limiting this number could cause issues.

Betsy Weiss, 8 Dover Lane and member of the Housing Partnership, stated that she spoke to an affordable housing developer in Boston, who stated that 40 units is a sweet spot in terms of tax credits. She is not in favor of limiting this to 40 units or less.

Mr. Lucente explained that this document will come back to the Board for further review on June 24th.

DOCUMENTS: Draft RFP Timeline (5.15.2024), Comments Received to date, 0614.2024 Updated List of comments received

2. Hearing - Package Store Liquor License Transfer - Biswas Enterprise Inc, 1666 Massachusetts Ave Unit H

Mr. Lucente recused himself for this item. Ms. Hai sat as Acting Chair.

Ms. Hai opened the hearing at 7:56pm. She explained that the Select Board office has received all the necessary paperwork for the transfer of the liquor license at 1666 Massachusetts Avenue, Unit H Lexington, from Art's Specialties, LLC., d/b/a Art's Specialties to Biswas Enterprise Inc d/b/a Nicks Wine and Spirits naming Anukul Biswas as Manager on Record. Biswas Enterprise Inc d/b/a Nicks Wine and Spirits is also requesting a pledge of the license and a pledge of inventory. The Board should discuss the allowable hours of operation for the transfer license request. The license requested for the transfer was approved for the following hours of operation for selling alcohol: Monday through Saturday: 10:00 a.m. to 8:00 p.m. Sunday: 12:00 Noon to 8:00 p.m.

Attorney Tom Truax, representing the applicant, explained that the application is a transfer of Section 15 All Alcoholic Beverages license. There is also a request for a pledge of license, a pledge of inventory, and a change of d/b/a name. The proposed manager for the liquor license, Anukul Biswas, comes with approximately five years of experience. Store hours and store layout are proposed to remain the same.

There was no public comment at this time.

Ms. Hai closed the hearing at 8:00pm.

VOTE: Upon a motion duly made and seconded, the Select Board voted 4-0 to approve the transfer of liquor license at 1666 Massachusetts Avenue, Unit H from Art's Specialties, LLC., d/b/a Art's Specialties to Biswas Enterprise Inc d/b/a Nicks Wine and Spirits for the hours of 10:00 a.m. to 8:00 p.m. Monday through Saturday and 12:00 noon to 8:00 p.m. Sunday, a pledge of license, pledge of inventory

and the manager on record to be Anukul Biswas and once the transfer application is also approved by the ABCC, issue a license to Biswas Enterprise Inc d/b/a Nicks Wine and Spirits.

DOCUMENTS: 1666 Mass Ave Liq Lic transfer application, Select Board Regulations - Package Store Liquor Licensing

3. SELECT BOARD WORK SESSION – Discussion on Muzzey Parking Lot Design

Mr. Lucente retook his seat.

Ross Morrow, Assistant Town Engineering, discussed the layout and design concepts for the Muzzey Street parking lot and whether this design should include meters and PayByPhone or simply PayByPhone, similar to the Depot Lot. The electric charging spaces are proposed to remain as they currently exist.

Mr. Lucente explained that the Center Committee on June 3rd, voted 9-0 to recommend to the Board that this parking lot switch from meters to kiosk for parking management, and continue the payment types of cash coin, credit cards, and Pay By Phone.

Mr. Pato stated that he would like to preserve as many parking spaces as possible, and also sees the need for walkways. If the meters need to be removed in order to retain the number of parking spaces, he recommends getting rid of the meters, as long as the kiosks allow for payment by coin, credit card, and app. If access, and safe walking paths can be preserved, and the meters can remain, it seems that the Center Committee and some merchants may like that.

In response to a question from Mr. Sandeen, Mr. Morrow said that he would expect to bring additional parking layouts to the Board in late summer or early fall. Mr. Sandeen asked whether solar had been or will be considered as part of this project. Mr. Malloy explained that there was some discussion about solar in this lot. The concern was that the buildings on the south side and the west side of the property would provide enough shadow that there was not much value to putting solar on this closed parking lot. Ms. Barry suggested a policy for solar on Town projects.

Mr. Lucente stated that he would like to see dedicated bicycle parking somewhere in this area.

DOCUMENTS: Muzzey Lot Concept Plans

4. SELECT BOARD WORK SESSION – Small Business Tax Exemption

Carolyn Kosnoff, Assistant Town Manager for Finance, provided an overview of the Small Commercial Tax Exemption. The exemption is one of the four tax classification options that the Board must vote when setting the tax rate in any given fiscal year. In November 2023, when reviewing and approving the FY2024 tax rate, the Board indicated their interest in better understanding the Small Commercial Tax Exemption. This would apply to any Commercial Class 3 property that is valued at less than \$1M. The business occupying the commercial parcel must have 10 or less employees across all locations. The Board has the option to set an exemption of anywhere between 0% and 10% of the value of that property. This would not have an impact on the Town's overall tax levy but would shift some of the burden from the Class 3 Commercial to other ratepayers in the Commercial and Industrial classes. The total value of the Town's Commercial Class 3 properties, or 440 parcels, for FY24 is approximately \$867M. Of this amount, approximately 10% or \$86M, or 286 parcels are valued under \$1M. This includes commercial condos. Of the 286 units that could potentially qualify for this, there are 76 unique street addresses. 60 of those 76 are single unit parcels, and 16 of those addresses total 226 units.

Ms. Kosnoff explained that, currently, the Residential class makes up 86.78% of the Town's value, Commercial makes up 4.92%, and Industrial 6.71%. Together, the Commercial/Industrial classes make up 11.17% of the Town's value. The Board previously shifted some of the tax rates from the Residential class onto the Commercial, Industrial and Personal Property payers. The Residential class is only paying 76.87% of the levy and the Commercial and Industrial classes together are paying 19.42% of the levy. For FY24, the Residential rate was \$12.25 per \$1,000 and the Commercial, Industrial, and Personal Property classes were at a higher rate of \$24.20.

Ms. Kosnoff explained that, if the Board chooses to enact this exemption, the value of the Commercial Class 3 properties would go from \$867M, to \$850M, due to the 10% exempted. This would shift that approximately \$8M from Small Commercial payers to all of the other payers in the Commercial and Industrial classes, but not the Personal class. This would lead to three tax rates, with the Residential rate remaining at \$12.25, the Personal remaining at \$24.20, and the Commercial and Industrial rates increasing by \$0.11, or to \$24.31. This results in a lower tax amount for the 10% of the exempted properties. The total percent of the levy, 19.42%, does not change under this scenario.

Mr. Lucente explained that this seems like a good idea on the surface, but the deep dive highlights the drawbacks.

Ms. Barry noted that the agenda mentioned this as a Small Business tax exemption, but this is really a Small Commercial property tax exemption. There are plenty of small businesses in Town that people run out of their homes that would not be considered.

Ms. Hai asked if the Economic Development Director has commented on whether this would be helpful and/or attractive to any of the commercial landlords and/or businesses. She asked if this could create an incentive for property owners to rent to tenants and businesses instead of banks. Ms. Kosnoff stated that the Economic Development Director has not yet been asked about this topic.

A majority of the Board agreed that this topic is not worth pursuing further at this time.

DOCUMENTS: Small Commercial TaxExemption_Presentation, Information Guideline Release_16.405

The Board took a brief recess.

5. Approve Placement of Temporary Signs at Lincoln Field and/or Center Track Field - Lexington High School Girls Soccer Boosters

Erik Larson explained that the proposal is to execute a corporate sponsorship program to display advertising for received donations from sponsors. The intention is to use these corporate sponsorships, from Lexington businesses, to fund part of the program. Several businesses have expressed interest. These will be temporary signs, installed prior to the game and removed just after. The final banner design and content placement will be approved by the Director of the Rec Committee.

In response to a question from Mr. Pato, Mr. Makarious stated that the temporary nature of this request as part of the activity itself would distinguish it from the Boston case involving flagpoles and private speech. The Board should retain discretion to limit this request to youth sports related advertising. Ms. Hai stated that she would like a policy that expresses this in writing.

Dawn McKenna, 9 Hancock Street, asked if the opinion of the School Athletic Director, the Superintendent, or the School Committee has been asked. She noted that, in this litigious society, there is no guarantee that even approving this one will not open the door for others that may not be appropriate.

This is a new suggestion for the Town and deserves broader discussion. Mr. Malloy noted that the Athletic Director for the School District provide a comment to the Recreation Committee that this was not a request to the School District

VOTE: Upon a motion duly made and seconded, the Select Board voted 5-0 to approve the request from the LHS Girls Soccer Boosters subject to the conditions approved by the Recreation Committee on 5/15/24.

DOCUMENTS: Request from Girl's Soccer - Recreation Committee Recommendation, Presentation - 6-14-2024

6. SELECT BOARD WORK SESSION – LexMedia Operations Report

Ken Pogran, Communications Advisory Committee Chair, explained that next week, the Board will hear options for funding LexMedia's budget for the next two years. At that time, the Board will be asked to set the funding level for the two-year contract extension. Next month, the Board will hear information regarding renewal of the Comcast Cable Television license.

Jim Shaw, LexMedia Board of Directors Chairman, acknowledged the staff at LexMedia. In the last year, staff began LexLocal, an in-house produced news program, which runs from 30-45 minutes. Each segment runs around 5-6 separate stories about taking place in the community.

Florence DelSanto, Executive Director LexMedia, explained that, in reviewing the total number of hours of LexMedia produced programming across all three channels from FY2019 to FY24, the peak being in 2021. Despite staff challenges, LexMedia continues producing a consistent number of program hours. Regarding the meetings that LexMedia is required to cover, there will be between 40-50 Select Board meetings every year. Prior to 2024, LexMedia did not cover the School Building Committee or the Affordable Housing Trust. Prior to 2021, LexMedia did not cover Human Rights or the Board of Health. The demand on the number of meetings and the number of diversity meetings has grown. LexMedia is currently stretched thin, and this level of service will be hard to sustain at the current budget.

Mr. Sandeen suggested reviewing the meetings currently being recorded as to which are most necessary. He expressed thanks to LexMedia staff for their work.

Mr. Pato stated that he would like to have a broader discussion of the process moving forward to continuously improve the way meetings are recorded. Ms. Hai agreed that this is the only service to record these meetings. This is a value to the community.

Mr. Lucente asked the differences between meetings that end up on LexMedia's YouTube channel, which seems to last forever, and something that ends up in the archive. Ms. DelSanto stated that everything placed on YouTube is on it forever. The Town still owns the content, but YouTube also owns it and can put advertising on it. Everything on YouTube is also on the server, on demand, and in the archive. The most popular programs are placed on YouTube.

DOCUMENTS: LexMedia Update

7. SELECT BOARD WORK SESSION – Town Meeting Article Submission Timeline Discussion

Mr. Lucente explained that, on May 23rd, he and Mr. Sandeen convened with Deputy Town Manager Kelly Axtell and Select Board Executive Clerk Kim Katzenback to discuss the timeline for presenting Town Meeting Articles, including citizen petitions and those requested by committees. The discussion

focused on establishing a detailed schedule to ensure alignment with the Board as well as committee expectations. Mr. Lucente stated that he and Mr. Sandeen will take the lead in developing this timetable to bring back to the Board.

8. SELECT BOARD WORK SESSION - Public Process for Staff Proposals Discussion

Mr. Malloy presented on the proposed Internal Policy for Community Engagement. A draft was previously provided to the Select Board and there was a comment provided by the Engineering Department regarding ongoing regular projects, such as paving, water/sewer, stormwater, etc., and a question whether these would be included in the policy or exempt. The Town Manager's draft policy would exempt these types of projects.

Mr. Pato stated that impact on the community should be considered as well as monetary value. He suggested additional public outreach.

Ms. Barry stated that she would like to see additional information regarding the external engagement roadmap.

Mr. Malloy stated that he would bring this back to the Board in a more refined version at a future meeting.

DOCUMENTS: Draft Policy

9. Accept Deed of Gift - LexSeeHer

Mr. Malloy explained that the check from LexSeeHer has been received and deposited. Town Counsel has reviewed the deeds for the plaza and monument from LexSeeHer. Town Counsel has advised that it would be best for the Board to vote to accept the deeds and gift of the monument and plaza, and for these to be kept on file in the Town Clerk's Office.

VOTE: Upon a motion duly made and seconded, the Select Board voted 5-0 to accept the gift of the plaza and monument from LexSeeHer, as per the conditions in the attached documents dated 3/28/24 and 5/18/24.

DOCUMENTS: Plaza Deed and Donation, Monument Deed and Donation

10. SELECT BOARD WORK SESSION – LHS Project Costs Discussion

Mr. Pato explained that the School Building Committee (SBC) received initial ballpark cost estimates of \$600M+ for the LHS building project. These estimates were further outlined at the May 22nd Finance Summit, where approaches to mitigating taxpayer impact were discussed. The project is to replace or rebuild the existing LHS to:

1. accommodate a larger student population
2. provide a safer environment for students
3. deliver the district's educational program
4. address end of life mechanical systems, inefficient and outdated building envelopes

Mr. Pato explained that cost estimates are currently based on the educational program and student enrollment size. Together this generates a target size in square feet for the building, which is the primary driver of the project's cost. The Board is asked to reflect on the current estimated costs and how they compare to other similar projects. The Board is asked to consider any feedback it would like to provide to

the SBC about this project or about related projects such as requests for a pool, a new or expanded fieldhouse, and relocation of school administration to the LHS campus.

Ms. Barry asked what is included in the current cost estimate. Mr. Pato explained that this includes the base educational program that the School Committee has determined this district is trying to achieve. It includes things like certain special education programs, a number of laboratories, and classrooms for arts and sciences. It includes the academic program, the gymnasium, and the auditorium. It does not include a fieldhouse, or pool. It includes anything disturbed by construction to be replaced.

Ms. Barry stated that disturbing the fields as part of this project is a non-starter for her. The fields are part of the municipal side of the project. People of all ages benefit from this area and disturbing the fields would impact these people. She noted that the community is discussing the sustainability portion of this project at an estimated cost of \$80M-\$100M. Mr. Pato stated that the sustainability, operating, and life cycle costs have not yet been broken out. Ms. Barry stated that the Town has always built to programmatic needs and not to a budget. Mr. Malloy stated that the educational program that the School Building Committee is operating under and designing toward has been submitted to and approved by the MSBA.

Mr. Sandeen mentioned that this discussion so far has focused primarily on the upfront cost and debt service cost of the new high school. He recommended that the Town and School Building Committee expand the analysis to consider this project on a total lifecycle cost basis including operational and maintenance costs over the next 30 or 40 or 50 years. He stated that designing the high school to standards used for previous projects could result in both lower upfront and lower total life cycle costs.

In response to a question from Mr. Sandeen, Mr. Pato explained that renovation of the existing footprint of the fieldhouse is allowed as part of the project. It is not paid for by the MSBA and must be completed independently. All of the proposed designs allow for the existing fieldhouse to be renovated. Mr. Malloy noted that this also requires a separate Town Meeting vote and a separate debt exclusion. Mr. Pato stated that the cost estimates under consideration do not include the cost of renovating the fieldhouse.

Mr. Sandeen asked if there is process that can be followed to set a budget for this project in a way that results in the outcomes we desire. He would like to understand the negative and positive implications for setting a budget.

Mr. Lucente echoed the concerns regarding splitting the existing recreation facilities. He would like to be creative as to how to include the land across the street. There is a lot of good land on the campus that could be built on and this should be maximized. He asked about how the existing buildings will be preserved and their worth/value. He noted that MBTA zoning is a large problem in terms of student numbers for the new building. It is unclear if the proposal will meet the needs of the community.

Mr. Pato agreed with the concerns regarding enrollment over time. However, additional square footage also increases the cost. MSBA requires for the architects to show how to expand when the need arises.

Ms. Barry asked about Recreation's involvement if a pool and fieldhouse are included in this project. It will be important to explain the sustainability goals to the community. A significantly larger school will also require additional staffing, which could lead to an override. She suggested that there be a Plan B, in case this does not pass a vote the first time. Mr. Malloy explained that it is unclear which fields will be impacted until a final design is chosen.

Mr. Sandeen stated that he believes the operating expenses should be considered as well as the debt service costs. He mentioned that a larger building, will require more energy, more people to maintain the

facility, and more teachers. In terms of choosing a design option, he would like to have a scorecard for each design option to help make an informed design on the goals. Mr. Pato stated the design team is ranking each design option on 40 or 50 criteria. In response to a question from Mr. Sandeen, Mr. Pato and Mr. Malloy stated the final design option is expected to be chosen by the School Building Committee by the end of December.

Ms. Barry noted that an impact to the fields will have an impact to the Recreation Enterprise Fund.

ADJOURN

VOTE: Upon a motion duly made and seconded, the Select Board voted by roll call 5-0 to adjourn at 10:00pm.

A true record; Attest:
Kristan Patenaude
Recording Secretary