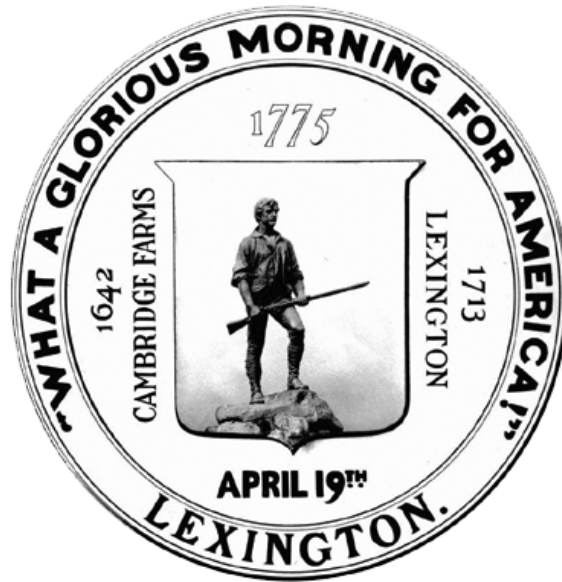


APPROPRIATION COMMITTEE
TOWN OF LEXINGTON



REPORT TO
SPECIAL TOWN MEETING 2023-1

RELEASED October 31, 2023

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	SF	Stabilization Fund
RE	Retained Earnings	IP	A motion to Indefinitely Postpone is expected
RF	Revolving Fund		

SPECIAL TOWN MEETING 2023-1

Art- icle	Title	Funds Requested	Funding Source	Committee Recommendation
2	Appropriate for Prior Years' Unpaid Bills	\$402,987	Tax Levy	Approve (8-0)
3	Establish, Amend, Dissolve and Appropriate To and From Specified Stabilization Funds	\$2,699,381	Tax Levy	Approve (8-0)
4	Amend FY2024 Operating, Enterprise and CPA Budgets	<i>See below</i>	<i>See below</i>	Approve (8-0)
5	Appropriate for Authorized Capital Improvements	None	N/A	IP (8-0)
6	Appropriate Opioid Settlement	\$187,927	Statewide Opioid Settlement	Approve (8-0)
7	Appropriate Housing Resale and Rental Monitoring Fees	None	N/A	IP (8-0)
8	Appropriate for Speed Hump Pilot Program	\$101,000	Traffic Mitigation SF	Approve (8-0)
9	Authorize Home Rule Petition for Special Legislation—Establishing the Election of Town Offices Using Ranked Choice Voting	None	N/A	Disapprove (3-4-1)

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 2023 Annual Town Meeting* on March 20, 2023. 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

There have been no changes in the membership of the Committee.

Reserve Fund

As of publication, there have been no requests for transfers from the Reserve Fund and the balance remains at \$750,000.

Developments Since Adoption of the FY2024 Budget

On July 10, 2023, the Committee reviewed final budget adjustments for FY2023 as recommended by Town staff. The end-of-year (EOY) budget adjustments were:

1. The transfer of \$12,800 from "Town Manager - Professional Services" to "Property & Liability Insurance"
2. The transfer of \$13,000 from "Select Board - Contractual Services" to "PEG Access - LexMedia Contractual Services"
3. The transfer of \$187,000 from the Salary Adjustment Account to "Police - Regular Wages"
4. Authorization to increase the spending limit of the Health Programs Revolving Fund by \$10,000 from \$45,000 to \$55,000.

The Committee voted to approve the EOY transfers from the Town Manager and Select Board budget line items, and to increase the spending limit for the Health Programs Revolving Fund. The transfer from the Salary Adjustment was approved by the Select Board.

Planning for the FY2025 budget began on October 18, 2023 at Budget Summit I, a joint meeting of the Select Board, School Committee, Capital Expenditures Committee and Appropriation Committee. The summit opened with a review of the financial results from FY2023 which concluded on June 30, 2023. These results must be certified by the state Dept. of Revenue to determine the Town's cash balances before they can be appropriated.

At the end of FY2023, the education budget (which includes Lexington Public Schools and Minuteman Regional High School) turned back approximately \$3.4 million. Those funds included \$402,987 resulting from an unpaid bill that will be corrected under Article 2. The bulk of the education turn back was \$2.7 million from LPS. The Shared Expense budget turned back approximately \$2.8 million, of which about \$2 million was due to lower than expected costs for employee benefits. The Municipal budget turned back approximately \$1.1 million. As a result, approximately \$7.3 million will flow to Free Cash (note that this makes up only one part of Free Cash). Town staff expects Free Cash to be certified in mid-November, but this will be too late to use the funds at this town meeting.

The Town's New Growth has been certified by the state Dept. of Revenue. The FY2024 budget used a conservative estimate of \$3 million in New Growth of the tax levy. The certified figure is \$5,723,276, which exceeds the budget figure by \$2,723,276. This, in combination with some small changes in State Aid, the release of \$400,000 from the Snow & Ice budget, and payments from the Opioid Mitigation Settlement, add up to \$3,375,295 in additional revenue for FY2024 that will be appropriated at this town meeting.

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

SPECIAL TOWN MEETING 2023-1

Article 2 Appropriate for Prior Years’ Unpaid Bills		
Funds Requested	Funding Source	Committee Recommendation
\$402,987	Tax Levy	Approve (8-0)

The final payment of the FY2023 annual assessment for the Minuteman Regional High School was not issued prior to the close of the fiscal year. All funds for the assessment were fully appropriated in the FY2023 operating budget, and this does not represent any additional payment to the Minuteman Regional High School beyond the annual assessment.

Unfortunately, the FY2023 funds that were originally appropriated will not be available for re-appropriation until after the State Department of Revenue (DoR) certifies the Town’s Free Cash, which we anticipate will happen later in November. In practice, those funds will not be available for appropriation until the 2024 Annual Town Meeting.

Rather than waiting until next spring, staff recommends making the final payment now. The appropriation will be funded from the tax levy, which has the necessary funds now that the DoR has certified the Town’s New Growth.

Had the payment been made on schedule, this \$402,987 from the tax levy would likely have been included in the appropriation to the Capital Stabilization Fund (CSF). The original funding that is currently unavailable will flow to Free Cash, and it could be appropriated into the CSF in the spring.

Article 3 Establish, Amend, Dissolve and Appropriate To and From Specified Stabilization Funds		
Funds Requested	Funding Source	Committee Recommendation
\$2,699,381	Tax Levy	Approve (8-0)

This article requests an appropriation into the Capital Stabilization Fund (CSF). This size of the request is based on budget guidelines that are discussed in more detail below.

The CSF was established as a repository of funds to mitigate debt service payments on future capital projects. In September 2021 at the Fall Fiscal Guidelines Summit, the Town Manager presented a proposed Capital Stabilization Funding Framework that would ensure regular and increasing annual appropriations into the CSF. Taking advantage of robust growth in the Town’s commercial tax base, the framework dedicates incremental “new growth” revenue derived from certain new commercial developments (those in the Hartwell area and planned developments approved by Town Meeting). This is recurring revenue and it is added to a recurring annual appropriation into the CSF. This guideline has been applied from 2021 onward.

At the 2023 ATM, \$1,773,137 was appropriated into the CSF based on dedicated new growth revenue from FY2023 and FY2022. New growth in FY2024 includes \$2,303,236 from developments flagged under the CSF guideline. This revenue will be added to the dedicated annual appropriation into the CSF in this year and in future years.

In addition to the dedicated revenue, this article seeks to appropriate the remaining unused new revenue of \$396,145 into the CSF on a one-time basis. The sources of this new revenue are discussed in the Introduction, and the Town routinely appropriates one-time revenue not needed for any other purpose into the CSF. The sum of the newly dedicated revenue and the one-time revenue is \$2,699,381.

The primary capital project on the horizon that will draw on the CSF is the renovation or replacement of Lexington High School. On March 2, 2022, the Massachusetts School Building Authority (MSBA) invited the Town of Lexington into the MSBA’s Eligibility Period for a new or renovated Lexington High School. The project is currently at the start of the design phase and is expected to take five to six years.

Article 4 Amend FY2024 Operating, Enterprise and CPA Budgets		
Funds Requested <i>See below</i>	Funding Source <i>See below</i>	Committee Recommendation Approve (8-0)

At last spring’s Annual Town Meeting (ATM), operating and enterprise fund budgets were presented and approved based on the *FY2024 Recommended Budget and Financing Plan* published on March 3, 2023. This article allows Town Meeting to make adjustments to those budgets to account for developments which have occurred since the ATM. Line numbers in the tables for this section refer to budget categories in the *Plan* and the motion approved under Article 4 at the spring ATM.

There are no proposed changes to the CPA budget at this special town meeting.

Operating Budget

Line		From	To	Change
2600	Facilities - Building Maintenance	\$ 13,975,403	\$ 14,060,403	\$ 85,000

The sole amendment proposed for the FY2024 operating budget is an increase in the line item for the Public Facilities Department of \$85,000. This increase would be funded from the additional tax levy revenue that has become available since the 2023 Annual Town Meeting, as summarized in the Introduction.

The Public Facilities Department has requested these additional funds to take over the maintenance and seasonal opening of several small, existing Town buildings which have heretofore been maintained by the Recreation Department or the Department of Public Works and not adequately funded. The buildings include a shed near one of the Town’s two water towers that houses radio equipment; the pool houses at the Center Recreation Complex and the Old Res; the restroom/storage structure adjacent to the high school track; and the new Westview Cemetery building.

Water/Wastewater Enterprise Funds

Two categories of adjustments are proposed for the water and wastewater enterprise fund budgets. Both are essentially housekeeping matters.

The first updates the appropriations for MWRA assessments. The appropriations made at the 2023 ATM for MWRA water and wastewater assessments were based on assumed increases of 10%. The MWRA issues preliminary assessments in February and final assessments to each of its member communities in June of each year, after the close of the ATM. The proposed revisions amend the water and wastewater budgets to reflect the final assessments. The revised appropriations will be used when the Select Board sets FY2024 water and wastewater rates later this fall.

Line		From	To	Change
3620	MWRA Water Assessment	\$ 9,342,814	\$ 8,832,742	\$ (510,072)
3720	MWRA Wastewater Assessment	\$ 9,349,530	\$ 8,861,891	\$ (487,639)

The second proposed adjustment updates the debt service appropriations made for the water and wastewater funds. The appropriations at the 2023 ATM were based on estimates of the debt service to be incurred in FY2024. The revised appropriations reflect the actual amounts finalized subsequent to the ATM.

Line		From	To	Change
3600	Water Fund Debt Service	\$ 2,393,902	\$ 2,375,660	\$ (18,242)
3700	Wastewater Fund Debt Service	\$ 1,492,248	\$ 1,406,381	\$ (85,867)

Article 5 Appropriate for Authorized Capital Improvements		
Funds Requested	Funding Source	Committee Recommendation
None	N/A	IP (8-0)

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

Article 6 Appropriate Opioid Settlement		
Funds Requested	Funding Source	Committee Recommendation
\$187,927	Statewide Opioid Settlement	Approve (8-0)

This article seeks to appropriate \$187,927 recently received from the State into the Opioid Settlement Account, an account created last year and maintained in the General Fund. The funds represent Lexington’s share of this year’s installment of settlement payments made to the Commonwealth of Massachusetts under the Statewide Opioid Settlements entered into between the Massachusetts Attorney General and certain non-bankrupt opioid industry participants in 2021 (the “2021 Settlements”). The 2021 Settlements provided approximately \$500 million to the Commonwealth, and the funds began flowing in June of 2022.¹

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

The 2021 Settlements contain strict requirements for the Town’s handling and use of settlement funds. The payments must be appropriated into the General Fund and may only be used to fund opioid prevention, harm reduction, treatment and recovery programs. Once appropriated, the funds will be available for spending for the stated purposes at the discretion of Lexington’s Director of Public Health.

It should be noted that three additional nationwide opioid settlements were entered into between the states and other members of the industry in 2022 (the “2022 Settlements”). Under the 2022 Settlements: (1) distributor Walmart will provide \$61 million to the Commonwealth; (2) manufacturers Teva and Allergan will provide \$130 million to the Commonwealth; and (3) distributors CVS and Walgreen’s will provide \$230 million to the Commonwealth. The State will then, once again, share the settlement amounts with participating municipalities. Lexington has yet to receive funds under the 2022 Settlements.

¹ For further details, see the Attorney General’s statement online:
<https://www.mass.gov/info-details/learn-about-the-ags-statewide-opioid-settlements-with-opioid-industry-defendants>

Article 7 Appropriate Housing Resale and Rental Monitoring Fees		
Funds Requested	Funding Source	Committee Recommendation
None	N/A	IP (8-0)

This article originally intended to request approval to automatically appropriate two affordable housing fees into the Affordable Housing Trust (AHT) with no further approval required by town meeting. The Affordable Housing Rental Monitoring fees and the Affordable Housing Resales fees were established via written agreements with a subset of developers that build and maintain affordable housing in Lexington. These agreements obligate the Town to use the funds to monitor the developers’ affordable housing compliance, The fees are currently deposited into the General Fund and support the operating budget of the Land Use/Planning Division.

The Town contracts with the nonprofit Regional Housing Services Office (RHSO) to perform services related to affordable housing, including the monitoring of rents. Additionally, RHSO provides the following services: committee/board staff assistance with new projects, HOME Administration, Regional Services, and facilitating regulatory approvals from the Executive Office of Housing & Livable Communities. RHSO was paid \$32,923 in FY2023 and \$39,971 in FY2024.

Currently \$12,970 in fees for Affordable Housing Rental Monitoring are collected annually. Affordable Housing Resale fees are paid by the buyer when an income/asset controlled unit is sold. Only two payments have been made under this program, \$6,820 in FY2023, and \$5,000 in FY2020, averaging out to roughly \$4,000 per year.

On October 26, 2023, the Affordable Housing Trust requested indefinite postponement of this article after two issues came to light. First, the fee revenue in question is tied to an ongoing operating expense (RHSO’s contract) and transferring this revenue to the AHT would create a roughly \$13,000 shortfall for the Town’s operating budget. Second, the developers’ agreements explicitly state that the fees will be used to pay for rent monitoring. To maintain compliance with the agreement, the AHT would have to pay for the RHSO contract, but such a change is outside the scope of this warrant article.

Article 8 Appropriate for Speed Hump Pilot Program		
Funds Requested	Funding Source	Committee Recommendation
\$101,000	Traffic Mitigation SF	Approve (8-0)

This article requests \$101,000 to implement a pilot program to install temporary speed humps on Walnut St. in south Lexington. Walnut St. extends south from Concord Ave. to the Waltham line where it turns into Woburn St and then connects with Trapelo Rd. Residents on Walnut St. have requested the installation of speed humps to reduce the speed of vehicles on that street. In response, the Transportation Safety Group is proposing to study the use of speed humps on Walnut St. using temporary speed humps.

This is a capital request, meaning that the appropriation may be used for costs incurred after the current fiscal year.

An evaluation would be done after the speed humps have been in place for 6 months or so in 2024 and repeated in 2025. The second six-month trial provides an opportunity to change, for example, the number and placement of the speed humps, especially if the results of the trial over the first season suggest that changes may yield better results. The results would inform where, when and how permanent speed humps should be installed on Walnut St. These temporary speed humps would not stand up to snow plowing so they will be removed during the time when plowing might be necessary.

The pilot program would include:

- An engineering study to determine number, location, and size of the speed humps
- Purchase of re-usable, temporary, rubber speed humps and warning signs
- Installation and removal of speed humps and signs for two periods
- Pre- and post-engineering, public safety, and neighborhood evaluation

The expectation is that the engineering study will recommend that either 3 or 4 speed humps should be installed. The funds requested under this article are sufficient for installation of 4 temporary rubber speed humps. An itemized list of the estimated expenses is presented in the table below. The grand total has been rounded up to \$101,000.

Item	Unit Cost	No.	Amount
Speed humps	\$7,000	4	\$ 28,000
Hardware	\$630	4	\$ 2,520
Warning signs	\$310	4	\$ 1,240
Design and engineering			\$ 8,000
Post-pilot engineering and study			\$ 4,100
Installation	\$1,850	8	\$ 14,800
Removal	\$1,850	8	\$ 14,800
Police detail (one day)	\$480	4	\$ 1,920
Storage container			\$ 5,200
Sub-Total			\$ 80,580
Contingency (25%)			\$ 20,145
Grand Total			\$ 100,725

The rubber speed humps themselves could be reused at another site after they are removed from Walnut St.

Further details may be found in a memorandum on the STM 2023-1 web page²—see “Background material plus map (PDF)” under Additional Materials for Article 8.

Article 9 Authorize Home Rule Petition for Special Legislation—Establishing the Election of Town Offices Using Ranked Choice Voting		
Funds Requested	Funding Source	Committee Recommendation
None	N/A	Disapprove (3-4-1)

The motion for this article is a home rule petition containing the details of a new bylaw that would implement ranked choice voting (RCV) in Lexington. In the Warrant, the description for this article mentioned \$12,500 in initial expenses, plus ongoing annual operating expenses, which was based on information from the Town Clerk, who is responsible for administering elections. The motion does not include an appropriation request, and if the motion is approved the petition will be submitted to the state legislature, but no expenses will be incurred prior to approval by the legislature. The soonest we would anticipate any impact on the operating budget is FY2025.

When considering this article, the Committee believes Town Meeting should weigh the future financial impact of a transition to RCV. The proponent has identified a minimal baseline expense of \$12,500 to upgrade our current ballot counting system, plus an additional \$1,200 in ongoing annual maintenance. This cost would cover both software and hardware to support the RCV vote tally process, including a dedicated laptop computer that would produce final election results. To maintain election security and enhance public confidence in the results, this dedicated computer will have no network communication ability, and will only receive and transmit information by removable media (USB memory stick).

In addition to this baseline cost, we anticipate further expenses. At a minimum, some form of voter education program will be necessary to prepare voters for participating in a new voting process. It is possible that the Town could engage a consultant to assist with the rollout of RCV. On the printed ballots given to voters, the tabular array of choices for an RCV election takes up more space than the simple column of choices we are familiar with. In the worst case, this could increase the printing cost of ballots.

Some towns have already approved motions seeking home rule petitions for RCV, including Amherst, Arlington, Brookline, and Concord. In addition, Boston and over a dozen other towns are considering home rule petitions for

² <https://www.lexingtonma.gov/1805/2023-1-Special-Town-Meeting>

RCV. This motion is based on Concord's home rule petition, which was reported out favorably by the Joint Committee on Election Laws in 2022.

The Committee's opinion is strongly divided, with four members recommending disapproval, three in favor, and one abstaining. Objections to the motion largely focus on the lack of a perceived need for ranked choice voting in local elections, rather than the minor financial impact. There have been very few Town elections, if any to date, in which the adoption of RCV would have made a difference, and any potential benefit of changing the *status quo* would be outweighed by the additional complexity and expense. One member is concerned that the proposed special act does not condition the adoption of RCV on a town-wide referendum and believes that voters themselves, not Town Meeting, should be the final arbiters as to how they wish to vote. Finally, one member was disappointed that the motion now excludes Town Meeting Member elections.

The three members recommending approval all agree that RCV is a significant improvement over plurality voting, and that adopting RCV for town-wide elections now would prepare voters in the event that RCV is adopted for statewide elections under a possible ballot choice referendum in 2026.