

SELECTMEN'S MEETING  
Monday, May 12, 2014  
Selectmen Meeting Room  
6:00 p.m.

**AGENDA**

- 6:00 p.m. PUBLIC COMMENTS (10 min.)**
- 6:10 p.m. SELECTMEN CONCERNS AND LIAISON REPORTS (5 min.)**
- 6:15 p.m. TOWN MANAGER REPORT (5 min.)**
- 6:20 p.m. ITEMS FOR INDIVIDUAL CONSIDERATION**
1. Center Committee Discussion on Business Diversity (20 min.)
  2. Call for Special Town Meeting on June 16, 2014 and Open Warrant (5 min.)
  3. Approve Memorial Day Parade/Ceremonies (5 min.)
  4. Approve Limousine License Renewal – Boyadjian Limousine (5 min.)
  5. Appointment/Resignation (5 min.)
    - a. Hanscom Field Advisory Commission – Resignation/Appointment
    - b. Human Rights Committee - Resignation
  6. Town Manager Appointment – Council on Aging (5 min.)
- 7:05 p.m. CONSENT AGENDA (5 min.)**
1. Approve One-Day Liquor License – Children's Dyslexia Center
  2. Approve Use of the Battle Green – USAF Promotion Ceremony
  3. Sign Proclamation
- 7:10 p.m. EXECUTIVE SESSION (15 min.)**
1. Exemption 2 – Preparation for Negotiations with Non-Union Personnel (Town Manager)
- 7:25 p.m. ADJOURN**

The next meeting of the Board of Selectmen is tentatively scheduled for Monday, May 19, 2014 at 7:00 p.m. in the Selectmen's Meeting Room, 1625 Massachusetts Avenue.

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** I.1

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**SUBJECT:**

Center Committee Discussion on Business Diversity

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**EXECUTIVE SUMMARY:**

Members of the Center Committee will be at your meeting to discuss options for business diversity in the center.

If I receive any information I will forward to you.

**FINANCIAL IMPACT:**

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**RECOMMENDATION / SUGGESTED MOTION:**

**STAFF FOLLOW-UP:**

Selectmen's Office

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** I.2

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**SUBJECT:**

Call for Special Town Meeting on June 16, 2014 and Open Warrant

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**EXECUTIVE SUMMARY:**

It is suggested that the best date for a Spring Special Town Meeting is June 16, 2014. You need to open the warrant and it is suggested that you close it on Thursday, May 15 at noon. At your May 19 meeting you will sign the final warrant.

The following articles may be included:

1. CD Rezoning for 430 Concord Ave (front parcel)
2. Acquisition of Back Land at 430 Concord Ave (rear parcel)
3. Expand Existing Easement on Land at 430 Concord Avenue
4. School Committee request for Funding a Master Plan
5. Solar PILOT
6. Amend General Bylaws regarding age to purchase smoking materials (see attached information)
7. Amend General Bylaws regarding reporting period for Town Counsel's Annual Report
8. Establish and Appropriate to and from Specified Stabilization Funds
9. Amend FY14 Budget (housekeeping, if necessary)
10. Amend Article 5 of November 4, 2013 Special Town Meeting, Renovation to Community Center
11. Amend Article 2 of the March 24, 2014 Special Town Meeting, Cary Memorial Building Upgrades
12. Appropriate for Authorized Capital Improvements

**FINANCIAL IMPACT:**

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**RECOMMENDATION / SUGGESTED MOTION:**

Motion to hold a Special Town Meeting on Monday, June 16, 2014, and to close the warrant on Thursday, May 15, 2014.

**STAFF FOLLOW-UP:**

Selectmen's Office



**Town of Lexington**  
**Office of Community Development**

**Health Division**  
**1625 Massachusetts Avenue**  
**Lexington, MA 02420**  
(781)-698-4522  
Fax (781)-861-2780

Gerard F. Cody, R.E.H.S./R.S.  
*Health Director x 84503*

Kathy P. Fox, R.E.H.S./R.S., C.H.O., CP-FS  
*Environmental Health Agent x 84507*

David Neylon, B, S.N., R.N.  
*Public Health Nurse x 84509*

**Board of Health**

Wendy Heiger-Bernays, PhD, Chair  
Sharon Mackenzie, R.N., CCM  
Burt M. Perlmutter, M.D.  
David S. Geller, M.D.  
John J. Flynn, J.D.

**MEMORANDUM**

To: Carl Valente  
Town Manager

From: Gerard F. Cody, R.E.H.S./R.S.  
Health Director

Re: Proposed Changes to General Bylaw § 97-5, § 97-6 and § 97.

Date: May 8, 2014

Over the last few months, the Board of Health, (BOH) proposed revisions to its *Smoking and Youth Access to Tobacco Products Regulation*. The regulations, as revised, differ in certain respects from the Town's bylaws on, *Clean Indoor Air* (General Bylaw § 97-5) *Restrictions of Smoking in Public Places and Workplaces* (General Bylaw § 97-6) and *Access to Tobacco by Minors* (General Bylaw § 97-7).

The most noticeable difference between the proposed regulation and the *Access to Tobacco by Minors* Bylaw is the legal sales age for tobacco products. General Bylaw § 97-7 provides a minimum sales age of 18. The proposed revisions to the regulations raises that age to 21. Mina S. Makarious, ANDERSON & KREIGER LLP, recommends that the BOH seek a revision to the existing Bylaw to accommodate such a change before the revised regulation goes into effect. After reviewing the various Bylaws listed above, there were other related smoking issues that need to be revised to reflect the *current Smoke Free Workplace law (MGL. Ch.270 §22)*.

Additional considerations are as follows:

- Conforming changes to Non Criminal Disposition
- Conforming changes to numbering General Bylaws

Attached, you will find the proposed changes to General Bylaws § 97-5, § 97-6 and § 97-7 to reflect changes to the BOH regulation and the *current Smoke Free Workplace law*.

cc: Board of Health

## **"Clean Indoor Air" (97-5).**

The current smoke-free workplace law (MGL Ch. 270 §22) addresses many of the concerns of this bylaw. Here are the recommendations per section:

**A:** Replace the existing "smoking" definition with "*Smoking: The inhalation of the smoke, vapor, aerosol or mist of a pipe, cigar, cigarette, tobacco product, e-cigarette, combustible or non-combustible, by the consumer, regardless of product content*".

Remove A(2), the definition for "restaurant" as it is defined in state law.

**B:** Delete. Now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

**C:** Delete. Now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

**D:** Delete as Section E. currently permits Board of Health to implement.

**E:** Add as first sentence before existing one: "*Smoking is hereby prohibited in accordance with M.G.L. Ch. 270, §22 (commonly known as the "Smoke-free Workplace Law) and under regulations adopted by the Board of Health*".

**F:** No change.

## **"Restriction of smoking in public places and workplaces" (97-6).**

Recommendations per section:

A. No change.

B. Replace (1) with the "smoking". *"Smoking: The inhalation of the smoke, vapor, aerosol or mist of a pipe, cigar, cigarette, tobacco product, e-cigarette, combustible or non-combustible, by the consumer, regardless of product content"*.

B. Replace (2) with "public place". *Public Place: An enclosed, indoor area when open to and used by the general public, including but not limited to the following facilities: atriums; auditoriums; automatic teller machines; automobile repair and maintenance establishments; bar, lounge; common areas of apartment buildings containing four or more dwelling units including stairwells, halls, entranceways, mailrooms, laundry facilities and storage areas; gasoline stations; licensed childcare locations including childcare homes; educational facilities; elevators accessible to the public; clinics, hospitals, rest homes and nursing homes; retirement homes; health care providers; game arcades; hair cutting and cosmetology establishments; inns, hotel and motel lobbies, stairwells, halls, entranceways and public restrooms; free standing kiosks; laundromats; libraries; mobile food units; municipal buildings; museums; polling places; schools; school buses; service lines; retail stores; retail food outlets; indoor sports arenas; theaters; public transit facilities; and any clubs, rooms or halls when used for public meetings.*

B. Replace (3), the "workplace" definition. *"Workplace: Workplace means an indoor area, structure or facility or a portion thereof, at which 1 or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.*

B. Delete subsection (4) as it is now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

C. Replace subsection (1) with: *"Smoking is hereby prohibited in accordance with M.G.L. Ch. 270, §22 (commonly known as the "Smoke-free Workplace Law) and under regulations adopted by the Board of Health"*.

C. Delete subsections (2), (3) and (4). Now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

C. Subsections (5) - No Change

C. Subsections (6) - Remove the term "knowingly twice" as it is not a condition in the state law and it is now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

**D.** Change this section to repeat the recommended wording in 97-5(E). : 97-6 (D) should state that *“The Board of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this section of the by-law”*.

**E.** Delete. Now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

**F.** Replace existing language with the following;

Penalties.

*An owner, manager, or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of:*

*a. \$100 for the first violation;*

*b. \$200 for a second violation occurring within two (2) years of the date of the first offense; and c. \$300 for a third or subsequent violation occurring within two (2) years of the second violation.*

*d. Each calendar day on which a violation occurs shall be considered a separate offense.*

*e. An individual or person who violates this section by smoking in a place where smoking is prohibited shall be subject to a civil penalty of \$100 for each violation.*

**G:** Delete. Now addressed by the current smoke-free workplace law (MGL Ch.270 §22).

**H:** No Change.

**I:** No Change.

**“Access to Tobacco by Minors”, (97-7).**

Recommend changing title to “*Youth Access to Tobacco*”

Recommendations per section:

A. Replace with 97-7(A) with “*No person shall sell tobacco products or permit tobacco products as defined herein to be sold to a person under the minimum legal sales age or, not being a parent or legal guardian, give, exchange, barter, trade, or otherwise distribute and/or furnish tobacco products as defined herein to a person under the minimum legal sales age. The board of health shall adopt rules, regulations and definitions regarding tobacco sales and the Minimum Legal Sales Age.*”

(A)*No person or retailer may sell tobacco products to any person under the age of twenty-one (21). Each retailer shall verify by means of a government issued photographic identification containing bearer's date of birth that no person purchasing the product is a of the minimum legal sales age. No such verification is required for any person under the age of twenty-seven (27). All retail sales of tobacco must be face-to-face between the seller and the buyer and occur at the permitted location. Anyone who sells tobacco products to a minor, the store owner or manager and staff known to be in the immediate area of the sale at the time of the sale, shall attend a training session on tobacco product sales. In conformance with Massachusetts General Laws Chapter 270, Section 6, whoever sells tobacco products to a minor, shall be punished by a fine of one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense, and three hundred (\$300.00) for any third or subsequent offense within three calendar years”.*

B. Delete

C. Replace language with "Self-Service Display" as follows: “Self-Service Displays. *Self-service displays of tobacco products, from which individual packages may be selected by the customer, are prohibited. Tobacco products must be located on, over, or behind the checkout counter and must only be obtained by the sales clerk”.*

D. Replace language with "Sales Personnel" as follows: “Sales Personnel. *No person or entity selling tobacco products shall allow anyone to sell cigarettes and other tobacco products until such employee reads the Town Bylaws, Board of Health regulations and state laws regarding the sale of tobacco products and signs a sworn statement, a copy of which will be placed on file in the office of the Board of Health, that (s)he has read and will uphold the regulations”.*

E. Replace language with "Free Distribution/Sampling" as follows: “*No person shall distribute, or cause to be distributed, any free samples of tobacco products as defined herein. No means, instruments or devices that allow for the redemption of all tobacco*



*products or nicotine delivery products for free or cigarettes at a price below the minimum retail price determined by the Massachusetts Department of Revenue shall be accepted by any permit holder”.*

**F.** Delete.

(G) **G.** Replace "Vending machine" as follows: *“Vending Machines. No person shall install or maintain a vending machine to distribute or sell tobacco products within the Town of Lexington.*

**H.** No Change.

**I.** Replace the penalty section to use what is widely used statewide for both fining and permit suspensions, *“Penalties shall be determined by the Board of Health. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections with all sections of this bylaw. The violator shall receive:*

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00).*
- b. In the case of a second violation within a twenty-four (24) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.*
- c. In the case of three or more violations within a twenty-four (24) month period, a fine of three hundred dollars (\$300.00) and the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive business days.*
- d. In the case of further violations or repeated, egregious violations within a twenty-four (24) month period, the Board of Health may revoke a Tobacco Product Sales Permit”*

**J.** No Change.

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** I.3

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**SUBJECT:**

Use of Battle Green and Parade - Memorial Day Celebration

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**EXECUTIVE SUMMARY:**

The Town Celebrations Committee has requested permission for the Memorial Day parade and ceremonies on the Battle Green for Monday, May 26, 2013. See attached details.

**FINANCIAL IMPACT:**

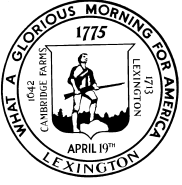
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**RECOMMENDATION / SUGGESTED MOTION:**

Motion to approve the request of the Town Celebrations Committee for Memorial Day that includes a parade and ceremonies on the Battle Green, as outlined in their letter dated May 4, 2014.

**STAFF FOLLOW-UP:**

Selectmen's Office



*Town of Lexington*  
*Town Celebrations Committee*

May 4, 2014

Ms. Deb Mauger, Chairman  
Board of Selectmen  
Town of Lexington  
1625 Massachusetts Avenue  
Lexington, MA 02420

RE: Memorial Day, Monday May 26, 2014

Dear Deb,

On behalf of the Town Celebrations Committee we would like to make the following requests in regards to Memorial Day, Monday, May 26, 2014:

**Memorial Day Parade:**

- Memorial Day Parade will be held on Monday, May 26, 2014.
- The Parade will lineup at 9:30 a.m. in the driveway of 1557 Massachusetts Avenue and step off at 10:00 a.m.
- The Town Celebrations Committee requests the use of the east side of Massachusetts Avenue from the driveway to the former School Administration Building east to Munroe Cemetery and then the west side of Massachusetts Avenue west to Bedford Street, Bedford Street to Harrington Road, Harrington Road to the Olde Burying Ground and then onto the Battle Green for the Memorial Day Ceremonies.

**Memorial Day Ceremonies:**

- Use of the Battle Green for the annual Memorial Day Ceremonies.
- We will also be requesting the use of the small podium, microphone and speaker system from the Department of Public Works for these ceremonies.
- We will also be requesting the use of the driveway to 1557 Massachusetts Avenue to line up the Parade from the Town Manager as well as permission for the Parade (nothing motorized) to go over the grass at Visitor's Center/Buckman Tavern to lay wreaths at the memorials.
- The ceremonies are expected to begin once the Parade arrives at the Battle Green at approximately 11:20 a.m. and last for approximately 20 minutes.
- Should the weather be inclement, the Ceremonies would be moved indoors to Cary Hall.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Suzie Barry  
Chairman, Town Celebrations Committee

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** I.4

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**SUBJECT:**

Limousine License Renewals – Boyadjian Limousine Service, 447 Lowell Street

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**EXECUTIVE SUMMARY:**

Boyadjian Limousine Service has provided the necessary paperwork to renew their Limousine License. A CORI check for Sebouh Boyadjian came back with no information. This renewal is for the period May 1, 2014 through April 30, 2014. The vehicle has been inspected by the Police Department.

See attached information.

**FINANCIAL IMPACT:**

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**RECOMMENDATION / SUGGESTED MOTION:**

Motion to approve the application and issue one (1) Limousine Licenses to Boyadjian Limousine Service, 447 Lowell Street.

**STAFF FOLLOW-UP:**

Selectmen's Office

Monday, May 05, 2014

Lynne Pease

William F. Ahern

Livery cab inspection

Boydjian Limousine service passed a basic inspection and has  
a current Mass state inspection sticker

2007 merz suv black ma reg LV994 VIN 4JGCB75E27A040584

William F.Ahern

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** I.5

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**SUBJECT:**

Appointments/Resignations – Hanscom Field Advisory Commission and Human Rights Committee

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**EXECUTIVE SUMMARY:**

Arthur Katz has resigned from the Human Rights Committee

Jeanne Krieger submitted a resignation from the Hanscom Field Advisory Committee and suggests appointing Hank Manz as her replacement.

See attached information.

**FINANCIAL IMPACT:**

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**RECOMMENDATION / SUGGESTED MOTION:**

Motion to accept the resignation of Arthur Katz from the Human Rights Committee, effective immediately.

Motion to accept the resignation of Jeanne Krieger from the Hanscom Field Advisory Commission, effective immediately.

Motion to appoint Hank Manz as Lexington’s representative to the Hanscom Field Advisory Committee for a term to expire June 30, 2017.

**STAFF FOLLOW-UP:**

Selectmen’s Office

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:**

May 12, 2014

**STAFF:**

Carl Valente

**ITEM NUMBER:**

I.6

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**SUBJECT:**

Appointment: Council on Aging

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**EXECUTIVE SUMMARY:**

I am requesting that the Board approve the Town Manager's appointment of Camille Goodwin to the Council on Aging. Ms. Goodman has been a member since 2012.

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**FINANCIAL IMPACT:**

None

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**RECOMMENDATION / SUGGESTED MOTION:**

Move to approve the Town Manager's appointment of Camille Goodwin to the Council on Aging.

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**STAFF FOLLOW-UP:**

TMO

# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** C.1-3

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**SUBJECT:**

Consent

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**EXECUTIVE SUMMARY:**

1. Approve one-day liquor license for Children's Dyslexia Center to serve wine at a wine tasking/silent auction fundraiser on Saturday, May 17, 2014, from 7:00 p.m. to 10:00 p.m. at St. Nicholas Greek Orthodox Church Hall, 17 Meriam Street.
2. Approve the Use of the Battle Green for an Air Force Captain Promotion Ceremony on Thursday, May 22, 2014, from 10:00 a.m. to 12:00 noon. The Police, DPW and Town Manager's Office are aware of request and have signed off on.
3. Sign Proclamation

See attached information.

**FINANCIAL IMPACT:**

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**RECOMMENDATION / SUGGESTED MOTION:**

Motion to approve the Consent Agenda.

**STAFF FOLLOW-UP:**

Selectmen's Office



# AGENDA ITEM SUMMARY

## LEXINGTON BOARD OF SELECTMEN MEETING

**DATE:** 5/12/14

**STAFF:** Lynne Pease

**ITEM NUMBER:** ES

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**SUBJECT:** Exemption 2

Suggested motion for Executive Session: *Move that the Board go into Executive Session to prepare for negotiations with Non-Union Personnel (Town Manager) and to reconvene in Open Session only to adjourn. Further, that as Chairman, I declare that an open meeting may have a detrimental effect on the negotiating or litigating position of the Town.*

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**EXECUTIVE SUMMARY:**

You will be discussing strategies for negotiating a new Employment Agreement with the Town Manager.

**FINANCIAL IMPACT:**

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**RECOMMENDATION / SUGGESTED MOTION:**

**STAFF FOLLOW-UP:**

Selectmen's Office