

**2004 ANNUAL TOWN MEETING**  
**March 29, 2004**  
**(See Warrant File for Warrant)**

The first session of the 2004 Annual Town Meeting was called to order by Moderator Margery M. Battin, at 8:00 p.m., at the Clarke Middle School, 17 Stedman Road. A quorum of 183 members was present.

\* \* \* Material omitted \* \* \*

**ARTICLE 42: PATRIOT ACT RESOLUTION**

9:40 p.m. Andrew Friedlich, pr.5.

**MOTION:** That the following resolution be adopted:

WHEREAS the Town of Lexington regards the liberties secured by our forefathers' sacrifices in this Birthplace of American Liberty and guaranteed in the Constitution and the Bill of Rights to be among the most sacred and honored foundations of our country and character, which we are committed to protect;

WHEREAS the Town of Lexington has a long and distinguished history of welcoming and supporting a diverse population, including a significant minority of non-citizens and foreign born residents;

WHEREAS the United States Constitution guarantees Americans certain fundamental rights, including freedom of religion, speech, assembly and privacy; protection from unreasonable searches and seizures; due process and equal protection; and access to counsel, presumption of innocence and a fair, speedy, public trial;

WHEREAS certain federal policies adopted since September 11, 2001 including provisions in the USA PATRIOT Act (Public Law 107-56) and related executive orders, regulations and actions threaten fundamental rights and liberties by:

2. authorizing the indefinite incarceration of non-citizens upon suspicion and the indefinite incarceration of citizens designated by the President as "enemy combatants" without access to counsel or meaningful recourse to the federal courts;
3. limiting traditional judicial oversight of search and seizure in order to expand authority of federal agents to conduct secret "sneak and peak" searches in which the subject is never aware his property or records have been searched, and granting agents broad access to personal medical, financial, library, bookstore and education records without any presentation to a judge of suspicion of a crime
4. burdening local police with potential responsibilities for enforcement of federal immigration law;

THEREFORE, BE IT RESOLVED that the Town of Lexington affirms that the rights of all people within the Town should be protected by the Bill of Rights and the Fourteenth Amendment of the U. S. Constitution; and

AFFIRMS its strong opposition to terrorism, and that efforts to end terrorism should not be waged at the expense of the fundamental civil rights and liberties that are at the core of our national character and constitution.

AFFIRMS its opposition to those federal measures contained in the USA PATRIOT Act that infringe on constitutionally guaranteed rights and civil liberties.

IT IS HEREBY FURTHER RESOLVED that Lexington Town Meeting:

1. Request that the Board of Selectmen require the Town Manager to direct the Police Department to:
  - a) maintain its present practice of not enforcing immigration matters, which are the responsibility of the Department of Homeland Security, and not deny any town service on the basis of citizenship, and
  - b) maintain its present practice of not engaging in the surveillance of individuals and groups of individuals based on their participation in activities protected by the First Amendment, and
  - c) maintain its present practice of not utilizing racial profiling or religious profiling as factors in selecting which individuals are subject to investigatory activities except when used as part of the description of a specific suspect, and
  - d) refrain from acting with federal or state law enforcement officers to collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities, and
  - e) report to the Board of Selectmen any request by federal authorities that, if granted, would cause agencies of the Town of Lexington to exercise or cooperate in the exercise of powers in apparent violation of any town ordinance or the laws or Constitution of this Commonwealth or of the United States;
  
2. Request that the Library Trustees direct the librarians within the Town of Lexington to:

Post within each library a notice to library users as follows: “WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-56), records of the books and other materials you borrow from this library may be obtained by federal agents. That federal law prohibits librarians from informing you if records about you have been obtained by federal agents. Questions about this policy should be directed to: Attorney General John Ashcroft, Department of Justice, Washington, DC 20530;”

and to affirm Cary Library’s compliance with resolutions adopted by the American Library Association and the Massachusetts Library Association in response to the USA Patriot Act to protect the privacy of library patron records by a policy that affirms “the collection of personally identifiable information should only be a matter of routine or policy when necessary for the fulfillment of the mission of the library;”
  
3. Request the School Committee to direct the Superintendent of Schools to:

Provide notice to individuals whose education records have been obtained by law enforcement agents pursuant to section 507 or 508 of the USA PATRIOT Act;
  
4. Direct the Town Clerk to:
  - a) transmit a copy of this resolution to our elected federal officials Senators Edward Kennedy and John Kerry and Representative Edward Markey accompanied by a letter urging them to:
    - monitor federal anti-terrorism tactics and work to repeal provisions of the USA PATRIOT Act and other laws and regulations which infringe on fundamental civil rights and liberties
    - ensure that provisions of the USA PATRIOT Act “sunset” in accordance with the provisions of the Act
    - take a lead in congressional action to prohibit passage of future laws that weaken constitutional protections in the name of security;
  - b) transmit a copy of this resolution to Governor Mitt Romney and appropriate members of the State Legislature accompanied by a letter urging them to ensure that state anti-terrorism laws and policies be implemented in a manner that does not infringe on civil liberties and to take such further action as may be necessary to oppose the USA PATRIOT ACT;

- c) transmit a copy of this resolution to President Bush and Attorney General Ashcroft;

AND BE IT FURTHER RESOLVED that the provisions of this Resolution shall be severable, and if any phrase, clause, sentence, or provision of this Resolution is declared by a court of competent jurisdiction to be contrary to the Constitution of the United States or of the Commonwealth of Massachusetts or the applicability thereof to any agency, person, or circumstances is held invalid, the validity of the remainder of this Resolution and the applicability thereof to any other agency, person or circumstances shall not be affected thereby.

9:41 p.m. Mr. John T. Sackton, 8 White Pine Ln, and Ms. Carol Rose, Executive Director of the Massachusetts chapter of the ACLU further explained the motion.

9:50 p.m. Dawn McKenna reported opposition by a majority of the Board of Selectmen (3-2). Selectman Jeanne Krieger presented the Selectmen's minority report.

Members spoke in support and in opposition and questioned the implementation of the resolution.

10:16 p.m. Bernice Fallick, pr.6 moved the question now be put. **MOTION ADOPTED.**

The Moderator called for a standing vote, tallied as follows:

Precinct	Yes	No
1	8	11
2	11	7
3	17	4
4	16	1
5	12	6
6	14	2
7	17	0
8	15	3
9	13	3
AL	7	3
<b>TOTAL</b>	<b>130</b>	<b>40</b>

10:29 p.m. With 130 voting in the affirmative and 40 in the negative, **MOTION DECLARED ADOPTED.**