



TOWN OF TYNGSBOROUGH

ANNUAL TOWN MEETING WARRANT

May 20, 2014

7:00 PM

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 the election and town affairs, to meet at the following locations:

- PRECINCT 1. EARLY CHILDHOOD CENTER, 135 COBURN ROAD
- PRECINCT 2. MULTI SERVICE CENTER, 180 LAKEVIEW AVENUE
- PRECINCT 3. TOWN OFFICES/LIBRARY, 25 BRYANTS LANE
- PRECINCT 4. TYNGSBOROUGH ELEMENTARY SCHOOL, 205 WESTFORD ROAD

in Tyngsborough on Tuesday, the Thirteenth day of May in the year two thousand fourteen next from 7 o'clock in the forenoon to 8 o'clock in the evening, then and there to act on the following article:

Article 1. To bring in their votes by ballot for 2 Selectmen for the term of three years, 1 Assessor for the term of three years, 2 Board of Health Members for the term of three years, 1 Cemetery Commissioner for the term of one year, 1 Cemetery Commissioner for the term of three years, 1 Finance Committee Member for the term of three years, 1 Library Trustee for the term of 1 year, 2 Library Trustees for the term of three years, 2 School Committee Members for the term of three years, 1 Sewer Commissioner for the term of three years, 1 Tree Warden for the term of three years, 1 Planning Board Member for the term of five years, and 1 Tyngsborough Housing Authority Member for the term of five years.

And you are further 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 twentieth day of May in the year two thousand fourteen 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.

Submitted by: Board of Selectmen

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

Submitted by: Board of Selectmen

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 2015 (July 1, 2014 - June 30, 2015), or take any other action relative thereto.

Salaries of the Elected Officials are included in the Department Appropriations to be submitted within Article 5.

	SALARIES	REQUEST	RECOMMENDED
	7/01/13	7/01/14	7/01/14
	6/30/14	6/30/15	6/30/15
<u>Elective Town Officers</u>			
Moderator	\$ 0	\$ 0	\$ 0
Selectmen Members (5)	\$ 0	\$ 0	\$ 0
Tax Collector	\$ 62,424	\$ 62,424	\$ 62,424
Town Clerk	\$ 57,222	\$ 57,222	\$ 57,222
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 Reg. Voc. Tech. HS (1)	\$ 0	\$ 0	\$ 0

Submitted by: Board of Selectmen and Finance Committee

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 Fiscal Year 2015 (July 1, 2014 - June 30, 2015), or take any other action relative thereto.

Submitted by: Board of Selectmen and Finance Committee

Article 6. To see if the Town will vote to appropriate by transfer from the Billboard Stabilization Fund the sum of \$20,000.00 to be expended by the Board of Selectmen to be used to stabilize the tax rate for Fiscal Year 2015 by funding recreational, public safety, or other public purposes, or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 7. To see if the Town will vote to appropriate by transfer the sum of \$5,000.00 from the Wetland Protection Fund to stabilize the tax rate for FY 2015, or take any other action relative thereto.

Submitted by: Board of Selectmen and Finance Committee

Article 8. To see if the Town will vote to appropriate by transfer the sum of \$76,378.00 from Free Cash to the Stabilization Fund, or take any other action relative thereto.

Submitted by: Board of Selectmen and Finance Committee

Article 9. To see if the Town will vote to appropriate by transfer the sum of \$76,378.00 from Free Cash to the Capital Asset Stabilization Fund, or take any other action relative thereto.

Submitted by: Board of Selectmen and Finance Committee

Article 10. To see if the Town will vote to appropriate by transfer the sum of \$30,567.00 from Free Cash to the Other Post Employment Liability Benefits Trust Fund, established under the provisions of Massachusetts General Laws Chapter 32B, Section 20, for the purpose of funding health care and other post-employment benefits, or take any other action relative thereto.

Submitted by: Board of Selectmen and Finance Committee

Article 11. To see if the Town will vote to appropriate by transfer the sum of \$30,567.00 from Free Cash to a special purpose Compensated Absence Fund, for the purpose of funding the future payment of accrued liabilities for compensated absences due any Town employee upon the termination of such employee's employment, or take any other action relative thereto.

Submitted by: Board of Selectmen and Finance Committee

Article 12. To see if the Town will vote to raise and appropriate and transfer to a special purpose Compensated Absence Fund the sum of \$16,734.00 for the purpose of funding the future payment of accrued liabilities for compensated absences due any Town employee upon the termination of such employee's employment, or take any other action relative thereto

Submitted by: Board of Selectmen and Finance Committee

Article 13. To see if the Town will vote to accept the provision of General Laws, Chapter 59, Section 5, Clause 41C, added by Chapter 184 Section 51 of the Acts of 2002, which authorizes the legislative body to increase the amount of the exemption granted to eligible senior applicants on the basis of age, income, and assets, by 25%, or take any other action relative thereto.

Submitted by: Board of Assessors

Article 14. To see if the Town will vote to raise and appropriate the sum of \$9,600.00 to be expended by the Board of Assessors for the purpose of converting the existing AutoCAD map text to digital format in order to produce and maintain the Assessors Maps. These funds shall cover the cost to convert the text and set the data up for tax map production, or take any other action relative thereto.

Submitted by: Board of Assessors

Article 15. To see if the Town will vote to become a member in the Central Massachusetts Mosquito Control Project for a minimum three year period, pursuant to Massachusetts General Laws Chapter 252, Section 5A and other applicable sections of said law, or take any other action relative thereto.

Submitted by: Board of Health

Article 16. To see if the Town will vote to appropriate from available funds or borrow the sum of \$657,000.00, and that the Town be authorized to accept any available grant dollars, for the following purposes, or take any other action relative thereto.

Department	Item	Amount	To be Expended by
Highway	Dump truck with plow/sander	\$160,000	Selectmen
Highway	Dump truck with plow/sander	\$160,000	Selectmen
Highway	One (1) ton dump truck with plow	\$60,000	Selectmen
Police	Information Technology replacement	\$25,000	Selectmen
Selectmen	Town Offices – security and repairs	\$20,000	Selectmen
Selectmen	Information Technology replacement	\$25,000	Selectmen
School	Facility Condition assess/security	\$80,000	School Committee
School	Repair TMS Gym Fire Escape	\$17,000	School Committee
School	School security upgrade	\$60,000	School Committee
School	Technology	\$50,000	School Committee

for a total of \$657,000.00, and to meet this appropriation, if by borrowing, the Town Treasurer, with the approval of the Selectmen, is authorized to borrow a sum of money pursuant to any enabling authority, and is authorized to issue bonds or notes of the Town, or take any other action relative thereto.

Submitted by: Board of Selectmen and Capital Asset Management Committee

Article 17. To see if the Town will vote to appropriate the sum of \$1,600,000.00 by borrowing for road reconstruction and/or repairs, to be expended by the Board of Selectmen, and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, and that the appropriation be

expressly contingent upon the Town voting to approve a post-proposition 2 1/2 debt exclusion referendum question under proposition two and one-half, so-called, at a town election to be held, or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 18. 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 2015 as follows:

That the following sums be appropriated:

Salaries	\$ 236,009.00
Expenses	\$ 705,018.00
Capital Outlay	\$ 668,750.00
Debt	\$ 97,783.00
Subtotal	\$ 1,707,559.00
Indirect Costs to General Fund	\$ 84,695.00
Total	\$ 1,792,254.00

That \$1,707.559 be appropriated from the Sewer Enterprise fund

Department receipts	\$ 1,192,457.00
Retained Earnings	\$ 599,797.00
Total	\$ 1,792,254.00

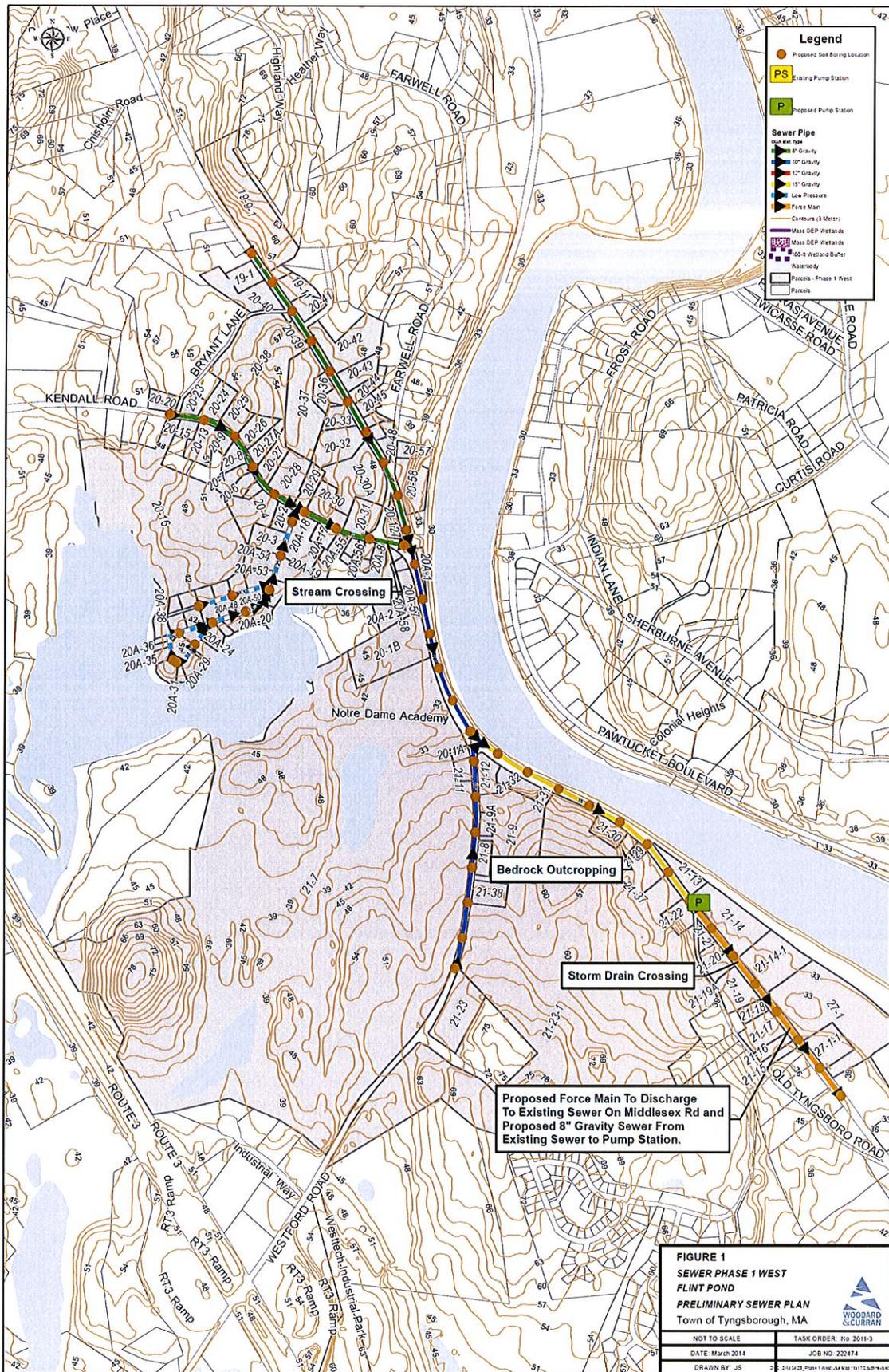
That \$84,695.00 be included in appropriations from the General Fund for indirect costs and be allocated to the Sewer Enterprise for funding, or take any other action relative thereto.

Submitted by: Sewer Commissioners

Article 19. To see if the Town will vote to accept the provisions of Massachusetts General Law (MGL) Chapter 80, Betterments and MGL Chapter 83, Sewer, Drains and Sidewalks, for the purpose of establishing a municipal sewer system, or take any other action relative thereto.

Submitted by: Sewer Commission

Article 20. To see if the Town will vote to appropriate a sum of money for the construction of the Phase I West Sewer System, identified as Needs Area 1, Phase 1 West of the 2009 Comprehensive Wastewater Management Plan as shown below, and to determine whether this appropriation shall be raised by borrowing from the Massachusetts Water Pollution Abatement Trust or otherwise, or to take any other action relative thereto.



Submitted by: Sewer Commission, Board of Selectmen, and Capital Asset Management Committee

Article 21. To see if the Town will vote to certify the Chapter 90 apportionment for Fiscal Year 2015 of up to \$405,035 as an available fund to be expended by the Board of Selectmen, or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 22. 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 2014 and FY 2015 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	\$50,000.00
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	Board of Selectmen	\$ 3,000.00

or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 23. 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

Article 24. 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 the fiscal year 2015, 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	\$30,000.00
Long Term Debt Services	\$40,000.00
Interest on Long Term Debt	\$800.00
Lake Masscuppic Weed Control Program	\$ 6,000.00
Interest on Short Term Debt	<u>\$49,931.00</u>
Total CPC Appropriations	\$126,731.00

Reserves

To Reserve for Historic Preservation	\$60,000.00
To Reserve for Affordable Housing	\$60,000.00
To Reserve for Open Space	<u>\$60,000.00</u>
FY 2015 Budgeted Reserve	\$180,000.00

or take any other action relative thereto.

Submitted by: Community Preservation Committee

Article 25. To see if the Town will vote to appropriate by transfer from existing Community Preservation Unbudgeted Reserve a sum of \$155,000 for the purchase of 8 acres of land and associated procurement costs for the property located at 68 Bowers Avenue, or take any other action relative thereto.

Submitted by the Community Preservation Commission

Article 26. To see if the Town will vote, as provided by M.G.L. c. 41, § 1B, that the position of Tax Collector become an appointed position, or take any action relative thereto.

Submitted by: Board of Selectmen

Article 27. To see if the Town will vote to authorize the Board of Selectmen to request the state legislature to enact a Special Act to provide:

In the event the Town of Tyngsborough, at its annual Town election in 2015, votes pursuant to M.G.L. c. 41, § 1B, that the position of town clerk becomes an appointed position to be appointed by the board of selectmen, the town clerk shall continue to hold office until the expiration of her term whereupon she shall be appointed by operation of law as town clerk, under the jurisdiction of the board of selectmen.

Notwithstanding any general or special law to the contrary, the board of selectmen may remove, suspend or discipline the town clerk for just cause. The town clerk shall be given written notice at least 14 days prior to the date of removal, which shall specify the reasons for such removal. The town clerk shall, upon written request, be granted a public hearing held by the board of selectmen who shall vote to confirm such removal or to reinstate the town clerk by a majority vote.

The town clerk's written request for a public hearing shall be made to the board of selectmen on or before the date of removal. The vote of the board of selectmen shall occur not later than 7 days after the public hearing. If, after a written request for a public hearing, such hearing is not conducted or the vote fails to meet the standards for just cause, the town clerk shall be reinstated with full pay and benefits retroactive to the date of removal.

This special act shall apply only to the present incumbent and shall be void upon her death, retirement, termination, or separation; and any subsequent town clerk shall be appointed by the board of selectmen unless provided otherwise by law.

or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 28. To see if the Town will vote, as provided by M.G.L. c. 41, § 1B, that the position of Town Clerk become an appointed position, or take any action relative thereto.

Submitted by: Board of Selectmen

Article 29. To see if the Town will vote, as provided by M.G.L. c. 41, § 1B, that the position of Tree Warden become an appointed position, or take any action relative thereto.

Submitted by: Board of Selectmen

Article 30. To see if the Town will vote, as provided by M.G.L. c. 41, § 21, to have the selectmen act as cemetery commissioners or to vote to have the selectmen appoint the cemetery commissioners, who shall be under the supervision of the selectmen, by the following ballot:

Shall the Town vote to have its selectmen act as cemetery commissioners:
___ YES ___ NO.

Shall the Town vote to have its selectmen appoint the cemetery commissioners:
___ YES ___ NO.

Submitted by: Board of Selectmen

Article 31. To see if the Town will vote to amend the Town By-Laws by inserting the following as Article XXI-A:

DEMOLITION BY NEGLECT

SECTION 1: Intent and Purpose

This By-law is adopted for the purpose of protecting the aesthetic quality of the Town by prohibiting property owners from neglecting buildings on their property.

SECTION 2: Definitions

For the purposes of this section the following words and phrases have the following meanings:

- 1) Board – The Board of Selectmen.
- 2) Building or Structure – any combination of materials capable of being used for shelter of persons, animals, or property.
- 3) Commission – The Tyngsborough Historical Commission.
- 4) Commissioner – the Tyngsborough Building Commissioner.
- 5) Demolition By Neglect – a process of ongoing damage to the fabric, viability, and/or usability of a building leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the building from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

SECTION 3: Demolition By Neglect

- 1) If the Commissioner has reason to believe, through visual inspection or other means, that a building or structure may be undergoing demolition by neglect, then the Commissioner shall notify the owner(s) and the Board; and the Board shall hold a noticed public hearing to determine whether or not such building or structure is undergoing demolition by neglect. The Commissioner shall also notify the Commission, who shall report to the Commissioner and the Board as to the building or structure’s qualification as a historic building and/or structure pursuant to Article XXI Section 3 of the General By-Laws. In furtherance of determining the condition of such building or structure, the Board may, at any time, request an inspection of the building or structure by the Commissioner; and the Commissioner shall file a report of the findings of such inspection with the Board at least 48 hours, excluding Saturdays, Sundays, and legal holidays, in advance of such public hearing or continuance of such hearing.
- 2) If the Board determines that the building or structure is undergoing demolition by neglect, the Board shall attempt to negotiate a voluntary agreement with the owner(s) for appropriate and timely repairs sufficient to structurally stabilize the building or structure and/or prevent further deterioration.

- 3) In the event that the Board is unable to negotiate such an agreement with the owner(s), then the Board may impose requirements and conditions in its decision to secure the building or structure against the elements, vandals and vermin, to halt further deterioration, and to structurally stabilize the building or structure.
- 4) Upon completion of all repairs, requirements, and conditions that have been agreed upon between the owner(s) and the Board or that have been ordered by the Board, and upon determination by the Board in a report that the repairs have been completed, the Board may declare that the building or structure is no longer undergoing demolition by neglect.
- 5) If after 90 days from the date the Board determines that a building or structure is undergoing demolition by neglect and that all repairs have not been made, the Commissioner is authorized to issue fines in the amount of \$100.00 per day. Non-payment of such fines within 30 days of their issuance shall result in fines being filed as a lien against the property.
- 6) The Board, Commission, or Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary or appropriate, to obtain compliance with the requirements of this By-law and/or to prevent a threatened violation of this By-law or the decision and/or orders of the Board.
- 7) If the building or structure is deemed to be historic by the Commission and the owner(s) refuse or neglect to comply with the decision and/or orders of the Board, the Board is authorized to obtain ownership of the property for historic preservation purposes, as permitted under federal and state law, subject to appropriation of monies.

SECTION 4: Severability

In case any section, paragraph, or part of this By-law is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, and part of this By-law shall continue to be in full force and effect.

or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 32. To see if the Town will vote to amend the General Town By-laws, Article IV Public Ways, by adding a section relative to pedestrian safety, or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 33. To see if the Town will vote to amend the Town By-Laws by deleting Article XXVII in its entirety and amending it to read:

STREETS AND SIDEWALKS

SECTION 1: AUTHORITY

1.1) The Board of Selectmen (Board) of the Town of Tyngsborough (Town) is charged with the promulgation and implementation of this By-Law and any regulation adopted.

SECTION 2: PERMIT

2.2) The Board shall be authorized to grant to a person or individual, corporation or other type of entity a permit to open a trench in, or disturb the surface of any existing street or way for any of the following, but not limited to, purposes, of installing, repairing, and/or maintaining any duct, conduit, sleeve, pipe or other structure to be used for the distribution or transmission of wastewater or sewage, surface or storm water, potable water, brook or water course, gas, oil or any of its by-products in any form, electrical power or service, telephone or telegraph service. This By-Law does not apply to the placing or replacing of poles.

SECTION 3. WORK DAYS AND HOURS

3.1) All work to be performed shall be done between the hours of 7:30 a.m. and 3:30 p.m., provided, however, that different work hours for the performance of such work may be agreed upon or required for good cause by the Highway Superintendent; and such requirement shall be stated in writing at the time of issuance of the permit.

3.2) No Saturday, Sunday, or legal holiday work will be allowed unless an emergency or accommodation situation arises and permission is given by the Highway Superintendent. Such permission may be granted orally; however, a written confirmation that such permission has been granted shall be made by the Highway Superintendent as soon as practicable.

3.3) In regard to Saturday, Sunday, or legal holiday work, the Highway Superintendent shall determine whether an emergency or accommodation situation exists. Emergency is an unforeseen event which calls for immediate action, a pressing necessity.

3.4) No excavation, trenching, or the like shall be allowed in any street or way, accepted or unaccepted, between November 15 and April 1, except in the case of an emergency, which shall be determined by the Highway Superintendent.

SECTION 4. PRIVATE PROPERTY

4.1) Liability for damage to private property abutting the construction and caused by the permittee, its agents or servants, shall be borne solely by the permittee.

SECTION 5. ENFORCEMENT PROVISIONS: ORDERS

5.1) If an examination of the work reveals that it does not comply with or violates the provisions of this By-Law, the Highway Superintendent shall notify and order, in writing, the permittee or its authorized supervisor at the work site,

who shall take appropriate measures as necessary to assure compliance with the provisions of the By-Law.

5.2) If a further examination of the work performed not less than 48 continuous hours after the issuance of orders reveals that no positive action and/or appropriate measures are or were being taken by the permittee or its authorized supervisor at the work site to assure compliance with the provisions of this By-Law, the Highway Superintendent may rescind, suspend or modify the permit through the imposition of conditions.

5.3) Every order issued to enforce the provisions of this By-Law shall be in writing and shall be served on the permittee or its authorized supervisor at the work site and/or to any other persons responsible for the violation of this By-Law.

5.4) Every order issued to enforce this By-Law shall include a statement of the violation, shall allot a reasonable time for any action necessary to effect compliance, and may suggest action which, if taken, will effect compliance with this By-Law.

SECTION 6. HEARINGS

6.1) Any permittee to whom any order to comply with the provisions of this By-Law is issued or any person who objects to the issuance of a variance may request a hearing before the Board by filing a written application with the Board within 10 days of the receipt of the order or within 10 days of the filing of notice of the granting of the variance.

6.2) Upon receipt of a written application, the Board shall establish a time and place for such hearing and inform the applicant in writing of such hearing. The hearing shall be commenced no later than 30 days after the day on which the application was filed.

6.3) At the hearing, the applicant shall be given an opportunity to be heard and to show why the order or variance should be modified or withdrawn.

6.4) After the hearing, the Board shall sustain, modify, or withdraw the order or variance, and may rescind, suspend or modify the permit through the imposition of conditions and shall inform the applicant in writing of its decision.

6.5) Every notice, order, and other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the office of the Highway Superintendent.

SECTION 7. PENALTY

7.1) Any permittee who violates or refuses to comply with any provision of this By-Law or orders shall forfeit and pay to the Town a sum of \$100 for each violation.

7.2) Each day, or portion of a day, that any violation continues shall constitute a separate violation of this By-Law.

SECTION 8. SEVERABILITY

8.1) Each of these sections shall be construed as separate to the end that if any section, paragraph, sentence clause, or phrase shall be held invalid for any reason, the remainder of that section and all other sections of this By-Law shall continue in full force.

SECTION 9. MUNICIPAL DEPARTMENT

9.1) The Board may exclude municipal departments of the Town from the provisions of this By-Law.

SECTION 10. INCONSISTENCIES

10.1) All provisions of the Town By-Laws, as amended, which are not inconsistent with this By-Law, shall continue in effect; but all provisions of such By-Laws inconsistent with this By-Law are repealed.

or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 34. To see if the Town will vote to amend Article XLII of the Town of Tyngsborough Bylaws, Mandatory Recycling, or take any other action relative thereto.

Submitted by: Board of Health

Article 35. To see if the Town will accept the layout and/or relocation of certain Town ways below described, made by the Board of Selectmen under the provisions of M.G.L. c. 82, § 21 through 24, and any other enabling statute, filed in the Office of the Town Clerk with the plans there mentioned and are referred to for more particular description, and raise and appropriate any money that may be necessary, and determine how such money shall be expended for the payment of any damages, if any, and the layouts being substantially as follows:

1. Anderson Drive shown on Record Plan, Stonebridge Estates, A definitive Subdivision in Tyngsboro, MA between Stations 16+00 and 25+00, dated November 1988, revised January 27, 1989, prepared for West-East Land Development, 21 Willowdale Road, Tyngsboro, MA, by DiPrete-Marchionda & Associates, Inc., recorded at the Middlesex North Registry of Deeds in Plan Book 172, Plan No. 41. The layout of a Town way substantially in the location of a private way known as Anderson Drive.

2. Bryants Lane shown on Plan of Land 81 Kendall Road, Tyngsborough, Massachusetts, dated November 1, 2012, prepared for Applewood Construction Corp., 92 Middlesex Road, Tyngsborough, MA 01879, by Norse Design Services, Inc, 3 Pondview Place, Tyngsborough, MA 01879, recorded at the Middlesex North Registry of Deeds in Plan Book 235, Plan No. 42. The relocation of a Town way substantially in the location of a private way known as Bryants Lane, Parcel "A".

3. Clover Hill Circle shown on Record Plan, Bridge Meadow Acres in Tyngsborough, MA, dated March 1993, revised April 2, 1993, prepared for Bridge Meadow Development, 4 Court House Lane, Chelmsford, MA 01824, by Marchionda & Associates, Inc., recorded at the Middlesex North Registry of Deeds in Plan Book 182, Plan No. 20. The layout of a Town way substantially in the location of a private way known as Clover Hill Circle.
4. Colorado Drive shown on Scribner Hill Estates, Definitive Subdivision Plan of Land in Tyngsborough, Middlesex County, Mass, dated July 6, 1983, prepared for Winter Hill Development Corp., Gagnon Drive, Dracut, Mass., by Village Engineering & Surveying, Dracut, Mass, recorded at the Middlesex North Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Colorado Drive.
5. Ducharme Lane shown on Subdivision Plan of Land in Tyngsborough, dated January 29, 1978, by William Troy & Associates, Surveyors, recorded at the Land Court Section on August 23, 1978 as Plan No. 4002E. The layout of a Town way substantially in the location of a private way known as Ducharme Lane.
6. Descheneaux Lane shown on Subdivision Plan of Land in Tyngsborough, dated August 1987, by Armand E. Provost, Jr., Surveyors, recorded at the Land Court Section on June 24, 1988 as Plan No. 38426J. The layout of a Town way substantially in the location of a private way known as Descheneaux Lane.
7. Helena Drive shown on Subdivision Plan of Land in Tyngsborough Mass (to the end of the cul-de-sac, but not including the cul-de-sac extents), dated January 1983, prepared for Gerard Briere, 55 Farwell Road, Tyngsborough, Mass, by Richard J. Ludwig, Chelmsford, Mass,, recorded at the Middlesex North Registry of Deeds in Plan Book 139, Plan No. 90. The layout of a Town way substantially in the location of a private way known as Helena Drive.
8. Hillcrest Drive (formerly known as Jacques Road) shown on Definitive Subdivision of Land in Tyngsborough, Mass, dated September 1986, prepared for Scribner Heights Development Corporation, by Charles A. Perkins Co., Inc. Civil Engineers & Surveyors, P.O. Box 234, Clinton, Mass 01510, recorded at the Middlesex North Registry of Deeds in Plan Book 158, Plan No. 39. The layout of a Town way substantially in the location of a private way known as Hillcrest Drive.
9. Idaho Drive shown on Scribner Hill Estates, Definitive Subdivision Plan of Land in Tyngsborough, Middlesex County, Mass, dated July 6, 1983, prepared for Winter Hill Development Corp., Gagnon Drive, Dracut, Mass., by Village Engineering & Surveying, Dracut, Mass, recorded at the Middlesex North Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Idaho Drive.
10. Joco Drive shown on Definitive Subdivision Plan of Land, Granite Hill Estates, Tyngsborough, MA, dated May 14, 1988, prepared for Granite Hill Estates, LLC, 30 Hunt Road, Chelmsford, MA 01824, by LandTech Consultants, Inc., recorded at the Middlesex North Registry of Deeds in Plan Book 198, Plan No. 57. The layout of a Town way substantially in the location of a private way known as Joco Drive.

11. Katy Lane shown on Pine Hill Estates, Definitive Plan, Norris Road, Tyngsborough, MA, dated March 8, 1988, revised June 24, 1988, prepared for Peter Cricones, 177 Pine Street, Lowell, MA 01851, by H-Star Engineering, Inc., 9 Acton Road, Suite 15, Chelmsford, MA 01824, recorded at the Middlesex North Registry of Deeds in Plan Book 165, Plan No. 138. The layout of a Town way substantially in the location of a private way known as Katy Lane.
12. Ohio Road shown on Scribner Hill Estates, Definitive Subdivision Plan of Land in Tyngsborough, Middlesex County, Mass, dated July 6, 1983, prepared for Winter Hill Development Corp., Gagnon Drive, Dracut, Mass., by Village Engineering & Surveying, Dracut, Mass, recorded at the Middlesex North Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Ohio Drive.
13. Patriot Road shown on Definitive Subdivision Plan Olde Colony Hills, Scribner Hill Road, Tyngsborough, Massachusetts, dated February 14, 1990, prepared for Connell Construction, 33 Ingalls Road, Tyngsborough, Massachusetts, by Cuoco & Cormier, Inc., recorded at the Middlesex North Registry of Deeds in Plan Book 173, Plan No. 50. The layout of a Town way substantially in the location of a private way known as Patriot Road.
14. Texas Lane shown on Scribner Hill Estates, Definitive Subdivision Plan of Land in Tyngsborough, Middlesex County, Mass, dated July 6, 1983, prepared for Winter Hill Development Corp., Gagnon Drive, Dracut, Mass., by Village Engineering & Surveying, Dracut, Mass, recorded at the Middlesex North Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Texas Lane.
15. Tower Road shown on Definitive Subdivision Plan of Land, Granite Hill Estates, Tyngsborough, MA, dated May 14, 1988, prepared for Granite Hill Estates, LLC, 30 Hunt Road, Chelmsford, MA 01824, by LandTech Consultants, Inc., recorded at the Middlesex North Registry of Deeds in Plan Book 198, Plan No. 57. The layout of a Town way substantially in the location of a private way known as Tower Road.
16. Vista Way shown on Record Plan, Stonebridge Estates, A definitive Subdivision in Tyngsboro, MA, dated November 1988, revised January 27, 1989, prepared for West-East Land Development, 21 Willowdale Road, Tyngsboro, MA, by DiPrete-Marchionda & Associates, Inc., recorded at the Middlesex North Registry of Deeds in Plan Book 172, Plan No. 41. The layout of a Town way substantially in the location of a private way known as Vista Way.

or take any other action relative thereto.

Submitted by: Planning Board and Board of Selectmen

Article 36. To see if the Town of Tyngsborough will vote to amend the Zoning Bylaws by replacing the existing Section 5.00.00, Interim Restriction/Moratorium for Medical Marijuana Treatment Centers, in its entirety with the new section below entitled, Section 5.00.00 Special Requirements for Registered Marijuana Dispensaries.

5.00.00 SPECIAL REQUIREMENTS FOR REGISTERED MARIJUANA DISPENSARIES.

5.10.00 Purpose

5.10.01 To provide for the establishment of Registered Marijuana Dispensaries in appropriate places and under strict conditions in accordance with the passage of Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana.

5.10.02 To minimize the adverse impacts of Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with such Dispensaries.

5.10.03 To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Registered Marijuana Dispensaries.

5.20.00 Applicability

5.20.01 The cultivation [unless it meets the requirements for an agricultural exemption under M.G.L. c. 40A, § 3], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Registered Marijuana Dispensary under this Section 5.00.00.

5.20.02 No Registered Marijuana Dispensaries shall be established except in compliance with the provisions of this Section 5.00.00.

5.20.03 Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

5.30.00 Definitions

Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Chapter 369 of the Acts of 2012.

Marijuana – The same substance defined as “marihuana” under M.G.L. c. 94C and 105 CMR 725.004.

Registered Marijuana Dispensary – A facility for the cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use, located inside a structure or building.

5.40.00 Eligible Locations

5.40.01 Registered Marijuana Dispensaries, other than agricultural operations meeting exemption standards under M.G.L. c. 40A, § 3, may be allowed by special permit of the Tyngsborough Planning Board, and provided the Registered Marijuana Dispensary meets the requirements of this Section 5.00.00.

- a) In the Business/Commercial 3 Zoning District,
- b) In a stand-alone single use facility,

c) Shall not be located within a radius of 500 feet of a school, daycare center or any facility at where children commonly congregate. The 500 feet distance shall be measured in a straight line from the nearest point of the property line of the children's facility in question to the nearest point of the proposed Dispensary's property line.

5.50.00 General Requirements and Conditions for all Registered Marijuana Dispensaries

5.50.01 All Registered Marijuana Dispensaries shall be contained within a building or structure.

5.50.02 No Registered Marijuana Dispensary shall have a gross floor area of less than 2,000 square feet or in excess of 20,000 square feet.

5.50.03 A Registered Marijuana Dispensary may not be located in buildings that contain any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

5.50.04 The hour of operation of Registered Marijuana Dispensaries shall be set by the Special Permit Granting Authority, but in no event shall such Dispensaries be open and/or operating between the hours of 8:00 p.m. and 8:00 a.m.

5.50.05 No Registered Marijuana Dispensary shall be located on a lot which abuts a residential zoning district.

5.50.06 No smoking, burning, or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Registered Marijuana Dispensary.

5.50.07 No Registered Marijuana Dispensary shall be located inside a building containing residential units, including transient housing such as motels, hotels, or dormitories, or inside a movable structure or mobile vehicle such as a trailer, van or truck.

5.50.08 Signage for Registered Marijuana Dispensaries shall include the following language: "Registration card issued by the Massachusetts Department of Public Health required." The required text shall be a minimum of two inches in height.

5.50.09 Registered Marijuana Dispensaries shall provide the Tyngsborough Police Department, Building Commissioner, and the Special Permit Granting Authority with the names, telephone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the Registered Marijuana Dispensary.

5.60.00 Special Permit Requirements

5.60.01 A Registered Marijuana Dispensary shall only be allowed by special permit granted by the Tyngsborough Planning Board, acting as the Special

Permit Granting Authority, in accordance with M.G.L. c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.

5.60.02 A special permit for a Registered Marijuana Dispensary shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:

- a) Cultivation of Marijuana for Medical Use (horticulture) except for sites meeting agricultural exemption standards found in M.G.L. c. 40A, § 3;
- b) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
- c) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients; and/or
- d) Wholesale sale of Marijuana for Medical Use to other Registered Marijuana Dispensaries located in the Town or another municipality in Massachusetts.

5.60.03 In addition to the application requirements set forth in Sections 5.50.00 and 5.60.00 of this Bylaw, a special permit application for a Registered Marijuana Dispensary shall include the following:

- a) The name and address of each owner of the Registered Marijuana Dispensary;
- b) Copies of all required licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies for the Registered Marijuana Dispensary;
- c) Evidence of the Applicant's right to use the site for a Registered Marijuana Dispensary, such as a deed or lease;
- d) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities unless the disclosure contains the names of individuals;
- e) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the Town and certified by the Town Assessor;
- f) Proposed security measures for the Registered Marijuana Dispensary, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. These security measures shall be reviewed by the Police Chief and Fire Chief or their designees.

5.60.04 Mandatory Findings. The Special Permit Granting Authority shall not issue a special permit for a Registered Marijuana Dispensary unless it finds that:

- a) The Registered Marijuana Dispensary is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, § 11;
- b) The Registered Marijuana Dispensary is fully permitted by all applicable agencies of the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and
- c) The Applicant has satisfied all of the conditions and requirements of Sections 5.40.00, 5.50.00, and 5.60.00.

5.60.05 Annual Reporting. A Registered Marijuana Dispensary permitted under this Bylaw shall, as a condition of its special permit, file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses required under 105 CMR 725.000 for the Registered Marijuana Dispensary and/or its owners and demonstrate continued compliance with the conditions of the special permit. A copy of the annual report shall also be filed with the Town Clerk.

5.60.06 A special permit granted under this Section shall have a term limited to the duration of the Applicant's ownership of the Registered Marijuana Dispensary at the premises. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section 5.00.00.

5.60.07 Any violation of this Section 5.00.00 or any other state regulations or state laws shall be grounds for revocation of a special permit issued under this Section.

5.60.08 The Special Permit Granting Authority shall require the Applicant to post a bond to secure the costs for the removal of the Registered Marijuana Dispensary in the event the Town must remove the facility because of abandonment or discontinuance.

5.70.00 Abandonment or Discontinuance of Use

5.70.01 A special permit shall lapse if not exercised within one year of grant of special permit.

5.70.02 A Registered Marijuana Dispensary shall be required to remove all material, plants, equipment and other paraphernalia:

- a) Prior to surrendering its state-issued licenses or permits; or
- b) Within six months of ceasing operations, whichever comes first.

5.70.03 In the event the property ceases to be actively used as a Registered Marijuana Dispensary and/or any other allowed use under this Bylaw, any and all signs identifying or promoting the property for such uses shall be immediately removed. This shall include exterior and interior signs visible to the public. Should such signage fail to be removed within thirty calendar days, the Town, or its designee, shall have the right to enter upon the property and take

such actions as are necessary to remove, cover, or otherwise render any such signage non-visible to the public. The Town shall not be responsible for any damage caused to the property in association with carrying out such actions. Any costs incurred by the Town for such actions shall be the responsibility of the Registered Marijuana Dispensary.

5.80.00 Severability

5.80.01 If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected. The invalidity of any section or sections or parts of any section or sections of this Bylaw shall not affect the validity of the remainder of the Bylaw.

or take any other action relative thereto.

Submitted by: Planning Board and Board of Selectmen

Article 37. To see if the Town will vote to amend the zoning map with regard to a certain parcel of land and improvements thereon located at 7-23 Middlesex Road, Tyngsborough, Massachusetts 01879 and more particularly described in a deed recorded at Book 27393, Page 206 and recorded in the Middlesex North District Registry of Deeds on June 18, 2013 from I1 to B3. The property is also identified as Map 28, Block 111 Lot 0 on the Tyngsborough Tax Assessor's Maps. The property is currently owned by 7-23 Middlesex Road LLC and it contains approximately 2.35 acres of land more or less arising from three contiguous parcels under the same deed.

Submitted by Citizen's Petition

Article 38. To see if the Town will vote to approve an Open Space Residential Plan, pursuant to the Town of Tyngsborough Zoning By-law, Section 4.14.00, et seq. for the development of an open space residential development, containing four (4) single family dwelling units, for property have a post office address of 37 Willowdale Road, and being the parcel shown on Tax Map 33, Parcel 1, said real estate being further described:

Lot A-2 on a plan entitled "Plan of Land in Tyngsboro, Mass, prepared for Lester P. Giguere, et ux" dated October, 1977, Emmons, Fleming & Bienvenu, Inc., which plan is recorded with Middlesex North District Registry of Deeds in Plan Book 125, Plan 71.

Said parcel containing 12.01 acres of land, more or less, entirely located in a Residential 1 (R1) zoning district, and being all the same premises conveyed to Nicholas J. Rabias by deed dated May 2, 1980 and recorded with Middlesex North Registry of Deeds in Book 23419, Page 125, 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 5^h day of May, in the year two thousand fourteen.

Board of Selectmen







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

5-6-14
Date

3³⁰ PM
Time



TOWN OF TYNGSBOROUGH

SPECIAL TOWN MEETING WARRANT

May 20, 2014

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 twenty first day of May, in the year two thousand thirteen 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 2014, or take any other action relative thereto.

Submitted by: Board of Selectmen

Article 2. 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 an amount to be expended by the Sewer Commissioners for Fiscal Year 2014, or take any other action relative thereto.

Submitted by: Sewer Commissioners

Article 3. To see if the Town will vote to appropriate by transfer from available funds the sum of \$117,494 to supplement the Tyngsborough School Budget for fiscal year 2015 to be expended by the School Committee. Said amount represents reimbursements made through June 30, 2014 from the Municipal Medicaid Program for school services provided to eligible residents, or take any other action relative thereto.

Submitted by: School Committee

Article 4. 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 an amount to be expended by the Board of Selectmen to pay a prior year's bill, or take any other action relative thereto.

Submitted by: Board of Selectmen

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, fourteen (14) 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 5th day of May, in the year two thousand fourteen.

Board of Selectmen

Richard Beault

Allen J. L...

Carl J. 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 fourteen (14) days before the date thereof, as within directed.

Allen J. L...

Constable

5-6-14
Date

3:30 PM
Time