

# TMMA Warrant Information Report



*November 2009*

This report has been prepared by the Town Meeting Members Association to provide information to Town Meeting members concerning the articles of the warrant for the Special Town Meeting beginning November 9, 2009. The TMMA is grateful for the cooperation of the officials and employees of the town who have provided information used in preparing this report. The following people participated in research, composition, editing and proofreading:

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For new and updated information, please refer to the  
TMMA website at

[www.LexingtonTMMA.org](http://www.LexingtonTMMA.org)

## **Conflict of Interest Guideline for Town Meeting Members**

In 1976, Town Meeting adopted the following non-binding Conflict of Interest Resolution:

*Resolved, that Town Meeting Members abstain from voting in any particular matter in which to his knowledge, he, his immediate family or partner, a business organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has any economic interest in the particular matter under consideration.*

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Please note that Town Meeting Members are specifically excluded from the responsibilities posed by the State conflict of interest statute, Chapter 268A.

*Special thanks to:*

*Christopher Bing for the cover artwork*

*Peet's Coffee and Tea for their generous donation of  
coffee and supplies for the edit session*

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**Article 2:                   Zoning Bylaw – Amendment to Preliminary Site Development and Use Plan Lexington Technology Park 125, 131, and 141 Spring Street (N/K/A 125 Spring Street, 200, 300, 400 and 500 Patriot Way) CD-10 District**

To see if the Town will vote to amend the previously approved Preliminary Site Development and Use Plan approved during the May 2004 Special Town Meeting for the property known as Lexington Technology Park, by amending the zoning provisions as follows: to increase the Floor Area Ratio from .15 to .24 which will permit the development of an additional 380,000 gross square feet of research/office space beyond the originally approved gross floor area, together with related surface parking and 510,000 square feet of structured parking spaces, provide off-site mitigation, standards for development, dimensional standards, and other provisions contained within the amended PSDUP. In addition, the dimensional standards applicable to the amended PSDUP would permit an increase in the maximum permitted height at specified locations as detailed within the amended PSDUP. The proposed site alterations are further detailed on the plans entitled "Lexington Technology Park, Spring Street, Lexington, Massachusetts, Preliminary Site Development and Use Plan revised to June 19, 2009 prepared by Symmes, Maini & McKee Associates" (the "PSDUP") which is on file with the Planning Board and the Town Clerk; or act in any other manner in relation thereto.

**Submitted by Patriot Partners Lexington LLC, 200 Patriot Way LLC and Shire Human Genetic Therapies, Inc., the Property Owners**

**2/3 vote required**

**Description**

The proposed zoning amendment would amend the previously approved PSDUP known as Lexington Technology Park (LTP) within this existing Planned Commercial Development District. This would allow construction of an additional 380,000 gross square feet of research/office space and 510,000 gross square feet of structured parking in excess of the originally approved square footage on the 95.6 acre site together with additional surface parking and other improvements as shown on the amended PSDUP and noted above.

**Questions**

**1. What is Lexington Technology Park's website?**

It is <http://www.lexingtontechnologypark.com> and has links to all development use plans, studies, analyses, and statistics related to Patriot Partners' proposal for Lexington Technology Park.

**2. What is Lexington Technology Park like today?**

- The park consists of 95.6 acres with 35.5 of those acres preserved as open space.
- The site currently consists of 465,000 square feet of office/research and development space, but is currently approved for a total of 696,000 square feet of space through the Definitive Site Development and Use Plan (DSDUP).

- Shire Pharmaceuticals Human Genetic Therapies Division and Concord Biomedical Sciences & Emerging Technologies, Inc. (CBSET) currently occupy it.

### ***3. What is Patriot Partners requesting in this proposal?***

Patriot Partners is seeking an increase in the floor area ratio (FAR), non-residential, which is the ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot. The company is also seeking an increase in building height. Currently, under the approved DSDUP, buildings within Lexington Technology Park are limited to a 0.15 FAR and a maximum height of 45 feet (with the exception of 400 Patriot Way, which was permitted at a height of 54.5 feet).

The company is requesting a new FAR of 0.24 to accommodate the additional 380,000 square footage of gross floor area that will bring the total allowable square footage of gross floor area to 1,076,600. The company is requesting the flexibility to construct up to two buildings and parking garage structures. The building farthest from the surrounding residential neighborhoods, in the southeast corner of the site adjacent to Route 2, could have a maximum height of 68 feet.

### ***4. According to Patriot Partners, what are the benefits of this proposal to the town?***

- The project will bring an estimated \$2.2 million in net new annual tax revenue to the town, after deducting any additional municipal costs associated with the park, when the new buildings are completed.
- It will generate five times as much tax revenue as it will cost in municipal services.
- It will expand Lexington's total assessed commercial-valuation by approximately \$100 million.
- The project will generate approximately \$1.5 million in construction related permit fees during build-out.
- It will attract clean, low-impact life science companies to the region.
- It will bring high quality jobs to Lexington and the Greater Boston area.
- The project will further bolster the town's reputation as a center for the growing biotechnology industry.
- It will mitigate traffic impacts by focusing on biotechnology/laboratory tenants who employ fewer people per square foot than traditional office users.
- There will be continued preservation of restricted open space on 6 acres abutting Shade Street, which creates a "no-build zone" of 35.5 acres.

### ***5. What are the changes to the proposal since spring 2009?***

- "By right" uses that have been removed:
  - Distribution center, parcel/commercial mail delivery center
  - Limitation on medical clinic use
  - Real estate sales/rental
- "By special permit" uses that have been removed:
  - Landing place for helicopters not including storage or maintenance facilities (utilities communications and transportation)
  - Hotel/motel
  - Restaurant

- [For a comparison of PSDUP, DSDUP Special Permit Decision, and the pending Amended Preliminary Site Development and Use Plan (APSDUP), go to the Lexington Technology website and click on “Special Town Meeting Proposal.” At the bottom of the first page, click on “Download 10/3 South Lexington Civic Association Presentation” [http://www.lexingtontechnologypark.com/\\_build/documents/S\\_Lexington\\_Civic\\_Presentation.ppt](http://www.lexingtontechnologypark.com/_build/documents/S_Lexington_Civic_Presentation.ppt) ]

### **6. What are the proposed dimensional standards for the park?**

The following dimensional standards shall apply to this Planned Commercial District in accordance with Article VIII, §135-42B of the 2009 Zoning Bylaw in lieu of any dimensional requirements of Article VII §135-35 through §135-41 of the 2009 Zoning By-law.

Maximum Gross Floor Area: \* Total Gross Square Feet (GSF) - 1,586,600

- (a) Occupied Buildings - 1,076,600 SF;
- (b) Garage Space - 510,000 SF

Maximum Net Floor Area: \* 806,555 SF

Maximum Floor Area Ratio (FAR.): \* 0.24

Maximum % Site Coverage: \* 25%

Maximum Height of Buildings: \*\* 45 to 68 feet

Maximum Impervious Surface Ratio: \* 35.7%

Minimum Yard Setback: \*\*\* 50 feet

\* In this Planned Commercial District, any single lot may exceed one or more of the above dimensional standards, so long as all of the lots in the district, taken in the aggregate, do not exceed any of the above dimensional standards. Notwithstanding anything to the contrary contained in the Zoning By-Law, **Net Floor Area** shall exclude the square footage of parking structures, areas used for parking, areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating and cooling equipment, electrical and telephone facilities, fuel storage, elevator machinery or mechanical equipment, elevator shafts and common stairways, common hallways at each floor, porches, balconies, and fire escapes.

\*\* The maximum building height currently permitted is 45 ft., with the exception of the permitted maximum height within the Building 400 Envelope that is set at 54.5 ft. Patriot Partners seeks to have 68 ft. as the maximum height for the Buildings C and D Envelope, in the southeast corner of the site adjacent to Route 2. Structures erected (including enclosed space) on a building and not used for human occupancy, such as chimneys, heating-ventilating or air - conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, wireless communication facilities that are permitted as provided in Section 15, Article XV of the 2009 Zoning Bylaw, skylights, cupolas, spires and the like may currently exceed the maximum height of the building in feet provided no part of the structure is more than 20 ft. higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed 50% of the area.

Patriot Partners’ proposed APSDUP seeks to increase the maximum height of “structures erected on a building and not used for human occupancy,” i.e., for mechanical equipment and screening, to 25 ft. and to increase the allowable total horizontal coverage of such structures up to 60% of

the roof area. The company also seeks permission to allow 3% of the overall roof area to extend a maximum of 35 ft. above the roofline for the same purpose.

\*\*\*The minimum yard setback shall only apply to yards along lot lines that coincide with the perimeter of the district (as opposed to yards along lot lines that are in the interior of the district, for which no specific yard setback shall be required).

**7. What are the existing/proposed Transportation Mitigation measures to be provided by LTP?**

- Existing and previously funded mitigation measures:
  - Contributions to Spring Street sidewalk and Spring/Marrett improvements
  - Police control at site drive at rush hours
  - On-site Traffic Demand Management (TDM) Program
  - LEXPRESS support funds
  - Alewife Shuttle support funds
- Proposed new mitigation measures:
  - Roadway Improvement Fund
  - Area-wide Traffic Study
  - Shade Street Traffic Calming
  - Possible Traffic Signal at Spring/Concord
  - Additional Funds for LEXPRESS

**8. What are the additional transportation benefits outlined in the Memorandum of Understanding (MOU)?**

- \$65,000 contribution to Traffic Mitigation Stabilization Fund
- \$15,000 contribution for Shade Street traffic calming
- Upon issuance of building permits for an excess of 505,800 net SF (amount provided in original DSDUP)
  - Contribute \$500,000 for the Traffic Mitigation Stabilization Fund
  - Contribute \$100,000 to LEXPRESS
- The total traffic mitigation contribution would rise to approximately \$1.5M if all of the net new parking spaces in the proposed plan are built. "Net new spaces" is defined as the total number of parking spaces in the APSDUP (2,646) minus the original DSDUP permitted number of parking spaces (1,903). The formula for the additional traffic mitigation contribution is the number of net new parking spaces times \$1,900, less the \$680,000 delineated above.

**9. What is the estimated/anticipated site traffic generation at peak hours?**

The Institute of Traffic Engineers (ITE) estimate, based on office use, for a site with (the currently approved) 696,600 SF of floor space is 805 trips; for a site with (the proposed) 1,076,600 SF, the estimate is 1,200 trips. However, since biotechnology/laboratories like those proposed for LTP employ fewer people per square foot than traditional office users, Patriot Partners and traffic engineers anticipate that the approved 696,600 SF at Lexington Park will generate 565 trips and the proposed 1,076,600 SF will generate 840 trips at peak hours.



***10. What is the estimated/anticipated site traffic generation measured as daily trips?***

ITE estimates 5,840 daily trips and Patriot Partners anticipates 4,100 daily trips for the approved 696,600 SF of floor space. ITE estimates 8,325 daily trips and Patriot Partners anticipates 5,830 daily trips for the proposed 1,076,600 SF of floor space.

***11. What is the proposed square footage of the garage and how many spaces for cars will the park have?***

The proposed APSDUP for garage space is 520,000 SF. If it is approved and Lexington Technology Park is fully built out and needs the parking spaces, it would thus have a permit to build the garage and to have a total of 2,646 parking spaces (includes 181 in reserve) on the site. The total includes garage and surface parking. Currently, the approved DSDUP is for 1,903 parking spaces.

***12. What are some of the concerns regarding the proposal?***

- a) Residents have expressed concern about noise emanating from the rooftop fans that were installed as part of the retrofit of one of the existing buildings on the property (Building 300) under the previous special permit. The developer has agreed to make modifications that will ameliorate but not entirely eliminate the problem. Additionally, the developer has agreed to include noise abatement in the design of the new buildings.
- b) Some neighbors hoped to see stronger and more specific language in the PSDUP regarding lighting, landscaping and screening, and noise abatement, but look forward to seeing specific strong protections included by the Zoning Board of Appeals when they issue the Special Permit.

**Article 3:                   Zoning Bylaw – Amendment to Preliminary Site  
Development and Use Plan Cubist Pharmaceuticals, Inc.  
45, 55 and 65 Hayden Avenue, CD-9 District**

To see if the Town will vote to amend the previously approved Preliminary Site Development and Use Plan approved during the November 1997 Special Town Meeting for the property known as 45, 55 and 65 Hayden Avenue, by amending the zoning provisions as follows: to increase the Floor Area Ratio from 0.185 to 0.26 which will permit the development of an additional 110,000 gross square feet of research/office space beyond the originally approved gross floor area, together with related surface parking and 180,000 square feet of structured parking spaces, provide off-site mitigation, standards for development, dimensional standards, and other provisions contained within the amended PSDUP. The proposed site alterations are further detailed on the plans entitled “Cubist Pharmaceuticals, 45, 55 and 65 Hayden Avenue, Lexington, Massachusetts, Preliminary Site Development and Use Plan” dated July 24, 2009 prepared by Cubellis Associates (the “APSDUP”) which is on file with the Planning Board and the Town Clerk; or act in any other manner in relation thereto.

**Submitted by Cubist Pharmaceuticals, Inc. and The Realty Associates Fund  
VI, LP, the Property Owners**

**2/3 vote required**

**Description**

This proposed zoning amendment will revise the Preliminary Site Development and Use Plan for Planned Commercial District (CD-9). The amendment will allow for the development of an additional 110,000 gross square feet of research/office space and an additional 180,000 gross square feet of structured parking on site in excess of the previously approved square footage. Additional improvements to the site are referenced in the amended PSDUP and noted above.

**Overview**

This article proposes to increase the gross square footage of the building at 65 Hayden Avenue (known as “Parcel B” in the PSDUP) from its current 93,000 square feet by an addition of approximately 110,000 square feet, and to add a parking structure for 300 cars. The part of the property known as “Parcel A” (45 and 55 Hayden Avenue) will remain unchanged. The floor area ratio (FAR) of the entire property will change from .185 to .26, but all of the change will occur on Parcel B, which will have a FAR of .37. The property adjoins the Hayden Woods Conservation Land; there are no immediate residential abutters.

The existing building, which contains lab and office space, consists of two parts, one of which is 1 1/2 story high and one that is three stories high. The higher part of the building will remain unchanged; the increased square footage will result from the addition of stories on top of the lower part of the building to a height of 60 feet. At this writing, the PSDUP is ambiguous as to whether or not the 60 foot height includes the “parapet” that contains the building’s mechanicals; hopefully that question will be resolved before Town Meeting even though the Planning Board’s hearing on Cubist is now closed. In addition, 60% of the roof surface may contain structures up to 25 feet high, and 3% of the roof may contain structures up to 35 feet high. These additional structures are said to be necessary for the ventilation and other requirements of a building that will house laboratory space.

The garage will be sited on top of what is currently surface parking. The garage was originally envisioned as a 7-level structure of 180,000 square feet with a height of 80 feet; however, as of the amended PSDUP dated October 5, 2009 it was changed to 156,000 square feet with a maximum height of 70 feet. This would accommodate about 300 spaces in 5 levels of parking. An additional 68 surface spaces which are physically on Parcel A are available to the property by an existing easement right.

The amended PSDUP that was presented at the Planning Board hearing on October 14, 2009, specifies that areas used for storage will be not be counted as net square footage in computing the FAR. This provision differs from the definition of FAR in the Town's current zoning by-laws. Also, the amended PSDUP specifies that the Special Permit Granting Authority (SPGA) will be the Zoning Board of Appeals (ZBA) as is specified in the Town's zoning by-law, in effect revoking the 1997 Town Meeting action that made the Planning Board the SPGA for this particular CD zone.

The proponents have performed a financial impact analysis. Cubist expects to expand into the new addition. The building will be used for lab and office space, which has a higher assessed valuation than just office space. The impact analysis predicts that new taxes resulting from the addition will be about \$591,000 per year. In addition, the Town will receive about \$300,000 in one-time construction permits. The project will add about \$23,000,000 to the Town's total assessed valuation. Based on the current proportionate costs of police and fire protection for existing commercial properties, the impact analysis expects that the added cost of police and fire protection for the new construction will be about \$92,000, resulting in a net gain to the Town of about \$499,000 per year. The analysis does not include the costs of services such as trash removal, snow plowing, and road maintenance within the development, as these are funded privately.

The proponents have also commissioned a traffic analysis, performed by MDM Transportation Consultants Inc. (MDM). Cubist currently has a very aggressive and successful traffic demand management (TDM) policy, with the effect that about 15% of its employees use some alternative to individual cars. As a result of Cubist's successful TDM, and also because lab space typically generates fewer trips than office space, the number of daily car trips that the project currently generates is less than was projected by the 1997 PSDUP. MDM studied affected intersections in the area and projects that new traffic resulting from the addition will have only a small impact on the studied intersections. A peer review, paid for by Cubist, of the traffic study was performed by Howard Muise of Vanasse Hangen Brustlin, Inc. and corroborates these findings.

The Memorandum of Understanding (MOU) laying out the proponents' obligations with respect to traffic mitigation and transportation demand management has been approved by the parties in concept, but is still undergoing final edits. The MOU provides for Cubist to contribute to the Town's traffic mitigation and transportation demand management efforts an amount of \$1,900 for each additional parking space it constructs. If Cubist constructs all of the requested 221 net new parking spaces, it will contribute \$419,000 to the Town according to the following schedule:

1. Within 30 days of the Attorney General's approval of the zoning, there will be a payment of \$25,000 to the Town to be used towards a traffic study and plan for the area.
2. When the building permit is issued, Cubist will pay \$204,900 into either the Town's Traffic Mitigation Stabilization Fund or the Traffic Demand Management/Public

Transportation Stabilization Fund, at the Town's discretion, for 121 of the net new parking spaces to be provided in the planned garage.

3. For the remaining 100 net new spaces in the garage, Cubist will pay \$190,000 in 5 yearly payments of \$38,000.

At the request of the Selectmen, the current MOU changes the 1997 agreement to pay \$4,000 per year in perpetuity for LEXPRESS to a payment of \$140,000, to be paid in several installments, one installment at the approval by the Attorney General, one installment at the issuance of the occupancy permit, and the remaining installments within the next five years.

### **Questions**

***1. Could areas originally designated for storage, and eliminated from net floor area computation, be changed to human occupancy later?***

***2. While Town Counsel has ruled on its legality, as a matter of policy should the change in definition of FAR for this property be considered a change in the zoning by-law and thus the prerogative of Town Meeting rather than the PSDUP?***

**Article 4: Amend Zoning By-Law (Center Business District)**

To see if the Town will vote to amend Chapter 135 of the Code of the Town of Lexington, the Zoning By-Law, by:

1. Amending the permitted uses in the Central Business (CB) District;
2. Adding definitions thereto including STREET LEVEL FLOOR and ARTISAN WORK;
3. Exempting the Central Business (CB) District from Section 135-71 B (Article XII, Traffic); and,
4. Making technical corrections to maintain consistency with the above changes and updating references.

All as set forth in a document on file with the Town Clerk; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen  
at the Request of the Lexington Center Committee**

**2/3 vote required**

**Description**

This article proposes to permit additional uses in the Central Business (CB) District as well as add new definitions. The proposed changes will exempt the CB District from Section 135-71 B of the Zoning Bylaw, which requires the Special Permit Granting Authority to make a determination of adequate street and intersection capacity prior to the issuance of a building permit. In addition, proposed amendments include technical corrections required for consistency.

**Overview**

The Town's Center Committee is proposing a limited set of changes to the list of business types and activities allowed in the Center Business District.

This is the initial phase of a larger effort to update Center zoning, which has not been revised for more than two decades. Bringing the allowed usages in line with contemporary business realities should help improve occupancy rates and bring greater vitality to the district.

The proposed changes will streamline the permitting process for restaurants, clarify and make consistent the definitions of "fast food" and "takeout food," allow catering establishments, advertising offices, dry cleaners/laundries, post box services, artisan work, and exercise, indoor athletic or weight reduction usages. A number of these business types have attempted to locate in the Center Business District in the recent past, but were prohibited by the current regulations.

In addition, the proposed changes will create a new rule allowing offices to occupy certain first floor spaces while reserving all locations with public-way frontage for more vibrant retail usages.

Finally, the proposed zoning changes will speed up the permitting process in the Center by exempting certain new construction or renovation projects in the Center Business District from having to undergo the lengthy traffic special permit process otherwise required in all town districts. Traffic study bylaws still apply for significant developments in the district.

The proposed changes do not alter current parking space or loading dock regulations, Historic District Commission oversight, signage regulations or any health and safety enforcement or oversight regulations.

### **Questions**

- 1. What kinds of new construction or renovation projects will be exempted?***
- 2. How is “artisan work” defined to distinguish it from potentially deleterious manufacturing uses?***

**Article 5: Authorize Munroe School Disposition**

To see if the Town will vote to authorize the Selectmen to sell or lease the Munroe School building and the land it is situated on to a buyer or lessee approved by the Selectmen; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen****Description**

This article addresses the sale or lease of the Munroe School.

**Overview**

Pursuant to M.G.L. c. 30B, the Town of Lexington issued a Request for Proposals (“RFP”) for the disposition of the Munroe School. The Town received one bid response (“Response”).

The RFP states that preference will be given to any bidder who will develop, own, and manage a not-for-profit civic, cultural, charitable, historic, and educational or arts education center on the premises. The RFP also included a draft Purchase and Sale Agreement which among other items includes a buy back provision for the Town.

The non-price proposal part of the Response has been reviewed by an Evaluation Committee comprised of representatives from the Board of Selectmen, the Town’s various finance committees, and others to determine whether the bidder is responsive and responsible and capable of meeting the criteria as set forth in the RFP. The Evaluation Committee found that the bidder is responsive and responsible and meets the RFP’s criteria.

The building’s market value has been appraised at \$760,000 with the deed restrictions required by the Town and \$1,500,000 without deed restrictions. If sold, the winning bidder will assume all currently known capital improvement costs estimated to be \$1,800,000.

**Questions**

- 1. Given the property is to be included in the sale, is there language in the agreement that the land may not be developed, other than by expanding the parking area?***
- 2. How much money has the Town invested in this building since it became the Munroe Arts Center?***
- 3. Are there any benefits to the Town if this property is retained for another future Town use?***
- 4. Should the Town sell a real estate asset as opposed to being a landlord?***
- 5. Is the bid response a worthy and appropriate use of the building?***
- 6. Is there a public benefit to selling the building to a non-profit entity?***

**Article 6:****Approve Local Option Meals Excise**

To see if the Town will vote to accept G.L. c. 64L, § 2(a), as enacted by Section 60 of Chapter 27 of the Acts of 2009, to impose a local meals excise; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen****Description**

Acceptance of this statute would impose an excise of .75% on the sales of restaurant meals originating within the Town. Revenue from this excise will be collected by the State and returned to the Town.

**Questions*****1. Why is this tax being brought forward?***

This state statute, along with the Hotels Tax proposed in Article 7, was passed in the last State Budget at the urging of the Massachusetts Municipal Association and the Governor's Office, among other entities. It gives towns an opportunity to generate revenue locally. The Town's Ad Hoc Fiscal Task Force recommends adopting the meals excise and the hotel excise to broaden Lexington's tax base in light of recent fiscal cutbacks and the expectation of more to come. Article 6 and Article 7, the hotel room occupancy excise, will be considered separately by Town Meeting.

***2. What would the meals tax look like if enacted?***

The present sales tax applies to prepared/restaurant meals and is 6.25%. It would rise to 7% with the additional excise of .75%.

***3. How much revenue would the meals tax generate?***

Based on 2007 data, the meals tax would generate an estimated \$145,334 for the remaining months of FY 2010 (January 1-June 30), and \$350,000 for the full fiscal year to follow.

***4. Who would be subject to the meals tax?***

There are about 80 food establishments in Lexington that would be subject to the meals tax: 39 restaurants and over 40 other businesses that serve food.

***5. How is the meals tax enacted?***

Adoption of either the meals or the hotel tax must occur at least 30 days before the first day of a calendar quarter in order to receive revenues collected during that quarter. The tax can be considered by Town Meeting as long as the State leaves it as an option. Town Meeting can adopt a local option statute to become effective at a later time. The local option meals tax has notification requirements and the DOR collects the excise.

***6. How does the tax come in to the Town, on a quarterly or annual basis?***

The tax comes in to the Town on a quarterly basis, and is distributed on September 30, December 31, March 30 and June 30.



**7. *Can it be repealed?***

Under M.G.L. c. 4, §4B, a city or town may rescind or revoke its acceptance of a statue after 3 years from the date of acceptance by the town.

**Article 7: Approve Local Option Room Occupancy Excise**

To see if the Town will vote to accept G.L. c. 64G, § 3A, as amended by Section 51 of Chapter 27 of the Acts of 2009, to impose a local room occupancy excise at the rate of six percent; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen****Description**

Acceptance of this statute will allow the Town to impose an excise on the rental of rooms in hotels and motels of up to a maximum of 6%. Previously, the maximum rate was 4%.

**Questions**

***1. The answers to Questions 1, 5, 6 and 7 under Article 6 apply equally to this Article.***

***2. How are the estimates of hotel revenue calculated?***

The current state tax on hotel rooms is 5.7%; the current Town tax is 4%, for a total of 9.7%. Another 2% in Town tax would bring the combined tax per room per night to 11.7%.

***3. How much revenue would the hotel room excise generate?***

Based on 2007 data, the tax would generate an estimated \$62,500 for the remainder of FY 2010 (January 1-June 30), and \$150,000 for the full year thereafter. If both were enacted, the meals and hotels taxes together would provide the Town with about \$500,000 a year. This estimate assumes that the room rates and occupancy would not be affected by the increased tax rates.

***4. Have towns in our area adopted the meals/and or hotel tax?***

Thirty-nine towns have so far adopted the hotel tax; thirty-seven, the meals tax. In our area, Bedford, Boston, Brookline, Cambridge, Chelmsford, Medford, Melrose, Newton, Somerville and Worcester have adopted both taxes. Belmont, Andover and North Reading have adopted the meals tax; Burlington, Danvers and Revere have adopted the hotel tax. Many towns across the Commonwealth, including Arlington, Natick, Waltham, Wellesley and Winchester, will be voting on one or both of these taxes over the next month. In Waltham the issue has been tabled for potential future consideration.

***5. What Hotels and Motels in Lexington would be affected?***

The Aloft and Element and the Quality Inn would be subject to this tax. Bed & breakfasts and lodging houses that charge more than \$30 a night would also be included. Lexington has three bed & breakfasts.

**Discussion**

Some local businesses are concerned that in the current economic climate they will have to cut room costs to remain competitive, which would also reduce new tax revenues to the town from the added 2% excise and that the taxes will affect everything from corporate contracts (hotels) to tips (restaurants). Because the revenue generated will come back fully to the Town, proponents of the taxes argue that the additional revenue will prevent cuts to services and education which the current economic climate would otherwise demand.

**Article 8:****Contracts for Solar Energy**

To see if the Town will vote to authorize the Town Manager to enter into a contract for the purchase of solar power for a term of 20 years; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen****Description**

The by-law currently limits energy purchases to five year contracts. If approved, this article would authorize the Town to enter into a contract for the purchase of solar energy for a period of up to 20 years.

**Overview**

The article would allow Lexington to enter into an agreement to purchase energy from a third party provider who would install solar equipment on certain public facilities. Analysis has shown that such a contract would provide economic savings vs. Lexington owning the equipment directly due to federal tax credits available to corporations. For the third party to make the investment, Lexington would need to enter into a 20-year contract to purchase the energy.

Massachusetts has recently offered grants that would make the solar energy program cost beneficial in total, although the current program is at capacity. With the by-law change, Lexington would be poised to apply for such grant funds if they become available in the future.

**Questions*****1. Which buildings are targeted for solar installations?***

The Fiske, Harrington and Public Services buildings were included in the initial analysis as they have newer roofs. Depending on the amount of incentives, it may be cost beneficial to extend the program to other buildings.

**Article 9:****Appropriate for Sister City Program****Funds Requested: \$18,490**

To see if the Town will vote to raise and appropriate a sum of money for expenses associated with the visit of officials from the Town's Sister City of Antony, France, to be spent under the direction of the Town Manager; determine whether the money shall be provided by the tax levy, by transfer from available funds, or by any combination of these methods; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen  
at the request of the Tourism Committee**

**Description**

The Town is planning for a visit by officials from the Town's Sister City of Antony, France in the spring.

**Overview**

Lexington has had a Sister City relationship with Antony, France stretching back over 20 years. The program has been funded largely through private contributions. The Lexington Tourism Committee is asking for funding to facilitate a visit to Lexington by Antony officials and residents during Patriot's Day celebrations in 2010 and for a study to determine where a monument honoring Antony should be placed in Lexington.

**Questions*****1. What is the history of LASCA (Lexington/Antony Sister City Association)***

LASCA is a private endeavor of Lexington citizens, dedicated to promoting good will, friendship, and cultural exchange between the people of Lexington and Antony, France.

Antony is a suburb of Paris, a commuter town of 60,000 people, of similar demographics to Lexington, just 6 miles south of the center of Paris. More can be learned at the web site [www.ville-antony.fr](http://www.ville-antony.fr).

A Lexington Antony academic exchange, involving students, teachers, and parents has been ongoing for more than two decades. The program has grown to include town officials.

This past September a group of 42 Lexington residents including Town Manager Carl Valente, State Representative Jay Kaufman, and representatives of the Tourism Committee participated in the re-dedication of the Place de Lexington monument, public receptions and panel discussions regarding town operations.

***2. How have these exchanges been financed in the past?***

Participants have paid for their own travel and associated costs. This year the City of Antony specifically invited and financially sponsored our Town Manager. The Board of Selectmen authorized Town Manager Carl Valente to use funding from his unused vacation days to cover the cost of his travel. The City of Antony sponsored the Town Manager's hotel expenses. The City of Antony has a Sister City budget which paid for the receptions, an excursion, all busing

and miscellaneous expenses. The article sponsors would like to reciprocate and sponsor Antony officials.

The LASCA and Tourism committees are actively engaged in fund raising to minimize the costs to the town.

**3. For what will these funds be used?**

There is an expectation that a contingent of Antony officials and residents would visit Lexington on Patriot's Day. The size of this contingent is expected to be comparable to the number that visited Antony from Lexington in September 2009. The request would cover various expenses to host that visit, including bus transportation, admission fees to attractions, food and entertainment at several receptions. Hotel costs are expected to be covered by donations from the Aloft and Element hotels.

The committee would also like to reciprocate the monument dedication made in Antony with the dedication of a site for a future fountain in honor of Antony here in Lexington. The committee intends to host a design competition for that fountain. Town owned sites are being considered for the fountain.

**4. Is it appropriate to use town funds to entertain visitors?**

The funding used to cover the Lexington town official visit to France was covered through a dedicated Sister City fund that Antony maintains.

**5. Is a fountain an appropriate monument for Lexington?**

The fountain would require perpetual maintenance, including a dedicated water supply and electrical housing.

**6. What are the anticipated costs for this project?**

Antony Fountain Design Competition	\$5,000
Bus Costs	\$3,740
Excursions	\$750
Gifts	\$500
Receptions	\$8,500
Total:	\$18,490

**Article 10: Appropriate to Traffic Mitigation Stabilization Fund**

**Funds Requested: \$35,000**

To see if the Town will vote to raise and appropriate a sum of money to the Traffic Mitigation Stabilization Fund in accordance with Section 5B of Chapter 40 of the Massachusetts General Laws, determine whether the money shall be provided by the tax levy, by transfer from available funds, or by any combination of these methods; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen**

## Description

As part of its CD rezoning, The Beal Companies agreed to contribute \$35,000 to the Town of Lexington -Traffic Mitigation Stabilization Fund to allow the Town, acting by and through the Board of Selectmen, to undertake a traffic master plan for the Hayden and Spring Street Corridors. The traffic master plan will evaluate and address transportation issues within the corridor based upon actual and projected development and the attendant traffic impacts. This article will reserve this \$35,000 in the Traffic Mitigation Stabilization Fund, as required by Department of Revenue regulations. Expenditure of these funds will require an appropriation by Town Meeting.

## Overview

With Article 49 having been approved at the 2009 Annual Town Meeting, this is the first of three payments by The Beal Companies as agreed to under the Memorandum of Understanding (MOU) dated April 27, 2009. Per the MOU, a second payment of \$500,000 will be made to the Town prior to issuance of the Building Permit. The third payment of \$265,000 will be made prior to issuance of the Certificate of Occupancy. The third payment has three components:

- a \$200,000 payment will be made to the Town Transportation Demand Management/Public Transportation Stabilization Fund for LexPress funding
- a contribution of \$45,000 will be made to the Town's Traffic Mitigation Stabilization Fund and
- a payment of \$20,000 will be made to the Lexington Nature Trust Fund for the Town to construct and maintain the pedestrian trail extension through the conservation easement to Spring Street.

## Questions

**1. Are there anticipated dates for the issuance of Building Permit and the Certificate of Occupancy?**

There are no anticipated dates at this time.

**Article 11:****Appropriate to Stabilization Fund****Funds Requested: Unknown at Press Time**

To see if the Town will vote to raise and appropriate a sum of money to the previously created Stabilization Fund in accordance with Section 5B of Chapter 40 of the Massachusetts General Laws; determine whether the money shall be provided by the tax levy, by transfer from available funds, or by any combination of these methods; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen****Description**

Money may be appropriated into the existing Stabilization Fund that may be invested and the interest may then become part of the fund. The use of these funds may later be appropriated, by a two-thirds vote of an Annual or Special Town Meeting, for any lawful purpose.

**Overview**

The money being appropriated to the Stabilization Fund is the estimated surplus revenue from changes to the original FY 2010 revenue projections and adjustments made to FY 2010 operating budgets under Article 13. The net general fund revenue available for appropriation and which could be applied to Stabilization Fund is the \$680,534 shown below, less that which is appropriated for the Sister City Program under Article 9. The sources are:

<u>Revenue Source</u>	<u>FY2010 Projected</u>	<u>FY2010 Revised</u>	<u>Change</u>	<u>Reason</u>
Tax Levy	\$114,759,106	\$116,020,819	\$1,270,714	poles and wires \$688,743; new growth \$581,971
State Aid	9,058,898	9,018,027	(40,871)	revised cherry sheet numbers
State Aid (9c) cuts	0	(231,000)	(231,000)	state revenue shortfalls
Local Receipts	9,770,000	9,421,000	(349,000)	reduced building permits & dept. receipts
Revenue Offsets	(1,836,461)	(1,814,044)	22,417	snow, overlay accts
<b>Total Revenue Change:</b>			<b>\$672,260</b>	
<b>FY 2010 Operating Budget Change:</b>			<b>(\$8,274)</b>	per Article 13
<b>Est. Amount Available for Appropriation:</b>			<b><u>\$680,534</u></b>	(less Article 9 appropriation)

**Questions**

***1. The Town has been holding pole and wire-tax revenue in an escrow account until now. What enables us to recognize this revenue now?***





**Article 13:****Amend FY2010 Operating Budget****Funds Requested: Unknown at Press Time**

To see if the Town will vote to amend the FY2010 operating budget or make supplementary appropriations, to be used during the current fiscal year in conjunction with money previously appropriated under Article 4 of the warrant for the 2009 Annual Town Meeting, or make any other adjustments to the current fiscal year budget and appropriations that may be necessary; to determine whether the money shall be provided by the tax levy or by transfer from available funds; or act in any other manner in relation thereto.

**Sponsor: Board of Selectmen****Description**

This article will permit adjustments to current fiscal year (FY2010) expenditures.

**Overview**

The data presented below reflect adjustments made to the FY 2010 budget approved at the 2009 Annual Town Meeting. The supplemental appropriations include:

<u>Area of Operating Budget</u>	<u>Change</u>	<u>Reason</u>
Cost of Special Elections	\$ 50,000	Dec. 8 Primary & Jan. 19 General Election
Human Services	(164,274)	elimination of adult supportive services
DPW	15,000	Shade St. traffic mitigation study
Treasurer's Fees	41,000	change in basis of bank fees
Workers' Compensation Costs	50,000	accidental disability retirement
<b>Total Operating Budget Change:</b>	<b>(\$8,274)</b>	

**Questions****1. Why are the Treasurer's fees changing?**

Bank fees were formerly paid through the bank netting fees against interest earned on the investment of funds. Current lower interest rates no longer cover these fees so the Town is changing to fund bank fees by direct appropriation.

**2. Why have the Workers' Compensation costs increased?**

The medical costs of Public Safety Officers injured on duty (Accidental Disability retirement) have been, to date, paid using health insurance. State Law and a policy previously approved by Town Meeting both stipulate that this expense should be borne by the town. The \$50,000 increase reflects this amount.

## Article 14: Amend FY2010 Enterprise Funds Budgets

### Funds Requested: Unknown at Press Time

To see if the Town will vote to amend the FY2010 enterprise fund budgets or to make supplementary appropriations, to be used during the current fiscal year in conjunction with money previously appropriated under Article 5 of the warrant for the 2009 Annual Town Meeting, or make any other adjustments to the current fiscal year enterprise fund budgets and appropriations that may be necessary; to determine whether the money shall be provided by receipts, transfer from available funds; or act in any other manner in relation thereto.

### Sponsor: Board of Selectmen

### Description

This article will permit adjustments to current fiscal year (FY2010) expenditures.

### Overview

This article amends the MWRA assessments items for the water and sewer enterprise fund budgets that were adopted at the 2009 Annual Town Meeting. The assessments were based on preliminary estimates. In June, the MWRA issued their final assessments which were lower than the original estimates. The changes for each enterprise fund are:

<b>Preliminary Estimate</b>			
<b><u>Enterprise Fund</u></b>	<b><u>Adopted at ATM</u></b>	<b><u>Final Assessment</u></b>	<b><u>Change</u></b>
Water	\$4,600,000	\$4,482,551	(\$117,449)
Sewer	6,500,000	6,245,946	(254,054)
		<b>Total Change:</b>	<b>(\$371,503)</b>

### Questions

***1. If water and sewer rates were based on the original estimates, will the rates be changed to reflect the decrease?***

The Board of Selectmen set the FY 2010 rates after the MWRA had issued the final assessments. Thus, no rate changes need be made for this year.