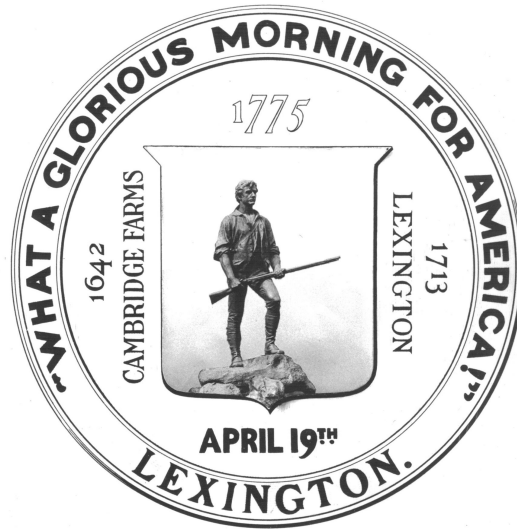


# CAPITAL EXPENDITURES COMMITTEE

## TOWN OF LEXINGTON



### REPORT TO THE SPECIAL TOWN MEETING (STM) 2022-3

Released October 24, 2022

Submitted by:  
Charles Lamb, Chair  
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**STM 2022-3 Warrant-Article Explanations and Recommendations**

**This Committee only reports on Articles and sub-elements deemed by this Committee to have a Capital relevance.**

Cites of the “Town Warrant” refer to the Town of Lexington Warrant for a Special Town Meeting 2022-3, to begin November 1, 2022.

Article 3: ESTABLISH, AMEND, DISSOLVE AND APPROPRIATE TO AND FROM SPECIFIED STABILIZATION FUNDS	Funds Requested	Funding Source	Committee Recommends
	See below	See below	Approval of sub-elements (c), (f), (g), (h), (k) & (m) 6-0

Note: Only our added **bolding** of sub-elements are those that have been deemed to have a Capital relevance and action requested at this STM. (See the last page of this report for a table of all the current Specified Stabilization Funds.)

“To see if the Town will vote to create, amend, dissolve, rename and/or appropriate sums of money to and from Stabilization Funds in accordance with Massachusetts General Laws, Section 5B of Chapter 40 for the purposes of: (a) Section 135 Zoning By-Law; (b) Traffic Mitigation; **(c) Transportation Demand Management/Public Transportation**; (d) Special Education; (e) Center Improvement District; **(f) Debt Service**; **(g) Transportation Management Overlay District**; **(h) Capital**; (i) Payment in Lieu of Parking; (j) Visitor Center Capital Stabilization Fund; **(k) Affordable Housing Capital Stabilization Fund**; (l) Water System Capital Stabilization Fund; and **(m) Ambulance Stabilization Fund**; determine whether such sums shall be provided by the tax levy, by transfer from available funds, from fees, charges or gifts or by any combination of these methods; or act in any other manner in relation thereto”

*“(Inserted by the Select Board)”*

“DESCRIPTION: This is an annual article to establish, dissolve, and/or fund Stabilization Funds for specific purposes and to appropriate funds therefrom. Money in those funds may be invested and the interest may then become a part of the particular fund. These funds may later be appropriated for the specific designated purpose by a two-thirds vote of an Annual or Special Town Meeting, for any lawful purpose.’

*(Town Warrant)*

**Note: All dollar amounts are from data known to this Committee at the time of this Report.**

**(c) Transportation Demand Management/Public Transportation, appropriate \$100,000.00 to:** Mitigation payment from National Development (55 Watertown St).

**(f) Debt Service, appropriate \$494.05 from:**

In August 2006, the Town received over \$14 million reimbursement from the Massachusetts School Building Authority as reimbursement toward the Town’s secondary-schools renovation project. After using over \$11 million of those funds to retire short-term debt taken in anticipation of that reimbursement, there was \$2,143,079 excess reimbursement that needed to be applied toward the project’s long-term exempt debt. By Department of Revenue [DOR] regulations, these funds must be used only to offset debt service on the outstanding bond for that exempt debt.

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After the 2022 Annual Town Meeting Article 23 appropriation from of \$191,112.60, the remaining balance is only the final interest of \$494.05. As required, it remains necessary to “return” those funds to the taxpayer and that’s accomplished under this Article.

**(g) Transportation Management Overlay District, appropriate \$107,554.00 to:** Mitigation payments from 3 Maguire Road and 91 Hartwell Avenue

**(h) Capital, appropriate \$1,675,999 to:** New Levy Growth from General Fund per CSF Guideline.

**(k) Affordable Housing Capital, appropriate \$4,479.48 to:** Transfer Community Impact Fees from short-term rentals.

**(m) Ambulance Stabilization Fund, appropriate \$250,000 to:** Mitigation payment from National Development (55 Watertown St).

<b>Article 5: APPROPRIATE FOR CENTER PLAYGROUND BATHROOMS AND MAINTENANCE BUILDING</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommends</b>
	<b>\$400,000 Supplement</b>	<b>CPF (Undesignated Fund Balance)</b>	<b>Approval 6-0</b>

“To see if the Town will vote to hear and act on the report of the Community Preservation Committee and, pursuant to the recommendations of the Community Preservation Committee, to appropriate from the Community Preservation Fund a supplemental sum of money for renovation of the Center Playground bathrooms and maintenance building; and determine whether the money shall be provided by the tax levy, from the Undesignated Fund Balance of the Community Preservation Fund, by transfer from other available funds, including enterprise funds, by borrowing, or by any combination of these methods; or act in any other manner in relation thereto.”

*“(Inserted by the Select Board at the request of the Community Preservation Committee)”*

“DESCRIPTION: This article requests that Community Preservation funds and other funds, as necessary, be appropriated for renovating the bathroom and maintenance building located near the playground at the center recreation complex. This appropriation request is supplemental to the \$680,000 authorized for the Center Playground Bathrooms and Maintenance Building under Article 10e of the 2022 Annual Town Meeting.”

*(Town Warrant)*

This project’s upgrade remains vital because it will address the poor condition at the existing facility, fixes shortcomings with Department of Facilities field equipment and machinery storage, improves accessibility to the restrooms, adds much needed lighting, and creates non-gendered bathroom options.

Each of the 5 bids received by this Town in response to the original solicitation—lowest was \$818,482, the highest was \$1,298,000, and the middle three averaged \$944,000—was far in excess of that original funding and reveals the current market for such projects. Because of the urgent need for a major upgrade of that facility, this Committee believes this project should continue to move forward now and supports the supplemental funding as needed to address the current likely costs for minimum construction, a reasonable contingency, and “soft costs” for equipment, technology, and architect fees.

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<b>Article 6: APPROPRIATE FOR AUTHORIZED CAPITAL IMPROVEMENTS</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommends</b>
	<b>None</b>	<b>Not Applicable</b>	<b>IP 6-0</b>

“To see if the Town will vote to make supplementary appropriations to be used in conjunction with sums appropriated in prior years for the installation or construction of water mains, sewers and sewerage systems, drains, streets, buildings, recreational facilities or other capital improvements and equipment; determine whether the sums shall be provided by the tax levy, by transfer from the balances in other articles, by transfer from available funds, including enterprise funds and the Community Preservation Fund, by borrowing, or by any combination of these methods; or act in any other manner in relation thereto.”

*“(Inserted by the Select Board)”*

“DESCRIPTION: This is an annual article to request funds to supplement existing appropriations for certain capital projects in light of revised cost estimates that exceed such appropriations.”

*(Town Warrant)*

There are no additional-to-other-action, prior-year, Capital appropriations; therefore this Article will be presented for Indefinite Postponement (IP).

<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 Recommends</b>
	<b>\$60,000</b>	<b>Tax Levy</b>	<b>Approval 6-0</b>

“To see if the Town will vote to raise and appropriate a sum of money for the purchase and installation of a domestic hot water heater at the Town Pool facility, including the payment of costs of demolition, architectural and engineering services, original equipment, construction, landscaping, paving and other site improvements, or other costs incidental or related to such installation, and to determine whether the money shall be provided by the tax levy, by transfer from available funds, including enterprise funds, by borrowing, or by any combination of these methods, or act in any other manner in relation thereto.”

*“(Inserted by the Select Board)”*

DESCRIPTION: At the 2022 Annual Town Meeting, the funding was appropriated for engineering and design work for a new domestic hot water heater to be installed in the bath house at the Town Pool facility. This article is a request to move forward for the purchase and installation as approved by the Select Board.

*(Town Warrant)*

Article 16(h) of the 2022 Annual Town Meeting appropriated \$31,000 for an engineering study for the center pool domestic hot water heater (this is for the bathroom hot water, not the pool water). The motivation was to examine non-fossil fuel options since the existing heater is oil fired. This study was performed by SED Associates (SED) and completed on September 13, 2022. SED considered eight options, ranging from a “Standard” (resistance-heating) Electric Water Heater to “Instantaneous” Electric on-demand, to several Heat-Pump-based systems—including hybrid heat pumps supplemented with solar heating—to a baseline oil-fired option.

The study results have been presented to the Select Board and the Recreation Committee, both of whom agree that a Solar Hot-Water option with heat-pump backup is the best option. Considering other options, SED estimated annual operating costs of \$4,916 for electrical resistance heating; \$1,544 for the solar+heat pump option (the selected option); and \$8,628 for the oil-fired replacement (assuming \$3.20/gal which is admittedly lower than current fuel costs). The approximate construction cost for the Board-recommended option is \$36,000 (\$29,700 + \$6,300 electrical work. The \$60,000 request includes an additional \$10,000 to \$15,000 of demolition costs of the current unit, and \$10,000—\$15,000 of contingency, which

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this Committee believes is prudent given the current construction environment. The lifecycle cost of resistance heating is significantly higher because it would require electrical upgrades on both the external electric feed and the interior of the project.

Although approximately \$10,000 of the Article 16(h) appropriation remain unused, it will not be used for the construction funding and therefore will be released.

<b>Article 11: APPROPRIATE FOR CENTER STREETSCAPE SIDEWALK EXTENSION</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommends</b>
	<b>\$700,000</b>	<b>Tax Levy</b>	<b>Approval 6-0</b>

“To see if the Town will vote to appropriate a sum of money to replace sidewalks in and around the Town center; and determine whether the money shall be provided by the tax levy, by transfer from available funds, by borrowing, or by any combination of these methods; or act in any other manner in relation thereto.”

*“(Inserted by the Select Board)”*

“DESCRIPTION: The Center Streetscape Project was approved at the Spring 2020 Annual Town Meeting. The project focused on storefront to storefront along Massachusetts Ave and did not include sidewalks extending from the center. DPW has identified 3 areas that are in need of new sidewalks for both safety and aesthetics. These areas include:

- a) The sidewalks on Meriam Street from Mass Ave to the Alley (from Abbotts to Pinots Palette) and from Mass Ave to the Visitor’s Center. Approximately 315 lineal feet.
- b) The sidewalks on both sides of the Emery Park driveway along the storefronts (from Eastern Bank to Sanyo and from Brookline Bank to Lexington Liquors). Approximately 316 lineal feet.
- c) The sidewalk on Edison Way from Mass Ave to the first driveway (from Beijing to the end of the building). Approximately 120 lineal feet”

*(Town Warrant)*

This article seeks funding for construction of sidewalks along three designated entryways extending Northward and perpendicular to Massachusetts Avenue in the center business district. This is essentially a proposed extension of the Center Streetscape Project. In keeping with the prior decision of the Select Board that sidewalks that were brick prior to commencement of the project should remain brick, these sidewalk extensions would be constructed of brick. State of the art curb cuts would also be installed, similar to other recent construction in the project.

The DPW proposes engaging the same contractor (I. W. Harding Construction Co., Inc), using a Change Order, that is currently completing the Center Streetscape Project. This contractor has indicated availability to complete these sidewalk extensions in the 2023 construction season. The advantages of engaging the same contractor are (1) avoiding the need for a separate public procurement, which would likely be more expensive in today’s environment, and (2) taking advantage of the fact that the Town has already given the contractor substantial feedback about the town’s requirements for smoothness and quality of the brick, resulting in increased quality of construction as the Center Streetscape Project has progressed. This project has been advanced to Special Town Meeting so that the contractor can be engaged and prepared for the upcoming construction season.

As these current sections of brick sidewalk are degraded and uneven (especially along Edison Way), this extension of the project would improve accessibility of the center business district from key points such as the Visitor’s Center, the Depot, the parking area behind CVS, and the bikeway. This extension would also improve the overall look and feel of the project in areas readily visible from Massachusetts Ave.

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<b>Article 12: CREATION OF HOUSING TRUST</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommends</b>
	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>Approval 6-0</b>

“To see if the Town will vote to:

- a. establish a municipal affordable housing trust pursuant to Massachusetts General Laws Chapter 44, Section 55C; and
- b. add a new Chapter to the Town's Code of Bylaws to govern said municipal affordable housing trust; or act in any other manner in relation thereto.”

*“(Inserted by the Select Board at the request of the Affordable Housing Trust Study Committee)”*

“DESCRIPTION: This article, Lexington would join 128 Massachusetts towns and cities that have adopted Massachusetts General Laws Chapter 44, Section 55C, to create a municipal Affordable Housing Trust. The Affordable Housing Trust would be a Town of Lexington municipal entity and fund, with fiscal oversight by the Finance Department. The Select Board would appoint the Trust’s Board, and a member of the Select Board could be required to be a member of the Trust Board by bylaw. An Affordable Housing Trust is a municipal funding entity that can help fund the construction of new affordable homes, help fund the rehabilitation of affordable homes, increase the affordability of income-restricted homes in new developments, and preserve affordable homes whose affordability restrictions are expiring. The Affordable Housing Trust can also act quickly to acquire or hold land for affordable housing when opportunities arise.”  
*(Town Warrant)*

There is a pressing need for more affordable housing units across the Commonwealth and locally here in Lexington. Despite Lexington’s efforts, the Town’s affordable housing stock has remained static over the last 10 years. Lexington currently faces several challenges in adding affordable housing. Two principal challenges are the many-month, multi-step process for appropriating money to acquire land or property, and high construction costs due to having to comply with public procurement and prevailing wage regulations. An Affordable Housing Trust (AHT), especially when partnered with an independent-nonprofit housing corporation (see Article 14), is an important tool to address these challenges and is used by 128 towns and cities in Massachusetts.

Article 12 concerns the first part of this combination—the creation of an AHT. An AHT would act primarily as a source of funds to (1) buy land, (2) buy housing (buildings), (3) finance construction (for example by providing funds to LexHAB or other affordable housing entity). The Trust can act quickly to purchase property when opportunities arise (typically we miss out on two or three potential purchases each year) since once funds are in the Trust there is no need to go to the Community Preservation Committee (CPC) or Town meeting. The Town will not own the housing. Town funds or AHT funds require an affordable housing deed restriction, as well as Town monitoring and compliance of a project, in addition to AHT oversight. Note the Trust Board has a member of the Select Board and purchases above a threshold—which is yet to be set but is recommended to be the average value of a single-family home in Lexington or approximately \$1.6 million—must go to the full Select Board for approval. In addition, there will be significant oversight of the Trust by the Town Finance Department and the Trust statute requires that CPA funds appropriated from the AHT retain all CPA requirements and constraints.

Approval of this Article is an important step towards improving the Town’s ability to provide additional affordable housing in town. An Affordable Housing Trust will streamline and enable efficient, effective funding of affordable housing and improve the Town’s ability to generate more affordable housing units. While there will be reduced Town Meeting involvement, significant Town oversight remains. The CEC believes this is a favorable trade-off to begin to address the pressing need for additional affordable housing units in town.

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<b>Article 14: LEXHAB REORGANIZATION</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommends</b>
	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>Approval 6-0</b>

“To see if the Town will vote to authorize the Select Board to petition the General Court for legislation reorganizing the Lexington Housing Assistance Board (LexHAB) as an independent nonprofit housing corporation; and further to authorize the Select Board to approve amendments to said act before its enactment by the General Court that are within the scope of the general objectives of the petition; or act in any other manner in relation thereto.”

*“(Inserted by the Select Board at the request of LexHAB)”*

“DESCRIPTION: The purpose of this article is to allow the Select Board to petition the General Court for special legislation that will reorganize the Lexington Housing Assistance Board (LexHAB) as an independent, nonprofit housing corporation. This will allow LexHAB to more efficiently and effectively carry out its mission of developing, managing and preserving affordable housing in Lexington.”

*(Town Warrant)*

Our Committee supports LexHAB’s petition to reorganize from a quasi-municipal entity to an 501c3 independent nonprofit housing corporation. Founded in 1983, LexHAB has been, along with the Lexington Housing Authority (LHA), responsible for developing and managing affordable housing units in Lexington (excluding those units associated with Chapter 40B developments). While affordable housing has become a top Town priority, LexHAB’s effectiveness has diminished due to challenges posed by Lexington’s competitive, fast-moving housing market and the requirement to use the public-procurement process for its capital projects. Its most recent initiative to construct six units of Affordable Housing at 116 Vine Street (2022 ATM, Article 10(k)) had to be Indefinitely Postponed due to concerns over the high development costs. By contrast, the Housing Corporation of Arlington (HCA), which was started 3 years after LexHAB, has 150 units as a result of its 501c3 non-profit status.

If Town Meeting approves this Article and the State legislatures concur, LexHAB could deploy financial resources more effectively as it would not be bound to use the public-bidding process, which contributed to a 2.4x increase in the development cost per unit since 2017. With inflation substantially higher, LexHAB needs more flexibility to choose construction partners that can fulfill Lexington’s affordable housing objectives.

As an independent 501c3 non-profit, we believe that LexHAB can diversify its revenue sources beyond the contributions from the Town, which are primarily by the CPC, and, if approved by Town Meeting, the new Affordable Housing Trust (see Article 12). A 501c3 is more attractive to private donors seeking clear tax incentives. If LexHAB takes a further step and becomes a Community Development Housing Corporation, it would be eligible to access further funds from a Community Investment Tax Credit Program and can pursue State and Federal grants, and partner with larger developers.

We also believe it is appropriate that LexHAB seek approval at this STM given the importance of affordable housing development to the Town. By having Town Meeting approve the petition and submit proposed legislative changes to the State legislatures by January 2023, there is a chance to expedite the customary two-year legislative cycle.



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However, this Committee maintains concern that this Article and subsequent legislation would remove much of the current oversight function accorded to the Select Board. Specifically, the Select Board would cede to LexHAB's Board the authority to:

- make and execute contracts,
- acquire, lease, purchase, and sell real property, and
- enter into agreements with government authorities.

Second, assuming a Lexington Affordable Housing Trust is formed, this would move CPC Affordable Housing monies one more step away from CPC oversight.

These two concerns are somewhat mitigated by the final approval authority that will be granted to the Select Board for LexHAB Board appointees.

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**Specified Stabilization Funds**

Review of Lexington's Specified Stabilization Funds for Applicability to the Lexington Capital Expenditures Committee's Reports to a Lexington Town Meeting				
Town Warrant, Town of Lexington, for 2022 Annual Town Meeting on March 28, 2022, signed January 24, 2022 Article 19 ESTABLISH, AMEND, DISSOLVE AND APPROPRIATE TO AND FROM SPECIFIED STABILIZATION FUNDS				
"To see if the Town will vote to create, amend, dissolve, rename and/or appropriate sums of money to and from Stabilization Funds in accordance with Massachusetts General Laws, Section 5B of Chapter 40 for the purposes of: (a) Section 135 Zoning By-Law, (b) Traffic Mitigation, (c) Transportation Demand Management/Public Transportation, (d) Special Education, (e) Center Improvement District; (f) Debt Service, (g) Transportation Management Overlay District, (h) Capital; (i) Payment in Lieu of Parking; (j) Visitor Center Capital Stabilization Fund; (k) Affordable Housing Capital Stabilization Fund; (l) Water System Capital Stabilization Fund; and (m) Ambulance Stabilization Fund; determine whether such sums shall be provided by the tax levy, by transfer from available funds, from fees, charges or gifts or by any combination of these methods; or act in any other manner in relation thereto."				
Warrant		Town Meeting (ATM=Annual; STM=Special)		Capital Related
Sequence	Name	Created	Purpose	
(a)	Section 135 Zoning By-Law	2007 ATM, Art 39	"for the purpose of financing public improvements pursuant to Section 135 of the Code of Lexington"	Yes
(b)	Traffic Mitigation	2007 ATM, Art 39	"for the purpose of financing traffic mitigation projects pursuant to conditions of special permits issue by the Town"	Yes
(c)	Transportation Demand Management/Public Transportation	2007 ATM, Art 39, & repurposed under 2016 ATM, Art 21b	"for the purpose of supporting the planning and operations of transportation services to serve the needs of town residents and businesses"	No
(d)	Special Education	2008 ATM, Art 24	None stated when created, but Appropriation Committee Report to that Town Meeting says "for setting aside reserves to help cover unexpected out-of-district Special Education expenses that exceed budget"	No
(e)	Center Improvement District	2009 ATM, Art 25	"to fund needed improvements in Lexington Center"	Yes (some actions)
(f)	Debt Service	2009 ATM, Art 26	"for the purpose of paying a portion of the debt service on certain outstanding bonds of the Town issued for the purpose of the Diamond Middle School, Clarke Middle School and High School construction projects"	Yes
(g)	Transportation Management Overlay District	2011 ATM, Art 20	"for the purpose of financing transportation infrastructure improvements per Section 135-43C of the Code of the Town of Lexington"	Yes
(h)	Capital	2012 STM 19 Nov, Art 3, & renamed under 2015 ATM, Art 26e	Originally name "Capital Projects/Debt Service Reserve/Building Renewal Fund"; purposes remained the same when renamed	Yes
(i)	Payment in Lieu of Parking	2017 ATM, Art 24	"for the purpose of management, construction and acquisition of public parking and related improvements, including bicycle and pedestrian accommodations serving Lexington"	Yes (some actions)
(j)	Visitor Center Capital	2018 ATM, Art 26	"for the purpose of funding the capital improvements and replacement of the Visitors Center"	Yes
(k)	Affordable Housing Capital	2018 ATM, Art 26	"for the purpose of funding affordable/community housing construction, renovation, and associated land acquisition or easements"	Yes
(l)	Water System Capital	2018 ATM, Art 26	"for the purpose of funding capital improvements of the water-distribution system"	Yes
(m)	Ambulance	2018-1 STM, Art 8	"for the purpose of funding the purchase of ambulances"	Yes

Prepared 30 Jan 2022