

To: Town Representatives and Town Meeting Members *ex officio*

From: Bob Nason, Town Administrator

Date: April 25, 2012

Re: May 10, 2012 (FY 2013) Annual Town Meeting Warrant

While much of the Annual Town Meeting warrant is self-explanatory, this memorandum and the below-mentioned spreadsheets provide additional information about the spending plan's estimated impact on the property tax for the average single family home and the town's levy limit, the operating budget increases from last fiscal year (FY), as well as the special articles and their recommended funding sources. This memorandum and the annual town meeting warrant are posted on the municipal web site, www.lee.ma.us.

We have enclosed a copy of the April 25, 2012 *Preliminary Estimate of Anticipated Tax Rate Impact and Levy Limit Calculations*. We have based our tax impact calculation on the House Ways and Means proposed \$20,665 or 0.8% increase in state aid and proposed \$19,394 or 3.9% decrease in assessments. As with state aid, we expect local receipts to be essentially unchanged from the present fiscal year (FY 2012). We have also enclosed a copy of the April 25 2012 *Comparison of Program Spending* which compares the FY 2013 budget requests to the amounts expended in FY 2011 and the amounts budgeted in FY 2012. The Finance Committee recommended operating budget for FY 2013 increases FY 2012 appropriations by \$433,667 or 2.7%. Including the Water, Sewer and Ambulance budgets, which are funded by fees for those services, the budget increase is \$459,364 or 2.3 %.

Unlike the period before the recent "Great Recession" when robust new growth spread the burden of increased fixed costs, the Board of Assessors' estimates that in FY 2013 there will be modest new growth of \$5,800,000. Accordingly, based on the FY 2012 average assessment of \$254,689, we calculate the increased operating expense will raise the average single-family tax burden from \$3,370 to \$3,461 or by \$91 (2.7%). That compares to a \$44.00 (1.3%) increase this fiscal year (FY 2012). With respect to the levy limit imposed by Proposition 2 ½, we estimate that this spending plan will be about \$860,384 below the limit.

FY 2011 revenue that was in excess of our estimate and expenses for operations and special projects that were less than appropriated combined to add \$493,674 to the undesignated general fund balance. The resulting fund balance currently available is \$941,522, which is \$69,700 or 7% more than this time last year. However, last year the Board of Assessors' released four fiscal years (2003-2006) of overlay amounting to \$249,334 which increased the available funds to \$1,121,156. Since there is no overlay release this year, there is actually \$179,634 or 16 % less available. From those available funds, requested transfers at the Annual Town Meetings amount to \$615,563. The Finance Committee recommended transfers are \$34,000 less or \$581,563, which is \$91,745 or 16% less than the amount of available funds that were committed to the current fiscal year. Looking ahead to next year, we do not expect to generate the same amount of savings nor revenue in excess of our estimate.

With estimated interest earnings and without appropriations to or from the funds, on June 30, 2012 the General Stabilization Fund balance would be \$1,244,110 and the Fire Truck Stabilization Fund balance would be \$401,983. With the proposed appropriations totaling \$297,250 from the General Stabilization Fund that fund balance will be \$946,860. With the \$150,000 appropriation to the Fire Truck Stabilization Fund, that fund balance will be \$551,983. Together, the fund balances will amount to \$1,498,843 or 8% of the total operating budget excluding the enterprise and reserve revenue accounts. That is \$170,740 short of the Finance Committee's 10% target, and that shortfall will grow later on in FY 2013 when \$430,000 is appropriated to purchase a new fire truck.

Police Chief Joseph Buffis supplied information for Article 23 and Fire Chief Alan Sparks provided information for Articles 24 and 25. Superintendent of Public Works Christopher Pompei, P.E., supplied information for Articles 27 to 36. The Cultural Council authored the explanation for Article 40 and the Laurel Lake Association provided the narrative for Article 41. The Planning Board wrote the explanations for Articles 44 to 47.

Article 1. Town Reports

This article appears annually, and it provides for the acceptance of the Annual Report. This edition of the Annual Report covers fiscal year 2011 (ended June 30, 2011). The report is posted on the municipal website (www.lee.me.us), and hard copies are available at the Library, the Post Offices and Town Hall.

Article 2. FY12 Operating Budgets

This article presents the FY 2013 Operating Budgets for all departments, except those presented by separate articles due to funding by multiple sources (Building Department, Fire Department, Reserve Fund, Animal Control, Cemetery and Health Department – Articles 3, 4, 5, 7, 10 and 11), solely by receipts reserved for appropriation (Ambulance Service - Article 6) or by enterprise funds (Sewer and Water - Articles 8 and 9). Except for Sandy Beach the proposed appropriations reflect consensus among those who manage the respective accounts and the members of the Finance Committee. The Sandy Beach Committee is seeking restoration of the \$3,000 bottom line reduction voted at the May 13, 2010 (FY 2011) Annual Town Meeting. The Compensation Plan, which is incorporated in this article as well as Articles 3, 4, 6, 7, 8, 9, 10 and 11, includes a 2% increase for those who are not scheduled for a step increase.

Through the Department of Labor Relations the Town and the Highway/Cemetery and Water Distribution workers have reached an agreement for the period July 1, 2011 to June 30, 2013. Collective bargaining agreements covering Police Officers and Emergency Dispatchers expired on June 30, 2011. The Town and its Police Officers have agreed to invite the Department of Labor's Joint Labor Management Committee to mediate a new agreement, and Emergency Dispatchers negotiations have not begun.

The positions of part-time (18 hours/week) Treasurer's Clerk and fulltime (35 hours/week) Assistant Tax Collector have been combined in a new full-time (40 hours/week) Treasurer's/Collector's Clerk position. The Sandy Beach parking attendant has been upgraded to

seasonal Police Officer. The Ambulance Service upgrade to the paramedic level will replace the Director position receiving a stipend with a full-time Director/Paramedic position and add part-time paramedic positions.

In addition to the modest increase in employee compensation, there are other factors driving the operating budget increases. They include continuing software licensing and maintenance fees, equipment breakdowns, fuel price increases and rising employee benefit costs. Municipal and school employee benefit costs alone increased \$151,542 or 4.3 %. Additionally, for the second consecutive year “School Choice” funding allocated to reduce the Education budget request has decreased by \$125,000 (20%), because fewer students are expected to enroll from outside the school district. For the fourteenth consecutive year the Board of Selectmen have directed that municipal, non-personnel operating expenses be level funded or reduced unless increased by necessity. Those necessities recommended by the Finance Committee include the following:

Account 135, Accountant

Software license/support and audit fee increases

Account 145, Treasurer

Software license/support fees and an additional 2 hours/week personnel expense

Account 163, Board of Registrars

An additional election and reallocation of postage costs from Town Clerk’s budget

Account 188, Lee Community Development Corporation

Basic, non personnel operations and reporting requirements

Account 422, Street Construction and Maintenance

Reallocation of seasonal employee expense from cemetery and playground budgets

Account 423, Snow and Ice

Increased to the new five year rolling average expense

Account 522, Lee Regional Visiting Nurses Association

Training expense for new Saint Mary’s school nurse

Account 543, Veterans Services

More veterans and modest benefits increase

Account 620, Sandy Beach

Parking Attendant upgrade to seasonal Police Officer

Account 911, Medicare and Retirement Contributions, excluding costs distributed to Water, Sewer, Ambulance and Health Departments

Account 912, Employee Benefits

Health insurance (excluding costs distributed to Water, Sewer,
Ambulance and Health Departments), police medical and
Medicare Part B penalty

Account 946

Police Officer and Firefighter Accident Insurance

A \$45,000 or 20% reduction in the cost of electricity supply has partially offset school and municipal budget increases.

Article 3. Building Inspector Budget

This operating budget is broken out from Article 2, because it is funded in part by receipts reserved for appropriation. Fines from civil citations, which by state statute (M.G.L. C 148A S. 5) must be earmarked for enforcement, training, education and the hearings officer, are allocated to this budget. A \$500 reduction in office supplies and a \$1,250 increase in the available reserved receipts partially offset a requested \$5,920 increase to continue an automated, web-based permitting program.

The permitting program is being implemented in seven municipalities within Berkshire County. The system will afford both contractors and residents the ease of submitting permits on-line from their office or home. Correspondence between the applicants and the building official are conducted on-line when questions arise or deficiencies are present in the application process. All town departments will benefit from the system as any department has immediate access to the database and information. The Town with the support from Berkshire Regional Planning Commission has been awarded a \$ 13,486.00 Innovation Challenge Grant to support the on-line permitting software. The grant will fund a public computer application station, a large screen office monitor, a hand held field device with GIS integration, a portable printer and other support equipment.

Article 4. Fire Department Budget

This operating budget is broken out from Article 2, because it is funded in part from available funds. An amount equal to the regularly unused portion of the stipend line item is funded from available cash to avoid raising funds for unlikely expenses.

Article 5. Reserve Fund

This operating budget is broken out from Article 2, because it is funded in part from available funds.

Article 6. Ambulance Service Budget

This article presents the Ambulance Service operating budget that is funded by fees for services reserved for appropriation. An upgrade to a paramedic level service will increase the operating

costs by \$31,000 or 8% to \$421,000. By Town Meeting we expect to have sufficient receipts on hand to fund the recommended operating budget and the replacement of the ambulance garage windows (Article 26).

Article 7. Animal Control Budgets

This operating budget has been broken out from Article 2 to record the total cost of the department and the Town of Lenox's half of the funding.

Article 8. Sewer Department Budgets

This article presents the Sewer Department budgets that are funded by sewer receipts and the Sewer Enterprise Fund balance which is \$2,760,541. We anticipate that the FY 2013 fees will amount to \$1,919,772, thereby necessitating a \$219,211 transfer from the fund balance to meet operating expenses. After that transfer and transfers of \$26,000 to replenish the extraordinary repairs account (Article 33) and \$8,000 for sewer manhole repairs (Article 34), there will be a balance of about \$2,507,000. While the fund balance subsidy of operating expenses has decreased from \$319,943 this current year or by \$100,732, at the FY 2013 rate of subsidy the fund balance will be depleted in about eleven years or by 2023, rather than 2027 as was initially planned.

Article 9. Water Department Budget

This article presents the Water Department budget that is funded by water receipts. The Water Enterprise Account balance is \$433,807. After transferring \$50,000 to replenish the extraordinary repairs account (Article 30) and \$65,250 to service the debt (4th of 5 payments) for a water main replacement project (Article 31) there will be a balance of about \$318,557.

Article 10. Cemetery Budget

This article presents the Cemetery Department budget and its funding sources. By the end of the current fiscal year, the Perpetual Care Interest Account will have a balance of \$1,750 to support the maintenance of the cemetery. That amount is \$330 or 18% less than the amount contributed this current fiscal year.

Article 11. Health Department Budget

This operating budget has been broken out from Article 2 to record the total cost of the department and the funding from the Towns of Lenox (\$87,449) and Stockbridge (\$39,352).

Article 12. Salaries of Elected Officials

Required by state statute, this article reaffirms the amounts appropriated in Article 2 for the Moderator and the Select Board.

Article 13. Revolving Fund Accounts

The routine reauthorization of two revolving accounts is consolidated into one article. Those accounts are the following:

Home Composting Bins Revolving Account

The Composting Bin Revolving Account is used to buy bins for resale, at a thirty-three percent (33%) discount, to residents. In 2002 the Massachusetts Department of Environmental Protection awarded the Town a \$3,800 Municipal Recycling Grant that provided 100 bins valued \$38 each. The Town sells those bins for \$25 and places the proceeds in this revolving account for the purchase of additional bins when the current supply is exhausted.

There was \$ 952 in this account on July 1, 2010 and during the fiscal year ended June 30, 2011 (FY 2011) receipts amounted to \$ 290 and there were no expenditures. Therefore, there was an opening balance of \$ 1242 on July 1, 2011, the beginning of the current fiscal year.

Fire Prevention Inspection Revolving Account

The Fire Prevention Inspection Revolving Account is used to collect fees for fire prevention inspections and to compensate the inspectors. There was \$10,821 in this account on July 1, 2010 and during the fiscal year ended June 30, 2011 (FY 2011) receipts amounted to \$4,860 and compensation for the fire prevention inspectors amounted to \$3,155. Therefore, there was an opening balance of \$12,526 on July 1, 2011, the beginning of the current fiscal year.

Article 14. Tobacco Retailer Training Certification Revolving Account

The Tobacco Retailer Training Certification Revolving Account is used to collect fees for the training program and to pay the costs of offering it. There was \$3,995 in this account on July 1, 2010 and during the fiscal year ended June 30, 2011 (FY 2011) receipts amounted to \$6,085. There were no expenditures. Therefore, there was an opening balance of \$10,080 on July 1, 2011, the beginning of the current fiscal year.

Article 15. Blanket Grant Application Authorization

This article appears annually and eliminates the need to conduct a Town Meeting before a grant application is submitted.

Article 16. Town-Owned Land to Generate Solar Power

This article permits the use of approximately four acres of Town-owned land abutting the Massachusetts Turnpike and zoned Residential - Agricultural for a solar array and appurtenances to reduce school and municipal electricity expense. A copy of the plan is included with this

memorandum and a larger print is available for review in the Town Clerk's office. It is also posted on the municipal website, www.lee.maa.us.

Article 17. State Approval to Use Stockbridge Road Site to Generate Solar Power

This article permits the Town to seek state legislative approval to use approximately four acres of the 127.5 acres of land acquired by the Town in 1993 for a golf course or other recreational use for a solar array and appurtenances to benefit the Town.

Article 18. Land to Offset Open Space Proposed for Solar Power Generation

To meet the Commonwealth's "no net loss" policy, this article dedicates for recreational use approximately four of the 47.25 acres of land donated to the Town by the Kiwanis Club of Lee in 2002. The donated land abuts the land purchased by the Town in 1993 for recreational use and will offset the acreage proposed for a solar array and appurtenances to benefit the Town.

Article 19. Energy Management Services Contract and Solar Lease

This article permits the leasing of Town-owned land at the closed landfill, at the wastewater treatment plant and abutting the Massachusetts Turnpike, totaling approximately 9.3 acres, for up to 20 years for solar arrays and appurtenances to benefit the Town and authorizes easements for associated utility and access purposes; and, it authorizes the town to enter into an agreement to purchase the electricity generated by those arrays for up to 20 years. With the assistance of Beacon Integrated Solutions, an energy management firm retained by Lenox to serve as the Towns' agent, Lee and Lenox issued a joint Request for Proposals to benefit from the economies of scale. Broadway Electric Company of Boston was recommended by a joint evaluation committee, which included the Lee Energy Efficiency Advisory Committee. At the request of the Towns, Broadway provided \$15,000 to enable the Towns to continue Beacon's assistance and to retain Special Counsel, Jeffrey Grandchamp/Grinnell Partners, with power purchasing agreement experience for contract negotiations. The Energy Efficiency Advisory Committee is overseeing the negotiations for the Town of Lee. Beacon's April 19, 2012 Solar Photovoltaic Project presentation of the process and the proposal is included with this memorandum and it is posted on the municipal website, www.lee.ma.us. Copies of the three site plans are included with this memorandum and larger prints are available for review in the Town Clerk's office. They are also posted on the municipal website.

Article 20. Local Contribution for \$100,000 Wind Power Feasibility Study

This article provides the required local contribution to secure a grant from the Massachusetts Clean Energy Center for a wind power feasibility study. In October 2008 the University of Massachusetts' Department of Mechanical and Industrial Engineering, with funding from the Massachusetts Technology Collaborative, completed "Wind Power in Lee: Siting Considerations for a Wind Turbine." That report estimated that Town-owned land in the vicinity of the Town's Upper Reservoir featured adequate wind speeds for a utility-scale wind project and adequate setbacks from neighboring residences. No wind data was collected as part of that effort; however, on November 21, 2011 WeatherFlow installed, at no cost to the Town, a Triton Sonic

Wind Profiler in the vicinity of the proposed site. WeatherFlow is providing the trailer-mounted sonic wind measuring device and the data that it collects on speculation that the Town will be awarded the above- mentioned feasibility study grant; and, that if the grant is awarded, WeatherFlow may offer the winning bid to provide the service. The wind profiler data provided to date supports the 2008 report that there is adequate wind. At the recommendation of the Energy Efficiency Advisory Committee, on March 14, 2012 the town issued a Request for Proposals (RFP) and seven firms have responded. The Energy Efficiency Advisory Committee will evaluate the proposals and recommend a consultant to the Select Board. The RFP is posted on the municipal website, www.lee.maa.us.

Article 21. Network and Elementary School Switch Replacements

At the request of the School Committee, this article provides funding for the third and final year of three no interest lease-to-purchase payments totaling \$108,808 for the replacement of the computer network core switch and Elementary School's wiring closet switches that are at the end of their expected life.

Article 22. Repairs to the Middle and High School Hot Water Heater

At the request of the school Committee, this article provides funding for work related to the installation of a new module and for relining the existing tank, which serves both the middle and high school.

Article 23. Police Cruiser Replacement

At the request of the Police Department, this article provides funding to purchase and equip a new cruiser to replace a 2008 marked police cruiser driven over 110,000 miles. A 2013, all-wheel-drive Ford Utility Interceptor with a six cylinder engine and EPA rating of 21 miles per gallon will replace the 2008 Crown Victoria Interceptor with an eight cylinder and an EPA rating of 15 mpg. While the new Utility Interceptor base price is higher and less equipment will be transferable from the Crown Victoria Interceptor, which Ford has discontinued, the new cruiser will be 40% more fuel efficient. The 2008 cruiser will be declared surplus property and sold to the highest bidder pursuant to Town By-laws, with any funds received going to the general fund.

MARCH 2012 ACTIVE POLICE CRUISER INVENTORY

TYPE	YEAR	CURRENT MILEAGE
Marked – Patrol (Explorer)	2007	50,212
Marked – Patrol	2008	110,000
Marked – Patrol (903)	2011	9,480
Marked – Patrol (904)	2011	17,280

Article 24. Replacement Fire Truck Funding Installment

At the request of the Fire Department, this article provides the fifth appropriation to the Fire Engine Special Stabilization Fund. The amount of the annual appropriation has been increased

by \$50,000 to \$150,000, because the estimated rate of annual price increase has doubled from 4% to 8%. With this latest appropriation to the fund, it will have a balance of \$551,983. Subject to appropriation from the fund, a new fire truck estimated to cost \$430,000 will be purchased in 2013 to replace a 1988 pumper which will have reached the end of its expected twenty-five year useful life. The resulting fund balance and the increased annual appropriations should be sufficient to purchase a new pumper for an estimated \$550,000 to replace the 1991 pumper in 2016, when it reaches the end of its expected useful life. The original (March 13, 2008) and revised (February 28, 2012) Fire Department Vehicle Inventory, Replacement Schedule and Funding Plans are included with this memorandum.

Article 25. Carbon Air Filters for Firefighters

At the request of the Fire Department, this article funds the second of a three year tank placement program.

Article 26. Ambulance Building Window Replacement

At the request of the Ambulance Service, this article provides funds from ambulance receipts to replace the rest (17) of the ambulance building windows that have failed.

Article 27. Road Repair and Paving

At the request of the Department of Public Works this article provides funding to repair and pave roadways. In addition to the appropriation, this article authorizes the Select Board to use the forthcoming (FY 2013) allocation of state transportation funds designated for local use ("Chapter 90" funding) for these repairs and paving. The estimated FY 2013 Chapter 90 apportionment is \$877 or 0.5% less than the current fiscal year. The \$277,293 balance from prior fiscal year Chapter 90 apportionments appropriated for roads, the \$298,869 FY 2013 apportionment and the \$200,000 FY 2013 town appropriation, or a total of \$776,162, will be available for the 2012.

Roads are paved in accordance with the Berkshire Regional Planning Commission's road conditions assessment. The 2012 plan includes a full depth reconstruction of Fairview Street and, to the extent that there are funds remaining, an overlay of Fairmount Cemetery roads. Additionally, approximately \$25,000 will be spent to crack seal various roadways. The contracted chip sealing of Beartown Mountain Road, West Pine Street and Fernside Road was postponed last fall due to inclement weather. \$51,290 from the 2011 road repair and repaving program has been reserved for this work which is now scheduled for 2012.

For fiscal years 2004 to 2007, Chapter 90 funding was reserved to repair the town's 15 1/2 bridges. Together with a 2004 appropriation, at the beginning of the current fiscal year there was a designated balance of over \$900,000 for these repairs. Since then we have committed \$9,610 to install a three-beam guardrail to narrow the 75-year-old Mill Street Bridge over Washington Mountain Brook pending its repair. We have also committed up to \$20,550 for engineering services needed to install a temporary bridge on Meadow Street over the Powder Mill Brook. The Massachusetts Department of Transportation (MassDOT) is providing the parts for the temporary bridge which will cost about \$30,000 to install. The temporary bridge is expected to

be open by the end of summer. Meanwhile, we are selecting an engineer pre-qualified by MassDOT to design a new bridge to replace the 73-year-old bridge that failed. We are also selecting a MassDOT pre-qualified engineer to design bid and administer the repair of various other Town-owned bridges.

Construction plans for the \$6.4 million reconstruction of Tyringham Road from Route 102 to the Tyringham town line will be complete by May 4th. The required temporary and permanent easements have been donated by 23 of 24 abutters.

Article 28. Replacement Loader

At the request of the Department of Public Works, this article provides funding to replace the 1997 Caterpillar loader which is regularly used by the Highway Division. The 15-year-old machine has reached the end of its useful life and it will cost \$66,000 to repair and otherwise make it road worthy.

Article 29. Pick-up Truck with Dump Body

At the request of the Department of Public Works, this article provides funding to replace the 1987 Ford F-350 pickup truck with dump body that primarily is used by the Cemetery Division. The 26-year-old truck has long ago reached the end of its useful life.

Article 30. Water Plant and Distribution System Extraordinary Repairs

At the request of the Department of Public Works, this article provides funding from the Water Enterprise Fund balance to make major, unanticipated repairs and improvements to the water treatment plant and distribution system.

Article 31. Water Distribution System Improvements Debt Service

At the request of the Department of Public Work this article provides funding from the Water Enterprise Fund to pay the fourth (of five) installment on a \$300,000 loan that was borrowed to replace the water main that services Washington Mountain Road.

Article 32. Water Tank Cleaning and Painting Project Borrowing Authorization

At the request of the Department of Public Works, this article authorizes the Treasurer, with the approval of the Select Board, to borrow \$317,000 to comply with a Massachusetts Department of Environmental Protection (MassDEP) directive that the Town clean and paint the South Lee Water Storage tank located off of Fairview Street. The work has been designed and bid and MassDEP expects us to complete the work by September 1, 2012.

Article 33. Sewer Plant and Collection System Extraordinary Repairs

At the request of the Department of Public Works, this article provides funding from the Sewer Enterprise Fund balance to make major, unanticipated repairs and improvements to the

wastewater treatment plant and collection system. Together with prior appropriations there will be about \$50,000 to cover future unforeseen expenditures.

Article 34. Sewer Manhole Repairs

At the request of the Department of Public Works, this article provides funding to purchase castings and material, and, when and if necessary, pay overtime, to repair 15 manholes.

Article 35. Library Central Air Conditioning Replacement (2/3 Vote)

At the request of the Library Association, this article provides funding to replace the central air conditioning system that failed last summer. The work includes expanding air conditioning to the basement to protect the Library archives. The temporary air conditioners that were installed at the end of last summer will be reused. The temporary wall mounted air conditioner will be installed in the former courtroom within Memorial (Town) Hall, and the temporary window mounted air conditioner will be placed in storage until needed.

Article 36. Memorial (Town) Hall Former Courtroom Refurbishment

At the request of the Select Board, this article provides funding to refurbish the primary meeting place within Town Hall. The work includes new flooring, painting, and furnishings.

Article 37. Contribution for \$100,000 EPA Clean-up Grant for 25 School Street

At the request of the Select Board, this article provides the required local contribution for an EPA grant of \$100,000 to clean-up 25 School Street which the Town obtained for unpaid real estate taxes. The Town's attempts to dispose of the property have been thwarted by the unknown extent of and cost to clean-up a heating oil spill. If the cost of the work is less than the amount of the grant, the Town's contribution will be limited to 20% of the actual amount spent.

Article 38. Chamber of Commerce Advertising and Marketing Campaign

At the request of the Chamber of Commerce, this article provides the Chamber funds to advertise and market the Town of Lee. The amount requested is the same as the current fiscal year and it is equal to 9.5% of the \$194,724 room tax receipts for FY 2011, the most recent, complete fiscal year. For the first three quarters of the current fiscal year we have received \$196,595.

Article 39. Chamber of Commerce Gateway and Downtown Beautification

At the request of the Chamber of Commerce and with the approval of the Department of Public Works (DPW), this article continues the transfer of responsibility and funding for the maintenance of plantings and the appearance along the public way from the turnpike to the Laurel Street Bridge from the DPW to the Chamber. The transfer was initiated this fiscal year, and by all reports it was a success.

Article 40. Cultural Council Originated Events Project

The Lee Cultural Council asks for your support for a small appropriation in order to continue providing family friendly events to the town of Lee.

Over the past seven months, we have presented or co-presented four new events to the town including Lee Idol, the Alice's Restaurant Movie and Memorabilia Show, the holiday caroling event in the park and the live jazz tribute to Mardi Gras. These events were done in collaboration with the Lee Chamber of Commerce, the Spectrum Playhouse, the College Internship Program and Lee Congregational Church, among others, and were enjoyed by approximately 500 people. Support for the council and its presentation of events in town comes from local organizations, Town Representatives, residents and business owners alike as shown in the enclosed letters of support.

As requested by you last year, we have created a track record of providing new events for the town upon which we now base our appropriation request. We ask that you vote favorably toward our small appropriation request so we can continue presenting these and other new events to the town for all to enjoy and benefit from. By doing so, approximately one cent (yes, one penny) will be added to the fiscal 2013 tax rate.

Thank you for your consideration.

Article 41. Laurel Lake Preservation Association's Ongoing Lake Studies

The LLPA, established in 1995, is not-for profit organization concerned with preserving Laurel Lake. Although the organization's members include a number of lake property owners, the LLPA is not focused on the needs of property owners. Rather, it is our mission to keep the lake healthy and beautiful for current and future generations by maintaining and enhancing its natural animal and plant life, its beauty, and its role as a resource for the local and visitor communities.

LLPA has an order of conditions by the Conservation Commissions of Lee and Lenox for three annual three foot drawdowns. The results of the first drawdown (2010-2011), based on data gathered before that drawdown and in summer of 2011 are complete and have been previously provided, in their entirety, to the Select Board. This August 2011 report, by Ken Wagner, Ph.D. of Water Resource Services, LLC concluded that:

...the Laurel Lake "...drawdown has clearly been shown to limit zebra mussel growth over the affected area of the lake and there is reasonable evidence that Eurasian water milfoil growths are reduced by drawdown as well."

Dr. Wagner acquired data before the 2011-2012 drawdown and will perform follow-up studies this coming summer and fall. These will include studies of native, endangered, and invasive species as well as an overall Watershed Management Study and Plan, as required by the Conservation Commissions.

Funding for the LLPA's activities has come from member dues, periodic kayak raffles, and contributions from individuals, businesses, and the Towns of Lee and Lenox. Ongoing applications for grant funding have, to date, been unsuccessful.

Income for FY2011 was \$6,075. Expenses for that year included studies required by the Conservation Commissions to be completed before the first drawdown and totaled \$6,005 total: lake management consultants and testing--\$4,800, fees, taxes, and miscellaneous expenses--\$1,205. The fiscal year-end balance was \$8,890.

Income to date for FY 2012 is \$8,655. Expenses to date-- \$15,185 total: consultant studies and testing -- \$14,655, fees, taxes, and miscellaneous-- \$530. These expenses included the studies and testing required by the Conservation Commissions to document the effects of the first drawdown.

Projected FY 2013 expenses are \$16,500, dominated by the estimated \$15,000 for studies required by the Conservation Commissions. Current funds available to the LLPA--\$2,360.

The LLPA will continue its fund raising efforts and is more than willing to continue to be the leading edge of efforts to maintain and improve Laurel Lake, a resource that serves residents and visitors. The Town of Lenox has funded this work for an additional two consecutive years at \$2,500/year.

Article 42. Special Counsel for Cable Franchise Renewal Negotiations

At the request of the Lee Cable Advisory Committee, this article will provide Lee's share of the Five Town Cable Advisory Committee's \$25,000 legal fund for cable franchise renewal negotiations.

Article 43. License of Town-owned Land Abutting the Spectrum Playhouse

The College Internship Program (CIP) is requesting Town Meeting Representatives to approve the occasional use of the remaining half of the lawn space on the side of the Spectrum Playhouse and adjacent to the town parking lot. The use will be licensed by the Board of Selectmen at their discretion and terminable at will. CIP will mow and maintain the additional lawn and gardens in this area in return for the use of the space. CIP intends to occasionally have a tent for art sale or pictures after a Spectrum Playhouse event, etc.; and, CIP's insurance will cover the use of the licensed property. Attached is a plan showing the Town and CIP spaces.

Article 44. Zoning Bylaw Re-Write (2/3 Vote)

Over the past 6 years, there have been many changes and additions to and deletions from Lee's general zoning by-laws. This left a confusing array of referrals from one part of the by-laws to another as well as obsolete references and contradictions. For instance, allowable uses in several zones were based on what was allowed in the business zone, which no longer exists. In other areas one by-law section would allow a certain use, while another prohibited it.

The by-laws were reviewed by the Planning Board and Brian Domina, Planner from the Berkshire regional Planning Commission. Contradictions were removed where found, rules and regulations for each zone were stated within the description for that zone, rather than back-referencing, obsolete references were removed, and all uses were collected in a List of Permitted Uses.

Other than language clarifications and re-format of the existing zoning by-laws the following key changes were made:

1. Reorganize, reformat and renumber the existing zoning text
2. Delete current table of contents and replace with the proposed table of contents
3. Update internal references to reflect any new numbering of sections and subsections
4. Delete reference to business district in § 199-5 and delete all references to the business district throughout the current bylaw.
5. Rename “Cluster Development” as “Flexible Development” in § 199-9 (B) and designated the PB as the Special Permit Granting Authority.
6. Remove all internal cross references in § 199-10 through § 199-20 to create a List of Permitted Uses as Section 4.2 (proposed) that explicitly lists all uses permitted in each district.
7. Delete § 199-13 Business District that had previously been dissolved.
8. Added “Motor Vehicle Repairs” and “Lease of building space for commercial purposes inside an existing commercial facility” to § 199-16 per adoption at previous town meeting, but the text never incorporated.
9. Conflict exists between § 199-16 (A) (3) & (4) and (F) & (G). These uses are permitted by-right and also by site plan review. Planning Board resolved conflict in favor of requiring site plan review for these uses.
10. Deleted § 199-17 because the language is duplicative of language in the proposed § 3.2
11. Conflict § 199-19 & § 199-20. Planning Board is uncertain whether certain uses are allowed by site plan review or special permit in the current bylaw because of the internal cross references. The Planning Board resolved this change in favor of requiring a special permit from the Planning Board. **(See 4.2 (G)(4)(a-e) and 4.2 (H)(4)(a-e) of the attached proposed bylaw)**
12. Renamed title of § 199-24 to “Dimensional Requirements for Accessory Buildings”
13. Deleted § 199-27 (B). This is language of an expired wireless moratorium

14. Deleted § 199-28 (D) (8) (a). The Planning Board thinks this language is unenforceable because a grandfathered sign cannot be limited in how long it is grandfathered.
15. Renamed title of § 199-30 “Restrictions on Watershed Land”
16. Renamed title of § 199-31 “Land or Structures for Certain Religious or Educational Purposes”
17. In § 199-40 changed 200 to 300 per adoption at previous town meeting, but the text never incorporated.
18. Other minor non-substantive changes as part of the reformatting of the zoning text.

The February 2012 Revision was included in the “Baby” Town Meeting mailing and it available for review in the Town Clerk’s office. An annotated copy of the existing bylaw with the proposed changes highlighted and discussed as well as the proposed bylaw with comments is also available in the Town Clerk’s office. Both documents are posted on the municipal website, www.lee.ma.us.

Article 45. Roll-off Container Zoning Bylaw Amendment (2/3 Vote)

The planning Board received written and verbal complaints from citizens and the Historical Commission regarding the increased use of unused roll-off containers being parked, seemingly randomly, around town. The complaint was that these containers constituted an eyesore serving no functional purpose where they were located, and, thus, interfered with the public well-being. This by-law was intended to deal with the issue. Subsequent to the April 19th “Baby” Town Meeting the Planning Board refined this amendment which is included with this memorandum. The proposed amendment is also available in the Town Clerk’s office and it is posted on the municipal website www.lee.ma.us

Article 46. Office Park and Light Industrial District Zoning Bylaw Amendment-Signs (2/3 Vote)

At the request of the CDC, owner of the Quarry Hill Office Park, the rules and regulations pertaining to signs within the park were reviewed. The intent and goal was to suit the perceived needs of current and future tenants while also supporting the best interests of the community as a whole.

To those ends, each business was permitted:

1. One sign as part of a general directory to the park, located near the entry to the park,
2. One sign on the building which the business occupies as well as,
3. Professional nameplates on the building which the business occupies.
4. Additionally, each business was afforded a freestanding sign, in proximity to the occupied building, noting the presence of the business within the building

The Park developer or owners' association itself was permitted:

1. A sign at the entrance to the park showing the name of the park
2. Directional signs within the park aiding navigation to various buildings

The illumination of all signs was regulated so as to protect the sensibilities and safety of the public.

This proposed amendment was included in the "Baby" Town Meeting mailing and it available for review in the Town Clerk's office. It is posted on the municipal website, www.lee.ma.us.

Article 47. Planned Commercial Village Center District Bylaw Amendment (2/3 Vote)

Changes were made at the request of the owner/operator of the Outlet Village.

The owner/operator of the Outlet Village felt that certain changes were desirable to maximize the appeal of the site to tenants and to maximize the income produced by the village.

The overriding concerns of the Planning Board were the visual impact of the changes and the potential for negative impact on the general and business community. The Planning Board, in discussion and negotiation with the owner/operator tempered these requests with considerations of the sensibilities and well-being of the general public as well as the impact on other businesses within our community.

Discussions were held in numerous open public hearings which were announced and advertised well in advance. Turnout and input from the public was limited. The endpoint of the hearings was what the Planning Board believed to be a compromise that would be acceptable to all.

This proposed amendment was included in the "Baby" Town Meeting mailing and it available for review in the Town Clerk's office. It is posted on the municipal website, www.lee.ma.us.

Article 48. Disposition of 135 Laurel Lake Crossroad

This article authorizes the Select Board to begin the process of disposing of a house jointly owned with the Town of Lenox. The house, which is vacant and in disrepair, will continue to deteriorate and will someday require demolition at the expense of both towns. If sold, the towns will avoid that demolition expense, realize a significant, onetime receipt and return the property to their respective property tax bases.

Article 49. Land to Offset Proposed Sale of 135 Laurel Lake Crossroad

To meet the Commonwealth's "no net loss" policy, this article dedicates for recreational use approximately one of the 47.25 acres of land donated to the Town by the Kiwanis Club of Lee in 2002. The donated land will offset the acreage proposed for sale with the house a 135 Laurel Lake Road.

Article 50. Beach Road Easement Committee Initiative - Submitted by Petition
15 certified signatures

Article 51. Form of Government Review Committee Initiative - Submitted by Petition
14 certified signatures

Article 52. On-line Meeting Posting By-law Initiative - Submitted by Petition
16 certified signatures

Thank you for your continued support and assistance.

Copy & enclosures:

Kathy Arment, Conservation Commission Chair
Kathy Borden, Town Accountant
Joseph Buffis, Police Chief
Doug Mann, Veterans Agent
Norma Maroney, Council on Aging Director
Jaimy Messana, Land Use Assistant
Lisa Michaud, Ambulance Director
Sarah Navin, Board of Assessors' Clerk
Dan Paquette, Library Director
David Parker, Technology Trainer
Chris Pompei, P.E., Superintendent of Public Works
Sue Scarpa, Town Clerk
Jan Smith, Town Collector
Alan Sparks, Fire Chief
Donna Toomey, Town Treasurer
Don Torrico, Inspector of Buildings
Jim Wilusz, Tri-Town Health Department Director
Jeremia Pollard, Esq., Town Counsel
School Committee and Superintendent Jason McCandless
Finance Committee
Personnel Board
Planning Board
Board of Public Works
Lee CDC, Richard Vinette, Esq., Executive Director