

ANNUAL TOWN MEETING WARRANT

June 7, 2011

Middlesex, SS.

To either of the Constables of the Town of Tyngsborough, Massachusetts, in the County of Middlesex:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the said inhabitants of the Town of Tyngsborough to meet for the Annual Town Meeting at the Tyngsborough Elementary School Cafetorium in said Tyngsborough on Tuesday the seventh day of June in the year two thousand eleven at 7 o'clock in the evening then and there to act on the following articles.

Article 2. To see if the Town will vote to accept the reports of the Town Officers and Committees as printed, or take any other action relative thereto.

Article 3. To choose all officers not named in Article 1 of the Annual Town Election Warrant, or take any other action relative thereto.

Article 4. To see if the Town will vote to fix the salary and compensation of elective officers of the Town as provided by Section 108 of Chapter 41 of the Massachusetts General Laws, as amended, for the Fiscal Year 2012 (July 1, 2011 - June 30, 2012), or take any other action relative thereto.

Salaries of the Elected Officials are included in the Department Appropriations.

	REQUEST		
	SALARIES	SALARIES	RECOMMENDED
	7/01/10	7/01/11	7/01/11
	6/30/11	6/30/12	6/30/12
<u>Elective Town Officers</u>			
Moderator	\$ 0	\$ 0	\$ 0
Selectmen Members (5)	\$ 0	\$ 0	\$ 0
Tax Collector	\$56,993	\$57,701	\$57,701
Town Clerk	\$52,998	\$53,657	\$53,657
Assessors (3)			
Chairman	\$ 1	\$ 1	\$ 1
Member (1)	\$ 0	\$ 0	\$ 0
Member (1)	\$ 0	\$ 0	\$ 0
Board of Health			
Chairman	\$ 0	\$ 0	\$ 0
Members (4)	\$ 0	\$ 0	\$ 0
Tree Warden	\$ 0	\$ 0	\$ 0
Cemetery Commissioners (3)	\$ 0	\$ 0	\$ 0
School Committee (7)	\$ 0	\$ 0	\$ 0
Library Trustees (6)	\$ 0	\$ 0	\$ 0
Sewer Commissioners (3)			
Chairman	\$ 0	\$ 0	\$ 0
Member (1)	\$ 0	\$ 0	\$ 0
Member (1)	\$ 0	\$ 0	\$ 0
Planning Board (5)			
Chairman	\$ 0	\$ 0	\$ 0
Members (4)	\$ 0	\$ 0	\$ 0
Finance Committee (5)	\$ 0	\$ 0	\$ 0
Constables (2)	\$ 0	\$ 0	\$ 0
Greater Lowell Technical High School (1)	\$ 0	\$ 0	\$ 0

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 5. To see if the Town will vote to raise and appropriate and/or transfer from available funds such sums of money as may be necessary to fund town expenses for the Fiscal Year 2012 (July 1, 2011 - June 30, 2012), or take any other action relative thereto.

Submitted by: Board of Selectmen

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 6. To see if the Town will vote to appropriate by transfer from Free Cash the sum of \$499,000 to be expended by the Board of Selectmen to be used to stabilize the tax rate for fiscal year 2012, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 7. To see if the Town will vote to appropriate by transfer from the Capital Asset Stabilization Fund the sum of \$200,000, to be expended by the Board of Selectmen to be used to stabilize the tax rate for fiscal year 2012, or take any other action relative thereto.

Submitted by: Capital Asset Management Committee

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 8. To see if the Town will vote to accept to establish a "Billboard Stabilization Fund" as per MGL Chapter 40, Section 5B, and transfer \$20,000.00 from Misc. Departmental Revenue, received in FY2011 as contracted in the amount of \$20,000, and to appropriate \$15,740 to the FY2012 Recreational budget and \$4,260 to the FY2012 Council on the Aging budget, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 9. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money, to be expended by the Sewer Commission, to operate the Sewer Enterprise for fiscal year 2012 as follows:

That the following sums be appropriated:

Salaries	\$ 223,214.00
Expenses	\$ 608,876.00
Capital outlay	\$ 345,200.00
Debt	\$ <u>75,491.00</u>
Subtotal	\$1,252,781.00

And that \$1,252,781.00 be raised as follows:

Department receipts	\$1,125,574.00
Capital Reserve Account	\$ <u>127,207.00</u>
Total	\$1,252,781.00

Or take any other action relative thereto.

Submitted by: Sewer Commissioners

The Finance Committee recommends this article.
The Board of Selectmen recommends this article.

Article 10. To see if the Town will vote to raise and appropriate, appropriate by transfer from available funds, and/or burrow a sum of money, and that the Town be authorized to accept any available grant dollars, for the purpose of purchasing a fire truck, including the payment of any and all costs incidental and related thereto, to be expended by the Board of Fire Engineers, or take any other action relative thereto.

Submitted by: Board of Fire Engineers

Article 11. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money in accordance with Massachusetts General Laws, chapter 150E, section 7(b) to fund the cost items contained in collective bargaining agreement between the Town and the New England Police Benevolent Association, Inc. Local 8 (Police), or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 12. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money in accordance with Massachusetts General Laws, chapter 150E, section 7(b) to fund the cost items contained in collective bargaining agreement between the Town and the SEIU Local 888 (Clerical), or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 13. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money in accordance with Massachusetts General Laws, chapter 150E, section 7(b) to fund the cost items contained in collective bargaining agreement between the Town and the SEIU Local 888 (Mid Managers), or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 14. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money in accordance with Massachusetts General Laws, chapter 150E, section 7(b) to fund the cost items contained in collective bargaining agreement between the Town and the SEIU Local 888 (Highway), or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 15. To see if the Town will vote to certify the Chapter 90 apportionment for Fiscal Year 2012 of \$353,926 as an available fund to be expended by the Board of Selectmen, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 16. To see if the Town will vote to authorize pursuant to the authority granted under Massachusetts General Laws Chapter 44, Section 53E½ the following revolving funds for the purpose of receiving fees and making disbursements in connection with the duties of the following town entities or as so specified below, and that any surplus revenue accumulated in FY 2011 and FY 2012 shall remain in the revolving accounts for each of the following town entities.

<u>Fund</u>	<u>Programs & Purposes</u>	<u>Departmental Receipts</u>	<u>Authorization</u>	<u>Maximum Annual Expenditure</u>
Fire Department	Fire programs and materials	Hazmat fees	Board of Fire Engineers or designee	\$20,000.00
Recreation Committee	Recreational programs and activities	Fees collected from participants	Board of Selectmen or designee	\$120,000.00
School Field Use Committee	Field maintenance	Field use fees	School Field Use Committee or designee	\$10,000.00
Recycling Committee	Recycling programs and materials	Fees collected from participants	Board of Health or designee	\$ 7,000.00
Board of Health	Collection and disposal of bulky items and appliances	Fees collected from participants	Board of Health or designee	\$30,000.00
Board of Health	Reimbursement program for Medicare Plan members	Medicare reimbursements	Board of Health or designee	\$ 6,000.00
Conservation Commission	Conservation Commission activities	Fees from local Wetland Protection By-law	Conservation Commission or designee	\$ 5,000.00
Sealer of Weights and Measures	Inspection activities	Fees collected from participants	Sealer of Weights and Measures or designee	\$ 3,000.00

Or take any other action relative thereto.

Submitted by: Town Entities as shown

Article 17. To see if the Town will vote to authorize the Board of Selectmen to enter into Lease/Purchase Agreements up to five years to purchase equipment for Town Departments. Said contracts shall be subject to annual appropriations, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Finance Committee recommends this article.
The Board of Selectmen recommends this article.

Article 18. To see if the Town will vote that the following sums be appropriated or reserved from estimated annual revenues of the Community Preservation Fund for fiscal year 2012, with each item to be considered a separate appropriation, for the payment of administrative expenses of the Community Preservation Committee, debt service, community preservation projects, and all other necessary and proper expenses.

Appropriations

Administrative Expenses	\$ 24,000.00
Long-Term Debt Service (Long Pond)	\$ 55,825.00
Interest on Long-Term Debt (Rec. Fields)	\$ 3,740.00
Retirement of Debt (Rec. Fields)	\$250,000.00
Lake Mascuppic Weed Control Program	<u>\$ 6,000.00</u>
	\$339,565.00

Reserves

To Reserve for Historic Preservation	\$ 48,000.00
To Reserve for Affordable Housing	\$ 48,000.00
To Reserve for Open Space	<u>\$ 48,000.00</u>
FY12 Budgeted Reserve	\$144,000.00

Total \$483,565.00

Or take any other action relative thereto. Submitted by: Community Preservation Committee

The Finance Committee recommends this article.
The Board of Selectmen recommends this article.

Article 19. To see if the Town will vote to appropriate by transfer from existing Community Preservation Budgeted Reserve, Historic Reserve, Unreserved Fund Balance, and/or borrow a sum of money in the amount of \$2,500,000.00 for the restoration and rehabilitation of the historic "Old Town Hall", to be expended by the Board of Selectmen, or take any action relative thereto.

Submitted by: Community Preservation Committee

The Finance Committee recommends this article.
The Board of Selectmen recommends this article.

Article 20. To see if the Town will vote to change the purpose of the Special Town Meeting Article 20, dated October 2005 from "Sherburne House Interior Fix-up" to building a Boardwalk through the Sherburne Nature Center in the amount of \$5,000.00 and \$10,000.00 and to vote to appropriate from the Community Preservation Fund Reserve for Open Space to equal a TOTAL of \$15,000 for the purpose of building a Boardwalk through the Sherburne Nature Center, to be expended by the Conservation Commission, or take any action relative thereto.

Submitted by: Community Preservation Committee

The Finance Committee recommends this article.
The Board of Selectmen recommends this article.

Article 21. To see if the Town will vote that a sum of money in the amount of \$5,000.00 be appropriated from the Community Preservation Fund Reserve for Historic Preservation to be used to review and organize existing historical records for the purpose of future scanning , to be expended by the Historic Committee, or take any other relative thereto.

Submitted by: Community Preservation Committee

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 22. To see if the Town will vote that a sum of money in the amount of \$500.00 be appropriated from the Community Preservation Fund Reserve for Open Space for the purpose of building Bluebird houses for the Greene property, to be expended by the Tyngsborough Bluebird Society, or take any other action relative thereto.

Submitted by: Community Preservation Committee

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 23. To see if the Town will vote that a sum of money in the amount of \$30,000 be appropriated from the Community Preservation Fund Reserve for Open Space for the purpose of completing the Frost Road Park, to be expended by the Board of Selectmen, or take any other action relative thereto.

Submitted by: Community Preservation Committee

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 24. To see if the Town will vote to authorize the Tyngsborough Public Schools to enter into a joint occupancy lease agreement with the Merrimack Special Education Collaborative for the provision of educational services to collaborative students pursuant to M.G.L. c. 40 s3 in the school building known as the Lakeview School/ECC School, resulting in the joint occupancy of the school by Tyngsborough Public School staff, programs and students and collaborative staff programs and students, or take any other action relative thereto.

Submitted by: School Committee

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 25. To see if the Town will vote to accept the provisions of M.G.L. c. 40 s3 which authorize the Tyngsborough School Committee to retain in a revolving account at the end of the fiscal year any balance on rental receipts received for a lease of a portion of the Lakeview School/ECC School, said balance to be used by the Committee for the upkeep and maintenance of any facility under the control of the School Committee.

Submitted by: School Committee

The Finance Committee recommends this article.

The Board of Selectmen recommends this article.

Article 26. To see if the Town will vote to accept Ten thousand dollars (\$10,000.00) from Whispering Pines, R.E. Development as a donation for the sole purpose of purchasing new furnishings for the New Senior Center, to be expended by the Board of Selectmen, with the following conditions: 1) the amount will be reserved for senior center furnishings as needed when and if the new senior center is built, or an existing Tyngsboro town-owned property is converted to a new senior center; 2) the amount will be held in a standard interest bearing account created no later than June 30, 2011 by the assigned Tyngsboro authority the Town Treasurer, until the time it is to be used for senior center furnishings, or up until the end of the fifth year, commencing from this warrant article being adopted; 3) if the entire or partial (remaining) amount is not used for the purpose of senior center furnishings by the end of the fifth year, it will be returned to Whispering Pines Real Estate Development or its heirs or assignees by the last day of June 30, 2016, or take any other actions relative thereto.

Submitted by: Zoning Board of Appeals

The Finance Committee does not recommend this article.

The Board of Selectmen recommends this article.

Article 27. To see if the Town will vote to authorize the Board of Selectmen to grant an easement to Massachusetts Electric Company for the purpose of placing an Underground Distribution System, which would provide for the transmission of intelligence and electricity in, on and over a certain portion of a parcel of land owned by the Town described below:

Lot 56 as shown on the Town of Tyngsborough Assessor's Map 20A and also being identified in a deed recorded with the Middlesex North District Registry of Deeds in Book 40, page 55. And further, said "Underground System" (locations of the electrical equipment and other facilities on the hereinafter referred to premises of the Grantor) is approximately shown on a sketch entitled: nationalgrid; WR#7532543: Date: 12/16/2010; Drawn by: S. Steeves; Approved by: D. Marceau; Sketch to Accompany Easement for: To install approximately 150' 2-3" conduits with secondary conductor to new Handhole in order to correct aerial trespass and provide electric service to 10, 12, 14 and 18 Kendall Road, Tyngsborough, MA", a reduced copy of said sketch may be reviewed Monday through Thursday 8:30 AM to 4:00 PM and Friday 8:30 AM to 12:30 PM in the Selectmen's Office, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen will make recommendation on Town Meeting Floor.

Article 28. To see if the Town will vote to approve an amendment to the By-Laws establishing a "Right to Farm" bylaw, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen will make recommendation on Town Meeting Floor.

Article 29. To see if the Town will vote to establish an Agricultural Commission, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen will make recommendation on Town Meeting Floor.

Article 30. To see if the Town will vote to approve an amendment to the Zoning By-Laws to regulate the siting of wind energy generation facilities, or to take any other action relative thereto.

Submitted by: Energy and Environmental Affairs Committee

The Board of Selectmen will made recommendation on Town Meeting Floor.

Article 31. To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$50,000 for the purpose of town field maintenance of the fields located at the Tyngsborough Elementary School, or to take any other action relative thereto.

Submitted by: Citizen's Petition

Article 32. To see if the Town will vote to accept M.G.L. Chapter 152, Section 69 to provide worker's compensation insurance coverage to full time elected officials, or take any other action relative thereto.

A yes vote protects the Town at no cost by insuring that full time elected officials are covered. At the present time, MIIA, has given verbal assurances of coverage but will not do so in writing. In addition, the MIIA website reads as follows: "If an elected official in a city or town without an affirmative vote on worker's compensation is injured on the job, Massachusetts law will take precedence and those claims will likely be denied."

A no vote exposes the Town to an unnecessary liability if an injury occurred and MIIA reverted to Massachusetts law denying claim.

Submitted by: Citizen's Petition

Article 33. To see if the Town will vote to authorize the Board of Selectmen to seek special legislation authorizing recall of elected officials in the Town; provided that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of the petition, or take any other action relative thereto.

SECTION 1. Any holder of an elective office in the Town of Tyngsborough may be recalled therefrom by the registered voters of the town.

SECTION 2. One hundred registered voters of the town may file with the town clerk a recall affidavit, using either a blank recall affidavit as prepared by the town clerk or an affidavit substantially similar thereto, containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to the first named voter on the affidavit copies of petition blanks addressed to the board of selectmen demanding a recall, copies of which printed forms the clerk shall keep available. The blanks shall be issued under the signature and official seal of the town clerk. They shall be dated, and shall contain the names of the first 10 voters whose names appear on the recall affidavit, the name of the person whose recall is sought and the grounds of recall as stated in the affidavit, and shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 30 days after the filing of the affidavit, with signatures, names and street addresses of at least 8 per cent of the registered voters of the town as of the date the affidavit was filed with the town clerk. Within 5 working days of receipt, the town clerk shall submit the petition to the registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are names of registered voters of the town.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, it shall be submitted with her certificate to the board of selectmen without delay. The board of selectmen shall forthwith give written notice of the receipt of the certificate, either by hand or by certified mail, return receipt requested, to the officer sought to be recalled. If the officer does not resign within 5 working days after receipt of the notice, the board of selectmen shall forthwith order an election to be held on a date fixed by them not less than 64 nor more than

90 days after the date the election is called, but if any other town election is scheduled to occur within 120 days after the receipt of the certificate, the board of selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this act.

SECTION 4. An officer sought to be removed may be a candidate to succeed himself/herself in an election to be held to fill the vacancy, and unless the officer requests otherwise in writing, the town clerk shall place said name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of the law relating to elections, unless otherwise provided in this act.

SECTION 5. The incumbent shall continue to perform the duties of his/her office until the recall election. If the incumbent is not recalled, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If recalled and not re-elected in the recall election, the incumbent shall be deemed removed. If the successor fails to qualify within 5 days after receiving notification of his/her election, the office shall be deemed vacant.

SECTION 6. Ballots used in a recall election shall contain the following question:

Shall (name and title of officer whose recall is sought) be recalled? Yes ___ No___

Under the question shall appear the word "Candidates", the directions to voters required by section 42 of chapter 54 of the General Laws, and beneath this, the names of candidates nominated as hereinafter provided.

If a majority of the votes cast upon the question of recall is against the recall, the ballots for candidates shall not be counted. If a majority of the votes cast upon the question of recall is in favor of the recall, the officer shall be recalled and the ballots for candidates shall be counted. The candidate receiving the highest number of votes shall be declared elected and shall serve for the balance of the unexpired term of the officer recalled.

SECTION 7. A recall petition shall not be filed against an officer within 6 months after he/she takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 6 months have elapsed after the election at which the recall was submitted to the voters of the town.

SECTION 8. A person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him/her shall not be appointed to any town office or position within 1 year after the recall or resignation.

SECTION 9. This act shall take effect upon its passage.

Submitted by: Citizens' Petition

Article 34. To see if the Town will vote to amend Article 2.11.44 of the Tyngsboro Zoning By-Laws to read as follows:

2.11.44 – Business Uses-Principal Use Definitions

2.11.44 **Commercial Recreation:** Indoor or outdoor facilities, operated as a business and open to the public for a fee such as facilities for ice skating, roller skating, racquet sports, bowling, horseback riding, swimming miniature golf, **soccer, softball, baseball, golf, wrestling, martial arts, mixed martial arts, boxing, basketball, fitness activities, volleyball, football, lacrosse and other sports or sporting related social events. Such activities may either be participatory by the public or conducted for the public to attend as spectators at entertainment sporting related events conducted by the business or third party vendors or promoters at an arena like setting for a fee for admission,** or take any other action relative thereto.

Submitted by: Citizen's Petition

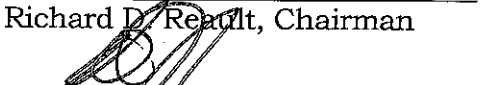
And you are hereby directed to serve this Warrant, by posting attested copies thereof at the Town Hall, Kendall Road Fire Station No.1, Flint's Convenient Store, Lakeview Avenue Community Center, Lakeview Avenue Fire Station No.2, in said Town, seven (7) days at least before the time of holding said meeting.

HEREOF FAIL NOT, and make due return the Warrant, with your doings thereon to the Town Clerk at the time and place of meeting, aforesaid.

Given under our hands and seals this 24th day of May, in the year two thousand eleven.


Board of Selectmen


Richard D. Reault, Chairman

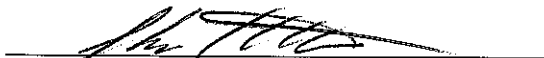

Robert G. Jackson, Vice-Chairman


Elizabeth A. Coughlin, Clerk


Allen T. Curseaden


Corliss F. Lambert

Pursuant to the foregoing Warrant, I have notified and warned the inhabitants of the Town of Tyngsborough by posting attested copies of same at the Town Hall, Kendall Road Fire Station No. 1, Flint's Convenience Store, Lakeview Avenue Community Center, and Lakeview Avenue Fire Station No. 2, and at least seven (7) days before the date thereof, as within directed.


Constable John R. Pelletier

5/24/2011
Date

5:33 pm
Time

SPECIAL TOWN MEETING WARRANT

June 7, 2011

7:30 P.M.

Middlesex, SS.

To either of the Constables of the Town of Tyngsborough, Massachusetts, in the County of Middlesex:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town of Tyngsborough, qualified to vote in elections and Town affairs, to meet at the Tyngsborough Elementary School Cafetorium, 205 Westford Road in said Tyngsborough on the seventh day of June, in the year two thousand eleven next at 7:30 o'clock in the evening then and there to act on the following articles:

Article 1. To see if the Town will vote to raise and appropriate, appropriate by transfer from available funds, and/or appropriate by transfer from one or more municipal government accounts a sum of money to supplement various municipal government groups for fiscal year 2011, or take any other action relative thereto.

Submitted by: Board of Selectmen.

Article 3. To see if the Town will vote to appropriate by transfer a sum of monies from Sewer Enterprise Fund Retained Earnings Reserve to the Sewer Enterprise fund Capital Outlay Account for fiscal year 2011, to be expended by the Sewer Commissioners, or take any other action relative thereto.


Submitted by: Sewer Commissioners

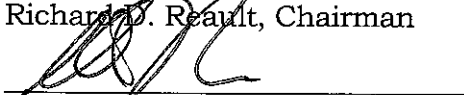
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HEREOF FAIL NOT, and make due return the Warrant, with your doings thereon to the Town Clerk at the time and place of meeting, aforesaid.


Given under our hands and seals this 24th day of May, in the year two thousand eleven.


Board of Selectmen


Richard D. Reault, Chairman

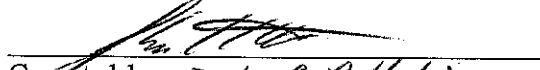

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Constable John R. Pelletier

5/27/2011
Date

3:33 pm
Time