

# APPROPRIATION COMMITTEE TOWN OF LEXINGTON



## REPORT TO THE 2022-3 SPECIAL TOWN MEETING

RELEASED October 25, 2022

### APPROPRIATION COMMITTEE MEMBERS

Glenn P. Parker, Chair • Sanjay Padaki, Vice Chair • Alan Levine, Secretary  
Carolyn Kosnoff (ex officio; non-voting) • Anil A. Ahuja • John Bartenstein  
Eric Michelson • Sean Osborne • Lily Manhua Yan



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# Summary of Warrant Article Recommendations

## Abbreviations

EF	Enterprise Fund	CPF	Community Preservation Fund
GF	General Fund	DSSF	Debt Service Stabilization Fund
RE	Retained Earnings	IP	A motion to Indefinitely Postpone is expected
RF	Revolving Fund	TDM	Traffic Demand Management

## 2022-3 SPECIAL TOWN MEETING

Art- icle	Title	Funds Requested	Funding Source	Committee Recommendation
<b>2</b>	Appropriate for Prior Years' Unpaid Bills	<b>None</b>	<b>N/A</b>	<b>IP</b>
<b>3</b>	Establish, Amend, Dissolve and Appropriate To and From Specified Stabilization Funds	<b>\$494.05</b> <b>\$100,000</b> <b>\$250,000</b> <b>\$107,554</b> <b>\$4,479.48</b> <b>\$1,675,999</b>	<b>DSSF</b> <b>Mitigation Payments</b> <b>Mitigation Payments</b> <b>Mitigation Payments</b> <b>Comm. Impact Fees</b> <b>Tax Levy</b>	<b>Approve (8-0)</b>
<b>4</b>	Amend FY2023 Operating, Enterprise and CPA Budgets	<i>See below</i>	<i>See below</i>	<b>Approve (8-0)</b>
<b>5</b>	Appropriate for Center Playground Bathrooms and Maintenance Building	<b>\$400,000</b>	<b>CPF</b>	<b>Approve (8-0)</b>
<b>6</b>	Appropriate for Authorized Capital Improvements	<b>None</b>	<b>N/A</b>	<b>IP</b>
<b>7</b>	Appropriate to Post Employment Insurance Liability Fund	<b>None</b>	<b>N/A</b>	<b>IP</b>
<b>8</b>	Appropriate For 250th Anniversary of The Battle of Lexington Celebration	<b>\$75,000</b>	<b>Tax Levy</b>	<b>Approve (8-0)</b>
<b>9</b>	Opioid Settlement	<b>\$76,256.29</b>	<b>Statewide Opioid Settlement</b>	<b>Approve (8-0)</b>
<b>10</b>	Appropriate for Public Facilities Capital Projects (Town Pool Domestic Hot Water Heater)	<b>\$60,000</b>	<b>Tax Levy</b>	<b>Approve (8-0)</b>
<b>11</b>	Appropriate for Center Streetscape Sidewalk Extension	<b>\$700,000</b>	<b>Tax Levy</b>	<b>Approve (8-0)</b>
<b>12</b>	Creation of Housing Trust	<b>None</b>	<b>N/A</b>	<b>Approve (8-0)</b>
<b>14</b>	LexHAB Reorganization	<b>None</b>	<b>N/A</b>	<b>Approve (8-0)</b>

# Introduction

This report includes the Appropriation Committee's analysis and recommendations regarding all appropriations of Town funds that are anticipated at this special town meeting, and other municipal matters that may be considered. This report is distributed as an electronic document via the Town website. The Committee also makes presentations during Town Meeting, including recommendations on appropriations and other matters for which the Committee's formal position has been revised since the time of publication.

The Committee published its *Report for the 2022 Annual Town Meeting and 2022-1 Special Town Meeting* on March 21, 2022. Please refer to the preface of that report for more details of how this report is prepared and the conventions used within.

The Committee's goal is to publish its report at least one week prior to the date when the articles covered in this report may be taken up by Town Meeting. That date is typically the same night that the annual town meeting or a special town meeting is convened.

## **Committee Membership**

Meg Muckenhoupt stepped down from the Committee at the end of her term on June 30, 2022.

Sean Osborne was appointed to the Committee and began his first term on July 1, 2022.

The Committee currently has one empty seat out of nine.

Sara Arnold, our dedicated and steadfast Recording Secretary, resigned at the end of August 2022.

## **Reserve Fund**

The Committee approved a Reserve Fund transfer of \$750,000 on September 27, 2022, to fund the purchase and installation of a new Public Safety Communications system. This system is used by both the Police and Fire Departments for communication via radio between local public safety staff, and to coordinate service with other nearby towns.

The existing system, which consists of an office switchboard with nine remote transceivers and antennas, has become less reliable since the Police Department relocated to its temporary station at 173 Bedford Street. This is due mainly to the lack of copper phone line service at the temporary station. The new system will use fiber optic phone lines and will provide significantly improved functionality with better radio coverage. The office components for the new system will be relocated to the new Police Headquarters in the future.

Delivery time for the new system is in the six month range with an expected cost of \$800,000 (including contingency). The Select Board requested the use of the full balance of the Reserve Fund to accelerate the purchasing cycle, and will supplement any remaining cost using other sources at their disposal, such as ARPA funds.

Article 4 will appropriate a portion of the original balance back into the Reserve Fund using new growth funds.

## **Developments Since Adoption of the FY2023 Budget**

The FY2022 budget was successfully closed out and the Town is awaiting its final certification of available funds ("free cash") from the State Department of Revenue.

New growth revenue for the Town is now estimated to be at least \$6,117,138, which exceeds the estimate in the original FY2023 budget of \$2,807,138 by \$3,310,000. Of this \$3.3 million, \$1.7 million results from increases in the assessed value of new developments governed by a Preliminary Site Development and Use Plan (PSDUP) that were approved by Town Meeting, in addition to new developments within the commercial zone at Hartwell Avenue. Just over \$1 million of that amount is personal property tax revenue from Takeda Pharmaceuticals, which has opted not to use the manufacturing exemption for personal property at its Lexington facilities.

In anticipation of the forthcoming Lexington High School construction project, the Town has adopted a policy to direct new growth revenue from PSDUP developments and the Hartwell Avenue commercial zone into the Capital Stabilization Fund. Accordingly, Article 3 will request an appropriation of \$1.7 million from the tax levy into that fund.

As usual, the fiscal year 2023 budget for the Commonwealth of Massachusetts was not approved until after the 2022 Annual Town Meeting. Changes in the State's final budget increased the Town's revenue from State Aid by about \$290,000.

The FY2022 budget set aside \$400,000 for potential snow removal expenses this past winter that were not needed, and this amount will be available for appropriation.

Finally, as of publication the Town has received \$76,256 as part of a legal settlement following a multi-state lawsuit against prescription opioid manufacturers and distributors. The Town will receive further payments over the next eighteen years, eventually totaling to about \$1 million, including an additional \$150,000 payment expected during the current fiscal year. Opioid settlement payments that have been received before the motion is taken up at this special town meeting will be appropriated under Article 9.

### **Updates**

This report presents the official positions of the Committee as of the date of publication. The Committee will continue to meet as necessary prior to and during Town Meeting and it may revise its official positions based on new or updated information. The Committee also reports orally to Town Meeting on each article. The oral report summarizes the Committee's final recommendation.

# Warrant Article Analysis and Recommendations

## 2022-3 SPECIAL TOWN MEETING

<b>Article 2 Appropriate for Prior Years' Unpaid Bills</b>		
Funds Requested	Funding Source	Committee Recommendation
<b>None</b>	<b>N/A</b>	<b>IP</b>

As of publication, no unpaid bills have been presented, and no action is required under this article.

<b>Article 3 Establish, Amend, Dissolve and Appropriate To and From Specified Stabilization Funds</b>		
Funds Requested	Funding Source	Committee Recommendation
<b>\$494.05</b>	<b>DSSF</b>	
<b>\$100,000</b>	<b>Mitigation Payments</b>	
<b>\$250,000</b>	<b>Mitigation Payments</b>	<b>Approve (8-0)</b>
<b>\$107,554</b>	<b>Mitigation Payments</b>	
<b>\$4,479.48</b>	<b>Comm. Impact Fees</b>	
<b>\$1,675,999</b>	<b>Tax Levy</b>	

The actions requested under this article include one appropriation out of a specified stabilization fund and five appropriations into stabilization funds.

The first action is the request to appropriate the remaining balance of \$494.05 out of the Debt Service Stabilization Fund for excluded debt service. This fund was established in Article 26 of the 2009 Annual Town Meeting to ensure that payments from the Massachusetts School Building Authority toward the year 2000 project to renovate Lexington High School, Clarke Middle School, and Diamond Middle School would be used to offset the associated excluded debt. (Note that the organization and rules of operation of the Massachusetts School Building Authority have been changed since the reimbursements for the year 2000 project were authorized.) The Appropriation Committee report to the 2009 Annual Town Meeting states: "In August 2006, the Town received reimbursement of approximately \$14 million from the Massachusetts School Building Authority for construction projects completed at Clarke, Diamond and the High School. These funds were in excess of the amount necessary to repay a note that was due and were set aside as reimbursement for the exempt costs of the High School project per a directive from the Massachusetts Department of Revenue. The balance is to be drawn down over the life of the bond related to the High School construction project, payable through 2023." Approval of this appropriation will exhaust the purpose of the Debt Service Stabilization Fund, which will then be dissolved.

The second and third request the appropriation of \$100,000 into the Transportation Demand Management/Public Transportation Stabilization Fund, and of \$250,000 into the Ambulance Stabilization Fund. These amounts were received from National Development as mitigation payments associated with the rezoning and development at 55 Watertown St.

The fourth requests the appropriation into the Transportation Management Overlay District (TMOD) Stabilization Fund of \$107,554 that was received in connection with the commercial properties at 3 Maguire Road and 91 Hartwell Avenue.

The fifth requested action is the transfer of community impact fees received in association with short-term rentals in the aggregate amount of \$4,479.48 into the Affordable Housing Stabilization Fund, and the authorization of transfers of short-term rental impact fees received in the future into this Fund without the need for further town meeting action. We note that the State began collecting short-term rental impact fees on October 1, 2021, and this is the first distribution of such fees the Town has received from the State.

Finally, the article requests the appropriation of \$1,675,999 from the tax levy into the Capital Stabilization Fund. As noted above in the Introduction, the amount requested is the portion of the new growth resulting from increases in the assessed value of new developments governed by a Preliminary Site Development and Use Plan (PSDUP) that were approved by Town Meeting, in addition to new developments within the commercial zone at Hartwell Avenue. The Town has adopted a policy to direct this subset of new growth revenue into the Capital Stabilization Fund in anticipation of the forthcoming construction project of Lexington High School.

<b>Article 4 Amend FY2023 Operating, Enterprise and CPA Budgets</b>		
Funds Requested	Funding Source	Committee Recommendation
<i>See below</i>	<i>See below</i>	<b>Approve (8-0)</b>

At last spring’s Annual Town Meeting (ATM), operating and enterprise fund budgets were presented and approved based on the *FY2023 Recommended Budget and Financing Plan* published on February 28, 2022. This article proposes several adjustments to those budgets in view of developments which have occurred since that time. See the Introduction above for a brief discussion of revenue that has become available since the Annual Town Meeting. Line numbers in the tables for this section refer to budget categories in the *Plan* and to the motion approved under Article 4 at the spring ATM. A proposed change to the FY2023 Community Preservation Fund budget is addressed in Article 5.

**Operating Budget**

This article proposes both increases and decreases in the FY2023 operating budget, which would result in a net increase of \$1,666,152. The details of, and reasons for, the changes are set forth below.

Line		From	To	Change
2110	Contributory Retirement	\$ 8,159,250	\$ 9,219,250	\$ 1,060,000

This change would add an additional \$1,060,000 to the amount appropriated at the ATM for the Town’s annual contribution to the Lexington Contributory Retirement System (the “Retirement Fund”).

The most recent actuarial valuation, as of January 1, 2021, of the Retirement Fund showed a significant decrease in the funded portion of the Town’s outstanding liability for pensions, from 81.8% down to 76.6%. This decrease results primarily from a decision by the Retirement Board to reduce the assumed rate of return of the Retirement Fund’s invested assets from 7.50% to a more realistic 7.25%. The Board will likely recommend further decreases in the assumed rate of return in subsequent years, perhaps to 7.00% or 6.75%, which would further increase the present value of the unfunded liability. The increase in the unfunded liability presents a challenge to achieving full funding by Lexington’s current target of 2030 (State law mandates that full funding be achieved by 2040). Staff has recommended this increase in the original appropriation to the Retirement Fund in an effort to stay on track for that target.

The source of the increased funding will be new growth in the tax levy resulting from an increase in personal property tax revenue which was not anticipated at the time of the ATM. The new revenue recently became available when Takeda Pharmaceuticals, the successor to Shire Pharmaceuticals, opted to discontinue its manufacturing exemption from the personal property tax for its Lexington facilities. The additional personal property tax from Takeda would allow larger contributions to the Retirement Fund in future years as well, since it is expected to be a recurring source of revenue.



Line		From	To	Change
2120	Noncontributory Retirement	\$ 16,777	\$ —	\$ (16,777)

This change is due, sadly, to the passing of the last Lexington retiree who was eligible for noncontributory retirement benefits.

Line		From	To	Change
2430	Temporary Borrowing	\$ 1,050,046	\$ 762,975	\$ (287,071)

This reduction of the temporary borrowing expense reflects an update from the estimate of short-term borrowing interest costs approved at the 2022 Annual Town Meeting. The new number is a fairly exact projection based on the actual in-levy borrowing during FY2022, which was lower than anticipated, and the interest rates of those loans, which were more favorable than anticipated. The reduction also reflects the conversion of in-levy debt previously appropriated for design work for the new Police Station under Article 14 of the 2018 Annual Town Meeting into exempt debt following the approval of the debt exclusion vote for the Police Station project in June 2022.

Line		From	To	Change
2500	Reserve Fund	\$ 750,000	\$ 1,250,000	\$ 500,000

This article requests an appropriation to partially restore the depleted Reserve Fund, originally funded at \$750,000, to a balance of \$500,000. This request will be funded by new growth revenue from the tax levy.

The initial balance of the Reserve Fund was recently transferred in its entirety to fund an unanticipated problem with the Town's public safety communications system. There have been significant issues with emergency police and fire communications since the Police Department and Dispatch Center vacated the Police Station at 1575 Massachusetts Ave. and moved to 173 Bedford St. In consultation with the Police and Fire Departments, and on the advice of experts, the Town is upgrading its emergency communications system at an estimated total cost, including an amount for contingencies, of \$800,000.

To accomplish this as soon as possible, the Appropriation Committee, per a request from the Select Board and Town Manager, approved in late September a transfer of the entire balance of the Reserve Fund, i.e., \$750,000, to a newly created capital account for public safety communications. If the cost of the upgrades exceeds this amount, the Select Board has indicated that it will expend American Rescue Plan Act (ARPA) funds, which may be used without appropriation, to cover the remaining balance.

Since it is still relatively early in the fiscal year, it is prudent to replenish the Reserve Fund to be able to address any urgent but unforeseen expenses that may occur during the remainder of FY2023.

Line		From	To	Change
2600	Public Facilities – Energy Budget	\$ 12,669,307	\$ 13,069,307	\$ 400,000

This request results from recent increases in the costs of electricity and natural gas, combined with increased energy usage to provide higher airflow in Town buildings, particularly school buildings, as necessitated by the pandemic. This request will be funded by new growth revenue from the tax levy.

Line		From	To	Change
8210-8220	Town Manager Personal Services	\$ 956,568	\$ 1,011,696	\$ 55,128
8600	Information Technology Personal Services	\$ 867,192	\$ 812,064	\$ (55,128)
8210-8220	Town Manager Expenses	\$ 289,185	\$ 294,275	\$ 5,090
8600	Information Technology Expenses	\$ 1,860,535	\$ 1,855,445	\$ (5,090)

These changes, essentially a housekeeping matter, will transfer the compensation and associated expenses for a webmaster from the IT department to the Town Manager's office, with no net change to the FY2023 budget.

Line		From	To	Change
8400	Finance Expenses	\$ 498,835	\$ 508,835	\$ 10,000

The Finance Department expense line includes all postage expenses for the Town’s municipal departments. The fall primaries and elections have increased postage expenses for the Town Clerk, which mails out voter information booklets and administers mail-in voting. This requested increase is expected to be sufficient to cover the costs of the additional mailings. This request will be funded by new growth revenue from the tax levy.

**Water/Wastewater Enterprise Funds**

Two categories of adjustments are proposed for the water and wastewater enterprise funds:

Line		From	To	Change
3610	Water Department Debt Service	\$ 1,224,746	\$ 1,195,180	\$ (29,566)
3710	Wastewater Department Debt Service	\$ 1,595,417	\$ 1,561,470	\$ (33,947)

These are minor adjustments to the debt service expenses of the Water and Wastewater enterprise funds to reflect actual experience subsequent to the 2022 Annual Town Meeting (ATM).

Line		From	To	Change
3720	MWRA Wastewater Assessment	\$ 8,499,573	\$ 843,292	\$ (66,781)

The amounts appropriated under Article 5 at the 2022 ATM for Water and Wastewater Enterprise Fund expenses were based on preliminary FY2023 assessments issued by the MWRA in February. The revision requested here is a housekeeping task to reflect a \$66,781 reduction in the final wastewater assessment approved by the MWRA board this past June. The MWRA’s final assessments were used in the calculation of the FY2023 water and wastewater rates approved by the Selectmen earlier this fall, and therefore passed on to ratepayers.

It should be noted that the year-over-year change from FY2022 in the combined water and wastewater assessment was originally estimated to be an unusually low 0.4%, however, this change effectively reduces the year-over-year change even further, down to 0.0%.

<b>Article 5 Appropriate for Center Playground Bathrooms and Maintenance Building</b>		
Funds Requested	Funding Source	Committee Recommendation
<b>\$400,000</b>	<b>CPF</b>	<b>Approve (8-0)</b>

This article requests that \$400,000 from the Undesignated Fund Balance of the Community Preservation Fund be appropriated for renovating the bathroom and maintenance building located near the playground at the center recreation complex.

The 2020 Annual Town Meeting authorized \$100,000 of CPA funds for the design of the renovation of the Center Playground Bathrooms and Maintenance Building under Article 16(b). Subsequently, \$680,000 of CPA funds were appropriated for construction under Article 10(e) of the 2022 Annual Town Meeting.

The Town received bids from five construction firms, all of which exceeded the available appropriation. Based on the bids received, which ranged from \$818,482 to \$1,298,000, and using a new inflation calculation, the expected construction cost has increased to \$1,080,000 including contingency, for the same scope of work. This article would provide a supplemental appropriation of \$400,000 required to match the new estimate.

Note that the initial estimate for this project was \$915,000 but it was reduced to \$680,000 based on a cost estimator’s assessment prior to the 2022 ATM.

If the current appropriation is authorized, the Town will re-bid the project and begin construction in the spring of 2023.

Article 6 Appropriate for Authorized Capital Improvements		
Funds Requested	Funding Source	Committee Recommendation
<b>None</b>	<b>N/A</b>	<b>IP</b>

As of publication, there are no requests for supplemental appropriations for previously approved capital projects. No action is required under this article.

Article 7 Appropriate to Post Employment Insurance Liability Fund		
Funds Requested	Funding Source	Committee Recommendation
<b>None</b>	<b>N/A</b>	<b>IP</b>

This article was included in the warrant to provide an opportunity to appropriate a portion of the unbudgeted revenue from new growth in the tax levy into the Post-Employment Insurance Liability Fund that is being built up to cover the Town’s future obligations towards the health care costs of Town retirees. However, the demands on the unbudgeted revenue for other uses, including augmentation of the Capital Stabilization Fund, replenishment of the Reserve Fund, work on sidewalks on side streets in Lexington Center, and a contribution to the Retirement Fund (pensions) as well as several others will likely exceed the total amount available. Therefore, we anticipate that no action will be requested under this article.

Article 8 Appropriate For 250th Anniversary of The Battle of Lexington Celebration		
Funds Requested	Funding Source	Committee Recommendation
<b>\$75,000</b>	<b>Tax Levy</b>	<b>Approve (8-0)</b>

This article requests \$75,000 to fund early preparations for the Town’s celebration of the 250<sup>th</sup> anniversary (Semiquincentennial) of the Battle of Lexington, which took place on April 19, 1775. Commemorative events are planned town-wide from the fall of 2024 through the summer of 2026, with the main events to be held on Patriots’ Day weekend, April 18–21, 2025. Additional events are being planned in communities and states across the country in 2026 to celebrate the 250<sup>th</sup> anniversary of the signing of the Declaration of Independence.

The Lexington Semiquincentennial Commission (Lex250) was formed by the Select Board in 2020 to plan and coordinate town-wide activities for Lexington’s celebration of the Battle of Lexington and other historical events related to the founding of our country. The Commission has already begun its preliminary work, including gathering input at public meetings and coordinating with the National Park Service, the State and other towns.

Funding for the celebration is expected to come from a combination of federal and state grants, private fund-raising, and additional Town support. The current request will fund the Lex250 Commission’s start-up costs and support the following activities:

<b>Activity</b>	<b>Amount</b>
Website Development & Maintenance	\$ 60,000
Memberships in Collaborating Organizations	\$ 5,000
Printing Costs	\$ 5,000
Promotional Materials	\$ 5,000
<b>Total</b>	<b>\$ 75,000</b>

<b>Article 9 Opioid Settlement</b>		
<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
<b>\$76,256.29</b>	<b>Statewide Opioid Settlement</b>	<b>Approve (8-0)</b>

This article seeks to appropriate \$76,256.29 into a new Opioid Settlement Account to be maintained in the General Fund. This amount has been received from the State subsequent to Statewide Opioid Settlements (the “Settlements”) recently entered into between the Massachusetts Attorney General and certain non-bankrupt opioid industry participants.

Pursuant to the Settlements, Lexington and other Massachusetts communities which have elected to participate will receive annual payments over eighteen years (2021–2038) from two sources: the settling manufacturer, Johnson & Johnson, and several settling distributors. The total amount that Lexington is scheduled to receive over the life of the agreement (not discounted to present value) is approximately \$1,000,000. The settling defendants will receive, in exchange, a general release of all further claims.

The Town is bound by strict requirements in the settlement agreement on the handling and use of these funds. The funds must be appropriated into the General Fund, and they may only be used to fund opioid prevention, harm reduction, treatment and recovery programs. The funds will be available for spending at the discretion of the Town’s Director of Public Health.<sup>1</sup>

As of publication, Lexington has received its first installment of \$76,256.29 from the distributor defendants, covering years 2021 and 2022. The Town also expects to receive, before the end of the year, a substantially larger payment of \$148,852 from the manufacturer defendant (representing a lump sum distribution of the payments due over the first four years, for which the Town has opted). If those funds arrive in time, they will be added to the appropriation requested in this article, otherwise they will be carried over for future appropriation.

<b>Article 10 Appropriate for Public Facilities Capital Projects (Town Pool Domestic Hot Water Heater)</b>		
<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
<b>\$60,000</b>	<b>Tax Levy</b>	<b>Approve (8-0)</b>

At the 2022 Annual Town Meeting, funding was appropriated for engineering and design work for a new domestic hot water heater to be installed in the bath house at the Irving H. Mabee Town Pool Complex. The 10-year-old existing oil based hot water heater services the bathroom sinks and showers, and is in need of replacement.

<sup>1</sup> <https://www.mass.gov/service-details/learn-about-the-ags-statewide-opioid-settlements-with-opioid-industry-defendants>

SED Associates was hired to conduct a study of a number of options for the replacement heater and a Rooftop Solar Water Heater was identified as the best option because of the low cost to purchase the system plus the low operational costs over its lifespan. This heater will not use fossil fuels.

This article seeks to appropriate \$60,000 of the increase in the new growth of the tax levy for the purchase and installation of the solar hot water heater. The amount covers all costs related to demolition, disposal, purchase of new system, engineering, construction, landscaping, and other services.

Article 11 Appropriate for Center Streetscape Sidewalk Extension		
Funds Requested	Funding Source	Committee Recommendation
<b>\$700,000</b>	<b>Tax Levy</b>	<b>Approve (8-0)</b>

This article seeks Town Meeting’s approval to fund sidewalk improvements to enhance accessibility and to match the aesthetics of the ongoing Center Streetscape Project and the upcoming Lexington Green improvements project. The request includes a 10% contingency. This request will be funded by new growth revenue from the tax levy.

The Department of Public Works (DPW) is requesting that funds be approved during this Special Town Meeting so that the work can be implemented as a change order under the current Center Streetscape contractor. This contractor will be able to match the brick that was recently installed on Massachusetts Avenue, and is more likely than a new contractor to reuse existing granite curbing. In the event that this work has to be re-bid in 2023, the overall project cost would be negatively affected by inflation. In addition, the start of the work would be delayed pending approval of a sample installation using new materials by a new contractor.

The sidewalk extension upgrades will bring these walkways up to current standards under the Americans with Disabilities Act (ADA), providing access ramps and replacing currently uneven surfaces.

New brick sidewalks will be constructed on Meriam Street from Abbott’s Frozen Custard to Pinot’s Palette, on both sides of the Emery Park driveway along the storefronts, and at the entrance to Edison Way from Massachusetts Ave to the first driveway. The brickwork will match the aesthetics of the new sidewalk on Massachusetts Ave in the Center.

A concrete sidewalk will be constructed on Meriam Street from Massachusetts Ave to the Visitor’s Center. This will match adjacent sidewalks in the future Lexington Green improvements project.

Article 12 Creation of Housing Trust		
Funds Requested	Funding Source	Committee Recommendation
<b>None</b>	<b>N/A</b>	<b>Approve (8-0)</b>

This article seeks Town Meeting approval to establish an Affordable Housing Trust (AHT) following the recommendations of the Affordable Housing Trust Study Committee. This trust would, among other things, become the primary repository of the Town’s affordable housing funds. An AHT would make affordable housing funds available throughout the entire year, so that special opportunities can be addressed on a timely basis. The ultimate goal of the AHT is to work with a range of developers to increase Lexington’s stock of affordable housing. A new chapter which defines the AHT’s structure and powers will be added to Lexington’s bylaws.

An AHT created under this article would be a municipal entity that would accumulate and distribute funds to support affordable housing in the Town. This mechanism is currently used by 128 Massachusetts municipalities. Funds will come from existing sources of affordable housing funds, and from potential new sources. In addition to oversight from the AHT’s Board of Trustees, the Town’s Finance Department will administer the AHT’s accounting, accounts payable, investment of assets, and oversee Trust audits. The Trust’s investments would be

handled by the Town Treasurer, and the investment's risk standards would be fairly conservative, following municipal investment standards. The Trust would not seek to accumulate large balances, as its goal would be to put such monies to work.

If an AHT is formed, Town Meeting should expect a future request to transfer funds currently in the Affordable Housing Capital Stabilization Fund, and future Brookhaven Affordable Housing Mitigation payments, into the AHT. Additionally, Town Meeting could, in coordination with the Community Preservation Committee (CPC), approve requests to use Community Preservation Act (CPA) funds for existing affordable housing projects, or to "pre-fund" potential projects in the coming year.

The CPA Affordable Housing Reserve presently has a balance of about \$2.4 million, and the Community Preservation Act requires that the Town continue to set aside 10% of its annual CPA surcharge revenue, currently about \$700,000, for affordable housing. These CPA funds could be transferred to the AHT, if that is the preference of the CPC and Town Meeting. Pending approval of the AHT, the AHTSC has recommended that the AHT request an initial grant of CPA funds of around \$1.5 million at a future town meeting.

Future affordable housing revenue streams could include funds generated from special legislation, if and when they are approved by the state legislature. Currently Lexington is waiting for legislative approval on two such home rule petitions: Bill H.3891 (An Act to Establish a Surcharge on Specific Commercial Development Activities for the Purpose of Funding the Creation of Community Housing), and Bill H.4314 (An Act authorizing a Development Surcharge for Community Housing). Another option would be ARPA monies, but only if they are slated for a specific project and if the money will all be spent by the end of calendar year 2026. Additionally, affordable housing mitigation payments made by developers of future projects could be placed in the AHT. An AHT may borrow money, but debt is rarely used by AHTs in Massachusetts. The AHTSC has recommended that borrowing above a pre-determined level should require Select Board approval. The AHT can only take out a collateralized loan secured by property held in its name. Any non-collateralized borrowing would require Town Meeting approval. Other funding could come from sources including but not limited to: Town Meeting appropriations, private donations, fees from the resale of affordable homes, or Federal Home Investment Partnership Program (HOME) funds.

The primary advantage of the AHT is that its accumulation of funds is not subject to further appropriation by Town Meeting. Therefore, the AHT will be able to act expeditiously when it identifies opportunities to use those funds for affordable housing, and such opportunities typically arise outside of the town meeting schedule. Additionally, the proposed Town bylaw would allow the AHT to spend up to a specified limit without awaiting Select Board approval. That spending limit will be set annually by the Select Board; the AHTSC recommends that the level be based on the median sales price of homes in Lexington. Additional spending above the pre-approved level will require Select Board approval.

While an AHT is legally able to hold property, the AHT as proposed does not intend to be a developer or owner of housing units. It would instead act as a source of grants for the creation of affordable housing. Housing funded by the AHT would be built, and held, by private developers (either non-profit or for-profit). Private developers can build new units at competitive market rates, which can be as much as 40% lower than the rates available to a municipality acting as developer. This economic advantage would allow affordable housing dollars to be used much more efficiently.

The AHT can employ its funds to support affordable housing in other ways. In addition to financing the construction of new housing units and the conversion of existing housing stock, it can:

- Increase affordability in existing and future housing developments
- Develop surplus municipal property for affordable housing
- Preserve properties faced with expiring affordability restrictions
- Create programs to assist low- and moderate-income homebuyers
- Create programs to help low- and moderate-income families make health and safety repairs
- Educate and advocate to advance affordable housing initiatives
- Hire administrative staff, consultants, housing specialists, and contractors

The Town does not expect any increase in its operating budget or staffing to support the needs of an AHT, and there will be no budget line for the AHT. The Town could choose to chargeback the AHT for staff time used to support the AHT. Additionally, any investment costs incurred will be deducted from the gains.

While it is true that Town Meeting would relinquish direct oversight of developments funded by the AHT, residents will still retain their role in the development of housing in general. Opportunities for public notice and input will remain. The Town will still exercise tools and controls to assure appropriate development, including Select Board approval of projects over the preset threshold. The Zoning Board of Appeals and/or Planning Board will still review and approve variances to by-right zoning bylaws. Additionally, Trust documents that describe how the Trust is to operate will be developed. These documents could establish further procedures to ensure the AHT maintains a productive and ongoing relationship with the community.

Article 14 LexHAB Reorganization		
Funds Requested	Funding Source	Committee Recommendation
<b>None</b>	<b>N/A</b>	<b>Approve (8-0)</b>

The Select Board seeks Town Meeting permission to petition the State Legislature to allow the Lexington Housing Assistance Board (LexHAB) to change its status from a quasi-municipal organization to a 501(c)(3) nonprofit organization. This would allow LexHAB to more efficiently continue its mission of developing and maintaining affordable housing in Lexington as an independent housing development corporation. Lexington’s current quasi-municipal organization is a historic outlier in the State. By contrast, independent housing corporations represent the standard used by Massachusetts municipalities to create and hold affordable housing units.

As a 501(c)(3) entity, LexHAB could take advantage of additional revenue opportunities, as well as reduce its costs to develop and maintain affordable housing units. Nonprofit status would still allow it to use funding from the Community Preservation Act, the Affordable Housing Stabilization Fund and, if authorized under Article 12, the Affordable Housing Trust. LexHAB could also benefit from additional funding opportunities such as tax-deductible individual donations and partnerships with larger developers.

By shedding their quasi-municipal status, future LexHAB affordable housing developments would be exempt from public procurement regulations, which could reduce construction costs by up to 40%. LexHAB could also reduce costs by using donated labor from vocational education students, a successful practice that was discontinued when public procurement regulations were imposed. The resulting impact of public procurement regulations was severe. At the 2022 Annual Town Meeting, LexHAB withdrew a funding request for affordable housing at the Leary Farm because the cost to build each unit escalated to levels well above that typical of private developments.

While LexHAB’s mission and structure would remain relatively unchanged, its board would no longer be appointed by the Select Board. However, new board members nominated by the LexHAB board would be subject to confirmation by the Select Board. The 501(c)(3) board will be a self-governing entity that must remain independent of the Town’s control. The nonprofit will adopt its own articles of incorporation and by-laws detailing its mission, and these will be filed with the Massachusetts Attorney General. Deeds for all properties currently held by LexHAB would be transferred at no cost to the 501(c)(3) as part of the Special Act.

LexHAB will still be able (and encouraged) to coordinate its work with Town departments, but to maintain the “firewall” between the Town and the nonprofit, no Town staff may serve on the nonprofit’s board. Town staff could, however, serve on committees administered by LexHAB. LexHAB will conform to all zoning bylaws and permitting regulations, and it intends to continue its longstanding connections with the Select Board, Community Preservation Committee, and Planning Board.

If this article is passed by Town Meeting, the Select Board would submit the home rule petition to the State Legislature. The motion under this article would allow changes by the Select Board in the wording to be acted on by the State Legislature, as long as the result substantially reflects the purposes as presented to Town Meeting. Legislative action often takes as long as two years.