

## SELECT BOARD MEETING

Monday, March 18, 2024

Select Board Meeting Room, 1625 Massachusetts Avenue, Lexington, MA 02420 - Hybrid Participation\*  
6:00 PM

### AGENDA

#### ITEMS FOR INDIVIDUAL CONSIDERATION

1. 2024 Annual Town Meeting 6:05pm
  - Update - ATM 2024 Article 31: Prohibit Single-Serve Plastic Water Bottles (Citizen Petition)
  - Amendment - ATM 2024 Article 29: Amend the General Bylaw - Noise Control
    - (a) Provide clarity related to construction-related noise complaints
  - Approve Select Board Report to Town Meeting
  - Select Board Article Discussion and Positions
2. Discuss and Approve Expenditure of Funds for Gift of Cash Received for Lowell Street Paving Project and Approve First Amendment to the Intermunicipal Agreement with Town of Burlington 6:20pm
3. Discuss Town Manager Search Process 6:25pm
4. Authorize Town Manager to Execute Easement Between Town of Lexington and Fiske Common Condominium Trust 6:40pm
5. Discuss Appointment of Select Board Member to Cary Library Trustees Nominating Committee 6:50pm

#### ADJOURN

1. Anticipated Adjournment 6:55pm

**Meeting Packet:** <https://lexington.novusagenda.com/agendapublic/>

***\*Members of the public can attend the meeting from their computer or tablet by clicking on the following link at the time of the meeting:***

<https://zoom.us/j/99739813810?pwd=bEZZNE9HK3MyY1AvcWc5d0NsQ0JlQT09>

iPhone one-tap:

+13092053325,,99739813810#,,,\*153496# US

+13126266799,,99739813810#,,,\*153496# US (Chicago)

Telephone:

- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 205 6099 US (New York)

Meeting ID: 997 3981 3810

Passcode: 153496

An Act Relative to Extending Certain State of Emergency

Accommodations: <https://www.mass.gov/the-open-meeting-law>

The next regularly scheduled meeting of the Select Board will be held prior to 2024 Annual Town Meeting on Wednesday, March 20, 2024 at 6:00pm via hybrid participation.

*Hearing Assistance Devices Available on Request*

*All agenda time and the order of items are approximate and subject to change.*



# **AGENDA ITEM SUMMARY**

## **LEXINGTON SELECT BOARD MEETING**

### **AGENDA ITEM TITLE:**

2024 Annual Town Meeting

### **PRESENTER:**

Thomas Wanderer, Citizen Petitioner;  
Matt Daggett; Board Discussion

### **ITEM NUMBER:**

I.1

### **SUMMARY:**

#### **Category: Informing/Decision-Making**

2024 Annual Town Meeting

Thomas Wanderer, Citizen Petitioner, will provide an update to the Select Board on ATM 2024 Article 31: Prohibit Single-Serve Plastic Water Bottles (Citizen Petition).

Matt Daggett will discuss an amendment to ATM 2024 Article 29: Amend the General Bylaw - Noise Control (a) Provide clarity related to construction-related noise complaints.

The Select Board is being asked to approve the Select Board Report to 2024 Annual Town Meeting. The draft report is attached.

The Select Board will discuss articles and take positions for 2024 Annual Town Meeting.

### **SUGGESTED MOTION:**

Move to approve the Select Board Report to 2024 Annual Town Meeting as presented.

### **FOLLOW-UP:**

Select Board Office

### **DATE AND APPROXIMATE TIME ON AGENDA:**

3/18/2024

6:05pm

## ATTACHMENTS:

Description	Type
 Amendment Art 29a Matt Daggett	Backup Material
 Amendement Art 29a description	Backup Material
 Art 31 Prohibit Single-Serve Plastic Water Bottles	Backup Material
 Art 31 motion	Backup Material
 Select Board Working Document - Positions 2024 ATM	Backup Material
 Select Board Report to Town Meeting-clean	Backup Material
 Select Board Report to Town Meeting - MARKUP	Backup Material
 Moderator's Proposed schedule for ATM 2024 - as of 3-8-2024	Backup Material

LEXINGTON TOWN MEETING AMENDMENT FORM

ARTICLE NUMBER:	DATE:
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I, \_\_\_\_\_

move to Amend the Motion

Examples of text for amendments may include statements such as:

By striking the words...	By adding the Following...	By striking in its entirety Section ( ) Paragraph ( ) ...
And by substituting the words...		And by substituting in its place the following Section ( ) Paragraph ( ) ...

Action Taken:	Pass	Fail	Unanimous	Majority	Other
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Suggested Action	Article 29 Original Motion	Article 29 Proposed Amendment
Replace §80-4A(i)	Contractors are permitted to operate tools or equipment used in construction, <del>excluding blast hole</del> including drilling or <b>rock breaking</b> demolition work, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 5:00 p.m. and on Saturdays between the hours of 9:00 a.m. and 5:00 p.m. Such operation is not permitted on Sundays and legal holidays.	Contractors are permitted to operate tools or equipment used in construction, <del>including drilling or demolition</del> <b>excluding ledge</b> work, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 5:00 p.m. and on Saturdays between the hours of 9:00 a.m. and 5:00 p.m. Such operation is not permitted on Sundays and legal holidays.
Replace §80-4A(ii)	Residents are permitted to operate tools or equipment used in construction, including <del>excluding blast hole</del> drilling or <del>demolition work</del> <b>rock breaking</b> on their own property, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 9:00 p.m. and on Saturdays, Sundays and legal holidays only between the hours of 9:00 a.m. and 5:00 p.m.	Residents are permitted to operate tools or equipment used in construction, <del>including drilling or demolition</del> <b>excluding ledge</b> work on their own property, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 9:00 p.m. and on Saturdays, Sundays and legal holidays only between the hours of 9:00 a.m. and 5:00 p.m.
Replace §80-4A(iii)	<del>In addition to the above restrictions, B</del> lasting and the use of powered equipment used in the <b>rock</b> breaking of <del>rock and pavement</del> <b>breaking</b> , including but not limited to hydraulic or pneumatic hammering, by contractors and or residents is permitted on weekdays only between the hours of 9:00 a.m. and 5:00 p.m. and is not permitted on Saturdays, Sundays, and legal holidays. <b><u>Contractors and residents engaged in rock breaking or pavement breaking shall, in addition, be required to comply with all noise mitigation measures requirements in Section 80-8.</u></b>	<del>In addition to the above restrictions, b</del> lasting and the use of powered equipment used <del>for ledge work and</del> in the breaking of <del>rock and pavement</del> , including but not limited to hydraulic or pneumatic hammers, by contractors and residents is permitted on weekdays only between the hours of 9:00 a.m. and 5:00 p.m. and is not permitted on Saturdays, Sundays, and legal holidays. <b><u>In addition, contractors and residents shall be required to comply with all applicable noise mitigation measures and requirements as provided by §80-8 of this by-law.</u></b>

Suggested Action	Article 29 Original Motion	Article 29 Proposed Amendment
Replace §80-8(ii)	<p>A noise mitigation plan required under this § 80-8 shall, at a minimum, require portable sound barriers designed to reduce sound levels outside the barriers by at least 10 dB(A) surrounding and installed as close as practicable to the source of the noise, <b><u>and to limit maximum noise levels to 85 dB(A) or less at the property line.</u></b> These barriers must reduce construction noise to prevent noise injury to Town residents. <b><u>A noise mitigation plan may require, at the discretion of the Building Commissioner, regular noise monitoring and reporting to the Building Commissioner.</u></b> The objective of this bylaw is to keep maximum noise levels under 85 dB(A) at the property line. <b><u>A noise mitigation plan shall include a site plan showing the site boundaries and the locations of nearby residents on all sides. The site plan shall also show the location of ledge to be removed and the locations of each proposed noise-producing equipment and its range of movement.</u></b></p>	<p>A noise mitigation plan required under this § 80-8 shall, at a minimum, require:</p> <p>(a) <b><u>The use of</u></b> portable sound barriers <b><u>specifically designed for mitigating noise</u></b> to reduce sound levels outside the barriers by at least 10 dB(A), surrounding and installed as close as practicable to the source of the noise. These barriers must reduce construction noise to prevent noise injury to Town residents.</p> <p>(b) <del>The objective of this bylaw is to keep</del> <b><u>That the maximum noise sound levels from all noise sources be under 85 dB(A) at the property line.</u></b></p> <p>(c) <b><u>A site plan showing the site boundaries, the locations of proposed ledge work, the locations and range of movement of each proposed noise-producing equipment to be employed, and the locations of nearby residents on all sides of the site.</u></b></p> <p>(d) <b><u>The use of specialized monitoring equipment for the measurement of noise as defined by § 80-6, to be collected throughout the periods defined by § 80-4A, unless waived by the Building Commissioner. Collected monitoring data and compliance reporting shall be made available to the Building Department at regular intervals or upon request.</u></b></p>

Suggested Action	Article 29 Original Motion	Article 29 Proposed Amendment
Replace §80-8(v)	In addition to the general enforcement provisions of Chapter 80, the Building Department in conjunction with the Public Health Department shall have the power to enforce this section.	In addition to the general enforcement provisions of Chapter 80, the Building Department in conjunction with the Public Health Department shall have the power to enforce this section. <b><u>Additionally, the Building or Public Health Department shall maintain a record of all complaints received regarding projects subject to noise mitigation plans, to include at a minimum, the date and nature of the complaint, a summary of the adjudication of the complaint, and any corrective or enforcement actions taken.</u></b>



# Proposed Ban on Single use Plastic Water Bottles

# The Proposal

- Sale of Drinking Water in Single-Serving PET Bottles It shall be unlawful to sell non-sparkling, unflavored drinking water in single-serving polyethylene terephthalate (PET) bottles of 1 liter (34 ounces) or less in the Town of Lexington on or after January 1, 2025.

# Who else is doing this?

- Twenty-four other Massachusetts communities already have similar bylaws in effect, including fifteen communities on Cape Cod, Concord, Needham and all of Martha's Vineyard and Nantucket.
- Looking around the country, New York, California, and Oregon have all passed legislation to limit single-use plastics. Globally, Canada banned the importation and manufacture of certain single-use plastics at the end of last year. The European Union, the United Kingdom, India, China, Kenya, and Chile have all passed legislation banning certain single-use plastic items.

# How does this bylaw align with Lexington's goals?

- Lexington is an environmentally-conscious community. We state:
- Lexington's climate action plan Lexington is committed to being a sustainable and resilient community for all.
- We strive to:
  - reduce greenhouse gas emissions,
  - create cleaner indoor and outdoor environments
  - . Plastic production, disposal, and incineration is a carbon-intensive process (equaling 190 coal power plants in 2019) that is not in line with our voted upon goals.
- Ingestion of water from plastic water bottles introduces chemicals and microplastics into the user. The full effects are unknown but thought to be harmful
- Plastic bottles are an eyesore and an environmental hazard to the ground water, the ocean and the air

# How does this bylaw align with Lexington's goals?

- Lexington is an environmentally-conscious community. Lexington next specifies:
- **Lexington Next, Lexington's Comprehensive Plan**
- Lexington Next, Lexington's Comprehensive Plan update provides a strategic approach for the planning of Lexington's future. The goals of Lexington Next is to provide...
  - visions, goals, policies, and actionable implementation items
  - goals and policies statements for future growth and development
  - foundations for Lexington Next Guiding Principles (Accessible & Connected, **Livable Community, Healthy & Socially Responsible**, Vital & Resilient Economy, **Harmony with Nature**, Good Governance)
  - visions for land use, housing, economic development, transportation and circulation, historic and natural resources, and public facilities
  -
- **Eliminating single use plastic bottles is consistent with and advances the goals of Lexington's Climate Action & Resilience Plan.**

# Frequently Asked Questions for Businesses

- **What does the bylaw say?**
  - The bylaw makes it unlawful for commercial businesses to sell non-carbonated, unflavored drinking water in single-use plastic bottles of less than one liter in the Town of Lexington, beginning January 1, 2025. There are no restrictions on residents' personal use of these products within town.
- **What can businesses sell instead?**
  - Businesses can continue to sell water in single-use aluminum bottles or cans, glass bottles, boxes, or any other non-plastic packaging. The most eco-friendly choice is an aluminum bottle or can that can be reused and recycled. Businesses can also continue to sell water in plastic packaging larger than one gallon. Please note that Lexington does NOT currently offer recycling options for boxed water.
  - Businesses can also sell reusable water bottles as an additional profit making item with the additional benefit of advertising.

# But don't residents recycle their bottles?

- Estimates vary, but it is believed that less than 20% of plastics will actually be recycled. The rest will be landfilled, burned, or end up as litter on land or in the ocean. When plastics are recycled, they almost always require the addition of new “virgin” plastic, which requires the extraction of fossil fuels, before they can be made into a new product. Producing products with recycled plastic is also more expensive than using new plastic, further discouraging this type of production. Aluminum, on the other hand, has a high recycling rate and can also be safely reused.
- The disposal of the plastic waste is a cost to the the taxpayers
- Disposal of the waste also exacerbates social inequalities if it is burned the air and water pollution is concentrated in lower income areas

# Why don't we ban all single-use plastic bottles?

- According to the United Nations, 91% of all plastics produced are for single use, items used once then thrown away. Since 2010, yearly water bottle consumption in the United States has grown by 40%. Single-use plastic water bottles are replaceable and serve as a first step toward Lexington's net zero goals. The best alternative is a refillable water bottle, and water is easily accessible, safe, and available through hydration stations, bubblers, and the tap.
- According to the owner of Alexanders Pizza 80% of his customers buy water in single use plastic bottles. So focusing on water can have a big effect.



# Does Lexington Have Adequate Hydration Stations

- No and that is something that needs to be addressed. There is one near the Lexington Historical Building and water can be obtained at the visitors center and at the community center.
- I spoke to a few establishments, (Dunkin, Avenue Deli, Alexander's, Via Lago and Qudoba) while they did not seem happy about the petition they all provide free water on request and most provide a free cup for customers to use



Select Board Positions  
Working Document

#	Article Name	ARTICLE UPDATE AT SELECT BOARD MTG	SELECT BOARD PRSNTR	CONSENT	IP	JP	SB	DL	JH	MS
1	Notice of Election		-							
2	Election of Deputy Moderator and Reports of Town Boards, Officers and Committees		-							
3	Appointments To Cary Lecture Series		-			Y	Y	Y	Y	Y
<b>Financial Articles</b>										
4	Appropriate Fy2025 Operating Budget		JP			Y	Y	Y	Y	Y
5	Appropriate Fy2025 Enterprise Funds Budgets		DL			Y	Y	Y	Y	Y
6	Appropriate For Senior Services Program		SB	C		Y	Y	Y	Y	Y
7	Sustainable Capital Projects		MS			Y	Y	Y	Y	Y
8	Accept Tucker Ave (Westernmost Portion)		DL			Y	Y	Y	Y	Y
9	Establish And Continue Departmental Revolving Funds		DL			Y	Y	Y	Y	Y
10	Appropriate The Fy2025 Community Preservation Committee Operating Budget And CPA Projects	1/22/2024	MS	C						
	a. Cary Memorial Library Renovation – \$4,000,000					Y	Y	Y	Y	Y
	b. Archives and Records Management – \$20,000					Y	Y	Y	Y	Y
	c. Park Improvements – Athletic Fields – Bowman School – \$545,000					Y	Y	Y	Y	Y
	d. Lincoln Park Fitness Stations Equipment – \$160,000					Y	Y	Y	Y	Y
	e. Park Improvements – Hard Court Surfaces – Valley Rd – \$492,000					Y	Y	Y	Y	Y
	f. Lincoln Park Field Improvements – \$1,145,000					Y	Y	Y	Y	N
	g. LexHAB Support, Restoration, Preservation, and Decarbonization – \$482,365					Y	Y	Y	Y	Y
	h. Lexington Housing Authority Exterior Preservation – \$100,000					Y	Y	Y	Y	Y
	i. Affordable Housing Trust Funding – \$3,200,000					Y	Y	Y	Y	Y
	j. Projected Debt Service – \$681,200			C		Y	Y	Y	Y	Y
	k. Administrative Budget – \$150,000			C		Y	Y	Y	Y	Y
11	Appropriate For Recreation Capital Projects		SB	C		Y	Y	Y	Y	Y

Select Board Positions  
Working Document

#	Article Name	ARTICLE UPDATE AT SELECT BOARD MTG	SELECT BOARD PRSNTR	CONSENT	IP	JP	SB	DL	JH	MS
12	Appropriate For Municipal Capital Projects And Equipment		MS							
	a) Transportation Mitigation			C		Y	Y	Y	Y	Y
	b) Heavy Vehicle Extrication Equipment					Y	Y	Y	Y	Y
	c) Ambulance Replacement			C		Y	Y	Y	Y	Y
	d) Equipment Replacement			C		Y	Y	Y	Y	Y
	e) Sidewalk Improvements			C		Y	Y	Y	Y	Y
	f) Hydrant Replacement			C		Y	Y	Y	Y	Y
	g) Townwide Signalization Improvements			C		Y	Y	Y	Y	Y
	h) Stormwater Management Program			C		Y	Y	Y	Y	Y
	i) Cemetery Columbarium - Design					Y	Y	Y	Y	Y
	j) Public Parking Lot Improvement Program					Y	Y	Y	Y	Y
	k) Network Core Equipment Replacement			C		Y	Y	Y	Y	Y
	l) Municipal Technology Improvement Program			C		Y	Y	Y	Y	Y
	m) Network Redundancy & Improvement Plan			C		Y	Y	Y	Y	Y
	n) Network Technology Improvements			C		Y	Y	Y	Y	Y
	o) Scanning - Electronic Document Management			C		Y	Y	Y	Y	Y
	p) Election Equipment Upgrade					Y	Y	Y	Y	Y
	q) Street Improvements			C		Y	Y	Y	Y	Y
13	Appropriate For Water System Improvements		MS	C		Y	Y	Y	Y	Y
14	Appropriate For Wastewater System Improvements		MS	C		Y	Y	Y	Y	Y
15	Appropriate For School Capital Projects And Equipment		DL	C		Y	Y	Y	Y	Y

Select Board Positions  
Working Document

#	Article Name	ARTICLE UPDATE AT SELECT BOARD MTG	SELECT BOARD PRSNTR	CONSENT	IP	JP	SB	DL	JH	MS
16	Appropriate For Public Facilities Capital Projects		MS							
	a) Public Facilities Bid Documents			C		Y	Y	Y	Y	Y
	b) Public Facilities Interior Finishes			C		Y	Y	Y	Y	Y
	c) School Paving and Sidewalks			C		Y	Y	Y	Y	Y
	d) Public Facilities Mechanical/Electrical/Plumbing Repl			C		Y	Y	Y	Y	Y
17	Appropriate To Post Employment Insurance Liability Fund		DL	C		Y	R	Y	Y	Y
18	Rescind Prior Borrowing Authorizations		JH			Y	Y	Y	Y	Y
19	Establish, Amend, Dissolve And Appropriate To And From Specified Stabilization Funds		SB			Y	Y	Y	Y	Y
20	Appropriate For Prior Years' Unpaid Bills		SB	C		Y	Y	Y	Y	Y
21	Amend Fy2024 Operating, Enterprise And CPA Budgets		JH			Y	Y	Y	Y	Y
22	Appropriate For Authorized Capital Improvements.		DL	C		Y	Y	Y	Y	Y
23	Appropriate Opiod Settlement		MS			Y	Y	Y	Y	Y
24	Appropriate Funding For Semiquincentennial Commission	2/5/2024	SB			Y	Y	Y	Y	Y
25	Pine Meadows Clubhouse Renovation		SB			W	Y	Y	W	W
26	Appropriate for Design Funds for Lexington High School Construction Project		JP			Y	Y	Y	y	Y
27	Appropriate for Renovation of 173 Bedford Street		JP			Y	Y	Y	Y	Y
General Articles										
28	Select Board To Accept Easements		DL	C		Y	Y	Y	Y	Y
29	Amend the General Bylaw- Noise Control		JP							
	a) Construction Noise					Y	Y	W	Y	W
	b) Commercial Gas Leaf Blower Prohibition Delay					W	Y	Y	W	N
30	Prohibit Single-Use Food Containers (Citizen's Petition)- IP		JH	C	IP	IP	IP	IP	IP	IP

Select Board Positions  
Working Document

#	Article Name	ARTICLE UPDATE AT SELECT BOARD MTG	SELECT BOARD PRSNTR	CONSENT	IP	JP	SB	DL	JH	MS
31	Prohibit Single-Serve Plastic Water Bottles (Citizen's Petition)	2/12/2024	JH			W	W	W	W	W
32	Old Spring Street Name Change		SB			Y	Y	Y	Y	Y
33	Authorize Affordable Housing Trust To Seek Affordable Housing	2/5/2024	MS			Y	Y	Y	Y	Y
34	Amend General Bylaws - Tree Bylaw - Tree Protection Plan	1/22/2024	JP			Y	Y	Y	Y	Y
35	Amend General Bylaws - Tree Bylaw - Require Mitigation Planting In Certain Instances	1/22/2024	JP			Y	Y	W	Y	Y
36	Amend General Bylaws - Tree Bylaw - Exemptions	1/22/2024	JP			Y	Y	Y	Y	Y
37	Importance Of Trees Resolution (Citizen Petition)	1/22/2024	JP			Y	Y	W	W	Y
38	Amend Regulation Of Fossil Fuel Infrastructure Bylaw - Meet Department Of Energy Resources (Doer) Requested Changes		JH			Y	Y	Y	Y	Y
39	Home Rule Petition To Adjust The Number Of On-Premise Wine And Malt Alcohol Licenses		DL			Y	Y	Y	Y	Y
40	Integrated Pest Management Resolution (Citizen Petition)	2/12/2024	MS			Y	Y	Y	Y	Y
41	Massachusetts Bay Transportation Authority	3/4/2024	JH			Y	Y	Y	Y	Y
42	Digital Publication Of Legal Notices (Citizen Petition)	2/12/2024	JP			Y	Y	Y	Y	Y
43	Voting Rights 16 And Older (Citizen Petition)	2/12/2024	DL			Y	W	Y	W	Y
44	Amend General Bylaws – Chapter 100 Public Ways And Places (Citizen Petition) <b>IP</b>		SB	C	<b>IP</b>	<b>IP</b>	<b>IP</b>	<b>IP</b>	<b>IP</b>	<b>IP</b>
45	Indigenous Peoples Day (Citizen Petition)	2/12/2024	JH			Y	Y	W	Y	Y
46	Royal Family Invitation To 250th Celebration		DL			W	Y	Y	W	Y
<b>Zoning Articles</b>										
47	Amend Zoning Bylaw - Signs	2/26/2024	JP			Y	W	W	Y	W
48	Amend Zoning Bylaw - Short Term Rentals	2/26/2024	DL			W	Y	Y	Y	W
49	Amend Zoning Bylaw - Permitted Uses and Development Standards	2/26/2024	MS			W	Y	W	Y	W
50	Amend Zoning Bylaw - Inclusionary Housing For Village And Multi-Family Overlay Districts	2/26/2024	JH			Y	Y	W	Y	W

Select Board Positions  
Working Document

#	Article Name	ARTICLE UPDATE AT SELECT BOARD MTG	SELECT BOARD PRSNTR	CONSENT	IP	JP	SB	DL	JH	MS
51	Amend Zoning Bylaw – Maximum Height For Village Overlay District	2/26/2024	JH			Y	Y	Y	Y	W
52	Amend Zoning Bylaw And Map - Technical Corrections	2/26/2024	SB			Y	Y	Y	Y	Y
53	Amend Zoning Map - 507 Bedford Street (Owner Petition) - <b>Refer Back to PB</b>		JH	C		RB	RB	RB	RB	RB
54	Amend Zoning Map- 509 Bedford Street (Owner Petition) - <b>Refer Back to PB</b>		JH	C		RB	RB	RB	RB	RB

# DRAFT

## SELECT BOARD TOWN OF LEXINGTON



### SELECT BOARD REPORT TO THE 2024 ANNUAL TOWN MEETING

MARCH 18, 2024

#### **Select Board:**

Joseph N Pato, Chair; Suzanne E. Barry, Vice-Chair; Douglas M. Lucente;

Jill I. Hai; Mark D. Sandeen;

Kim Katzenback, Executive Clerk



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# DRAFT



March 2024

## Message from the Select Board

This report to Annual Town Meeting 2024 under Article 2 contains an update on issues and topics the Board felt would be of interest to Town Meeting Members. This year we have included:

- an overview of Select Board goals and actions taken to achieve them;
- reflections on budget and finance planning;
- use of American Rescue Plan Act (ARPA) funding;
- Lexington High School project;
- social & racial equity initiatives;
- update on municipal and school building projects;
- update on recent home rule petitions;
- 2025: the 250<sup>th</sup> anniversary of the Battle of Lexington.

In addition, the Board would like to note Town Manager Jim Malloy's plans to retire at the end of September 2024. Mr. Malloy came to Lexington in 2018 and has provided skilled leadership throughout the trying pandemic years. He brought to Lexington a deep background in financial planning and established guidelines for the use of the Capital Stabilization Fund that will serve to reduce the burden of big-ticket capital projects like the upcoming Lexington High School project. In addition, Mr. Malloy has been a statewide and international leader serving on the Board of the Massachusetts Municipal Association (MMA) and then as President of the International City/County Management Association (ICMA). The Board looks forward to continuing to work with Mr. Malloy until his retirement.

# DRAFT

Should you have any questions or comments regarding this report, we encourage you to get in touch with any member of the Board. Select Board meetings are generally held Monday evenings at 6:30pm in the Select Board meeting room of the Town Office building, and via zoom. Board members' office hours as well as the Select Board meeting packets are posted at <https://www.lexingtonma.gov/755/Select-Board>. We can be reached via email (below) or by calling the Select Board Office (781-698-4580) to schedule a phone conversation or meeting.

- Joe Pato, Chair: [jpato@lexingtonma.gov](mailto:jpato@lexingtonma.gov)
- Suzie Barry, Vice-Chair: [sbarry@lexingtonma.gov](mailto:sbarry@lexingtonma.gov)
- Jill Hai: [jhai@lexingtonma.gov](mailto:jhai@lexingtonma.gov)
- Doug Lucente: [dlucente@lexingtonma.gov](mailto:dlucente@lexingtonma.gov)
- Mark Sandeen: [msandeen@lexingtonma.gov](mailto:msandeen@lexingtonma.gov)

Respectfully submitted,  
Lexington Select Board

*Joseph N. Pato, Chair  
Suzanne E. Barry, Vice Chair  
Douglas M. Lucente  
Jill I. Hai, Chair  
Mark D. Sandeen*

# DRAFT

## Select Board Goals

During the fall of 2023, the Select Board engaged Jon Wortmann to interview staff and Town Committees to gather input for the upcoming two-year goal set. The Select Board met on October 11, 2023, to review these aspirations and identified the Board's top priorities. Each goal was assigned to one member of the Board with a second member volunteering on some to assist as needed. During November and December Board members worked with Mr. Wortmann to identify measurable actions against those goals.

All goals will be continually reevaluated under core shared principles including:

- Our commitment to fostering a diverse, inclusive, and equitable community that thrives on the principles of respect, dignity, and fairness. We recognize that diversity enriches our community, brings together unique perspectives, and strengthens our ability to effectively serve our residents.

This includes our ambition to:

- Increase and broaden diverse participation in our professional ranks and civic activities
- Welcome all people in Lexington
- Consider health in all decisions
- Provide recreation facilities for all
- Honoring our rich historic traditions and taking pride in Lex250th celebration events
- Diversifying the commercial tax base to reduce financial burdens on residents allowing more to remain and lower the barriers for new residents to call Lexington home.
- Our commitment to being a sustainable and resilient community for all where we strive to:
  - Reduce greenhouse gas emissions,
  - Create cleaner indoor and outdoor environments, and
  - Ensure all members of our community have access to the tools they need to
  - Be resilient in a changing climate.

**Goal #1: Enhance community vibrancy by increasing diversity of housing stock in size, accessibility, and price** (primary: Jill Hai assistant: Mark Sandeen)

### Update:

- Article 33 at Annual Town Meeting 2024 seeks authority for the Select board to sell, lease or otherwise dispose of Town owned land for the purpose of developing affordable housing. Any proposal at this site would be required to be 100% affordable, and all units must qualify for and be included in the Subsidized Housing Index.
- The Board allocated \$1,455,000 in ARPA funds for the acquisition of housing units by LexHAB in order to retain smaller one- and two-family houses, now included in the Subsidized Housing Index
- The first proposal under the revised Special Residential Development bylaw, which is the product of a Select Board appointed committee, has been introduced. Following the guidelines created by the committee, it proposes two 2-family homes and two three family condominium buildings, for 10 units in four buildings, rather than a conventional development of single family homes. Eight of the 10 homes will be served by elevator, increasing their accessibility and 15% of the gross floor area is dedicated to affordable housing. 40% of the developable lot is retained as open space.

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**Goal #2: Recognize and minimize issues around construction preserving quality of life**  
(primary: Joe Pato, assistant: Mark Sandeen)

**Update:**

- Proposed revisions to the noise by-law to remove ambiguities about construction techniques and the need for mitigation plans for consideration as Article 29a at the Annual Town Meeting 2024.
- Revised Noise Advisory Committee charge and began process to reconstitute the committee. When formed, the committee will be tasked to create a process for revising the noise by-law to establish noise limits appropriate to location or activity and clarify enforcement to be completed no later than Annual Town Meeting 2025.
- The Tree Committee has brought 3 articles to Annual Town Meeting 2024 (34, 35, and 36) providing additional protections for trees related to construction activities.

**Goal #3: Create a more vibrant downtown** (primary: Doug Lucente, assistant: Jill Hai)

**Update:**

- Prioritizing Initiatives: The Select Board heard the final report and recommendations from consultants on March 6th, stemming from the community workshops held in Fall 2023 titled "Lexington Center: The Journey Forward." These insights will be instrumental in refining and prioritizing our downtown revitalization efforts.
- Diversifying Alcohol Uses: Progress is underway to allow more varied alcohol-related experiences. Proposed bylaw amendments to allow Craft Beverage Establishments are encapsulated in ATM Article 49. Pending a favorable decision from the Town Meeting, subsequent actions will involve the Select Board re-evaluating our alcohol policies to support this diversification.
- Streamlining Business Signage: Enhancements to the sign bylaw, aimed at simplifying signage processes for businesses, are detailed in ATM Article 47. These changes await final adjustments by the Planning Board and a positive vote at the Town Meeting, marking a significant step towards a business-friendly downtown.
- Tourist-Focused Social Media Initiatives: In alignment with our goal to enhance downtown vibrancy, the Semiquincentennial Commission has partnered with a communications firm. This collaboration focuses on leveraging social media campaigns designed to attract tourists, especially during the 250th-anniversary celebrations, further enriching our downtown's appeal.

These initiatives collectively represent our commitment to transforming Lexington's downtown into a more engaging, accessible, and vibrant community hub.

**Goal #4: Improve communication efficiency in Board meetings and with staff**  
(primary: Joe Pato, assistant: Suzie Barry)

**Update:**

- Working with staff to revise procedures for requesting an item on the Select Board agenda. Guidelines for submission materials include logistical information, requested action, as well common areas of concern that Board Members will want to see addressed. Completion expected by end of Spring 2024.
- Exploring how to integrate the above procedures with new agenda management software that will replace the now obsolete Novus Agenda package.

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**Goal #5: Transition to 100% renewable energy**  
(primary: Mark Sandeen)

**Update:**

- There are approximately 18 MW of solar energy systems currently installed in Lexington.
- There were 3.6 MW of new solar energy systems added in Lexington during 2023.
- Approximately 55 million kWh of Lexington's commercial electricity usage is currently provided from 100% renewable energy sources.
- The Town of Lexington has established the HeatSmart Advisor program to provide Lexington residents who express an interest in converting their HVAC systems to heat pumps with the educational resources, advice, and consultation to empower them to make the transition with confidence. The program is now in its second year.
- There are currently 1,505 electric vehicles (6.2%) and 2,692 hybrid vehicles (11.3%) registered in Lexington versus 19,889 internal combustion vehicles (82.5%) according to the Massachusetts DOT vehicle census as of January 1, 2024. There were 431 additional electric vehicles registered in Lexington in the last year. There were 358 additional hybrid vehicles registered in Lexington in the last year.
- The Massachusetts Department of Energy Resources approved Lexington's application to participate in the 10 Communities Demonstration Project with a start date of March 21, 2024.
- The first year of Building Energy Use Disclosure Data has been published on the Town website. - <https://www.lexingtonma.gov/1645/Building-Energy-Use-Disclosure>
- Complete Net Zero Police Station - Construction is underway for the solar canopy structure, which is expected to be completed by the Fall of 2024.
- Establish Net Zero design standards for the new high school design - The School Building Committee has established design standards with the high school design team for a highly efficient, net-zero, all-electric high school.
- Establish High Performance Building standards for existing municipal buildings - The Select Board approved the High-Performance Buildings Policy on December 18, 2023.
- Complete Network Geothermal Feasibility Study - The Town of Lexington was awarded a grant to complete this study and expects to issue a report by the end of 2024.
- Develop the Getting to Zero Emissions Transportation Plan
- Develop Town's Fleet Charging Infrastructure Plan - Initial discussions are underway.
- Curbside Composting for one third of Lexington residents - The Select Board has approved the use of ARPA composting from 2,000 households to 4,000 households or approximately one third of Lexington residents.
- Become a Climate Leader funds to expand curbside Community

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**Goal #6: Advance age-in community initiatives for Lexington seniors**  
(primary: Doug Lucente)

**Update:**

While there has been no notable advancement on these initiatives by the Select Board at the local level, at the state level, Governor Healey has filed the Municipal Empowerment Act, which introduces several measures that could indirectly support Lexington's age-in-community initiatives. Key components include:

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- A new local-option means-tested property tax exemption for seniors, allowing cities and towns to offer additional property tax exemptions to qualifying seniors based on specific income and asset levels, residency duration, and homeownership.
- Extension of the local option for personal exemptions to seniors, blind persons, and others, allowing those whose domiciles are held in trusts or other arrangements to qualify for exemptions.
- Authorization for municipalities to increase existing senior property tax exemptions beyond the current \$500 limit.

These measures, if passed by the legislature, could provide a framework for Lexington to advance its age-in-community initiatives, offering financial stability and support for seniors to maintain independent living in their homes.

**Goal #7: Raise community awareness and engagement with the high school project**  
(primary: Suzie Barry, assistant: Joe Pato)

**Update:**

- Working with the School Building Committee to publish and inform the community of community meeting information and updates on the Town website and in Link to Lexington e-newsletter with clear reference to LHS Project website.

## Budget and Finance Planning

The Select Board is committed to ensuring fiscal responsibility and sustainable growth through careful budget and financial planning for FY2025, focusing on preserving the Aaa bond rating, avoiding operating overrides, and planning for significant projects like the new Lexington High School. The FY2025 budget, developed without a Proposition 2½ Operating Override, supports the Board's vision for Lexington, emphasizing staffing, environmental initiatives, capital improvements, and infrastructure maintenance to achieve a balanced financial plan that aligns with community priorities.

**Staffing** - The budget incorporates staffing expansions to address the operational needs arising from new town bylaws and to continue investments in environmental initiatives, such as electric vehicles and enhancing our food waste and composting program. Specifically, it funds new roles such as an Assistant Superintendent of Public Grounds and a part-time Code Enforcement Officer, in response to the requirements of new tree and noise bylaws, as well as fire and mechanical inspectors due to the uptick in development from zoning bylaw modifications. These additions reflect the town's commitment to managing increased service demands while adhering to stricter regulations.

**Capital Improvement and Infrastructure** - The Capital Improvement Program is designed to make timely investments in town assets, enhancing public services. The FY2025 Capital Budget includes funds for the new Lexington High School and allocates \$6.0 million for renovations at 173 Bedford Street. This renovation is crucial for reorganizing town assets in light of the high school project and will make the building suitable for the School Administration staff during the construction period. The work involves installing an elevator, replacing the HVAC system, adding a sprinkler system, and reconfiguring interior spaces. Additional updates will be required after the Lexington Police Department relocates, especially to improve accessibility, fire protection, and new electric HVAC systems.

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**Aaa Bond Rating** - The Town of Lexington has maintained an Aaa credit rating, which is the highest credit rating a municipality can receive. This rating, affirmed by Moody's Investors Service, reflects the town's strong fiscal management, characterized by conservative budgeting, a sizeable and wealthy tax base, healthy reserves and liquidity, and voter support for debt exclusions. Holding an Aaa rating allows the town to borrow funds at the most favorable interest rates, providing significant financial advantages for managing the town's debt and financing its projects.

**Capital Stabilization Fund** - The Capital Stabilization Fund (CSF) underwent a policy revision in Fall 2021 to allocate new levy growth from specified commercial and industrial development to the CSF, rather than that growth becoming part of general revenue. This strategy aims to preserve levy capacity for managing sudden increases in debt service for major capital projects, such as high school construction. For FY2025, the budget maintains this approach, with \$4,036,373 transferred to the CSF from the tax levy, consistent with FY2024. This amount is expected to increase as new levy growth is calculated for FY2025, with an additional transfer planned for the Fall 2024 Special Town Meeting. After this budget cycle, the CSF balance will exceed \$36.0 million. The CSF plays a crucial role in our fiscal strategy, setting aside new tax levy growth for future capital projects. This approach allows us to build reserves for forthcoming capital endeavors, particularly the renovation or reconstruction of Lexington High School. Our commitment to this fund has not only provided tax relief to citizens by reducing debt service excluded from Proposition 2½ but also prepares us for significant capital projects ahead.

## American Rescue Plan Act (ARPA) Funding

As we approach the conclusion of the American Rescue Plan Act (ARPA) funding period, we are pleased to present an update on the allocation and utilization of ARPA funds in our community. The Town of Lexington was allocated a total of \$9,903,381 in ARPA funds, aimed at addressing the impacts of the COVID-19 pandemic and fostering recovery across critical sectors.

As of February 5, 2024, the Select Board has approved spending totaling \$9,110,345. The funds have been allocated to the following initiative areas:

- **Economic Stimulus & Resiliency:** The largest portion, approximately 37% of the funds, was earmarked to support our local economy, including bolstering the cultural sector, aiding small businesses, enhancing community events, updating digital platforms, improving public spaces, and fostering bikeway mobility and engagement.
- **Public Health & Safety:** With 26% of the funding, this area focused on bolstering the town's health department and public safety measures in response to the pandemic.
- **Housing:** 16% of the funds were allocated to address housing needs, ensuring support for those affected by the pandemic in securing stable housing.
- **Pandemic Response:** 13% of the funds were directly used for pandemic-related expenditures, including testing, vaccination programs, and other immediate health needs.
- **PIRs (Program Improvement Requests):** 6% of the funds have been utilized for enhancing the Food Waste Program, acquiring a new electric vehicle for the Health Department, and formulating an ADA Town Building Self Evaluation and Transition Plan.
- **Food Insecurity:** A smaller, yet crucial 2% of the funds addressed food insecurity, ensuring that residents affected by the pandemic have access to necessary resources.



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The Participatory Budgeting (PB) process implemented in the previous year, which actively engaged our citizens in the decision-making process, leading to impactful community projects. However, given the stipulation that all ARPA funds must be committed by December 31, 2024, the continuation of the PB process will not be feasible this calendar year. Further, it is important to note that, despite concerted efforts, the initiative to establish a Dog Park will not proceed due to the inability to identify a suitable location within the time frames for ARPA spending. We extend our gratitude to all residents who participated in the PB process, contributing valuable insights and demonstrating the strength of our community's collective vision.

With an available balance of \$899,974, the Select Board is dedicated to navigate the final phase of ARPA fund allocation and utilization. The Select Board remains committed to ensuring that these resources are deployed in a manner that maximizes benefits for our community, adhering to the guiding principles of transparency, equity, and strategic impact.

## Lexington High School Project

The Lexington High School project is likely to be the most ambitious and expensive project undertaken by the Town of Lexington. Plans for this project have been brewing for years leading to the 2017 LHS Visioning process, the 2019 LPS Strategic Plan and the creation of the Master Planning Advisory Committee during the 2018-2019 year. In 2022 Lexington was invited into the Massachusetts School Building Authority (MSBA) Eligibility Period beginning the current process for the project.

During 2023 the Lexington High School Building Committee (SBC) was involved in the steps outlined by the MSBA in Module 2 *Forming the Project Team*. This phase of the project is where the Owner's Project Manager (OPM) and the Design team are selected. The OPM selection process concluded in May with the selection of Dore + Whittier. The SBC then worked with the MSBA's Designer Selection Panel and ultimately selected SMMA as the preferred Designer for the project in October 2023.

The feasibility phase, MSBA Module 3, began in earnest in November 2023 and will continue through End of May 2024. In this phase a minimum of three options must be identified. At least one option for repair only, renovation, and new construction must be identified. The project team has begun to seek feedback from the multiple town groups, committees, boards, and departments through focus group discussions which are intended to be implemented in a 3-step approach: meeting 1 - listen to feedback from stakeholders; meeting 2 - the design team will report back what they heard and clarify with the stakeholders; meeting 3 - will be to have these focus groups make a recommendation on elements and attributes of the project that the SBC should consider.

Detailed information about the project is publicly available at: <https://lhsproject.lexingtonma.org>. The current expected timeline for the LHS Project is illustrated below. 2024 Annual Town Meeting is being asked to appropriate for design funds for the project of \$10M via article 26. The next major funding action by Town Meeting expected to occur at a Special Town Meeting near the end of 2025 followed by a town-wide debt exclusion vote. Occupancy in the new or renovated facility is expected at the end of this decade or early in the next.

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## LHS Anticipated Project Timeline

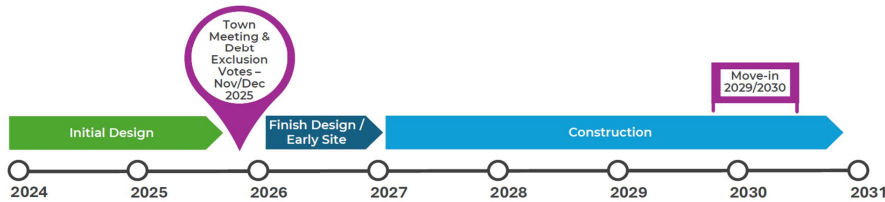


Figure 1: Anticipated Timeline - all dates are subject to change.

### Social Racial Equity Initiatives

The Select Board recognizes that social and racial injustice has deep roots. The Board has made a proactive and ongoing commitment to engage in comprehensive and ongoing community conversations to better understand community needs and to consider diversity, equity, and inclusion in policies and plans, all with the goal of making Lexington a truly equitable community for all.

The Select Board has adopted Diversity, Equity & Inclusion as one of its goals, including a commitment to develop and implement a comprehensive racial equity plan, consider racial and other equity impacts in all decisions and planning processes, and incorporate the goals of Town Meeting's systemic racism resolution in each department's goals and objectives. The Select Board recognizes that accomplishing these goals will require a budgetary commitment to training and continuous improvement and has recommended establishing a budget for accomplishing these goals.

The Chief Equity Officer (CEO) leads the Town in achieving these goals. The CEO is in the process of updating job descriptions and expanding posting locations with the goal of encouraging a broader applicant pool for Town staff positions. The CEO is also working with senior leadership to incorporate more effective interviewing techniques with these goals in mind.

The CEO has initiated an internal equity audit in collaboration with an independent diversity, equity and inclusion consulting organization. During this process 120 staff members participated in training sessions, 65 staff members participated in focus groups on racial identity, disability, management, women, and LGBTQIA+ topics that were open to all staff. In addition, 40% of town staff answered a survey on equity issues.

The CEO has started a compensation study, in collaboration with an independent human resources consultant, considering internal pay equity and to ensure that salary ranges and benefits remain competitive for all staff.

The CEO, in collaboration with the Police Chief, held six Coffee and Conversation with the Chief events, with a total of over 40 residents having an opportunity to discuss community concerns with the Police Chief.

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The CEO collaborated with the Sustainability & Resilience Officer to develop a framework used by senior leadership to consider Sustainability and DEI in staff's day-to-day operational decisions and long-term planning processes. This framework has been presented to the Select Board who encouraged a broad and inclusive community-wide focus for these initiatives.

## Update on Municipal and School Building Projects

The Board continues to address the issues of maintaining and improving our municipal and school building infrastructure. The following section includes the current status of Lexington's building projects. The Lexington High School building project is covered in the Lexington High School section of this report.

### Westview Cemetery Administration Building

**Start Date:** April 2022

**Project Completion Date:** August 2023

**Project Budget:** \$4,330,000

**Funding:** ATM 2017-Article 12o / ATM 2020-Article 16k / STM 2021-1 Article 7

Design funding of \$270,000 was approved at ATM 2017. Initial construction funding of \$3,290,000 was approved at ATM 2020 under Article 16k. Initial construction bids came in higher than the appropriated amount. As a result, Town Meeting approved additional construction funding of \$770,000 at STM 2021-1 under Article 7. Construction was completed and the building occupied in August 2023. During a significant winter storm, a 100-foot pine tree fell on the building. Fortunately, no one was injured, however the building did sustain minor damage. The roof has been temporarily patched and remains watertight. The roof, insulation, decking, and drip edge will be replaced when temperatures are warmer. A solar energy system will be installed in compliance with the Town's net zero renewable energy policy goals. Construction of the solar energy system is expected to be completed during the summer of 2024.

### Lexington Police Station

**Appropriation:** \$34,517,622

**Status:** Construction underway

**Estimated Project Completion Date:** Fall 2024

**Funding:** ATM 2018-Article 14 / STM 2021-1 Article 5a / STM 2022-1 Article 2 / ATM 2023 Article 16(i)

The new Police Station facility is being constructed in compliance with the Town's Integrated Building Design and Construction Policy and will be solar ready in furtherance of the Town's net zero renewable energy policy goals. The building design and construction includes all of the infrastructure necessary to support onsite solar energy generation and energy storage systems designed to reduce the building's energy consumption and peak demand charges, while improving the building's resilience in the event of power outages and enabling high speed electric vehicle charging for the Police Department's electric vehicle fleet.

The solar energy canopy design went through an extensive public process to secure approval of a design that is appropriate for the neighborhood and meets the requirements of the Historic Districts Commission. The Historic Districts Commission issued a Certificate of Appropriateness in November 2023. Construction of the footings for the canopy have begun. Solar canopy and energy storage system construction is expected to be completed by the Fall of 2024 with a goal of having the solar canopy project completed at the same time as the Police Station to maximize efficiencies with the site contractor.

### Old Reservoir Bath House Renovation

**Appropriation:** \$620,000

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**Funding:** ATM 2019-Article 14g

Initial bids received by the Town exceeded the appropriation approved by Town Meeting. The Department of Public Facilities and Recreation Department staff proposed design changes and procurement alternatives to lower overall project costs. DPF went out to bid a second time and the bids received were still well above the appropriation approved by Town Meeting. The Recreation Committee is reviewing the current status and deliberating on next steps for this project.

## **Center Bathroom & Maintenance Building Renovation**

**Appropriation:** \$780,000

**Project Completion Date:** October 2024

**Funding:** ATM 2020-Article 16b / ATM 2021-Article 16g / ATM 2022-Article 10e

2020 Annual Town Meeting approved \$100,000 in design and engineering funds for the Center Bathroom building renovation project. At the 2021 Annual Town Meeting, the Select Board recommended indefinite postponement of warrant article 16g requesting \$915,000 in construction funding to a future Town Meeting. 2022 ATM approved warrant article 10e requesting \$680,000 in funding for this project. The renovation of the Center Bathroom facility was completed in October 2024.

## **Update on Recent Home Rule Petitions**

There are six home rule petition requests approved at recent Town Meetings that remain under consideration by the legislature. No final action has been taken by the legislature on any of these petitions.

- **STM 2020-2: Article 6** - Authorize Special Legislation Development Surcharge for Community Housing (Citizen Petition)

[Bill H.4314 \(malegislature.gov\)](#) An Act authorizing a development surcharge for community housing in the town of Lexington

**Status:** Reported favorably by the Joint Committee on Municipalities and Regional Government. Referred to the committee on House Steering, Policy and Scheduling, reported out for second reading. Second reading on 7/31/2022 and ordered to a third reading. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill HD.3088.

<https://malegislature.gov/Bills/193/HD3088>

**Status:** House referred to committee on revenue 2/16/23, Senate concurred; Hearing 7/17/23 accepting written testimony only; House reporting date extended to 4/30/24 pending Senate concurrence.

This may be mooted if Governor Healey's Affordable Homes Act is adopted, which includes a provision for local adoption of real estate transfer fees. The Select Board and Housing Partnership have each voted unanimous support for the Real Estate Transfer Fee local option. More information and financial analysis can be found here:

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<https://www.mass.gov/info-details/the-affordable-homes-act-transfer-fee-analysis#:~:text=The%20Affordable%20Homes%20Act%20includes,home%20price%2C%20which%20is%20greater>

- **ATM 2021: Article 26** – Petition General Court to Amend Legislation Regarding Permanent Transportation Funding

[Bill H.3892 \(malegislature.gov\)](#) An Act authorizing the town of Lexington to establish transit improvement districts.

**Status:** Referred to Joint Committee on Transportation, reported favorably after study. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill H3704.

<https://malegislature.gov/Bills/193/HD2481>

**Status:** House referred to the committee on Transportation 3/30/23, Senate concurred; Joint hearing scheduled 1/10/24

- **ATM 2021: Article 29** – Clean Heat-Authorize Special Legislation to Regulate Fossil Fuel Infrastructure and Adopt Bylaw Amendment Enabling Legislation

[Bill H.3893 \(malegislature.gov\)](#) An Act authorizing the town of Lexington to adopt and enforce local regulations restricting new fossil fuel infrastructure in certain construction.

**Status:** Referred to Joint Committee on Telecommunications, Utilities and Energy  
No further action by the end of the legislative session.

The need for this home rule petition has been largely made moot by Chapter 179 of the Acts of 2022 authorizing a demonstration program for municipal regulation of fossil fuels in new construction. Lexington received approval to become one of the Participating Communities in the Department of Energy Resources (DOER) Demonstration Project. The acceptance did suggest certain updates to Lexington's bylaw to comply with DOER's regulations and those revisions are included in the warrant for this Town Meeting as Article 38.

- **ATM 2021: Article 36** – Authorize Special Legislation-Development Surcharge for Affordable Housing (Citizen Petition)

[Bill H.3891 \(malegislature.gov\)](#) An Act to establish a surcharge on specific commercial development activities for the purpose of funding the creation of community housing.

**Status:** Passed by the House but did not reach a third reading in the Senate. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill HD.3085.

<https://malegislature.gov/Bills/193/HD3085>

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**Status:** House referred to committee on revenue 2/16/23, Senate concurred; Joint hearing scheduled for 7/25/23 written testimony only. Reporting deadline extended to 4/30/24.

- **STM 2022-2: Article 3** – Amend General Bylaw to Allow Remote Participation at Hybrid Town Meetings

[Bill H.4876 \(malegislature.gov\)](https://malegislature.gov/Bills/193/HD118) An Act authorizing the town of Lexington to allow remote participation at town meetings

**Status:** Reported favorably by the committee on Election Laws and the committee on House Steering, Policy and Scheduling. Concluded a second reading and ordered for a third reading. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill HD.118.  
<https://malegislature.gov/Bills/193/HD118>

**Status:** House referred to committee on Election Laws 2/16/23, senate concurred; Joint hearing scheduled 6/21/23; reporting deadline extended to 3/19/24.

- **STM 2022-3: Article 14** – LEXHAB Reorganization

Filed in the 193rd (Current) session of the legislature as Bill HD.119. An Act reorganizing the Lexington Housing Assistance Board, Inc <https://malegislature.gov/Bills/193/HD119>

**Status:** Filed as H3775 in the 193rd (Current) session of the Legislature. Transmitted to the Secretary of State on 3/22/23 and returned to the House from the Secretary of State on 4/12/23. Referred to the committee on housing on 4/13/23; joint hearing 6/26/23; reported favorably out of committee and referred to House Steering, Policy and Scheduling on 10/18/23; House second reading and ordered to third reading on 11/20/23; House third reading and passed to be engrossed on 12/7/23. Senate read on 12/11/23; Senate second reading and ordered to third reading 1/18/24. Technical suggestions by Senate counsel scheduled for discussion 3/12/24.

- **STM 2023-1 Article 9** Rank Choice Voting for town wide offices

Filed as H.4223 in the 193rd (Current) session of the legislature. An Act Establishing Ranked Choice Voting for Certain Offices in the Town of Lexington. Referred to House committee on Election Laws 12/21/23, Senate concurred. House reporting date extended to 3/19/24.

## 2025: The 250th Anniversary of the Battle of Lexington

The Semiquincentennial Commission (Lex250) continued their work on helping the Town of Lexington plan events for the 250th Anniversary of the Battle of Lexington. The Semiquincentennial Commission-Lex250 continues to meet at least twice a month and accomplishments in the past year include:

- forming a collaborative partnership with the towns of Arlington, Lincoln, Concord and Minuteman National Historic Park so as to coordinate schedules and resources. This also included signing an Inter Municipal Agreement (IMA) among the four town to share in

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services in relation to the planning of events. The collaborative 250<sup>th</sup> towns met quarterly in 2023 and now meet every other month in 2024.

- Working with the collaborative towns, the committee identified Saturday, April 19, 2025 as the day the majority of large events will take place in Lexington.
- Selected and hired a public relations firm to handle publicity, crisis communication and dedicated website build and management.
- Added five additional members to the Semiquincentennial Commission-Lex250 with experience in fundraising, transportation planning, publicity and security as we all as added a second Select Board Member.
- Attended the America250 Press Conference in Boston for the 250<sup>th</sup> Anniversary of the Boston Tea Party and also attended the quarterly meeting of REV250 the state level group coordinating events related to the 250<sup>th</sup> anniversary.
- pHeld a successful community meeting update and information gathering session in late January 2024 at the Community Center.

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## SELECT BOARD TOWN OF LEXINGTON



### SELECT BOARD REPORT TO THE 2024 ANNUAL TOWN MEETING

MARCH 18, 2024

**Select Board:**

Joseph N Pato, Chair; Suzanne E. Barry, Vice-Chair; Douglas M. Lucente;  
Jill I. Hai; Mark D. Sandeen;  
Kim Katzenback, Executive Clerk



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March 2024

## Message from the Select Board

~~The Select Board has prepared this written~~<sup>This</sup> report to Annual Town Meeting 2024 under Article 2. ~~This report~~ contains an update ~~to Town Meeting~~ on issues and topics the Board felt would be of interest to Town Meeting Members. This year we have ~~included:~~

- ~~• an overview of Select Board goals and actions taken to achieve them;~~
- ~~• reflections on budget and finance planning;~~
- ~~• use of American Rescue Plan Act (ARPA) funding;~~
- ~~• Lexington High School project;~~
- ~~• social & racial equity initiatives;~~
- ~~• update on municipal and school building projects;~~
- ~~• update on recent home rule petitions;~~
- ~~• 2025: the 250<sup>th</sup> anniversary of the Battle of Lexington.~~

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~~In addition, the Board would like to note Town Manager Jim Malloy's plans to retire at the end of September 2024. Mr. Malloy came to Lexington in 2018 and has provided skilled leadership throughout the trying pandemic years. He brought to Lexington a deep background in financial planning and established guidelines for the use of the Capital Stabilization Fund that will serve to reduce the burden of big-ticket capital projects like the upcoming Lexington High School project. In addition, Mr. Malloy has been a statewide and international leader serving on the Board of the Massachusetts Municipal Association (MMA) and then as President of the International City/County Management Association (ICMA). The Board looks forward to continuing to work with Mr. Malloy until his retirement.~~

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~~—insert outline of content—~~

~~Include a context setting overview of how some key issues relate to each other (e.g., LHS Project and current articles in the ATM as well as items to come to Town Meeting in the near future (Article 97 land swaps)).~~

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Should you have any questions or comments regarding this report, ~~the Board~~ we encourages you to get in touch with any member of the Board. Select Board meetings are generally held Monday evenings at 6:30pm in the Select Board meeting room of the Town Office building, and via zoom. Board members' office hours as well as the Select Board meeting packets are posted at <https://www.lexingtonma.gov/755/Select-Board>. We can be reached via email (below) or by calling the Select Board Office (781-698-4580) to schedule a phone conversation or meeting.

- Joe Pato, Chair: [jpato@lexingtonma.gov](mailto:jpato@lexingtonma.gov)
- Suzie Barry, Vice-Chair: [sbarry@lexingtonma.gov](mailto:sbarry@lexingtonma.gov)
- Jill Hai: [jhai@lexingtonma.gov](mailto:jhai@lexingtonma.gov)
- Doug Lucente: [dlucente@lexingtonma.gov](mailto:dlucente@lexingtonma.gov)
- Mark Sandeen: [msandeen@lexingtonma.gov](mailto:msandeen@lexingtonma.gov)

Respectfully submitted,  
Lexington Select Board

*Joseph N. Pato, Chair  
Suzanne E. Barry, Vice Chair  
Douglas M. Lucente  
Jill I. Hai, Chair  
Mark D. Sandeen*

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## Select Board Goals

During the fall of 2023, the Select Board engaged Jon Wortmann to interview staff and Town Committees to gather input for the upcoming two-year goal set. The Select Board met on October 11, ~~2023~~2023, to review these aspirations and identified the Board's top priorities. Each goal was assigned to one member of the Board with a second member volunteering on some to assist as needed. During November and December Board members worked with Mr. Wortmann to identify measurable actions against those goals.

All goals will be continually reevaluated under core shared principles including:

- Our commitment to fostering a diverse, inclusive, and equitable community that thrives on the principles of respect, dignity, and fairness. We recognize that diversity enriches our community, brings together unique perspectives, and strengthens our ability to effectively serve our residents.

This includes our ambition to:

- Increase and broaden diverse participation in our professional ranks and civic activities
- Welcome all people in Lexington
- Consider health in all decisions
- Provide recreation facilities for all

- Honoring our rich historic traditions and taking pride in Lex250th celebration events
- Diversifying the commercial tax base to reduce financial burdens on residents allowing more to remain and lower the barriers for new residents to call Lexington home.
- Our commitment to being a sustainable and resilient community for all where we strive to:
  - Reduce greenhouse gas emissions,
  - Create cleaner indoor and outdoor environments, and
  - Ensure all members of our community have access to the tools they need to
  - Be resilient in a changing climate.

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**Goal #1: Enhance community vibrancy by increasing diversity of housing stock in size, accessibility, and price** (primary: Jill Hai assistant: Mark Sandeen)

**Update:**

Article 33 at Annual Town Meeting 2024 seeks authority for the Select board to sell, lease or otherwise dispose of Town owned land for the purpose of developing affordable housing. -Any proposal at this site would be required to be 100% affordable, and all units ~~to~~must qualify for and be included in the Subsidized Housing Index.

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- The Board allocated \$1,455,000 in ARPA funds for the~~to~~ acquisition of housing units by LexHAB in order to retain smaller ~~one and two family~~one- and two-family houses, now included in the Subsidized Housing Index
- The first proposal under the revised Special Residential Development bylaw, which is the product of a Select Board appointed committee, has been introduced. Following the guidelines created by the committee, it proposes two 2-family homes and two three family condominium buildings, for 10 units in four buildings, rather than a conventional development of single family homes. Eight of the 10 homes will be served by elevator, increasing their accessibility and 15% of the gross floor area is dedicated to affordable housing. 40% of the developable lot is retained as open space.

**Goal #2: Recognize and minimize issues around construction preserving quality of life** (primary: Joe Pato, assistant: Mark Sandeen)

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**Update:**

- Proposed revisions to the noise by-law to remove ambiguities about construction techniques and the need for mitigation plans for consideration as Article 29~~a~~ at the Annual Town Meeting 2024.
- Revised Noise Advisory Committee charge and began process to reconstitute the committee. When formed, the committee will be tasked to create a process for revising the noise by-law to establish noise limits appropriate to location or activity and clarify enforcement to be completed no later than Annual Town Meeting 2025.
- The Tree Committee has brought 3 articles to Annual Town Meeting 2024 (34, 35, and 36) providing additional protections for trees related to construction activities.

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**Goal #3: Create a more vibrant downtown** (primary: Doug Lucente, assistant: Jill Hai)

**Update:**

- Prioritizing Initiatives: The Select Board ~~anticipates~~heard the final report and recommendations from consultants on March 6th, stemming from the community workshops held in Fall 2023 titled "Lexington Center: The Journey Forward." These insights will be instrumental in refining and prioritizing our downtown revitalization efforts.
- Diversifying Alcohol Uses: Progress is underway to allow more varied alcohol-related experiences. Proposed bylaw amendments to allow Craft Beverage Establishments are encapsulated in ATM Article 49~~7~~7. Pending a favorable decision from the Town Meeting~~7~~7, subsequent actions will involve the Select Board re-evaluating our alcohol policies to support this diversification.

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- Streamlining Business Signage: Enhancements to the sign bylaw, aimed at simplifying signage processes for businesses, are detailed in ATM Article 47. These changes await final adjustments by the Planning Board and a positive vote at the Town Meeting, marking a significant step towards a business-friendly downtown.
- Tourist-Focused Social Media Initiatives: In alignment with our goal to enhance downtown vibrancy, the Semiquincentennial Commission has partnered with a communications firm. This collaboration focuses on leveraging social media campaigns designed to attract tourists, especially during the 250th-anniversary celebrations, further enriching our downtown's appeal.

These initiatives collectively represent our commitment to transforming Lexington's downtown into a more engaging, accessible, and vibrant community hub.

## Goal #4: **Improve communication efficiency in Board meetings and with staff** (primary: Joe Pato, assistant: Suzie Barry)

### Update:

- Working with staff to revise procedures for requesting an item on the Select Board agenda. Guidelines for submission materials include logistical information, requested action, as well as common areas of concern that Board Members will want to see addressed. Completion expected by end of Spring 2024.
- Exploring how to integrate the above procedures with new agenda management software that will replace the now obsolete Novus Agenda package.

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## Goal #5: **Transition to 100% renewable energy** (primary: Mark Sandeen)

### Update:

- There are approximately 18 MW of solar energy systems currently installed in Lexington.
- There were 3.6 MW of new solar energy systems added in Lexington during 2023.
- Approximately 55 million kWh of Lexington's commercial electricity usage is currently provided from 100% renewable energy sources.
- The Town of Lexington has established the HeatSmart Advisor program to provide Lexington residents who express an interest in converting their HVAC systems to heat pumps with the educational resources, ~~advice~~advice, and consultation to empower them to make the transition with confidence. The program is now in its second year.
- There are currently 1,505 electric vehicles (6.2%) and 2,692 hybrid vehicles (11.3%) registered in Lexington versus 19,889 internal combustion vehicles (82.5%) according to the Massachusetts DOT vehicle census as of January 1, 2024. There were 431 additional electric vehicles registered in Lexington in the last year. There were 358 additional hybrid vehicles registered in Lexington in the last year.
- The Massachusetts Department of Energy Resources approved Lexington's application to participate in the 10 Communities Demonstration Project with a start date of March 21, 2024.
- The first year of Building Energy Use Disclosure Data has been published on the Town website. - <https://www.lexingtonma.gov/1645/Building-Energy-Use-Disclosure>
- Complete Net Zero Police Station - Construction is underway for the solar canopy structure, which is expected to be completed by the Fall of 2024.

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- Establish Net Zero design standards for the new high school design – The School Building Committee has established design standards with the high school design team for a highly efficient, net-zero, all-electric high school.
- Establish High Performance Building standards for existing municipal buildings – The Select Board approved the High-Performance Buildings Policy on December 18, 2023.
- Complete Network Geothermal Feasibility Study – The Town of Lexington was awarded a grant to complete this study and expects to issue a report by the end of 2024.
- Develop the Getting to Zero Emissions Transportation Plan
- Develop Town's Fleet Charging Infrastructure Plan – Initial discussions are underway.
- Curbside Composting for one third of Lexington residents – The Select Board has approved the use of ARPA composting from 2,000 households
- to 4,000 households or approximately one third of Lexington residents.
- Become a Climate Leader funds to expand curbside Community

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**Goal #6: Advance age-in community initiatives for Lexington seniors**  
(primary: Doug Lucente)

## Update:

While there has been no notable advancement on these initiatives by the Select Board at the local level, at the state level, Governor Healey has filed the Municipal Empowerment Act, which introduces several measures that could indirectly support Lexington's age-in-community initiatives. Key components include:

- A new local-option means-tested property tax exemption for seniors, allowing cities and towns to offer additional property tax exemptions to qualifying seniors based on specific income and asset levels, residency duration, and homeownership.
- Extension of the local option for personal exemptions to seniors, blind persons, and others, allowing those whose domiciles are held in trusts or other arrangements to qualify for exemptions.
- Authorization for municipalities to increase existing senior property tax exemptions beyond the current \$500 limit.

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These measures, if passed by the legislature, could provide a framework for Lexington to advance its age-in-community initiatives, offering financial stability and support for seniors to maintain independent living in their homes.

**Goal #7: Raise community awareness and engagement with the high school project**  
(primary: Suzie Barry, assistant: Joe Pato)

## Update:

- Working with the School Building Committee to publish and inform the community of community meeting information and updates on the Town website and in Link to Lexington e-newsletter with clear reference to LHS Project website.

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## Budget and Finance Planning

The Select Board is committed to ensuring fiscal responsibility and sustainable growth through careful budget and financial planning for FY2025, focusing on preserving the Aaa bond rating, avoiding operating overrides, and planning for significant projects like the new Lexington High School. The FY2025 budget, developed without a Proposition 2½ Operating Override, supports the Board's vision for Lexington, emphasizing staffing, environmental initiatives, capital improvements, and infrastructure maintenance to achieve a balanced financial plan that aligns with community priorities.

**Staffing** - The budget incorporates staffing expansions to address the operational needs arising from new town bylaws and to continue investments in environmental initiatives, such as electric vehicles and enhancing our food waste and composting program. Specifically, it funds new roles such as an Assistant Superintendent of Public Grounds and a part-time Code Enforcement Officer, in response to the requirements of new tree and noise bylaws, as well as fire and mechanical inspectors due to the uptick in development from zoning bylaw modifications. These additions reflect the town's commitment to managing increased service demands while adhering to stricter regulations.

**Capital Improvement and Infrastructure** - The Capital Improvement Program is designed to make timely investments in town assets, enhancing public services. The FY2025 Capital Budget includes funds for the new Lexington High School and allocates \$6.0 million for renovations at 173 Bedford Street. This renovation is crucial for reorganizing town assets in light of the high school project and will make the building suitable for the School Administration staff during the construction period. The work involves installing an elevator, replacing the HVAC system, adding a sprinkler system, and reconfiguring interior spaces. Additional updates will be required after the Lexington Police Department relocates, especially to improve accessibility, fire protection, and new electric HVAC systems.

**Aaa Bond Rating** - The Town of Lexington has maintained an Aaa credit rating, which is the highest credit rating a municipality can receive. This rating, affirmed by Moody's Investors Service, reflects the town's strong fiscal management, characterized by conservative budgeting, a sizeable and wealthy tax base, healthy reserves and liquidity, and voter support for debt exclusions. Holding an Aaa rating allows the town to borrow funds at the most favorable interest rates, providing significant financial advantages for managing the town's debt and financing its projects.

**Capital Stabilization Fund** - The Capital Stabilization Fund (CSF) underwent a policy revision in Fall 2021 to allocate new levy growth from specified commercial and industrial development to the CSF, rather than ~~it that growth~~ becoming part of general revenue. This strategy aims to preserve levy capacity for managing sudden increases in debt service for major capital projects, such as high school construction. For FY2025, the budget maintains this approach, with \$4,036,373 transferred to the CSF from the tax levy, consistent with FY2024. This amount is expected to increase as new levy growth is calculated for FY2025, with an additional transfer planned for the Fall 2024 Special Town Meeting. After this budget cycle, the CSF balance will exceed \$36.0 million. The CSF plays a crucial role in our fiscal strategy, setting aside new tax levy growth for future capital projects. This ~~foresighted~~ approach allows us to build reserves for forthcoming capital endeavors, particularly the renovation or reconstruction of Lexington High School. Our commitment to this fund has not only provided tax relief to citizens by ~~alleviating-reducing~~ debt service excluded from Proposition 2½ but also prepares us for significant capital projects ahead.

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## American Rescue Plan Act (ARPA) Funding

As we approach the conclusion of the American Rescue Plan Act (ARPA) funding period, we are pleased to present an update on the allocation and utilization of ARPA funds in our community. The Town of Lexington was allocated a total of \$9,903,381 in ARPA funds, aimed at addressing the impacts of the COVID-19 pandemic and fostering recovery across critical sectors.

As of February 5, 2024, the Select Board has approved spending totaling \$9,110,345. The funds have been allocated to the following initiative areas:

- **Economic Stimulus & Resiliency:** The largest portion, approximately 37% of the funds, was earmarked to support our local economy, including bolstering the cultural sector, aiding small businesses, enhancing community events, updating digital platforms, improving public spaces, and fostering bikeway mobility and engagement.
- **Public Health & Safety:** With 26% of the funding, this area focused on bolstering the town's health department and public safety measures in response to the pandemic.
- **Housing:** 16% of the funds were allocated to address housing needs, ensuring support for those affected by the pandemic in securing stable housing.
- **Pandemic Response:** 13% of the funds were directly used for pandemic-related expenditures, including testing, vaccination programs, and other immediate health needs.
- **PIRs (Program Improvement Requests):** 6% of the funds have been utilized for enhancing the Food Waste Program, acquiring a new electric vehicle for the Health Department, and formulating an ADA Town Building Self Evaluation and Transition Plan.
- **Food Insecurity:** A smaller, yet crucial 2% of the funds addressed food insecurity, ensuring that residents affected by the pandemic have access to necessary resources.

The Participatory Budgeting (PB) process implemented in the previous year, which actively engaged our citizens in the decision-making process, leading to impactful community projects. However, given the stipulation that all ARPA funds must be committed by December 31, 2024, the continuation of the PB process will not be feasible this calendar year. Further, it is important to note that, despite concerted efforts, the initiative to establish a Dog Park will not proceed due to the inability to identify a suitable location within the time frames for ARPA spending. We extend our gratitude to all residents who participated in the PB process, contributing valuable insights and demonstrating the strength of our community's collective vision.

With an available balance of \$899,974, the Select Board is dedicated to navigate the final phase of ARPA fund allocation and utilization. The Select Board remains committed to ensuring that these resources are deployed in a manner that maximizes benefits for our community, adhering to the guiding principles of transparency, equity, and strategic impact.

## Lexington High School Project

The Lexington High School project is likely to be the most ambitious and expensive project undertaken by the Town of Lexington. Plans for this project have been brewing for years leading to the 2017 LHS Visioning process, the 2019 LPS Strategic Plan and the creation of the Master Planning Advisory Committee during the 2018-2019 year. In 2022 Lexington was invited into the Massachusetts School Building Authority (MSBA) Eligibility Period beginning the current process for the project.

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During 2023 the Lexington High School Building Committee (SBC) was involved in the steps outlined by the MSBA in Module 2 *Forming the Project Team*. This phase of the project is where the Owner's Project Manager (OPM) and the Design team are selected. The OPM selection process concluded in May with the selection of Dore + Whittier. The SBC then worked with the MSBA's Designer Selection Panel and ultimately selected SMMA as the preferred Designer for the project in October 2023.

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The feasibility phase, MSBA Module 3, began in earnest in November 2023 and will continue through End of May 2024. In this phase a minimum of three options must be identified. At least one option for repair only, renovation, and new construction must be identified. The project team has begun to seek feedback from the multiple town groups, committees, boards, and departments through focus group discussions which are intended to be implemented in a 3-step approach: meeting 1 - Listen to feedback from stakeholders; Meeting 2 - the design team will report back what they heard and clarify with the stakeholders; Meeting 3 - will be to have these focus groups make a recommendation on elements and attributes of the project that the SBC should consider.

Detailed information about the project is publicly available at: <https://lhsproject.lexingtonma.org> The current expected timeline for the LHS Project ~~are~~ *is* illustrated below. ~~2024 Annual Town Meeting is being asked to appropriate for design funds for the project of \$10M via article 26. with the~~ The next major funding action by Town Meeting expected to occur at a Special Town Meeting near the end of 2025 followed by a town-wide debt exclusion vote. Occupancy in the new or renovated facility is expected at the end of this decade or early in the next.

## LHS Anticipated Project Timeline

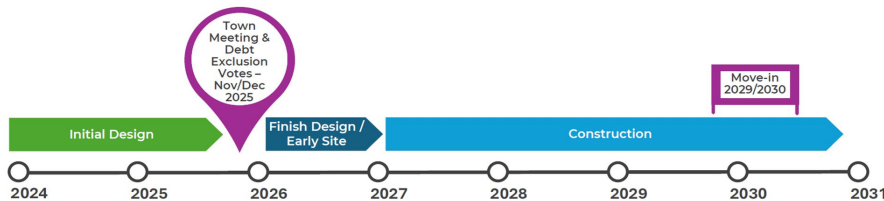


Figure 1: Anticipated Timeline - all dates are subject to change.

## Social Racial Equity Initiatives

The Select Board recognizes that social and racial injustice has deep roots. The Board has made a proactive and ongoing commitment to engage in comprehensive and ongoing community conversations to better understand community needs and to consider diversity, equity, and inclusion in policies and plans, all with the goal of making Lexington a truly equitable community for all.

The Select Board has adopted Diversity, Equity & Inclusion as one of its goals, including a commitment to develop and implement a comprehensive racial equity plan, consider racial and other equity impacts in all decisions and planning processes, and incorporate the goals of Town Meeting's systemic racism resolution in each department's goals and objectives. The Select Board recognizes that accomplishing these goals will require a budgetary commitment to training and continuous improvement and has recommended establishing a budget for accomplishing these goals.

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The Chief Equity Officer (CEO) leads the Town in achieving these goals. The CEO is in the process of updating job descriptions and expanding posting locations with the goal of encouraging a broader applicant pool for Town staff positions. The CEO is also working with senior leadership to incorporate more effective interviewing techniques with these goals in mind.

The CEO has initiated an internal equity audit in collaboration with an independent diversity, equity and inclusion consulting organization. During this process 120 staff members participated in training sessions, 65 staff members participated in focus groups on racial identity, disability, management, women, and LGBTQIA+ topics that were open to all staff. In addition, 40% of town staff answered a survey on equity issues.

The CEO has started a compensation study, in collaboration with an independent human resources consultant, considering internal pay equity and to ensure that salary ranges and benefits remain competitive for all staff.

The CEO, in collaboration with the Police Chief, held six Coffee and Conversation with the Chief events, with a total of over 40 residents having an opportunity to discuss community concerns with the Police Chief.

The CEO collaborated with the Sustainability & Resilience Officer to develop a framework used by senior leadership to consider Sustainability and DEI in staff's day-to-day operational decisions and long-term planning processes. This framework has been presented to the Select Board who encouraged a broad and inclusive community-wide focus for these initiatives.

## Update on Municipal and School Building Projects

The Board continues to address the issues of maintaining and improving our municipal and school building infrastructure. The following section includes the current status of Lexington's building projects. The Lexington High School building project is covered in the Lexington High School section of this report.

### Westview Cemetery Administration Building

**Start Date:** April 2022

**Project Completion Date:** August 2023

**Project Budget:** \$4,330,000

**Funding:** ATM 2017-Article 12o / ATM 2020-Article 16k / STM 2021-1 Article 7

Design funding of \$270,000 was approved at ATM 2017. Initial construction funding of \$3,290,000 was approved at ATM 2020 under Article 16k. Initial construction bids came in higher than the appropriated amount. As a result, Town Meeting approved additional construction funding of \$770,000 at STM 2021-1 under Article 7. Construction was completed and the building occupied in August 2023. During a significant winter storm, a 100-foot pine tree fell on the building. Fortunately, no one was injured, however the building did sustain minor damage. The roof has been temporarily patched and remains ~~water tight~~watertight. The roof, insulation, decking, and drip edge will be replaced when temperatures are warmer. A solar energy system will be installed in compliance with the Town's net zero renewable energy policy goals. Construction of the solar energy system is expected to be completed during the summer of 2024.

### Lexington Police Station

**Appropriation:** \$34,517,622

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**Status:** Construction underway

**Estimated Project Completion Date:** Fall 2024

**Funding:** ATM 2018-Article 14 / STM 2021-1 Article 5a /STM 2022-1 Article 2 / ATM 2023 Article 16(i)

The new Police Station facility is being constructed in compliance with the Town's Integrated Building Design and Construction Policy and will be solar ready in furtherance of the Town's net zero renewable energy policy goals. The building design and construction includes all of the infrastructure necessary to support onsite solar energy generation and energy storage systems designed to reduce the building's energy consumption and peak demand charges, while improving the building's resilience in the event of power ~~outages, and~~ outages and enabling high speed electric vehicle charging for the Police Department's electric vehicle fleet.

The solar energy canopy design went through an extensive public process to secure approval of a design that is appropriate for the neighborhood and meets the requirements of the Historic Districts Commission. The Historic Districts Commission issued a Certificate of Appropriateness in November 2023. Construction of the footings for the canopy have begun. Solar canopy and energy storage system construction is expected to be completed by the Fall of 2024 with a goal of having the solar canopy project completed at the same time as the Police Station to maximize efficiencies with the site contractor.

## Old Reservoir Bath House Renovation

**Appropriation:** \$620,000

**Funding:** ATM 2019-Article 14g

Initial bids received by the Town exceeded the appropriation approved by Town Meeting. The Department of Public Facilities and Recreation Department staff proposed design changes and procurement alternatives to lower overall project costs. DPF went out to bid a second time and the bids received were still well above the appropriation approved by Town Meeting. The Recreation Committee is reviewing the current status and deliberating on next steps for this project.

## Center Bathroom & Maintenance Building Renovation

**Appropriation:** \$780,000

**Project Completion Date:** October 2024

**Funding:** ATM 2020-Article 16b / ATM 2021-Article 16g / ATM 2022-Article 10e

2020 Annual Town Meeting approved \$100,000 in design and engineering funds for the Center Bathroom building renovation project. At the 2021 Annual Town Meeting, the Select Board recommended indefinite postponement of warrant article 16g requesting \$915,000 in construction funding to a future Town Meeting. 2022 ATM approved warrant article 10e requesting \$680,000 in funding for this project. The renovation of the Center Bathroom facility was ~~completed~~ completed in October 2024.

## Update on Recent Home Rule Petitions

There are six home rule petition requests approved at recent Town Meetings that remain under consideration by the legislature. No final action has been taken by the legislature on any of these petitions.

- **STM 2020-2: Article 6** – Authorize Special Legislation Development Surcharge for Community Housing (Citizen Petition)

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[Bill H.4314 \(malegislature.gov\)](#) An Act authorizing a development surcharge for community housing in the town of Lexington

**Status:** Reported favorably by the Joint Committee on Municipalities and Regional Government. Referred to the committee on House Steering, Policy and Scheduling, reported out for second reading. Second reading on 7/31/2022 and ordered to a third reading. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill HD.3088.  
<https://malegislature.gov/Bills/193/HD3088>

**Status:** House referred to committee on revenue 2/16/23, Senate concurred; Hearing 7/17/23 accepting written testimony only; House reporting date extended to 4/30/24 pending Senate concurrence.

This may be mooted if Governor Healey's Affordable Homes Act is adopted, which includes a provision for local adoption of real estate transfer fees. The Select Board and Housing Partnership have each voted unanimous support for the Real Estate Transfer Fee local option. More information and financial analysis can be found here:  
<https://www.mass.gov/info-details/the-affordable-homes-act-transfer-fee-analysis#:~:text=The%20Affordable%20Homes%20Act%20includes,home%20price%2C%20which%20is%20greater>

- **ATM 2021: Article 26** - Petition General Court to Amend Legislation Regarding Permanent Transportation Funding

[Bill H.3892 \(malegislature.gov\)](#) An Act authorizing the town of Lexington to establish transit improvement ~~districts~~districts.

**Status:** Referred to Joint Committee on Transportation, reported favorably after study. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill H3704.  
<https://malegislature.gov/Bills/193/HD2481>

**Status:** House referred to the committee on Transportation 3/30/23, Senate concurred; Joint hearing scheduled 1/10/24

- **ATM 2021: Article 29** - Clean Heat-Authorize Special Legislation to Regulate Fossil Fuel Infrastructure and Adopt Bylaw Amendment Enabling Legislation

[Bill H.3893 \(malegislature.gov\)](#) An Act authorizing the town of Lexington to adopt and enforce local regulations restricting new fossil fuel infrastructure in certain ~~construction~~construction.

**Status:** Referred to Joint Committee on Telecommunications, Utilities and Energy  
No further action by the end of the legislative session.

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The need for this home rule petition has been largely made moot by Chapter 179 of the Acts of 2022 authorizing a demonstration program for municipal regulation of fossil fuels in new construction. Lexington received approval to become one of the Participating Communities in the Department of Energy Resources (DOER) Demonstration Project. The acceptance did suggest certain updates to Lexington's bylaw to comply with DOER's regulations and those ~~revision~~revisions are included in the warrant for this Town Meeting as Article 38.

- **ATM 2021: Article 36** – Authorize Special Legislation-Development Surcharge for Affordable Housing (Citizen Petition)

[Bill H.3891 \(malegislature.gov\)](https://malegislature.gov/Bills/193/HD3085) An Act to establish a surcharge on specific commercial development activities for the purpose of funding the creation of community ~~housing~~housing.

**Status:** Passed by the House but did not reach a third reading in the Senate. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill HD.3085.

<https://malegislature.gov/Bills/193/HD3085>

**Status:** House referred to committee on revenue 2/16/23, Senate concurred; Joint hearing scheduled for 7/25/23 written testimony only. Reporting deadline extended to 4/30/24.

- **STM 2022-2: Article 3** – Amend General Bylaw to Allow Remote Participation at Hybrid Town Meetings

[Bill H.4876 \(malegislature.gov\)](https://malegislature.gov/Bills/193/HD118) An Act authorizing the town of Lexington to allow remote participation at town meetings

**Status:** Reported favorably by the committee on Election Laws and the committee on House Steering, Policy and Scheduling. Concluded a second reading and ordered for a third reading. No further action by the end of the legislative session.

Refiled in the 193rd (Current) session of the legislature as Bill HD.118.

<https://malegislature.gov/Bills/193/HD118>

**Status:** House referred to committee on Election Laws 2/16/23, senate concurred; Joint hearing scheduled 6/21/23; reporting deadline extended to 3/19/24.

- **STM 2022-3: Article 14** – LEXHAB Reorganization

Filed in the 193rd (Current) session of the legislature as Bill HD.119. An Act reorganizing the Lexington Housing Assistance Board, Inc <https://malegislature.gov/Bills/193/HD119>

**Status:** Filed as H3775 in the 193<sup>rd</sup> (Current) session of the Legislature. Transmitted to the Secretary of State on 3/22/23 and returned to the House from the Secretary of State on 4/12/23. Referred to the committee on housing on 4/13/23; joint hearing 6/26/23; reported favorably out of committee and referred to House Steering, Policy and Scheduling on 10/18/23; House second reading and ordered to third reading on 11/20/23; House third reading and passed to be engrossed on 12/7/23.

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Senate read on 12/11/23; Senate second reading and ordered to third reading 1/18/24. Technical suggestions by Senate counsel scheduled for discussion 3/12/24.

- *STM 2023-1 Article 9* Rank Choice Voting for town wide offices

Filed as H.4223 in the 193<sup>rd</sup> (Current) session of the legislature. An Act Establishing Ranked Choice Voting for Certain Offices in the Town of Lexington. Referred to House committee on Election Laws 12/21/23, Senate concurred. House reporting date extended to 3/19/24.

## 2025: The 250th Anniversary of the Battle of Lexington

The Semiquincentennial Commission (Lex250) continued their work on helping the Town of Lexington plan events for the 250th Anniversary of the Battle of Lexington. The Semiquincentennial Commission-Lex250 continues to meet at least twice a month and accomplishments in the past year ~~include~~include:

- ~~forming~~ a collaborative partnership with the towns of Arlington, Lincoln, Concord and Minuteman National Historic Park so as to coordinate schedules and resources. This also included signing an Inter Municipal Agreement (IMA) among the four town to share in services in relation to the planning of events. The collaborative 250<sup>th</sup> towns met quarterly in 2023 and now meet every other month in 2024.
- Working with the collaborative towns, the committee identified Saturday, April 19, 2025 as the day the majority of large events will take place in Lexington.
- Selected and hired a public relations firm to handle publicity, crisis communication and dedicated website build and management.
- Added five additional members to the Semiquincentennial Commission-Lex250 with experience in fundraising, transportation planning, publicity and security as we all as added a second Select Board Member.
- Attended the America250 Press Conference in Boston for the 250<sup>th</sup> Anniversary of the Boston Tea Party and also attended the quarterly meeting of REV250 the state level group coordinating events related to the 250<sup>th</sup> anniversary.
- ~~p~~Held a successful community meeting update and information gathering session in late January 2024 at the Community Center.

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***Moderator's Proposed schedule for ATM 2024  
published March 8, 2024***

**Monday, March 18, 2024** (*Proposed amendments/division requests due: 5pm Wed. 3/13*)

- Article 2 - Election of Deputy Moderator
- Article 2 - report of the Cary Lecture Series
- Article 3 - Appointments to Cary Lecture Series
- Article 32 - Old Spring Street Name Change
- Article 42 Digital Publication of Legal Notices (Citizen Petition)
- Article 29 - Amend the General Bylaw - Noise Control
- Time permitting:
  - Article 38 - Amend Regulation of Fossil Fuel Infrastructure Bylaw
  - Article 39 - Home Rule Petition to Adjust the Number of On-Premise Wine and Malt Alcohol Licenses
  - Article 41 - Massachusetts Bay Transportation Authority

**Wed. March 20, 2024** (*Proposed amendments/division requests due: 5pm Wed. 3/13*)

- Article 2 - budget report of the Town Manager
- Article 2 - Minuteman Schools budget report
- Article 2 - report of the Lexington Schools Superintendent
- Article 2 - report of the Appropriation Committee
- Article 2 - report of the Capital Expenditures Committee
- Article 2 - report of the Lexington Schools Superintendent
- [Consent agenda](#)
- Article 4 - Appropriate FY2025 Operating Budget
- Time permitting:
  - Article 5 - Appropriate FY2025 Enterprise Fund Budgets
  - Article 7 - Sustainable Capital Projects
  - Article 8 - Accept Tucker Ave (Westernmost portion)
  - Article 9 - Establish and Continue Departmental Revolving Funds
  - Continue any unfinished business from previous session

**Monday March 24, 2024 - NO SESSION (Holi)**

**Wed. March 27, 2024** (*Proposed amendments/division requests due: 5pm Wed. 3/20*)

- Article 2 - report of Community Preservation Committee
- Article 10 - Appropriate for the FY2025 Community Preservation Committee Operating Budget and CPA Projects - *items not on consent agenda* **(DATE CERTAIN)**
  - 10a - Cary Memorial Library Renovation
  - 10f - Lincoln Park Field Improvements
  - 10c - Park Improvements - Athletic Fields - Bowman School
  - 10d - Lincoln Park Fitness Stations Equipment (DATE CERTAIN)
  - 10e - Park Improvements - Hard Court Surfaces - Valley Rd
  - 10g - LexHAB Support, Restoration, Preservation, and Decarbonization
  - 10h - Lexington Housing Authority Exterior Preservation
  - 10i - Affordable Housing Trust Funding
- Time permitting:

- Continue any unfinished business from previous sessions
- Article 18 - Rescind Prior Borrowing Authorizations
- Article 19 - Establish, Amend, Dissolve and Appropriate.... Specified Stabilization Funds
- Article 23 - Appropriate Opioid Settlement

**Monday April 1, 2024 (*Proposed amendments/division requests due: 5pm Wed. 3/27*)**

- Article 25 - Pine Meadows Clubhouse Renovation
- Article 26 - Appropriate for Design Funds for LHS Project (**DATE CERTAIN**)
- Article 27 - Appropriate for Renovation of 173 Bedford Street (**DATE CERTAIN**)
- Article 12 - Appropriate for Municipal Capital Projects and Equipment - *items not on consent agenda*:
  - 12b - Heavy Vehicle Extrication Equipment
  - 12i - Cemetery Columbarium - Design
  - 12p - Election Equipment Upgrade
- Time permitting, continue any unfinished business from previous sessions

**Wednesday April 3, 2024 (*Proposed amendments/division requests due: 5pm Wed. 3/27*)**

- Town Meeting member memorials
- TMMA 30-year pins
- Article 33 - Authorize the Select Board to Seek Affordable Housing (**DATE CERTAIN**)
- Continue unfinished business from previous sessions

**Monday, April 8, 2024 (*Proposed amendments/division requests due: 5pm Mon. 4/1*)**

- Zoning Articles; Amend Zoning Bylaw re:
  - Article 47 - Signs
  - Article 48 - Short Term Rentals
  - Article 49 - Permitted Uses and Development Standards
  - Article 50 - Inclusionary Housing for Village and Multi-Family Overlay Districts
  - Article 51 - Maximum Height for Village Overlay District
  - Article 52 - Technical Corrections

**Wednesday, April 10, 2024 (*Proposed amendments/division requests due: 5pm Mon. 4/1*)**

- Article 24 - Appropriate Funding for Semiquincentennial Commission
- Article 46 - Royal Family Invitation to 250th Celebration
- Continue any unfinished Zoning Articles
- Time permitting, continue unfinished business from previous sessions

**NO SESSIONS school vacation week: Monday April 15 and Wednesday April 17**

**Monday, April 22, 2024 - NO SESSION (1st night Passover)**

**Wed. April 24, 2024 (*Proposed amendments/division requests due: 5pm Wed. 4/10*)**

- Article 31 - Prohibit Single-Serve Plastic Water Bottles (Citizen Petition)
- Article 34 - Amend General Bylaws - Tree Bylaw - Tree Protection Plan
- Article 35 - Amend General Bylaws - Tree Bylaw - Mitigation Planning
- Article 36 - Amend General Bylaws - Tree Bylaw - Exemptions

- Article 37 - Importance of Trees Resolution (Citizen Petition)
- Time permitting: Unfinished business from previous sessions

**Monday April 29, 2024 (*Proposed amendments/division requests due: 5pm Wed. 4/24*)**

- Article 21 - Amend FY2024 Operating, Enterprise and CPA Budgets
- Article 40 - Integrated Pest Management Resolution (Citizen Petition)
- Article 43 - Voting Rights 16 and Older (Citizen Petition)
- Article 45 - Indigenous Peoples Day (Citizen Petition)
- Unfinished business from previous sessions

**Hold for schedule slippage:**

- Wednesday, May 1st
- Monday, May 6th
- Wednesday, May 8th

# **AGENDA ITEM SUMMARY**

## **LEXINGTON SELECT BOARD MEETING**

### **AGENDA ITEM TITLE:**

Discuss and Approve Expenditure of Funds for Gift of Cash Received for Lowell Street Paving Project and Approve First Amendment to the Intermunicipal Agreement with Town of Burlington

### **PRESENTER:**

Jim Malloy, Town Manager

### **ITEM NUMBER:**

I.2

### **SUMMARY:**

#### **Category: Decision-Making**

There are two parts of this agenda item. The first part is to authorize the use of funds that Lexington will receive from Burlington for repaving Lowell Street. Similar to other projects/programs where the Town receives funds from another entity, the specific department may accept those funds, but cannot expend those funds until the Select Board has approved the purpose of the funds.

The second part of this agenda item relates to the original intermunicipal agreement (IMA) between the Towns of Lexington and Burlington. The original agreement contemplated Burlington contracting for the repaving of Lowell Street. The Lexington DPW has indicated they prefer to manage the contract to ensure the contractor meets Lexington's expectations on quality and working with residents. Town Counsel has drafted the attached First Amendment to the IMA.

Also attached are the original IMA and MGL Ch. 44, Sec. 53A.

### **SUGGESTED MOTION:**

Move to approve the use of funds from the Town of Burlington for the purpose of repaving Lowell Street and further, authorizing the Town Manager to execute the First Amendment to the Intermunicipal Agreement for Water Main and Lowell Street Paving between Lexington and Burlington.

### **FOLLOW-UP:**

**DATE AND APPROXIMATE TIME ON AGENDA:**

3/18/2024

6:20pm

**ATTACHMENTS:**

Description		Type
	Amendment to IMA	Cover Memo
	Original IMA	Cover Memo
	MGL 44, Sec. 53A	Cover Memo

FIRST AMENDMENT TO INTERMUNICIPAL AGREEMENT  
FOR WATER MAIN INSTALLATION, MAINTENANCE AND CONVEYANCE  
BETWEEN TOWN OF LEXINGTON AND TOWN OF BURLINGTON

This FIRST AMENDMENT (“Amendment”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the TOWN OF LEXINGTON (“Lexington”), acting through its Select Board, and the TOWN OF BURLINGTON (“Burlington”), acting through its Select Board, (collectively the “Municipalities”) pursuant to the requirements of M.G.L. c. 40, § 4A.

WHEREAS, Lexington and Burlington are parties to an Intermunicipal Agreement for Water Main Installation, Maintenance and Conveyance (the “Intermunicipal Agreement”) dated June 14, 2021, for the construction, installation and maintenance of a water main and related appurtenances on Lexington property;

WHEREAS, Lexington and Burlington desire to amend the Intermunicipal Agreement as set forth herein to reflect the changes in the terms and conditions since the effective date of the Intermunicipal Agreement; and

WHEREAS, Lexington and Burlington have been authorized to amend the Intermunicipal Agreement as evidenced by the execution of this Amendment by their respective representatives.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and for the mutual promises set forth below, the Municipalities agree as follows:

1. Section 2.4. Section 2.4 is hereby deleted in its entirety and replaced with the following:

“LEXINGTON shall select the contractor to complete any necessary repaving as a result of the construction in accordance with LEXINGTON utility construction standards. Once the contractor is selected, either party shall procure such contractor’s services at BURLINGTON’s expense. BURLINGTON shall pay for all costs of construction, including such repaving. LEXINGTON shall oversee and direct the contractor performing such repaving.”

2. Capitalized Terms. Capitalized terms used but not defined in this Amendment shall have the meaning ascribed to them in the Intermunicipal Agreement.
3. No Further Amendments. Except as amended by this Amendment, the Intermunicipal Agreement remains unmodified and in full force and effect.
4. Complete Agreement. This Amendment constitutes the entire agreement between the Municipalities concerning the subject matter hereof, superseding all prior agreements and understandings. There are no other agreements or understandings between the Municipalities concerning the subject matter hereof. Each Municipality acknowledges that it has not relied on any representations by any other Municipality or by anyone acting or purporting to act for another Municipality or for whose actions any other Municipality is responsible, other than the express, written representations set forth herein.

5. Counterparts. This Amendment may be executed electronically and in two or more counterparts, and by each or either of the Municipalities in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Town of Lexington and the Town of Burlington have caused this Amendment to be executed on this \_\_\_\_ day of \_\_\_\_\_, 2024, by their duly authorized representatives.

WITNESS MY HAND AND SEAL as of the first date written above.

TOWN OF LEXINGTON  
By its Town Manager

\_\_\_\_\_  
James Malloy  
Duly Authorized by vote of the  
Lexington Select Board on [\_\_\_\_\_, 20\_\_\_\_]

TOWN OF BURLINGTON  
By its Town Administrator

\_\_\_\_\_  
[\_\_\_\_\_]\_\_\_\_\_  
Duly Authorized by vote of the  
Burlington Select Board on [\_\_\_\_\_, 20\_\_\_\_]



INTERMUNICIPAL AGREEMENT  
FOR  
WATER MAIN INSTALLATION, MAINTENANCE AND CONVEYANCE  
BETWEEN  
TOWN OF LEXINGTON  
AND  
TOWN OF BURLINGTON

This AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of LEXINGTON, a municipal corporation, with an address of 1625 Massachusetts Avenue, within the County of Middlesex, Commonwealth of Massachusetts, 02420, acting through its Select Board, and Town of BURLINGTON, a municipal corporation with an address of 29 Center Street, within the County of Middlesex, Commonwealth of Massachusetts, 01803, acting through its the Board of Selectmen, pursuant to the requirements of G.L. c. 40, sec 4A.

WHEREAS, there is a MWRA Water Connection in LEXINGTON (“MWRA Connection”) to which BURLINGTON has been authorized to connect in order to provide BURLINGTON residents with water; and

WHEREAS, LEXINGTON is in need of a new water main to service its residents from the MWRA Connection; and

WHEREAS, LEXINGTON and BURLINGTON have determined it is in the public interests to collaborate on the construction of a water main from BURLINGTON through LEXINGTON to the MWRA Connection; and

WHEREAS, municipalities are authorized by Chapter 40, Sections 4 and 4A of the General Laws of the Commonwealth of Massachusetts to enter into intermunicipal agreements for the purpose of providing access through a community and for the purpose of water conveyance; and

WHEREAS, LEXINGTON and BURLINGTON have been authorized to enter into this Agreement as evidenced by the execution of this Agreement by their respective boards of selectmen.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and for the mutual promises set forth below it is mutually agreed as follows:

#### ARTICLE 1 – WATER MAIN EASEMENT

1.1 LEXINGTON agrees to provide to BURLINGTON an easement over the area indicated on Exhibit A for the purpose of constructing, installing and maintaining a water main and related appurtenances and for the purpose of conveying water (the “Easement”). The Easement shall be in substantially the same form as attached hereto as Exhibit B. The parties shall execute the Easement prior to the commencement of construction and shall record same at the Middlesex Registry of Deeds.

#### ARTICLE 2 – WATER MAIN DESIGN AND CONSTRUCTION

2.1 BURLINGTON shall design the water main. Said design shall be in accordance with LEXINGTON water main construction standards. LEXINGTON shall have the opportunity to review and comment on said design during the design phase of the project. Said review opportunities will occur at the 30%, 75% design and 100% design

milestones. LEXINGTON shall be provided said plans and shall provide written comments to BURLINGTON within thirty (30) days of receipt of said design. In the event LEXINGTON shall fail to provide any comments within said comment period, BURLINGTON shall consider LEXINGTON's failure to comment as an assent to the design and may proceed with the next step of design.

2.2 BURLINGTON shall pay for all design and engineering services and shall be responsible for procuring any designers or engineers necessary therefor.

2.3 BURLINGTON shall construct and install the water main. BURLINGTON shall adhere to LEXINGTON regulations with regard to road openings and time for construction activities. No work shall occur between the hours of 8:00 PM and 7:00 AM, except for emergency work will be undertaken without a permit from LEXINGTON.

BURLINGTON shall comply with the requirements of the LEXINGTON Noise Bylaw. BURLINGTON shall keep LEXINGTON informed of the construction process. Once BURLINGTON has selected a contractor, BURLINGTON shall inform LEXINGTON of the identity of the contractor and shall include emergency contact information for the BURLINGTON official responsible for overseeing construction as well as emergency contact information for the contractor.

2.4 BURLINGTON shall pay for all costs of construction, including repaving in accordance with LEXINGTON utility construction standards, and shall be responsible for procuring any contractors therefor.

2.5 BURLINGTON's contractor shall provide a certificate of insurance to LEXINGTON covering BURLINGTON activities in LEXINGTON. Similarly, BURLINGTON shall require its contractor to include both LEXINGTON and BURLINGTON as additional

insureds on its insurance and in accordance with the standards acceptable to LEXINGTON.

- 2.6 BURLINGTON estimates that the time for construction will be \_\_\_\_ days. Said construction to commence on or before \_\_\_\_\_, 2021.

### ARTICLE 3 – OPERATION AND MAINTENANCE

- 3.1 Once BURLINGTON has completed construction and the water main is tested and is ready for operation and accepted by LEXINGTON as such, LEXINGTON shall thereafter maintain the water main from the BURLINGTON/LEXINGTON town line to the MWRA Connection.
- 3.2 Both towns shall share the water main. LEXINGTON shall be responsible for the maintenance of the water main. BURLINGTON and LEXINGTON shall share equally in the costs of maintenance and replacement of the water main by LEXINGTON.
- 3.2.1 LEXINGTON shall bill BURLINGTON on a quarterly basis for any maintenance activities. Said invoice shall include a complete description of the work undertaken, BURLINGTON will reserve the right to ask for the hourly rate at which the work was conducted, the number of hours, a description of any replacement parts along with the cost of same. All services and parts shall be billed on a direct cost basis with no mark up.
- 3.2.2. Pursuant to G.L. c. 40, § 4A, any funds received by LEXINGTON pursuant to this Agreement shall be deposited with the treasurer of the Town of Lexington and held as a separate account and may be expended for contribution towards the costs to maintain the water main.

- 3.2.3 To the extent that BURLINGTON's outside auditors require same, BURLINGTON shall have the right to inspect and audit at the LEXINGTON offices any and all cost records of the LEXINGTON relating to the maintenance of the water main.
- 3.3 Pursuant to G.L. c. 40, § 4A, employees, servants, or agents of either LEXINGTON or BURLINGTON while engaged in performing any service, activity, or undertaking under this AGREEMENT shall be deemed to be engaged in the service and employment of that municipality, notwithstanding the fact that such service, activity or undertaking is being performed in or for another governmental unit or units.
- 3.4 Pursuant to G.L. c. 40, § 4A, the vehicles or equipment of either LEXINGTON or BURLINGTON while engaged in performing any service, activity or undertaking under this AGREEMENT shall be deemed to be engaged in the service and employment of that municipality, notwithstanding such service, activity or undertaking is being performed in or for another governmental unit or units.

#### ARTICLE 4 – TERM

- 4.1 The term of this Agreement shall be for twenty five (25) years commencing from the date of execution of this Agreement, provided that the easement negotiated by BURLINGTON and LEXINGTON shall be subject to the term specified therein. This Agreement may be renewed upon mutually agreeable terms and conditions. The parties fully recognize that the water main to the MWRA connection provides drinking water to BURLINGTON residents and any termination or significant change in terms would not be in the public interest and could have severe public health and adverse economic implications for the residents. As a result, the parties agree to use their utmost good faith in the negotiation of any renewal agreement.
- 4.2 This Agreement may be amended from time to time by mutual consent of the parties and in accordance with General Laws c.40, §§4 and 4A.

#### ARTICLE 5 – TERMINATION

- 5.1 For any material breach of this Agreement for six (6) months after notice thereof in writing by the other party, either party may terminate this Agreement by giving written notice thereof to the other party with an effective date ninety (90) days after receipt of the notice to terminate.
- 5.2 No failure or delay in performance shall be deemed to be a breach of this Agreement when such failure or delay is occasioned by or due to any Act of God, strike, lockout, war, riot, epidemic, explosion, sabotage, breakage or accident to machinery or lines or pipes, the binding order of any court or governmental authority, or any other cause whether of the kind herein enumerated or otherwise not within the control of the Party against whom a breach is alleged.

- 5.3 In the event of termination of this Agreement, in no event shall LEXINGTON prohibit the conveyance of water through the water main to BURLINGTON unless BURLINGTON has secured an approved alternative method of water delivery to users in BURLINGTON.

#### ARTICLE 6 – NONBINDING MEDIATION

- 6.1 Prior to the commencement of any litigation under this Agreement, the parties hereto agree that any dispute arising under this Agreement shall be submitted to a mutually agreeable organization, for nonbinding mediation.

#### ARTICLE 7 – MISCELLANEOUS PROVISIONS

- 7.1 All notices, requests, demands or other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the second day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed.

If to: Burlington  
Office of the Town Administrator  
29 Center Street  
Burlington, MA 01803  
781 270 1635 (phone)

With a copy to: Public Works Director  
25 Center Street, Second Floor  
Burlington MA 01803  
781 270 1670

If to: Lexington  
Town Manager

1625 Massachusetts Ave  
Lexington, MA 02420  
781 698 4540

Any party may change their address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

- 7.2 This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this agreement.
- 7.3 This agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all prior oral and written agreements with respect thereto, and no amendment shall be valid unless it is documented in a written instrument duly executed by both parties.
- 7.4 Nothing in this agreement shall be construed to confer upon any person, any remedy or claim as third-party beneficiaries or otherwise.
- 7.5 No waiver of any breach of any provision of this agreement shall be deemed a waiver of any preceding or succeeding breach. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligation or acts.



7.6 Neither party may assign this agreement or any rights hereunder, nor may they delegate any of the duties to be performed hereunder without the prior written consent of the other party.

7.7 Each individual executing this agreement on behalf of any entity, which is a party to this agreement, represents and warrants that he or she is duly authorized to execute and deliver this agreement on behalf of said entity. This agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

TOWN OF LEXINGTON

TOWN OF BURLINGTON

TOWN MANAGER

TOWN ADMINISTRATOR

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List of Exhibits:

Exhibit A: Easement Plan

Exhibit B: Form of Easement

**Part I** ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 44** MUNICIPAL FINANCE**Section 53A** GRANTS AND GIFTS; ACCEPTANCE AND EXPENDITURE

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Section 53A. An officer or department of any city or town, or of any regional school or other district, may accept grants or gifts of funds from the federal government and from a charitable foundation, a private corporation, or an individual, or from the commonwealth, a county or municipality or an agency thereof, and in the case of any grant or gift given for educational purposes may expend said funds for the purposes of such grant or gift with the approval of the school committee, and in the case of any other grant or gift may expend such funds for the purposes of such grant or gift in cities having a Plan D or Plan E form of government with the approval of the city manager and city council, in all other cities with the approval of the mayor and city council, in towns with the approval of the board of selectmen, and in districts with the approval of the prudential committee, if any, otherwise the commissioners. In the case of grants from the federal government or from the commonwealth, a county or municipality or agency or instrumentality thereof, upon receipt of an agreement from the grantor to provide advance payment or reimbursement to the city, town or district, the officer or department may

spend the amount of the advance payment, or the amount to be reimbursed, for the purposes of the grant, subject to the approvals required by this section. Any advance payment or reimbursement shall be applied to finance the grant expenditures; provided, however, that any expenditures outstanding at the close of the fiscal year after the fiscal year in which the grantor approved the agreement shall be reported by the auditor or accountant of the city, town or district, or other officer having similar duties, or by the treasurer if there be no such officer, to the assessors, who shall include the amount so reported in the determination of the next annual tax rate, unless the city, town or district has otherwise made provision therefor. Notwithstanding the provisions of section fifty-three, any amounts so received by an officer or department of a city, town or district shall be deposited with the treasurer of such city, town or district and held as a separate account and may be expended as aforesaid by such officer or department receiving the grant or gift without further appropriation. If the express written terms or conditions of the grant agreement so stipulate, interest on the grant funds may remain with and become a part of the grant account and may be expended as part of the grant by such officer or department receiving the grant or gift without further appropriation. Any grant, subvention or subsidy for educational purposes received by an officer or department of a city, town or school district from the federal government may be expended by the school committee of such city, town or district without including the purpose of such expenditure in, or applying such amount to, the annual or any supplemental budget or appropriation request of such committee; provided, however, that this sentence shall not apply to amounts so received to which section twenty-six C of chapter seventy-one of the General Laws, and chapter six hundred and twenty-one of the acts of

nineteen hundred and fifty-three, as amended, and chapter six hundred and sixty-four of the acts of nineteen hundred and fifty-eight, as amended, apply; and, provided further, that notwithstanding the foregoing provision, this sentence shall apply to amounts so received as grants under the Elementary and Secondary Education Act of 1965, (Public Law 89–10). After receipt of a written commitment from the federal government approving a grant for educational purposes and in anticipation of receipt of such funds from the federal government, the treasurer, upon the request of the school committee, shall pay from the General Fund of such municipality compensation for services rendered and goods supplied to such federal grant programs, such payments to be made no later than ten days after the rendition of such services or the supplying of such goods; provided, however, that the provisions of such federal grant would allow the treasurer to reimburse the General Fund for the amounts so advanced.

# **AGENDA ITEM SUMMARY**

## **LEXINGTON SELECT BOARD MEETING**

### **AGENDA ITEM TITLE:**

Discuss Town Manager Search Process

### **PRESENTER:**

Joe Pato, Select Board Chair

### **ITEM NUMBER:**

I.3

### **SUMMARY:**

#### **Category: Brainstorming**

The Board will discuss directions for recruiting our next Town Manager. We will review the charge for the 2018 TM Search Screening Committee - including revisiting the makeup of such a committee. The Board will identify member(s) who will shepherd this process and develop a transition timeline.

### **SUGGESTED MOTION:**

### **FOLLOW-UP:**

### **DATE AND APPROXIMATE TIME ON AGENDA:**

3/18/2024

6:25pm

### **ATTACHMENTS:**

Description	Type
❑ 2018 Town Manager Search Screening Committee Charge	Backup Material
❑ 2018 Recruitment RFQ	Backup Material
❑ 2018 Lexington Profile	Backup Material

## **2018 Town Manager Search Screening Committee Charge**

<b>Authority</b>	The Town Manager Search Screening Committee is an ad hoc committee appointed by the Board of Selectmen.
<b>Membership</b>	<p>The Town Manager Search Screening Committee will have eleven (11) members composed as follows:</p> <ul style="list-style-type: none"><li>• 2 Selectmen</li><li>• 1 Former Selectman</li><li>• 1 Diversity Advisory Task Force Representative</li><li>• 1 School Committee Member</li><li>• 1 Planning Board Member</li><li>• 1 Economic Development Advisory Committee Member</li><li>• 1 Former Town Senior Manager</li><li>• 1 Business Representative</li><li>• 2 Town Meeting/Community Representatives</li></ul>
<b>Liaisons</b>	The Town Manager Search Screening Committee will have one liaison from each the Appropriation Committee and Capital Expenditures Committee.
<b>Purpose</b>	<p>The purpose of the Committee will be to recommend to the Board of Selectmen finalists for appointment as Lexington's next Town Manager.</p> <p>Consistent with State law, the meetings and deliberations of the Committee shall be subject to the Open Meeting law, but the names of applicants and candidates interviewed by the Committee shall not be made public and Screening Committee interviews shall be in Executive Session under Exemption 8.</p>
<b>Responsibilities</b>	<p>The Committee's responsibilities shall be to:</p> <ol style="list-style-type: none"><li>1. Work with the executive search consultant in reviewing community input and feedback regarding the traits and management style desired for the next Town Manager.</li><li>2. Review the Board of Selectmen-Town Manager Act</li><li>3. Review with the consultant the selection criteria for evaluating the candidates.</li><li>4. Oversee and guide community listening and discussion sessions with Town Boards and Committees, Town employees, citizens and other community stakeholders, as outlined in the timeline, to help inform the Board of Selectmen on the qualities, strengths, and characteristics of candidates they envision for the Town Manager</li><li>5. Review those candidate's resumes and application materials</li></ol>

recommended for interview by the consultant and evaluate this information based upon the established selection criteria.

6. Work with the consultant to develop interview questions for the Screening Committee interviews.
7. Conduct interviews of the recommended candidates in executive session.
8. Review background and references as appropriate.
9. Recommend to the Board of Selectmen a minimum of three final candidates, unless a lesser number is agreed to by the Board of Selectmen, who best match the selection criteria. Work with the Consultant to provide the key attributes each candidate should possess.
10. Assist the Board of Selectmen, collectively and individually, in preparing for interviews in executive session and in open session under the Massachusetts Open Meeting law;

**Deliverable**

It is expected that Committee shall begin its work by mid-June and shall submit its list of recommended finalists to the Selectmen by August 10, 2018, unless another date is agreed to by the Board of Selectmen.

**Reference:**

Charge adopted by the Board of Selectmen on June 4, 2018.

Selectmen designated Committee Members as Special Municipal Employees: on June 4, 2018

# REQUEST FOR QUALIFICATIONS

## EXECUTIVE RECRUITING CONSULTANT

For the Town of Lexington

*Town Manager*

May 11, 2018

Addendum May 22, 2018

*(additions and deletions are highlighted in yellow)*

Response Due Date: Friday, May 25, 2018 at 11:00 a.m.

**Consultant Interviews Tentatively Scheduled for Monday, June 4 beginning at 9 a.m.**

EXECUTIVE RECRUITING CONSULTANT – TOWN OF LEXINGTON



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SELECTMEN-TOWN MANAGER ACT Attachment 1

## **INTRODUCTION & PROJECT DESCRIPTION**

The Town of Lexington Board of Selectmen is seeking quotes from qualified executive search consultants to work with the Board and the Town in the recruitment and selection of an exceptional candidate for the position of Town Manager for the Town of Lexington.

## **ABOUT THE TOWN OF LEXINGTON**

### **Current statistics about Lexington:**

- Lexington's land area is 16.6 square miles.
- Approximately 63% of the land in town is in private ownership;
- Approximately 12% of the land is publicly held conservation land.
- A population of 32,478.
- Lexington has 11,530 households.
- Lexington has 7,072 public school children
- Lexington has 8,462 senior citizens.
- Per Capital Income \$112,264
- Equalized Valuation per capita: \$328,658
- Bond Rating: Aaa
- Business Tax Base: BioPharm Cluster of 30 companies and a visitor-based retail based Center
- Commercial property taxes make up 20% of property tax base
- FY18 budget-all funds: \$257,329,594
- Commitment to an aggressive capital plan including two schools and a new fire station about to begin construction, a renovated police station planned within the next two years, followed by plans to renovate or replace the high school.

### **Lexington provides a multitude of public resources for its residents:**

- Cary Memorial Library, providing resources and programming for residents of all ages
- Excellent public transportation, with buses providing access to the Boston area MBTA
- Outstanding public schools
- Cary Memorial Hall featuring Battin auditorium, home to the Lexington Symphony and many other shows and events
- Lexington Community Center, with its dining room, fitness center, game rooms and meeting rooms for community groups
- Town Human Services Department, providing Senior, Veteran, and Youth and Family resources and services
- Town Recreation and Community Programs Department, managing the Town pool and beach, and providing sports and leisure programming for children, teens and adults

### **A Snapshot of Lexington**

Lexington was first settled in 1642 as a farming community that was part of Cambridge. It became the parish of Cambridge Farms in 1691, and was incorporated as a separate town in 1713. The town experienced rapid housing development after World War II with the growth of the Boston urban area and the decline of agriculture.

While the town is primarily residential, a number of industries and commercial establishments employ more than 16,000 people in Lexington. Services and manufacturing are the two largest employment sectors. The major shopping area is the central business district. Lexington Center is a well-maintained area with retail stores, professional offices, banks, and restaurants.

Lexington is a diverse/welcoming community with a growing and engaged Chinese, Indian and Korean population. The Town has always been blessed with an active citizenry, and participation of new as well as long-term residents is always welcome. Town government provides a variety of opportunities for citizen involvement.

In recent years the Board of Selectmen has established a commitment to sustainable practices in the development of infrastructure (LEED Silver municipal and school buildings), transportation (A Complete Streets community) and the environment (A Green community).

## **ABOUT THE POSITION:**

See Attachment 1 – Board of Selectmen-Town Manager Act.

## **SCHEDULE AND TIME LINE**

The Board of Selectmen will vote to award the executive search consultant contract by June 4, 2018 and prefer to select a new Town Manager 12 weeks after the Executive Recruiting Consultant is engaged by the Town.

## **SUBMISSION DEADLINE AND INSTRUCTIONS**

Sealed proposals must be received by the Chief Procurement Officer, Lexington Town Office Building, 1625 Massachusetts Avenue, Lexington, MA 02420 by **Friday, May 25, 2018 at 11:00 a.m.** at which time and place the sealed proposals shall be publicly opened.

Proposals **MUST** include an original, five (5) copies and a PDF electronic version. No proposals will be accepted after the time and date noted. The Lexington Town Office Building is open Monday-Friday to receive proposals from 8:30 a.m. – 4:30 p.m.

Request for Proposal documents may be obtained from the Chief Procurement Officer, Town Office Building, 1625 Massachusetts Avenue, Lexington, MA 02420.

Applicants must also execute, as required by law, and include in the sealed submission the Certificate of Non-Collusion, the Certificate of Corporate Authority and the Certificate of Tax Compliance, copies of which are attached.

Proposals are to be sealed and properly identified on the outer envelope as Proposal for Executive Consulting Services with the applicant's name and address and delivered to: Lindsay Dahlberg, Chief Procurement Officer.  
Town of Lexington

Town Office Building  
1625 Massachusetts Avenue  
Lexington, MA 02420  
781 698-4628

The following information is specifically required:

1. Name and address of applicant, telephone/fax numbers and e-mail address.
2. Brief résumé of principals and of the staff to be assigned to the Project.
3. List of completed projects that would best illustrate qualifications for the Project.
4. Three references for projects of a similar or larger scope, size and complexity, with contact name, title and telephone number of the person who can speak to the quality of services provided for similar Town Manager /Town Administrator recruitment processes.
5. Names and qualifications of any outside vendors that may be used for the Project.
6. Statement of the scope and type of services proposed for the Project. Based on the guidelines and information in this RFQ, the applicant should describe the process and methodology to be used in the completion of services with specific reference to examples of similar projects in which this methodology has been used.
7. Statement of any legal or administrative proceedings, pending or concluded adversely, to the applicant within the past five (5) years which relate to the applicant's performance of this type of work.
8. Appropriate certifications of insurance.
9. Provide samples of work, such as reports, a sample position profile, evaluation forms and other decision-making tools
10. Summary of expected costs, including estimated consulting fees, advertisement costs, travel expenses and other miscellaneous costs
11. A current firm brochure may be submitted with the proposal.
12. Completion of the forms located at the end of this RFQ package.

**Note:** For other governmental entities that may be responding to this RFQ:

- Tax Compliance Certification: Indicate on this document that as a governmental entity, this does not apply.
- Certificate of Corporate Authority: Indicate on this document that as a governmental entity, this does not apply.
- Non Collusion: Head of governmental office responding to the RFQ can sign this form.
- Fee Proposal: The Board of Selectmen expects that while the final fee will be negotiated (largely based on the number of stakeholder meetings we request) it would still like a separate fee proposal based on the scope of work outlined.

## **INSURANCE AND IDEMNIFICATION**

The selected firm shall obtain and maintain at its own expense, general liability/property and motor vehicle liability insurance policies protecting the Town of Lexington in connection with any operations included in this contract, and shall have the Town of Lexington listed as additionally insured on the policies. General liability coverage shall be in the amount of

\$1,000,000 per occurrence and \$2,000,000 aggregate for general liability and property damage. Workers' compensation insurance and motor vehicle liability insurance shall be in the amounts that are in accordance with the requirements of Massachusetts law, unless otherwise waived by the Town.

**Indemnification:** The successful applicant shall agree to indemnify and hold harmless the Town of Lexington and its officers, boards and employees, and the Board of Selectmen, from and against all claims, causes of action, suits, damages and liability of any kind which arise out of the negligence or willful misconduct of the successful applicant or its officers, employees, agents and representatives regarding the project manager services performed.

Proposals must be signed as follows:

1. If the proposer is an individual, by her/him personally.
2. If the proposer is a partnership, by the name of the partnership, followed by the signature of each general partner.
3. If the proposer is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and corporate seal affixed.

**The Lexington Board of Selectmen, as the awarding authority, reserves the right to accept any proposal in whole, and to reject any and all proposals if it shall be deemed in the best interests of the Town of Lexington to do so.**

## **QUESTIONS, ADDENDUM, OR PROPOSAL MODIFICATION**

Questions concerning this request must be submitted in writing to the Chief Procurement Officer. All inquiries received 5 or more business days prior to the opening will be considered. Questions may be delivered, mailed, emailed ([ldahlberg@lexingtonma.gov](mailto:ldahlberg@lexingtonma.gov)) or faxed (781 861-2794). Written responses will be mailed or faxed to all applicants on record as having received the RFQ.

If any changes are made to the RFQ, an addendum will be issued. Addenda will be mailed, emailed or faxed to all applicants on record as having received the RFQ.

All proposals submitted in response to this RFQ shall remain firm for ninety (90) days following the proposal opening. It is the Town's intent to award the contract within 30 days after the proposal opening. The time for award may be extended for up to 45 additional days by mutual agreement between the Board of Selectmen and the highest ranked applicant, on the basis of the responses to the Scope of Work stated below.

After the opening of proposals, an applicant may not change any provision of the proposal in a manner prejudicial to the interests of the Town of Lexington or fair competition. Minor informalities may be waived or the applicant may be allowed to correct them.

## SCOPE OF WORK

The consultant shall:

1. Meet with the Board of Selectmen and Screening Committee as frequently and for such time as may be necessary to carry out his or her work;
2. Prepare, in consultation with and approval by the Board of Selectmen, a plan for the search, recruitment and selection of a qualified candidate for the position of Town Manager;
3. Assist in establishing a profile of the desired candidate, reflecting the qualities and attributes the Board of Selectmen believes the Town Manager should possess. The Board of Selectmen believes that the successful candidate will comply with the Code of Ethics of the ICMA or Massachusetts Municipal Management Association;
4. Create a profile for the Town of Lexington that encompasses the uniqueness of the community, demographics, economic stability, strong sense of volunteerism, and form of government;
5. Review the Board of Selectmen-Town Manager Act (Attachment 1);
6. Develop a plan to advertise the position and prepare advertisements for publication, including utilizing the consultant's network of local government professionals to recruit qualified individuals that match the established candidate profile of this position;
7. Oversee and guide community listening and discussion sessions with Town Boards and Committees, Town employees, citizens and other community stakeholders, as outlined in the timeline, to help inform the Board of Selectmen and Screening Committee on the qualities, strengths, and characteristics of candidates they envision for the Town Manager;
8. Prepare a recruitment report of potential candidates from the submitted applications with possible recommendations of candidates for review;
- 8A. Directly receive all applications/resumes.
9. Assist the Screening Committee in reviewing applications;
10. Assist the Screening Committee in vetting and interviewing candidates, including development of questions, essays, and scenarios;
11. Assist the Board of Selectmen, collectively and individually, in preparing for interviews in executive session and in open session under the Massachusetts Open Meeting law;
12. Conduct a full reference check of the finalists prior to any interview by the Board of Selectmen;

13. Organize and moderate a public “meet and greet” session for the finalists;

14. Potentially schedule and attend site visits to an applicants’ current community.

15. Assist in negotiating and drafting of employment agreement and terms and conditions with the finalist, up to and including acceptance of an Employment Agreement by the selected candidate;

16. Make every effort to successfully complete the requirements of this Contract within 12 weeks from the date of the signed contract;

17. Conduct other related tasks as may be requested by the Board of Selectmen.

## **TIMELINE:**

**Interviews of consultants for this project are tentatively scheduled for Monday, June 4 at 9 a.m.**

**Proposed dates to develop ideal candidate profile (Tentative. The Board of Selectmen understands that this is an aggressive schedule and may need to be flexible in meeting dates, particularly around the June 15 date to review profile of ideal candidate.):**

- June 7: Consultant meets individually with Selectmen and Executive Clerk
- June 11: Consultant meets with Screening Committee to discuss roles and meeting timeline
- June 12: Consultant meets with Senior Management Team
- June 12: Consultant meets with boards/committees
- June 13: Consultant meets with employees
- June 13: Consultant meets with interested community members
- June 15: Consultants meets with Selectmen to review profile of ideal candidate

The Town desires that the consultant make every effort to bring this process to completion within 12 weeks from the signed contract for services, but recognizes that scheduling of various meetings may extend this timeline.

## **MINIMUM REQUIREMENTS/QUALIFICATIONS**

Consultants shall have been in the business of providing recruitment services for a minimum of (3) three years. The Lead consultant shall have successfully completed a similar process for the selection of at least (3) three similar positions such as Town Manager or Town Administrator within the past thirty-six months.

## **FEE**

The proposed fee for this project should be included as part of the quote response and will be negotiated **upon selection and agreed upon workplan**. The fee will include all expenses, direct and indirect, for this project. All proposals shall belong to the Town of Lexington. The

successful applicant shall agree to comply with all applicable federal, state and local laws in its performance of its contract with the Town of Lexington.

*Please note, many of the “administrative” functions will be performed by the Town of Lexington including acknowledgment of resumes, scheduling, ad placement, initial background and reference verification, etc.*



***TOWN OF LEXINGTON***

**TAX COMPLIANCE CERTIFICATION**

Pursuant to M.G.L. c.62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, the below named business is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
(Date) (Signature of individual submitting bid or proposal)

\_\_\_\_\_  
(Printed name of person signing bid or proposal)

\_\_\_\_\_  
(Name of business)

\_\_\_\_\_  
(Business address)

\_\_\_\_\_  
(Business phone number)

**MUST BE RETURNED SIGNED WITH THE SEALED BID PACKET**

***TOWN OF LEXINGTON***

**CERTIFICATE OF CORPORATE AUTHORITY**

The principal, officer or person to sign below pledges under penalties of perjury, that he or she has been designated by the owner(s) or the Board of Directors of the below named firm as an authorized representative.

\_\_\_\_\_  
(Date) (Signature of individual submitting bid or proposal)

\_\_\_\_\_  
(Printed name and title of person signing bid or proposal)

\_\_\_\_\_  
(Name of business)

\_\_\_\_\_  
(Business address)

\_\_\_\_\_  
(Business phone number)

**MUST BE RETURNED SIGNED WITH THE SEALED BID PACKET**

## ***TOWN OF LEXINGTON***

### **NON-COLLUSION STATEMENT**

#### **CONTRACTOR'S CERTIFICATION IN BID/PROPOSAL TO BE ATTACHED TO CONTRACT**

Any person submitting a Bid or Proposal for the procurement or disposal of supplies and services to any governmental body shall certify in writing, on the Bid or Proposal, as follows:

“The undersigned certifies under penalties of perjury that this Bid or Proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.”

\_\_\_\_\_  
(Date) (Signature of person signing bid or proposal)

\_\_\_\_\_  
(Printed name of person signing bid or proposal)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name of Business)

\_\_\_\_\_  
(Business address)

\_\_\_\_\_  
(Business Phone Number)

**MUST BE RETURNED SIGNED WITH THE SEALED PROPOSAL PACKET**

## **SIGNATURE PAGE**

The applicant hereby certifies that:

1. The applicant has not given, offered, or agreed to give any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of contract for these services.
2. No consultant to, or subcontractor for the applicant has given, offered, or agreed to give any gift, contribution or offer of employment to the applicant, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the applicant.
3. That no person, corporation, or, other entity other than a bona fide full-time employee of the applicant has been retained or hired to solicit for, or in any way assist the applicant in obtaining the contract for services upon an agreement or understanding that such person, corporation, or entity be paid a fee or other compensation contingent upon the award of the contract to the applicant.

I hereby attest with full knowledge of the penalties for perjury, as in accordance with Massachusetts G.L. C.7, S.38E that all information provided in this application for services is correct.

---

Firm

---

Signee (written)

---

Signee (typed/printed)

---

Title

---

Date

**MUST BE RETURNED SIGNED WITH THE SEALED PROPOSAL PACKET**

**ATTACHMENT 1**

**BOARD OF SELECTMEN-TOWN MANAGER ACT**

# THE TOWN OF LEXINGTON, MA

## TOWN MANAGER RECRUITMENT

### *Invitation to Qualified Candidates*

#### **INTRODUCTION**

The Lexington Town Manager position provides a rare opportunity for a seasoned management professional with a demonstrated track record of progressive leadership to work and enjoy all the opportunities of this 'destination' community. Candidates will find a highly engaged five-member Board of Selectmen and a diverse, dynamic and active citizenry that participates enthusiastically in all aspects of their government.

This Profile is intended for use as a resource in the search for the next Town Manager. Although it is expected that candidates with a sincere interest in the position will do their own research, this document provides valuable information and links for candidates considering their 'fit' with the Lexington community.

Much information is provided herein but candidates are encouraged to learn more about the position by visiting [Municipal Resources' website](#) or the [Town's website](#).



#### **ABOUT LEXINGTON**

The Town of Lexington, MA, is located in Middlesex County, 11 miles northwest from Boston, at the intersection of I-95/Route 128 and Route 2. Today it has a diverse population of approximately 33,000 residents and 12,000 households. Its land area is approximately 17 square miles. It is predominately a residential community made up of an attractive mix of neighborhoods, an active commercial Town Center, and blend of industrial and business parks. The daytime work population is estimated to be 20,000. Lexington is home to a number of life-science and healthcare companies (Shire Pharmaceuticals, Beth Israel Deaconess Healthcare/Children's Hospital, Lahey Clinic, Agenus, and Fractyl), MIT Lincoln Laboratory and BAE Systems. Hanscom Air Force Base and Laurence G. Hanscom Field (New England's largest general-aviation airport) are adjacent to Lexington and provide additional employment opportunities. As well as being a desirable place to live, raise a family and work, Lexington has a number of unique features which attract families and retain seniors. The Lexington Public Schools are ranked among the best in the country. The school population is over 7,200 and growing 1½-2% annually. The Town has an active tourist economy based on being the "The Birthplace of American Liberty" that brings in people from near and far. There is a creative economy that is the envy of suburban municipalities with

## TOWN MANAGER – LEXINGTON, MASSACHUSETTS

a movie house in the Town Center, the Munroe Center for the Arts, the Lexington Arts and Crafts Society and the Town's Cary Memorial Building and its large Battin Hall which hosts a Performing Arts Series and is home to the Lexington Symphony.



Running through the Town is 5.3 miles of a ten-mile-long rail trail, The Minuteman Commuter Bikeway, which links Bedford, Lexington and Arlington to the Alewife Massachusetts Bay Transportation Authority (MBTA) Station in Cambridge. The bikeway is celebrating its 25<sup>th</sup> anniversary and one of the premier rail trails in the country. The expansive and friendly Lexington Community Center has the motto, “a place for every Lexington resident” and its extensive programming backs up this claim!

### ***LEXINGTON'S HISTORY: THE BIRTHPLACE OF AMERICAN LIBERTY***

The Town of Lexington holds a remarkable place in our country's history. In 1642, a mere 22 years after the Pilgrims landed in Plymouth, the Town was settled as a farming community, named Cambridge Farms as a part of Cambridge. Lexington was formally incorporated as a Town by the Massachusetts Legislature in 1713. The early settlers were farmers making their living along Vine Brook.





## TOWN MANAGER – LEXINGTON, MASSACHUSETTS

Then on April 19, 1775, the first battle of the Revolutionary War was fought on the Lexington Common, what is known today as “The Battle Green”. The Red Coats initially prevailed against the Minutemen, but were subsequently repelled in Concord at the Old North Bridge, thus preventing the capture of the militia’s arms. At the Battle of Lexington the first shots in the war were fired as well as the first bloodshed in defense of liberty, thus earning the title, “The Birthplace of American Liberty”.

Today, Patriots’ Day is celebrated on the third Monday in April with a day filled with remembrances, programs and activities. The celebrations include an early morning reenactment of the Battle of Lexington by Colonial and British Reenactors. The community prides itself on its colonial history and on Patriots’ Day they honor this heritage. Visitors from around the world gather on The Battle Green to witness and participate in Patriots’ Day. The Town will be celebrating the 250<sup>th</sup> Anniversary of the Battle of Lexington in 2025.

### **LEXINGTON BUDGET**

This spring, the Annual Town Meeting approved a General Fund budget of \$221.1M for FY2019. This represents a 4.1% increase over the FY2018 adopted budget. The Board of Selectmen, School Committee, Appropriation Committee and Capital Expenditures Committee held numerous Summit Meetings during the budget planning process leading to the Board’s [“FY2019 Recommended Budget and Financing Plan”](#) that was presented to the Annual Town Meeting. The budget is made up funding of these five purposes; Education \$110.2M, Municipal \$38.2M, Shared expenses \$59.6M, Capital not financed \$7.3M and Other expenses \$5.86M.

Lexington has a history of conservative budgeting for both revenues and expenditures and as a result has built up reserves. The Town has three stabilization funds: General of \$9.5M, Capital of \$26.7M, and Special Education of \$1.1M. The FY2017 undesignated fund balance, also known as, “Free Cash” was \$13.1M. Revenue from New growth is projected to be \$2.5M for FY2019. The Board of Selectmen has requested the Town Manager draft the

required balanced budget that is achieved within estimated revenues and does not require an override of the State’s Proposition 2 ½ annual-budget-increase limitation. This, however, will be a challenge in the future as the demand for both school and municipal services increases against a limited revenue base.

The bond rating agencies have recognized that Lexington has followed financial policies and practices in a manner expected of municipalities with strong debt/credit capacity and, as a result, both Moody’s and Standard & Poor’s have awarded the Town their highest possible, investment

grade ratings, Aaa and AAA respectively. Additional Town budget information can be viewed at [www.lexingtonma.gov/budget](http://www.lexingtonma.gov/budget).





# TOWN MANAGER – LEXINGTON, MASSACHUSETTS

## ***IDEAL CANDIDATE PROFILE***

The ***Ideal*** Candidate for the position of Lexington, MA, Town Manager will have:

Graduate degree in public administration or related field.

Ten years of demonstrated experience in public management or relevant, transferable experience.

A career record of thoughtful financial management and strategic capital planning with a proven ability to work within an already established and successful budget process.

Ability to be intellectually curious and creative and to identify innovative solutions.

Strong public speaking and presentation skills.

Extensive knowledge and experience in negotiations within a collective bargaining environment while also maintaining the ability to establish respectful and harmonious relationships with union and non-union leadership.

Ability to “listen” and to provide the highest level of customer service.

Committed to continuous improvement and excellence in public services with a strong emphasis in the utilization of evolving Information Technology (IT) innovations to improve communications and build added efficiencies in the service delivery systems of the community.

Proven record of nurturing and embracing an established positive culture while promoting civility and professional decorum in all public discourse.

Demonstrated ability to provide unbiased guidance to all elected officials and those appointed to a broad range of committees and commissions, as well as to an engaged and diverse citizenry.

Willingness to manage Town affairs in an open, diplomatic and transparent manner.

Ability to lead, organize, inspire and manage people.

A proven skill set that allows the manager to multi-task a myriad of issues while remaining focused on Board of Selectmen priorities.

Skills in working collaboratively, cooperatively and building consensus including a strong emphasis on maintaining a positive, productive relationship between the school and municipal administrations.

Demonstrated career long foundation of impeccable professional and personal ethical standards, integrity, respect, honesty and accountability.

# TOWN MANAGER – LEXINGTON, MASSACHUSETTS

## THE CHALLENGE

The successful candidate for the Lexington Town Manager position must have a proven record of establishing positive internal, as well as external, relationships while holding her/himself and others to the highest standards of integrity and accountability. The Town Manager must also be fully committed to the concept of transparency



and openness in government, ensuring those concepts are practiced throughout the organization. Nurturing positive relationships throughout the diverse community, listening to the various constituencies, and working with the Board of Selectmen, Town Meeting Members, boards, committees and commissions will be a key to success. He or she must be unbiased, having the diplomacy and patience to seek and value input from all sides of an issue.

Given Lexington's high expectation for quality and responsive services, the Town Manager is expected to lead, direct, mentor, and motivate a professional team that will consistently deliver these exemplary core community services. The Town Manager must seek to identify and understand the vision of the community for its future and provide professional, technical, and management support to the elected officials and those persons appointed in their effort to efficiently and effectively provide for the collective needs of those who live and work in the community. The ideal candidate must be able to anticipate and recognize potential problems and patterns, and then work with staff and others to develop solutions. The Selectmen will depend on the Town Manager to present it with unbiased information on important matters in a relevant, meaningful way that provides the appropriate perspective.

Lexington is served by a well-respected, but relatively new, Senior Management Team. It is important for the new Manager to value these employees and maintain the positive working relationships that have already been established.



Credit: Kenneth Zirkel



Credit: Bostonian13

It will be crucial for the next Manager to have a proven record of succession planning, recruiting, selecting and grooming a high-performance team. Additionally, a challenge for the new Manager will be a personal commitment to recruitment goals that will help diversify the Town's workforce to better reflect the changing demographics within Lexington.

## TOWN MANAGER – LEXINGTON, MASSACHUSETTS

In order to address the Town-wide concerns about the changing demographics, the Town Manager and the School Superintendent formed the Diversity Advisory Task Force to advise them and the community's appointed and elected leaders on the issues regarding diversity relative to age, ethnicity, race, sexual orientation, gender identity, religious beliefs and mental or physical ability. This is a recent initiative that the incoming Town



Manager and Superintendent of Schools are expected to continue to work on. In 2016, the Asian Communities Subcommittee of the 2020 Vision Committee issued a [report](#) with a number of recommendations that the next administration needs to be aware of to fully engage the minority communities in the civic life of Lexington.

Lexington is a very desirable community in which to live, raise a family and work and a significant part of the challenge facing the new Town Manager will be to balance the costs of providing a high level of Town and education services at a sustainable tax rate. This issue of property tax increases is most acute among the aging demographics in

Lexington and the lack of affordable housing options for many, including seniors in the community. The Manager must provide active and visible leadership on this important issue. In order to achieve this, he or she will need to help guide the Town in its desire to balance the issues of economic development, traffic mitigation and transportation needs in both the commercial and residential areas, with the residents' stated desires to maintain the history, heritage and high quality of life.

A particular challenge for the Manager will be how to utilize the Town's historical and pre-eminent tourism economy that benefits many of the small businesses that are beneficiaries of tourism dollars and who are located along Massachusetts Avenue through the Town Center. In the next few years a potential transformation will be taking place via a proposed Center Streetscape Project which has identified a host of improvement options to pedestrian and vehicular traffic in the Town Center.





# TOWN MANAGER – LEXINGTON, MASSACHUSETTS

The Town has a significant stake in a number of large capital improvement projects, some are underway now, and others in the planning stages for the next three to five years. The Manager must be experienced in capital planning and financing such that increasing debt service does not unduly impact town services and programs. In addition, the next Manager needs to be aware of the financial strategies necessary to maintain the Town's investment grade bond ratings (Moody's Aaa and Standard and Poor's AAA) and balancing the Town's ability to pay with and without Proposition 2-½ debt exclusions.

## **Current capital projects include:**

- Hastings Elementary School
- Lexington Children's Place (Pre-K)
- Additions/Renovation at Middle Schools
- Fire & Rescue Headquarters
- Police Headquarters
- Visitors Center

## **Future capital projects include:**

- Community Center Expansion
- High School
- Cemetery Building
- Center Streetscape Project
- Police Outdoor/Indoor Firing Range

He or she must be skilled at developing and maintaining the positive working relationship that exists with the Lexington Public Schools as a new Superintendent will begin July 1, 2018 and an Interim Assistant School Superintendent for Finance and Operations is also being recruited. The new Manager will need to engage in immediate discussions with these key school personnel to deal with the growing school-age population that will strain the ability of the school system to provide sufficient space within its existing infrastructure in addition to short and longer-term needs involving new buildings and renovations across the entire school district.

The Town Manager plays a significant role in negotiating and administering the Town's collective bargaining agreements. The Town Manager must be an experienced and effective negotiator with demonstrated skill and



success in managing and administering fair and reasonable collective bargaining agreements for both sides while balancing the needs of the employee with the ability of the residents to pay.

The ideal candidate must possess outstanding verbal presentation and written communication skills. It is imperative that the Town Manager be able to communicate effectively and diplomatically with town leaders, staff, and the public. In order to do this, it is expected the Manager will need to have a high level of community engagement. It is the Town Manager's responsibility to keep the public

informed, so he or she must be committed to operational transparency, and possess the ability to synthesize and communicate clear program/project level progress on cross-functional initiatives and activities inherent in

# TOWN MANAGER – LEXINGTON, MASSACHUSETTS

Lexington's tradition of civic participation. The Town Manager must leverage emerging technologies and other creative ways to promote community involvement. "Customer service" is a high priority for Lexington, which means the successful candidate must place great value on listening and providing accurate and transparent information to all members of the community.



## ***ADDITIONAL INFORMATION***

Much information is provided herein but candidates are encouraged to learn more about the position by visiting [Municipal Resources' website](#) or the [Town's website](#). Candidates can also contact Alan Gould at [agould@mrigov.com](mailto:agould@mrigov.com) or by phone at 603-279-0352 ext. 320. To apply submit a resume and cover letter in PDF format to [recruitment@mrigov.com](mailto:recruitment@mrigov.com). **Applications must be submitted by July 9, 2018 by 8am EST.**

# **AGENDA ITEM SUMMARY**

## **LEXINGTON SELECT BOARD MEETING**

### **AGENDA ITEM TITLE:**

Authorize Town Manager to Execute Easement Between Town of Lexington and Fiske Common Condominium Trust

### **PRESENTER:**

Jim Malloy, Town Manager

### **ITEM NUMBER:**

I.4

### **SUMMARY:**

#### **Category: Decision-Making**

The Town has been negotiating for the past decade to put into place an easement agreement with the Fiske Common Condominium Trust to allow students of the Fiske School to walk across their property to access the school property. This was originally in the Planning Board approval for the Fiske Common Condominium Project approximately 40 years ago, but had never been formalized and legally filed as an easement. Attached please find the final easement agreement that the Condominium Trust Board approved recently on a 4-1 vote.

There may be some minor non-substantive changes that Town Counsel may make, which is included in the recommended motion.

### **SUGGESTED MOTION:**

Move to authorize the Town Manager to execute the easement agreement between the Town of Lexington and the Fiske Common Condominium Trust as attached and further to authorize non-substantive edits as recommended by Town Counsel.

### **FOLLOW-UP:**

### **DATE AND APPROXIMATE TIME ON AGENDA:**

3/18/2024

6:40pm

**ATTACHMENTS:**

	Description	Type
	Easement Agreement	Cover Memo

March 7, 2024

## EASEMENT

This Easement is executed as of this \_\_\_\_ day of \_\_\_\_\_, 2022 by the Trustees of the Fiske Common Condominium Trust (“Grantor”), under a Declaration of Trust dated December 14, 1977 and recorded in the Middlesex South District Registry of Deeds (the “Registry”) in Book 13356, Page 242.

WHEREAS, Grantor are the trustees of the organization of unit owners of the Fiske Common Condominium (the “Condominium”) located at and having an address of [Seaborn Place and Muster Court], Lexington, Massachusetts, 02420, created by a Master Deed recorded in the Registry in Book 13356, Page 227 (as amended to date, the “Master Deed”);

WHEREAS, the Town of Lexington (“Grantee”), a municipal corporation with an address of Town Office Building, 1625 Massachusetts Avenue, Lexington, Massachusetts 02420, is the owner of that certain parcel of land located at 55 Adams Street, Lexington, Massachusetts, by a deed recorded in the Registry in Book 7230, Page 341, which land is currently used as the Fiske Elementary School (the “Town Property”);

WHEREAS, pursuant to Paragraph 8 of Exhibit A to the Master Deed, the Declarant under the Master Deed reserved the right to grant to the Grantee hereunder a “pedestrian easement” from East Street to the Town Property.

WHEREAS, the Declarant under the Master Deed did not previously convey a “pedestrian easement” to Grantee; and

WHEREAS, Grantor has agreed to grant, and Grantee has agreed to accept, a pedestrian easement over a portion of the Condominium’s common area and facilities shown as “Proposed 10’ Wide Easement” on the plan entitled “Plan of Land in Lexington, Massachusetts prepared for the Town of Lexington Public Facilities Department,” dated March 27, 2009 by Merrimack Engineering Services and attached hereto as Exhibit A (the “Plan”) and also recorded in the Registry simultaneously herewith, for pedestrian only access to the Town Property as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. Grantor hereby grants to Grantee, for so long as the Town Property is used as a public school, the limited right and easement for the students of the public school, their parents and guardians to use, by foot only, except for anybody requiring the use of a wheelchair or other accessible means of transport that portion of land labeled “Proposed 10’ Wide Easement” on the Plan (the “Easement Area”), which is a common area of the Condominium, as a passage way for the sole purpose of access to the Town Property. Any ramp used for wheelchair access to the



Easement Area shall be located on Town property and not on Grantor's property. Except as provided in this paragraph, this easement shall be limited to passage by foot only and in no event shall the easement be used for passage by the public by bicycle, scooter, skateboard, rollerblades, golf cart, cross country skiing, or any other mode of transportation and such modes of transportation are expressly prohibited by the scope of this easement. In addition, dogs or other pets shall not be permitted in or on the Easement Area. Passage over the Easement Area shall be limited to the hours of 7:00 AM to dusk. The "Easement Area" contains approximately 4,042 square feet as per the Plan and is conveyed subject to the right hereby expressly reserved by Grantor to continue to enjoy the use of said Easement Area for all purposes.

2. Under the terms of this Easement, Grantee shall be entitled to construct, install, improve, maintain or repair the proposed Easement Area, in its existing location only as shown on the Plan, which shall include the right to install pavement, or other surface with similar surface materials as approved by the Grantor, which approval shall not be unreasonably withheld. In no event shall the improved area, by the pavement or otherwise, exceed five (5') feet in width at any point along the Easement Area. Notwithstanding the foregoing, in no event shall the Grantee be permitted by the terms of this Easement to install lighting of any kind in or on the Easement Area or illuminate it in any other way. In connection with the initial construction of said paving, Grantee and its agents, employees, contractors and representatives shall have the right to enter upon and occupy the Temporary Construction Easement on foot and with motorized and/or mechanical construction vehicles and equipment to perform any work deemed necessary by Grantee.

3. Grantee may make other improvements or alterations to the Easement Area not shown on the Plan only with Grantor's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

4. Grantee shall be solely responsible to maintain the Easement Area. Notwithstanding the foregoing, Grantee shall not be permitted to remove or treat snow, ice or plow the Easement Area and not withstanding any town ordinance or future bylaw to the contrary. Such maintenance work shall be subject to the requirements of Paragraph 5 hereunder. In connection with maintenance of the Easement Area after the making of initial improvements described in Paragraph 2, the Grantee shall not be permitted access to the Temporary Construction Easement without the Grantor's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, except, however, that in the case of emergency repairs to the Easement Area, the Grantee shall be permitted to enter the Temporary Construction Easement as necessary to conduct such repairs.

5. The Grantee shall perform all work, if any, in connection with the paving, cementing, maintenance, and repair of the Easement Area at the Grantee's sole cost and expense using similar surface materials as approved by the Grantor, which approval shall not be unreasonably withheld. All of said work shall be performed in a good workmanlike manner in compliance with all applicable laws, regulations, codes, bylaws and ordinances. In exercising its rights to construct, install, alter, maintain, improve, replace, repair, reconstruct, or remove improvements to the Easement Area, the Grantee shall use reasonable efforts to minimize any

interference with the Grantors' use of the Condominium and the Easement Area, and shall promptly repair any damage to the Condominium or the Easement Area caused by the Grantee's improvement or maintenance of the Easement Area. Furthermore, Grantee shall be solely liable for any claim or liability arising out of the use of the Easement Area by any member of the public and, to that end, to the extent permissible by law, the Grantee shall add the Grantor as an "additional insured" to the Grantee's general liability insurance policy on a non-contributory basis for all such claims or liability. To the fullest extent permitted by law, the Town and/or its insurance carrier shall defend, indemnify, and hold the Grantor and its agents harmless from any and all such claims and/or liability.

6. With the prior written approval of the Grantor, which shall not be unreasonably withheld, delayed or conditioned, Grantee shall erect and maintain no more than two signs at the locations shown in the Plan notifying members of the public that (i) the Grantor's property abutting the Easement Area is private property and not open to public use, (ii) that the Easement Area shall be used solely as a foot only passage way to the Town Property, as articulated in paragraph #1; (iii) that no dogs or other animals shall be permitted on the Easement Area; (iv) that the Easement Area is only available for use between the hours of 7:00 AM and dusk; and (v) that smoking and vaping in the Easement Area are expressly prohibited. The Town shall not be responsible for damage caused to the Easement Area or the Grantor's property by the public's use or misuse of the Easement Area (other than promptly repairing any damage to the signage), but shall take reasonable steps to address any use or misuse of the Easement Area by members of the public that is contrary to the terms of this Easement. Notwithstanding the foregoing, the Grantee shall not advertise the presence of this easement of the access granted thereunder on any official map of the Grantee describing Town trails or walking paths.

7. In the event Grantee sells the Town Property or the Town Property is no longer used as a public school, then this Easement shall cease, terminate and be extinguished and shall be of no force or effect, without the need of the Grantor to perform any other act in confirmation of same.

8. The Grantor hereby represents and warrants that it has complied with the requirements of Section 5(b)(2) of Chapter 183A of the Massachusetts General Laws with respect to the granting of this Easement and that (i) it has obtained the consent of at least fifty one percent (51%) of the number of all mortgagees holding first mortgages on units within the Condominium who have requested to be notified thereof, as provided in subsection (5) of section 4 of Chapter 183A of the Massachusetts General Laws and (ii) that due to the conditions and limitations above, this Easement is not inconsistent with the peaceful and lawful use and enjoyment of the common Condominium property by the owners thereof.

9. It is the intention of the parties that, to the fullest extent permitted by law, this Easement constitutes an "interest in land" under Massachusetts General Laws c. 21, § 17C, and that the parties hereto shall be afforded all of the rights, protections, privileges and benefits granted thereunder.

10. The terms of this Easement, including but not limited to the rights, privileges, obligations and conditions set forth or referenced herein, shall run with the land upon which the

Condominium is located and shall bind Grantor, the unit owners of the Condominium and any other person having an interest in the Condominium or in any unit therein and their respective successors and assigns. This Easement is appurtenant to and shall run to the benefit of the Town Property.

*[Remainder of page intentionally left blank]*

Witness the execution hereof under seal as of the date first set above.

**FISKE COMMON CONDOMINIUM  
TRUST**

\_\_\_\_\_  
Name:  
Trustee

\_\_\_\_\_  
Name:  
Trustee

\_\_\_\_\_  
Name:  
Trustee

\_\_\_\_\_  
Name:  
Trustee

\_\_\_\_\_  
Name:  
Trustee

**INSERT ADDITIONAL SIGNATURE  
BLOCKS IF MORE THAN THREE  
TRUSTEES**

COMMONWEALTH OF MASSACHUSETTS           )  
   ) ss:  
COUNTY OF MIDDLESEX                      )

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared each of the foregoing Trustees of the Fiske Common Condominium Trust, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as the foregoing named Trustees of the Fiske Common Condominium Trust.

Notary Public  
My commission expires

## ACCEPTANCE

The foregoing Easement is hereby accepted by the Select Board of the Town of Lexington this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

TOWN OF LEXINGTON  
By and through its Select Board

By: \_\_\_\_\_  
Name: James J. Malloy  
Title: Town Manager, duly authorized

COMMONWEALTH OF MASSACHUSETTS     )

) ss:

COUNTY OF MIDDLESEX                     )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared each of the foregoing named Town Manager of the Town of Lexington, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name assigned on the preceding document and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing named Town Manager of the Town of Lexington, a municipal corporation.

\_\_\_\_\_  
Notary Public:

My Commission Expires:

EXHIBIT A

Easement Plan

(see attached)



# **AGENDA ITEM SUMMARY**

## **LEXINGTON SELECT BOARD MEETING**

### **AGENDA ITEM TITLE:**

Discuss Appointment of Select Board Member to Cary Library Trustees Nominating Committee

### **PRESENTER:**

Joe Pato, Select Board Chair

### **ITEM NUMBER:**

I.5

### **SUMMARY:**

#### **Category: Decision-Making**

The Nominating Committee for the Library Board of Trustees consists of three members: one representative from the Select Board, one from the School Committee, and one from the Clergy Association. The Nominating Committee will present a slate of five Executive Board members, including a Chair and a Vice-Chair, for a vote at the Annual Meeting of the Cary Memorial Library Board of Trustees being held in May.

A Select Board member is needed to be the Select Board representative on the Nominating Committee for Trustees of Cary Library.

The Cary Library Board of Trustees have requested a reply before April 12, 2024 with the Select Board's designee for the Nominating Committee.

### **SUGGESTED MOTION:**

Move to appoint \_\_\_\_\_ as the Select Board representative on the Nominating Committee for the Trustees of Cary Library.

### **FOLLOW-UP:**

### **DATE AND APPROXIMATE TIME ON AGENDA:**

3/18/2024

6:50pm

**ATTACHMENTS:**

Description	Type
 2024 Cary Library Trustees Nominating Committee Request Letter	Backup Material



March 7, 2024

Mr. Joe Pato, Chair  
Select Board  
Town Of Lexington  
1625 Massachusetts Avenue  
Lexington, MA 02420

Dear Joe,

The Cary Library Board of Trustees will be holding their next annual meeting on Wednesday, May 15, 2024. As per the Trustee Bylaws, I am asking the Select Board to identify one of its members to serve on the nominating committee for the Executive Board of the Cary Memorial Library Board of Trustees.

The Nominating Committee shall consist of three members, one representative from the Select Board, one from the School Committee, and one from the Lexington Interfaith Community Association (LICA). Not more than one Trustee from the Executive Board shall be a member of the Nominating Committee.

The Nominating Committee will present a slate of five Executive Board members, including a Chair and a Vice Chair, for a vote at the Annual Meeting of the Cary Memorial Library Board of Trustees in May.

**Please respond with the Select Board's designee for the Nominating Committee before April 12, 2024.**

For your information, the current members of the Executive Board are:

Suzie Barry, Chair – Select Board

Amy Hertz, Vice Chair – LICA

Barbara Callaghan – LICA

Eileen Jay – School Committee

Jill Hai – Select Board

Thank you,

*Suzie Barry*

Suzie Barry, Chair  
Cary Library Board of Trustees