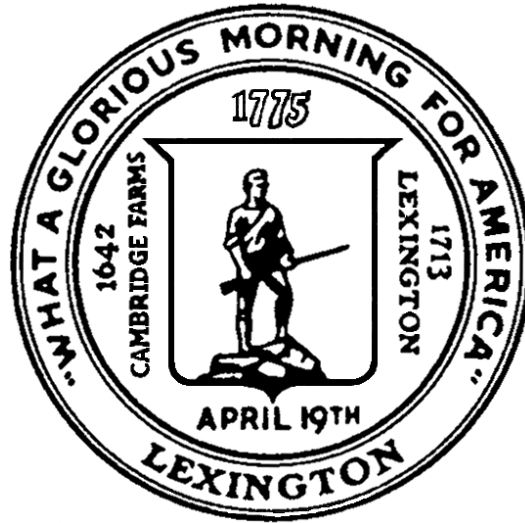


# CAPITAL EXPENDITURES COMMITTEE

## TOWN OF LEXINGTON



### REPORT TO THE 2012 SPECIAL TOWN MEETING (STM) November 19, 2012

*Released November 13, 2012*

**Submitted by:**

Charles Lamb, Chair  
Beth Masterman, Vice-Chair  
Jill I. Hai  
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## Warrant Article Analyses and Recommendations

<b><i>Article 2: Amend FY2013 Operating, Enterprise Fund and Community Preservation Budgets</i></b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
	<b>\$161,507 for Lexington’s Community Preservation Fund</b>	<b>Massachusetts Community Preservation Trust Fund</b>	<b>Approve (5–0)</b>

“To see if the Town will vote to make supplementary appropriations, to be used in conjunction with money appropriated under Articles 4, 5 and 8 of the warrant for the 2012 Annual Town Meeting, to be used during the current fiscal year, or make any other adjustments to the current fiscal year budgets and appropriations that may be necessary; to determine whether the money shall be provided by the tax levy, by transfer from available funds, from Community Preservation funds or by any combination of these methods; or act in any other manner in relation thereto.

“DESCRIPTION: This is an article to permit adjustments to current fiscal year (FY2013) appropriations of the general fund, enterprise funds and Community Preservation budgets.”  
 [Town of Lexington Warrant to the 2012 STM, November 19, 2012]

At the time the FY2014 budget was prepared, the Massachusetts Department of Revenue (DOR) was projecting that communities participating under the Community Preservation Act (CPA) would be receiving a supplemental distribution from the State’s Community Preservation Trust Fund this fiscal year in the first round of distribution of 22% of the surcharges collected by the community on its prior-year’s property taxes. That percentage was down from the prior year’s actual rate of 26.6% based on a projection of reduced transactions at the Registries of Deeds and, therefore, reduced surcharges on those transactions which provide the revenue for that Trust Fund. (The just completed Trust Fund year included revenue from Registries’ collections in September 2011 through August 2012.)

As this Town authorized the maximum CPA surcharge of 3% on its property taxes (with certain exemptions), it participates in two additional rounds of distribution calculations. Because those additional rounds had provided 1% more in distribution over the past two years, our FY2014 budget had used 23% to project its supplemental distribution for FY2014. That was a projection of \$768,000 based on an estimated FY2013 CPA surcharge of \$3,342,000.

This Committee had been tracking the month-by-month surcharge collections at the Registries versus those for the prior Trust Fund year and reported that, after a very slow start (the first month was down 17.5%), by the end of that year (the last month was up 36.6%), that Fund had a total revenue for that year which was up 10.2% over the previous year—which augured well that this year’s supplemental distribution would be higher than the DOR’s projection even though there were five more communities receiving distributions than last year. (See this Committee’s Report to the 2012 Annual Town Meeting, released March 23, 2012, beginning on page 10, for more background on this Town’s participation under the CPA.)

When the DOR made this-year’s distribution on October 15, 2012, the first-round percentage was 26.83% and this Town received an additional 0.96% total under the 2<sup>nd</sup> & 3<sup>rd</sup> rounds. That total of 27.79% was just a small increase from last-year’s 27.62%. Including a \$255 additional distribution that DOR made this year to correct for a computational error made in last-year’s distribution, this Town received a distribution of \$929,507 based on our final, net, FY2013 CPA surcharge of \$3,344,371. It is those \$161,507 of additional supplemental funds over the estimate for FY2013 that will be added under this Article to the Community Preservation Fund’s unbudgeted reserve—which provides maximum flexibility in the use of those funds.

<b>Article 3: ESTABLISH AND APPROPRIATE TO SPECIFIED STABILIZATION FUNDS</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
	<b>\$1,600,000 for a new, capital- related, Stabilization Fund</b>	<b>General Fund (Cash)</b>	<b>Approve (5-0)</b>

“To see if the Town will vote to appropriate sums of money to Stabilization Funds in accordance with Section 5B of Chapter 40 of the Massachusetts General Laws for the purposes of: (a) Section 131 Zoning By-Law, (b) Traffic Mitigation, (c) Transportation Demand Management, (d) School Bus Transportation, (e) Special Education, (f) Center Improvement District; (g) Debt Service, (h) Transportation Management Overlay District (TMO-1) and (i) Avalon Bay School Enrollment Mitigation Fund; create and appropriate sums of money to one or more new Stabilization Funds in accordance with Section 5B of Chapter 40 of the Massachusetts General Laws for the purposes of capital projects and/or debt service related thereto; determine whether the money shall be provided by the tax levy, by transfer from available funds, or by any combination of these methods; or act in any other manner in relation thereto.

“DESCRIPTION: This article proposes to establish and/or fund Stabilization Funds for specific purposes. Money in those funds may be invested and the interest may then become a part of the particular fund. The use of these funds may be appropriated for the specific designated purpose by a two-thirds vote of Town Meeting.”

[Town of Lexington Warrant to the 2012 STM, November 19, 2012]

The 2012 Annual Town Meeting (ATM) recognized that there was projected to be \$3,379,821 in unallocated revenue available in FY2013 that had not been considered when that year’s budget had been developed as a result of health-insurance savings from the Town’s transition to participating in the State’s Group Insurance Commission (GIC). While \$1,116,250 of that projection was subsequently appropriated by that Town Meeting to the FY2013 budget, in accordance with the finance committees’ recommendation, the question of how to allocate the then \$2,263,571 balance of the unallocated revenue was deferred until this Special Town Meeting. Since then, the estimate of that still-unallocated FY2013 revenue has been increased to \$3,093,000.

In addition to the above-cited still-unallocated revenue, the Town’s assessors have recently increased, with high confidence, the estimated “New Growth” from \$2,000,000 to \$2,800,000 and that provides an additional \$800,000 of unallocated revenue. (At the time of this writing, that increase has not yet been certified by the State’s Department of Revenue; therefore, while some or all of it can be proposed for appropriation at this Town Meeting, until it’s certified it couldn’t be considered when setting this year’s tax rate next month.) That raises the still-unallocated FY2013 revenue to \$3,893,000.

Under this Article, passage of the Motion would create and initially appropriate \$1,600,000 of that revenue to a new Capital Projects/Debt-Service Stabilization Fund whose purpose would be to provide funding toward capital projects and/or the debt service on such projects. (All such projects and available funding for them are within the scope of this Committee’s responsibility to make recommendations to Town Meeting.) This Committee understands the need for, and endorses, at least that amount of appropriation to that new Stabilization Fund for that purpose.

This Committee takes no position on the appropriation of \$2,293,000 of the balance of those unallocated funds. At this writing, it is expected that \$1,000,000 will be used as a supplemental funding to the Pension Fund; \$500,000 as supplemental funding to the Other Post-Employment Benefits (OPEB) Fund; \$200,000 for the Town’s unexpected, additional, cleanup costs resulting from the passage of superstorm “Sandy” last month; and \$15,000 for property & liability insurance premiums greater than budgeted—all of which will be proposed under Articles 2 & 4 of this Town Meeting. That leaves \$578,000 still

unallocated. While this Committee would welcome having some or all of it added to the new Capital Projects/Debt-Service Stabilization Fund, as the extent of the additional “New Growth” will not be certain until much later in this fiscal year, this Committee understands the BoS’ intention not to appropriate that final balance now. That, in turn, will cause whatever portion isn’t later appropriated for FY2013 to flow to “Free Cash” at the end of FY2013 and thus be available for appropriation for FY2014.

Due to the unexpectedly early timing of the already approved capital projects for the Estabrook, Bridge, and Bowman schools, the Town's overall excluded-from-Proposition–2½ debt service is expected to rise abruptly over the next few fiscal years. This Committee expects the balance in the new Capital Projects/Debt-Service Stabilization Fund will be used to offset the taxpayer impact of that spike and, therefore, that some or all of the monies then in this Fund are expected to be appropriated for that purpose, beginning at the 2013 ATM, once the debt-service load for those recently approved capital projects is known after their funding has been bonded (which bonding, in general, occurs in February).

At this writing, this is the only action that is known to be proposed under this Article

<b>Article 5: ESTABROOK SCHOOL ACCESS IMPROVEMENTS</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
	<b>\$1,500,000</b>	<b>General Fund (Free Cash)</b>	<b>Approve (5–0)</b>

“To see if the Town will vote to raise and appropriate a sum of money for street, drainage, intersection and sidewalk improvements to Grove Street and Robinson Road in connection with the construction of the new Estabrook School, 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.

“DESCRIPTION: This article requests funding for the construction of street, drainage, intersection and sidewalk improvements to Grove Street and Robinson Road [to] improve safety.”  
[Town of Lexington Warrant to the 2012 STM, November 19, 2012]

The 2011 ATM, as the second of two the items under Article 13(b), appropriated \$200,000 for the design and engineering of the right-of-way modifications and upgrading of Estabrook School Site access—which was understood to include addressing whether Robinson Road was the appropriate second access to the new Estabrook School. (Only \$79,900 of that appropriation was used.) Following that investigation, the 2012 ATM, under Article 12(n), approved \$170,000 for the design & engineering of improvements: (1) along Grove Street at, and adjacent to, the intersection with the entrance to the Estabrook School, (2) at the intersection of Grove Street and Robinson Road, and (3) along the full length of Robinson Road to bring it up to Town standards—including making it at least an 18-foot width—and adding a sidewalk. The intersection alignments, the road-height and road-width adjustments, and the creation of a sidewalk all make significant improvements to the overall safety of traveling to, from, and near the new Estabrook School. The proposed work has been closely coordinated with, and supports where applicable, the roadway and drainage work that’s being designed as part of that school’s on-site project.

The designs for all three aspects of this project are based on recommendations from the Estabrook School Access Ad-hoc Task Force, the Lexington Fire & Police Departments; negotiations with the affected abutters; and inputs received from three design workshops held for the neighbors and open to the general public.

This request is for the funds to construct those improvements.

<b>Article 6: APPROPRIATE FOR NEW ESTABROOK SCHOOL</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
	<i>TBD</i>	<b>General Fund (Excluded Debt)</b>	<b>Approve \$2,600,000 (5-0)</b>

“To see if the Town will vote to appropriate an additional sum of money to demolish the existing Estabrook School and construct, originally equip and furnish a new Estabrook School to be located at 117 Grove Street to be expended under the direction of the Permanent Building Committee, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”); and to 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. The Town acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the project shall not exceed the lesser of (1) thirty-three and ninety-six hundredths percent (33.96%), which may potentially increase if, at the discretion of the MSBA, the Town receives any incentive reimbursement points, of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA.

“DESCRIPTION: This article will authorize additional funds to construct a new Estabrook Elementary School.”

[Town of Lexington Warrant to the 2012 STM, November 19, 2012]

The requested funding is to accommodate the increase in the estimated costs of the construction phase of this project as the estimate has been refined during the further development of the construction documents (CD) to their current 60% status. Those documents, when completed, will be the basis upon which the construction-trades bids will be submitted near the end of this calendar year. In addition to the evolution of those documents, cost estimates have been updated to reflect the more challenging bidding environment that is evident at this time. As one example of that—and, in this case, based on actual bids already received—the concrete foundations/structural steel cost is \$704,149 higher than estimated at the preliminary-design stage. In other cases (e.g., Masonry, Interior Woodwork, Windows, and Electrical), the bid market would suggest an additional over-\$1,000,000 increase for other cost elements from that earlier estimate.

When the 2012 Special Town Meeting, April 2, 2012, under Article 2, was asked to appropriate for the new Estabrook School, those \$39,742,248 were to complete the then-estimated total project cost of \$40,792,248. (The \$1,050,000 balance of the funds had been appropriated at the 2011 ATM, as one of the two items under Article 13(b) for the Feasibility Study for the new school—required for the Massachusetts School Building Authority [MSBA] to participate in the project.) That total included a target construction budget of \$31,145,045.

At the 60%-CD stage, the Permanent Building Committee (PBC) was presented two estimates for the construction budget: the general contractor’s (Shawmut Design & Construction [SDC]) estimate was \$33,908,371—\$2,757,701 above the target; the architects’ (DiNisco Design Partnership [DDP]) was about \$800,000 higher for the sub-contractor trade work that is yet to be bid. The PBC, in conjunction with SDC, DDP, and the School Committee, began a multiple-step value-engineering (VE) process where the design was scrutinized to see if there were changes which would provide savings without effecting the general scope of the project and, in any case, not diminishing the educational environment originally planned by the School Committee and presented to the MSBA. The end result was a \$1,505,027 reduction

which, against the SDC estimate, left the construction budget at \$32,397, 719—\$1,252,674 above the construction budget that was included in the currently appropriated funding. While the PBC had originally hoped that the final gap, at this stage, would be much smaller and might be accommodated by lowering the construction contingency (currently \$1,557,252) or other smaller reserves, it decided doing so entailed too much risk at this point in the project.

The current timeline is to have 100% CD (the bid documents) by November 27, 2012, so there is—for all practical purposes—no time left further to adjust the CD; the sub-contractor trade bids to be due by December 19, 2012, and SDC to submit the Guaranteed Maximum Price (GMP) by December 31, 2012. (The final award would be made in January, 2013.) The urgency is both to keep the completion date on schedule and to get to the market before a slew of other pending school projects elsewhere in Massachusetts. In order to be able to make that award, there has to be an adequate appropriation in hand. Without one, the compounding issues with any slippage represent huge problems for the project—and, thus, to the planned transition to the new Estabrook School beginning with moving school material into the new building by June 2014 so demolition of the old building then can begin.

While the current, estimated, shortfall is just under \$1.3 million against the SDC estimate, this Committee believes that at least four factors warrant a substantially larger supplemental appropriation at this Town Meeting to help ensure the current timeline can be maintained.

First, any estimate has a degree of uncertainty and one must not forget that the DDP estimate was \$800,000 higher.

Second, the GMP bids will include the demolition of the old Estabrook School. That phase of the work does not carry the same level of understanding of what might be experienced that was possible in the other construction work and, therefore, carries more risk than the other construction work which might adversely effect those bids. There is also the potential that if hazardous materials are in the demolition, the Environmental Protection Agency (EPA) may levy extensive and extended monitoring and reporting requirements upon the Town that could entail a cost as high as \$500,000.

Third, the Town should not put unreasonable downward pressure on this appropriation request such that there's a good chance it couldn't award on the current timeline and would have to come back to a subsequent Town Meeting for another supplemental appropriation.

Fourth, as has been shown with the Public Services Building Project—which was completed for over \$2 million less than the appropriation—the availability of an appropriation does not diminish the oversight by the Town and its objective only to spend what is needed to successfully complete the project. This Committee is confident the same diligence and objective will apply to the new Estabrook School project.

At its meeting on November 8, 2012, the PBC discussed the other factors it saw, in addition to the \$1,252,674 gap, as putting the award and timely execution of the project at significant risk. It ultimately voted to recommend the additional funding be \$2,600,000. (At this writing, the votes of the School Committee and the BoS on their recommendation have not taken place.)

***Based on the above, at this time this Committee accepts the PBC recommended amount as the prudent additional funding for the new Estabrook School project and recommends that amount to this Town Meeting. Note: It's this Committee's understanding that when considering the factors that have led to this increase: (1) a variance of this amount does not affect the applicability of the citizen's vote to authorize this project as debt excluded from the constraints of Proposition 2½ as the scope has not changed and, by State statute, no dollar amount was included in the referendum question; (2) that such an increase does not jeopardize the previously agreed-to MSBA participation at 33.96% of the costs it deems allowable; and (3) as the current total project cost of about \$40.8 million already includes cost elements for which the MSBA does not provide any reimbursement, any supplemental funding cannot be expected to gain any additional MSBA reimbursement.***

<b>Article 7: APPROPRIATE FOR AUTHORIZED CAPITAL IMPROVEMENTS</b>	<b>Funds Requested</b>	<b>Funding Source</b>	<b>Committee Recommendation</b>
	<i>None</i>	<i>Not Applicable</i>	<b>Indefinite Postponement (5-0)</b>

“To see if the Town will vote to make supplementary appropriations to be used in conjunction with money 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 that have heretofore been authorized; determine whether the money shall be provided by the tax levy, by transfer from the balances in other articles, by transfer from available funds, including enterprise and community preservation funds, by borrowing, or by any combination of these methods; or act in any other manner in relation thereto.

“DESCRIPTION: This is an article to request funds for capital improvement project expenditures that exceed the level of appropriation.

[Town of Lexington Warrant to the 2012 STM, November 19, 2012]

At this writing, there are no actions being proposed.