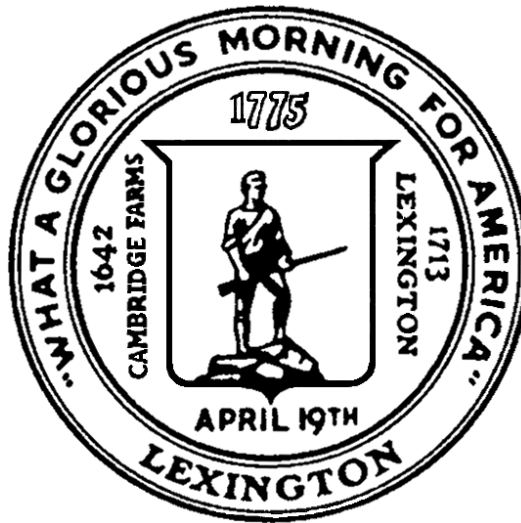


APPROPRIATION COMMITTEE TOWN OF LEXINGTON



REPORT TO THE MAY 6, 2009, SPECIAL TOWN MEETING

Released May 6, 2009

Appropriation Committee Members—Fiscal Year 2009

Alan M. Levine *Chair* • **John Bartenstein** *Vice-chair* • **Susan McLeish** *Secretary*
Robert N. Addelson (*ex-officio; non-voting*) • **Richard Eurich** • **Mollie Garberg**
Pam Hoffman • **Michael J. Kennealy** • **Eric Michelson** • **Glenn Parker**

Summary of Warrant Article Recommendations

Abbreviations: GF = General Fund; EF = Enterprise Fund; RF = Revolving Fund

CPA = Community Preservation Act Fund; BAN = Bond Anticipation Note

An entry of “Indefinitely Postpone” in the right-hand column merely signifies our expectation.

Ar- ticle	Title	Funds Requested	Funding Source	Committee Recommendation
2	Amendment to Preliminary Site Development and Use Plan - 125, 131, & 141 Spring Street	None	n/a	Pending
4	Appropriate for Clarke School Sprinkler System	\$85,000	GF	Approve (9-0)
5	Munroe School Disposition	none	n/a	Indefinitely postpone
6	Land Purchase – Off Lowell Street	\$4,197,000 + \$98,000 interest	CPA	Pending
7	Appropriate for Community Preservation Committee Administrative Expenses	\$25,000	CPA	Approve (9-0)
8	Amend FY2009 Enterprise Budget	None	n/a	Indefinitely postpone

Contents

Summary of Warrant Article Recommendations	2
Preface	4
Warrant Article Analysis and Recommendations	5
Article 2: Amendment to Preliminary Site Development and Use Plan – 125, 131 & 141 Spring St.	5
Article 4: Appropriate for Clarke School Sprinkler System.....	7
Article 5: Munroe School Disposition.....	7
Article 6: Land Purchase – Off Lowell Street	8
Article 7: Appropriate for Community Preservation Committee Administrative Expenses	9
Article 8: Amend FY 2009 Enterprise Fund Budgets	9

Preface

This is the report of the Appropriation Committee to the Special Town Meeting of May 6, 2009. Below we outline our analysis and give our recommendations on the articles that we find to have a substantial financial component. Given that this Special Town Meeting is taking place so soon after the Annual Town Meeting, we refer the reader to the introductory comments in the two reports that we have written for the 2009 Annual Town Meeting rather than repeat them here.

Warrant Article Analysis and Recommendations

Article 2: Amendment to Preliminary Site Development and Use Plan – 125, 131 & 141 Spring St.	Funds Requested	Funding Source	Committee Recommendation
	None	n/a	Pending

Background

This article requests approval of amendments to the Preliminary Site Development and Use Plan for Lexington Technology Park that was originally approved by the 2004 Annual Town Meeting. Among other provisions, the zoning change approved in 2004 increased the permissible gross floor area for the property to a maximum of 696,600 square feet. This made allowance for the construction of two new buildings on the property at 200 and 400 Patriot Way. In 2008, the Zoning Board of Appeals approved the Definitive Site Development and Use Plan submitted by the property owners, Patriot Partners. Patriot Partners have sold the 400 Patriot Way site to Shire Human Genetic Therapies, Inc., (Shire) and the latter has begun construction of a building on the site that will contain manufacturing facilities. Patriot Partners has stated that they are about to sign a lease with Shire for the new building at 200 Patriot Way and that construction of that building is likely to commence in 2010.

Under this Article, Patriot Partners seeks Special Town Meeting authorization to increase the maximum permissible gross floor area on the property by 380,000 square feet, approximately 55%, to 1,076,600 (the proposal actually anticipates a total of 1,586,600 square feet, of which 510,000 is assigned to parking garages and decks). The increase in allowed floor area would actually be authorized through an increase of the floor area ratio (FAR; the ratio of the building net floor area divided by the developable lot area) from 0.15 to 0.24. The increased floor area would allow the landowners to build two new buildings shown as 100 and 600 Patriot Way in the sketch plans circulated by Patriot Partners, and potentially to increase the size of the building to be built under the current zoning at 200 Patriot Way.

Additionally, whereas the current buildings on and at the property are restricted to a height of 45 feet (except for 400 Patriot Way, which has a permitted height of 54.5 feet), Patriot Partners is requesting an increase in the allowed height (to 68 feet) of the buildings in one quadrant of the site away from the residential area on Shade St. The increase in height would apply to the building to be built under the current zoning at 200 Patriot Way and to the proposed new building at 100 Patriot Way. The proposed new building at 600 Patriot Way would be built under the current height limits.

Consistent with its original statements to 2004 Annual Town Meeting, Patriot Partners intends, to the maximum possible extent, to lease the proposed new buildings to businesses involved in biotechnology research and development, laboratory work, and/or manufacturing. Shire has been mentioned as a likely tenant. If such tenants are unavailable, Patriot Partners would be willing to build and lease portions of the contemplated buildings for general office use. However, the actual construction, and then leasing, of the two additional new buildings will not take place for a number of years. In addition to approval of this Article by the Special Town Meeting, other reviews and approvals of this proposal must be obtained; in particular the scale of the proposed changes to the site would trigger a MEPA review (Massachusetts Environmental Policy Act). Based on the projected timelines Patriot Partners has prepared and made available to the Town in support of its request, there will be at least an 18 month period separating Special Town Meeting approval of this Article and completion of all review, approval, and permitting processes.

Actual construction of the buildings, whenever that construction begins, would take at least another 18 to 24 months.

Analysis

The Committee met with representatives of Patriots Partners on April 29, 2009, to review the proposed project and its financial impact on the Town. We have reviewed materials and other information, including the Fiscal Impact Analysis, dated February 23, 2009, prepared by Connery Associates. We have reviewed this fiscal analysis and its conclusions and find them to be reasonable. We briefly summarize the analysis in the next few paragraphs.

The additional development contemplated by this proposal will generate revenue for the Town far in excess of the anticipated cost increases. Currently, the existing buildings on the property – 125 Spring Street, 300 Patriot Way and 500 Patriot Way with an aggregate floor area of 292,683 square feet – have a combined assessed value of approximately \$44,300,000 or approximately \$151 per square foot. When constructed at some time in the future, the two proposed new buildings will likely have a higher valuation per square foot. Connery Associates conservatively projects a valuation for those new buildings at 15% higher, i.e., at \$175 per square foot. The 380,000 square feet of additional construction sought in this proposal thus produces an assessed valuation of \$66,500,000. At the current commercial tax rate of \$24.25, the additional 380,000 square feet sought in this proposal, when completely constructed and built out, will generate new tax revenues of \$1,612,625 annually.

The annual costs to the Town for the services related to the additional buildings are estimated by Connery Associates at approximately \$308,000. This prediction is based upon a rough estimate of the FY 2009 average cost of police and fire department services provided by the Town to its currently existing non-retail commercial taxpayers.

Connery Associates' projections mean that the proposed development would result in a net yearly gain to the Town of approximately \$1,305,000 after the construction of the projected two buildings is completed. In regard to timing, we note that Patriot Partners does not presently have commitments to lease the space in either of the proposed two buildings. They will proceed with the first phases of the permitting process without such commitments, but will not proceed with construction until they have agreements with prospective tenants. Therefore, even under an optimistic scenario, the completion of the construction of one or both buildings will not happen for at least three years (very optimistically) or, more likely, for at least five years. Nonetheless, this Committee is satisfied that the figures on which the ultimate prediction is based are sound, and that the tax revenue the additional two buildings will produce for the Town, whenever they are constructed, will far exceed their costs.

TIF

In 2007, Town Meeting approved a tax increment financing (TIF) agreement with Shire, under which new construction at the 125 Spring St. and 200, 300, and 400 Patriot Way sites would be subject to a 20-year schedule of property tax reductions. Approval of the present rezoning request would allow the size of the building to be built at 200 Patriot Way to be increased.

Shire has stated that they will not pursue Tax increment Financing for any additional square footage as a result of an approval of the Amended PSDUP. Any increased value will be excluded from the TIF including an expansion of Building 200.

It should be noted that the buildings proposed to be built at 100 and 600 Patriot Way would not be subject to the TIF (it appears that this may depend on provisions in the requested changes to the PSDUP).

Other Payments

The Town will receive building permit fees associated with the construction of the two new buildings.

APPROPRIATION COMMITTEE REPORT TO 2009 STM—MAY 2009
06 May 2009

In addition, Patriot Partners and the Town, through the Board of Selectmen, are negotiating a Memorandum Of Understanding (MOU) that would outline a set of payments by Patriot Partners to, or directly benefiting, the Town to help mitigate the impact of traffic increases and other effects of the proposed increase in development. Although the MOU is not yet, to our knowledge, final as of press time, the payments in the proposal circulated by Patriot Partners early in the process (and outlined in the Traffic Study document that may be found on the Planning Board web site¹) include (1) prior to the start of construction on the property in excess of the 696,600 square feet currently authorized and permitted, \$120,000 to be spent at the Town's discretion to benefit and address the roadway system adjacent to and affected by Lexington Technology Park; and (2) an annual payment of \$12,000 to Lexpress. The Committee understands that this is an in perpetuity commitment by Patriot Partners, and that it supplements Patriot Partners' 2004 commitment to make a \$10,000 annual payment to Lexpress, increasing to \$20,000 once 180,000 square feet of the property had been leased to and occupied by tenants. The Committee also understands that the other agreements made by Patriot Partners in 2004 (as described in the discussion of Article 10 in our April 13, 2004, Report to Town Meeting) continue and remain intact.

Our discussions suggest that the final MOU will be quite significantly different from that described here so we caution the reader to look for an update once the MOU is signed by both Patriot Partners and the Town.

Article 4: Appropriate for Clarke School Sprinkler System	Funds Requested	Funding Source	Committee Recommendation
	\$85,000	GF	Approve (9-0)

In the process of other renovations in 2006, the Fire Department determined that the configuration and coverage of the Clarke School sprinkler system are not within code. Based on a detailed study performed by Garcia Galuska Desousa, Inc., this request will allow for the relocation and/or addition of 58 sprinkler heads, which will bring the Clarke School sprinkler system into compliance with safety code requirements.

The Committee, by a vote of 9-0, recommends approval of this request.

Article 5: Munroe School Disposition	Funds Requested	Funding Source	Committee Recommendation
	None	n/a	Indefinitely postpone

This Committee concurs with the decision of the Board of Selectmen to indefinitely postpone this article so that there will be adequate time for Board and Committee discussions of the disposition of the Munroe School Building and for public input prior to its placement on the warrant of a future town meeting.

¹ http://ci.lexington.ma.us/planning/STM2009/S2.A1.Traffic_Study.pdf

APPROPRIATION COMMITTEE REPORT TO 2009 STM—MAY 2009
06 May 2009

Article 6: Land Purchase – Off Lowell Street	Funds Requested	Funding Source	Committee Recommendation
	\$4,197,000 + \$98,000 interest	CPA	Pending

This article requests an appropriation under the Community Preservation Act to purchase a parcel of land in East Lexington known as the Busa Farm. The property, which consists of approximately eight acres located off of Lowell Street and which abuts the west end of the Arlington reservoir, is currently used for farming purposes.

Detailed information about the property, the terms of the proposed purchase, and the components of the requested appropriation can be found in the report of the Community Preservation Committee (CPC) dated May 6, 2009 and circulated on the TMMA list on May 5, 2009. Although a definitive purchase and sale agreement will not be completed until after Town Meeting has voted on this article, the essential terms of the proposed transaction are memorialized in a letter of intent that was signed on Tuesday, May 5. The letter of intent specifies a purchase price of \$4,100,000, which is less than the appraised value of \$4,400,000. The letter of intent also provides that the Town will agree to lease the property back to the Sellers for the 2009 and 2010 growing seasons to permit them to continue their current farming operations while the Town engages in a planning process for its future use.

The letter of intent provides that the Town “intends to purchase the Property,” subject to the approval of the CPC and Town Meeting, “for open space and outdoor recreation, historical preservation and/or affordable housing purposes under the Community Preservation Act.” Town staff has done some initial “conceptual planning” for uses to which the Busa property might be put, including open space, new recreational facilities such as soccer and baseball fields, and/or affordable housing. Given the timing of the negotiations, however, there has not yet been an opportunity to conduct the thorough study and public process necessary to make a final determination on the use of the property. Accordingly, the motion under this article requests an appropriation of \$25,000 to conduct a master planning process to determine an appropriate use or mix of uses.

In view of the currently favorable interest rate environment, the size of the requested appropriation compared with the cash reserves now available in the Community Preservation Fund (a bit less than \$5,000,000), and anticipated future demands on the cash in the Community Preservation Fund, Town Staff has recommended that the purchase be financed at least in part with borrowing. The CPC voted on May 5 to request that Town Meeting authorize funding of the purchase with borrowing, with the understanding that before long-term bonds are issued for this purpose, a summit will be convened among the Board of Selectmen, the finance committees and the CPC to decide how much of the cost will be financed with borrowing and for what term. In the meantime, the costs of the acquisition will be financed with Bond Anticipation Notes (BAN’s), which is customary pending the issuance of municipal bonds. The appropriation request described in the CPC report will need to be augmented by \$98,000 to cover interest and issuance costs for short-term borrowing.

With the recent sale of the Doran Farm and Lexington Gardens for development, the Busa property is one of the few remaining working farms and gardens in Lexington. The Committee believes that the property is an important and attractive open-space resource for the Town that is well worth preserving, however it is ultimately used.

Because the terms of the proposed acquisition were not available until shortly before the issuance of this report, the Committee has not yet had an opportunity to vote on this article.

APPROPRIATION COMMITTEE REPORT TO 2009 STM—MAY 2009
06 May 2009

Article 7: Appropriate for Community Preservation Committee Administrative Expenses	Funds Requested	Funding Source	Committee Recommendation
	\$25,000	CPA	Approve (9-0)

This article asks for a supplemental appropriation of \$25,000 for administrative expenses of the Community Preservation Committee for the current fiscal year (FY2009). Together with the original appropriation of \$50,000 approved last year, this would bring the total FY2009 appropriation for the Community Preservation Committee's administrative expenses to \$75,000. This appropriation is well below the statutory limit of 5% of annual revenues (\$215,000 for FY2009) and just half of the \$150,000 amount approved for FY2010. The requested funds are needed to cover a) benefits for a staff member who now works full-time for the Town but still only part-time for the CPC; and b) higher than expected legal expenses for assessments of the legality of potential CPA projects and the preparation of town meeting articles and motions. The approximate breakdown of the total estimated administrative expenses for FY2009 is as follows:

Estimated FY2009 CPC Administrative Costs

Salaries	\$21,000
Benefits	\$9,000
Coalition dues	\$7,500
Legal expenses	\$35,000
Other expenses	<u>\$2,500</u>
Total	\$75,000

The Committee, by a vote of 9-0, recommends approval of this request.

Article 8: Amend FY 2009 Enterprise Fund Budgets	Funds Requested	Funding Source	Committee Recommendation
	None	n/a	Indefinitely postpone

It is our understanding that no action is contemplated under this article. Therefore we have no recommendation.