



TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

Town Offices

25 Bryants Lane

Tyngsborough, MA 01879

Tel: (978) 649-2300 Ext. 100 | Fax: (978) 649-2320

Board of Selectmen Meeting Minutes

Monday, May 5, 2014 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

APPROVED

Members Present: Selectman Rick Reault, Selectwoman Karyn Puleo, Selectman Robert Jackson, Selectman Allen Curseaden, Selectman Corliss Lambert.

Staff Present: Town Administrator Michael Gilleberto, Assist Town Administrator Nina Nazarian and Admin Assistant Therese Gay.

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law. "Chairman Puleo read the following: "The following meeting is being recorded and broadcast through our local cable access channels on Comcast and Verizon FIOS. A recording of this meeting will also be available for viewing on our town's website - tyngsboroughma dot gov. Also, after instruction from the State Fire Marshall and the Tyngsborough Fire Chief, in the event of an emergency, there is an exit to my left and directly across from me, along the back wall."

1. **6:00 PM Open Meeting/Pledge of Allegiance/Board Introduction/Read Agenda**

The Chair opened the meeting followed by the Pledge of Allegiance; the introduction of the Board and the reading of the Agenda by Selectman Reault.

2. **6:05 PM Street Acceptance Hearing**

The Chairman entertained a motion to open the hearing. The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Reault to open the hearing.

The Town Administrator gave a brief presentation on Deschenaux Lane. All the necessary documents are in order, and the abutters were notified. The Chair asked if anyone wished to speak in favor of the acceptance. Ms. Daryl Alexa has been working for the last year to have the road accepted and approves and supports Deschenaux Lane be accepted. Ms. Lisa Camacho, 17 Deschenaux Lane supports the acceptance of Deschenaux Lane and would also like to include the portion that extends beyond the cul-de-sac. The Administrator will research the common drive way issue. Mr. Jarvis supports the acceptance of Deschenaux Lane. The Chair seeing no further comments entertained a motion to close the hearing. The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Curseaden to close the hearing.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson that having complied with statutory requirements by conducting a public hearing after notice to abutters, the Board of Selectman, pursuant to M.G.L. c.82, sections 21 through 24 and M.G.L. c.79 sections 1 and 2, lays out and/or relocates Deschenaux Lane as a public way and accepts said way and any related drainage, water or sewer facilities or easements, as shown on plans, which plans have been deemed satisfactory. The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to authorize the Assistant Town Administrator to file the decision and vote with the Town Clerk.

3. **6:15 PM POW/MIA Table and Chair Proposal**

Postponed to a future meeting.





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4. Meeting Minutes

A. Regular Session Meeting Minutes for Review/Approval

1. Monday, April 28, 2014

The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to approve the Minutes of Monday, April 28, 2014.

B. Executive Session Meeting Minutes for Review/Approval/Not Release

1. Monday, April 28, 2014

Approval was deferred to the Monday, June 2, 2014 Meeting.

5. Citizen/Business Time – No one came forward.

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

6. New Business

A. Eagle Scout Recognition

Deferred to the Monday June 2, 2014 Meeting.

B. School Committee – Lakeview School MSEC Lease

The School Superintendent, Don Ciampa, presented the proposed new lease between the Tyngsborough Board of Selectmen/Tyngsborough Public School/MSEC. The lease mirrors the current lease with changes to Item 2 Terms and Authority; this is a lease extension for two additional years from July 1, 2014 to June 30, 2016; and Item 3 Rent, the new rent is 9.37 sq. ft. to reflect the Collaborative paying an additional \$5,950 as their share of the additional school contributions for the SRO position; all other terms are the same as the current lease which expires June 30, 2016. The document will be signed by the Board of Selectmen, the School Committee, the Superintendent of MSEC, and the Commissioner of Education.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to sign the new lease with MSEC as amended and to authorize the Chairman of the Board of Selectmen to sign.

C. Library Strategic Plan – Designate Representative

The Board received notification from the Library Director informing the Board of the establishment of a Strategic Planning Committee that will include Trustees, staff and individuals representing the community we serve. The Director would like to invite a member of the Town administration to serve on this committee. The commitment will involve two two-hour meetings at which assessments of current services are made, a vision for the Library's future is created and goals are drafted. The meeting dates will be held in May and June.

The Town Administrator or the Assistant Town Administrator will sit on the committee.

D. Property/Casualty Insurance – FY 2015

The Administrator presented the new MIIA Property/Casualty Insurance program, the new proposal for FY2015 which includes a small rate increase. The Administrator did look at the different rates from a couple of other firms and in conclusion the MIIA Program is the best fit for our needs for FY2015.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to authorize the Town Administrator to sign the renewal proposal.





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E. Requests for Comment

1. Planning Board (7-23 Middlesex Road)

The Board received a request for comment from the Planning Board for a special permit for 23 Middlesex Road, for a variance for retail sales in and I one zone.

The Board reviewed and had no comment.

2. Planning Board (7 Mackey Drive)

The Board received a request for comment from the Planning Board for a special permit for 7 Mackey Drive for a variance to construct a 2 car garage with hallway to basement of main house; and a second floor family room with hallway to first floor of main house.

The Board reviewed and had no comment.

3. Planning Board (47 Flint Road)

The Board received a request for comment from the Planning Board for a special permit for 47 Flint Road, for a variance to construct a two story addition.

The Board reviewed and had no comment.

4. Planning Board (54 Mission Road)

The Board received a request for comment from the Planning Board for a special permit for 54 Mission Road, for a variance to construct a garage and storage, a new roof for solar panels.

The Board reviewed and had no comment.

7. Old Business

A. 11 Indian Lane – Discussion

Selectman Reault, and Town Administrator updated the Board on the site walk that they attended along with the Housing Authority's Chairman. The building showed no further deterioration. The Housing Authority confirm their interest in pursuing the use of the vacant building for a housing unit. The Administrator suggests in partnering would be the best scenario to advocate for public use. There was some discussion on the land at Merrimack Way that was put aside for the Housing Authority to develop some affordable units. Selectman Lambert left the room briefly. The Administrator will reach out to the Congressional Delegation to assist the town in obtaining Indian Lane at no cost to the town. The State may be asking for a nominal fee but the Board could consider at a later date. The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to go forward. Selectman Lambert returned to the meeting.

B. Old Town Hall User Agreement – Review/Discuss

The updated Old Town Hall Use Policy was presented by Selectman Jackson for review. The Chair hearing no further comments and or questions entertained a motion to accept the Old Town Hall Policy as presented.

The Board voted 5-0-0 on a motion by Selectman Lambert, second by Selectman Curseaden to approve the updated Old Town Hall User Agreement as presented.

8. 7:00 PM Joint Meeting with Finance Committee

The Board called for a ten minute recess to allow the setup of the joint meeting with the Finance Committee. The Finance Committee Members present were Rob Mullin, Darryl Wickens, Scott Hammer and Christopher Mellen. Member Paul Morin was not in attendance.

A. FY 2015 Capital Plan Recommendation – Review





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The Capital Asset management Committee (CAMC) has met to discuss capital planning. The members of the committee are Selectwoman Karyn Puleo, Finance Committee member Scott hammer, School Committee member Barry Dick, Town Treasurer Kerry Colburn-Dion, and Town Accountant Catherine Gabriel. The Town Administrator Michael P. Gilleberto, and Superintendent of Schools Don Ciampa have also participated in support of the committee. The Committee reviewed the town's existing debt schedule and requests from Town Departments totaling \$21,811,826.00 for the General Fund and \$18,293,000.00 for the Enterprise fund. The Committee supplied an outlay of all requests as outlined in the Capital Asset Management Plan for FY2015 through FY2019. The Committee is recommending that state grant funding for previously-made repairs to the Lakeview School currently in hand, but only recently authorized for release, be utilize along with anticipated employee benefit savings beginning in FY2016 to fund an investment of \$657,000 to be re-paid over five years. This would reserve new dollars for the capital purposes identified below without affecting direct services. Preliminary debt service forecasts indicate that repayments would not begin in earnest until FY2016. The Committee collaboratively reviewed all of the needs, with a goal of forwarding a plan that reflects consensus about Town wide priorities within the realities of funding constraints. Based on the projected availability of funding described above and the needs of the Town, the Committee recommends the following General Fund debt appropriations to the May 20, 2014 annual town Meeting. Due to the limited funding the Committee was generally limited to life/safety related recommendations. (three Highway purchases of 2 dump trucks with plow/sanders and a 1 ton dump truck with plow for a total of \$380,000.00; Police Dept. purchase of information technology replacement for \$25,000.00; two Selectmen purchases of town offices – security & repairs, information technology replacement for \$45,000.00; and four School purchases of facility condition assessment/security, repair TMS gym fire escape, school security upgrade and technology for \$207,000.00. These items were priority based on departmental feedback. In addition to this proposed borrowing program, the Committee recommends a Free Cash appropriation of \$25,000 for furniture/fixtures/equipment and moving expenses associated with the new Senior Center. The Committee does not feel that borrowing is an effective tool for this type of purchase. The Committee further feels that these investments do not rely on the use of funds from the Capital Asset Stabilization Fund, the Committee recommends the funds presently in the CASF remain in the fund for future needs, and supports additional transfers into this fund pursuant to the recently-approved Free Cash policy. The Committee also considered the request by the BOS to fund, via a debt exclusion, repairs to Town Roads, the Committee voted to consider this request in context of other significant funding needs in the coming months, and years, including the School Department that have been submitted to the MSBA accelerated repair program. The CAMC believes that strategically it behooves the town to look at these two items together and not request two potential preposition 21/2 overrides within a six month period. The Committee also reviewed the requests of the Sewer Commission. One project will require borrowing the construction of Phase 1 West sewers along the Middlesex Road – south corridor, it is recommended that in years the annual debt service associated with the CWMP exceeds the 6% portion debt service that the Sewer commission excess funds be transferred to the Capital Asset Stabilization Fund to lessen the impact on future year payment. The town must continue to be diligent with its capital planning efforts for buildings, equipment, and infrastructure. Sound planning will benefit the health, safety, and productivity of our citizens, school children, and employees for years to come. Chairman Puleo presented the Capital Asset Management





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Committee's 2015 Report. The report was submitted to the Finance Committee this evening, the Finance Committee members will review at a separate meeting.

B. Debt Exclusion for Road Repairs / Reconstruction

The Board of Selectmen at their meeting of March 31, 2014 voted to request the Capital Asset Management Committee (CAMC) re-consider the request for excluded road repair/reconstruction funding presented at the March 26th CAMC Meeting. The Board requested the CAMC consider recommending a debt exclusion to fund road repairs/reconstruction in the following increments: \$400,000; \$800,000; \$1.2 million; or \$1.6 million. The Finance Coordinator/Town Treasurer and the Town Accountant has put together scenarios to show the cost of excluded debt at the requested increments for the average homeowner if road repairs were funded via a one-year Capital Exclusion. The Highway Department has provided a draft proposed alternatives identifying the roads that could be repaired or reconstructed. These alternatives are presented in no particular order, but represent \$400,000 increments. The Selectmen and Finance Committee had discussion on the timing and the method for asking for the override for road repairs when there might be a need for an override for the schools. Selectman Jackson spoke on the override article. Selectman Reault and Selectman Lambert both support the override article for the repairs to the town roads.

Article 17. To see if the Town will vote to appropriate the sum of \$1,600,000.00 for road reconstruction and/or repairs, to be expended by the Board of Selectmen, 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

At the Capital Asset Management Committee of May 3rd, the Committee indicated that it would consider roads in context of a plan for all other long term needs, specifically School Building Authority (SBA) accelerated programs, SBA Statement of Intent, & Master Plan.

The Board voted 3-1-0 on a motion by Selectman Jackson, second by Selectman Reault, to place Article 17 on the Annual Town Meeting Warrant.

The Board voted 3-1-0 on a motion by Selectman Reault, second by Selectman Jackson, to recommend Article 17.

The Finance Committee voted 3-1-0 on a motion by Member Wickens, second by Member Hammer to not recommend Article 17.

C. Annual and Special Town Meeting Warrant Article Review

1. Pedestrian Safety Bylaw

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

2. Government Study actions

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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 26 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 26.





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The Finance Committee voted 3-1-0 on a motion by Member Wickens, second by Member Mellen to recommend Article 26.

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 appointive 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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 27 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 27.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to not recommend Article 27.

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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 28 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 28.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Mellen to not recommend Article 28.

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.





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Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 29 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 29.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Mellen to recommend Article 29.

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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 30 on the Annual Town Meeting Warrant.

The Board of Selectmen and the Finance Committee will make their recommendations on Town Meeting floor.

3. Demolition By Neglect Bylaw

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





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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 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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 31 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 31.

The Finance Committee takes no action on Article 31.

4. Street Opening Bylaw

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.





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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.





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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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 33 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 33.

The Finance Committee takes no action on Article 33.

5. Financial Articles

The Board began their review with Article 4 on the Annual and Special Town Meeting Warrants.

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





TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

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The Board of Selectman voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to place Article 4 on the Annual Town Meeting Warrant.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 4.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 4.

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.

Summary by Function: 1) General Government - \$1,428,993.00; 2) Public Safety - \$3,746,897.00; 3) Education - \$19,272,440.00; 4) Highway & Cemetery - \$1,917,440.00; 5) Human Services \$536,958.00; 6) Cultural & Recreation - \$399,147.00; 7) DEBT - \$875,629.00; 8) Intergovernmental - \$3,157.00; 9) Unclassified - \$5,019,661.00 for a total Town Budget - \$33,200,322.00.

Submitted by: Board of Selectmen and Finance Committee

The Town Administrator handed a copy of the financial spreadsheet to members and reviewed the line items that were changed.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 5 on the Annual Town Meeting Warrant.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 5 as presented.

The Finance Committee will make their recommendation on town meeting floor. Where they have just received the spreadsheet this evening. The Chair will post a meeting to review.

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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 6 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 6.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 6.

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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 6 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 7.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 7.





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Article 8. To see if the Town will vote to appropriate 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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 8 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 8.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 8.

Article 9. To see if the Town will vote to appropriate 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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 9 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 9.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 9.

Article 10. To see if the Town will vote to appropriate 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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 10 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 10.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 10.

Article 11. To see if the Town will vote to appropriate 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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 11 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 11.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 11.

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





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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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 12 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 12.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 12.

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

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 13 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 13.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 13.

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

The Administrator announced a grant was received for this item and the Assessors will withdraw this article on Town Meeting Floor.

Selectman Curseaden stepped away from the meeting and will not be in attendance for the remainder of the meeting. Selectman Curseaden left the meeting at 8:30PM.

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.

<u>Department</u>	<u>Item</u>	<u>Amount</u>	<u>To be Expended by</u>
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





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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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 16 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 16.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Hammer to recommend Article 16.

Article 17. To see if the Town will vote to appropriate the sum of \$1,600,000.00 for road reconstruction and/or repairs, to be expended by the Board of Selectmen, 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

See above under item 08B for the discussion and votes relative to this article.

Article 18. Voted on to place and recommend by the Board of Selectmen and Finance Committee members at the Board of Selectmen's April 28, 2014 meeting.

Selectman Lambert stepped out of the meeting for the discussion on Article 19 and Article 20.

Article 19. To see if the Town will vote to adopt 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

The Board of Selectmen voted 3-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 19 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 3-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 19.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Mellen to recommend Article 19.

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 the Sewer Commissioners, Board of Selectmen and the Capital Asset Management Committee.

The Board of Selectmen voted 3-0-0 on a motion by Selectman Reault, second Jackson to place Article 20 on the Annual Town Meeting Warrant.

The Sewer Commissioners are holding a public informational meeting on May 8, 2014. The Board of Selectmen and the Finance Committee will recommend or not recommend Article 20 on Town Meeting Floor.





TOWN OF TYNGSBOROUGH

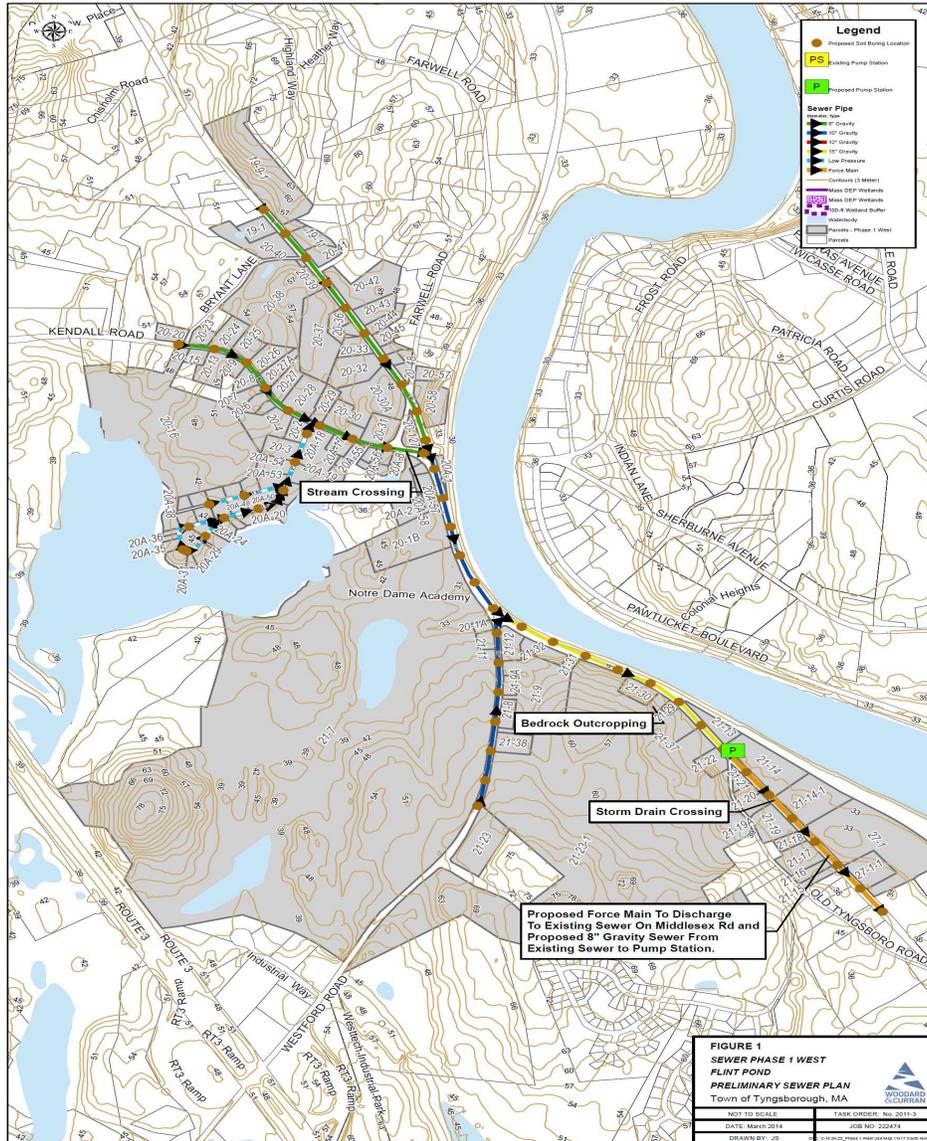
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Selectman Lambert returned to the meeting at 10:05PM for the remainder of the meeting.

Articles 21, 22, 23, 24 and 25 were acted on at the Selectmen's April 28, 2014 meeting.

6. Mosquito Control

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

The Board of Health voted to place this article before the voters. This article is not funded and if it were to pass, the budget would be out of balance and cuts would have to be made.





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The Board of Selectmen voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Reault to place Article 15 on the Annual Town Meeting Warrant out of respect to the Board of Health.

The Board voted 4-1-0 on a motion by Selectman Reault, second by Selectman Jackson to not recommend Article 15. Discussion: ask if the Board of Health will be available to speak to the article, and some discussion on the funding.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by Member Mellen to not recommend Article 15.

7. 8:15 PM: Citizens' Petitions

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

Attorney Nicosia presented Articles 38 and 39 for the Citizens requesting the zoning amendments.

Atty Nicosia has presented these requests at a Planning Board hearing.

The Board of Selectman voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Articles 37 and 38 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Articles 37 and 38.

The Finance Committee takes no action on Articles 37 and 38.

The Planning Board will bring forth their recommendation after the completed hearing process.

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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 34 on the Annual Town Meeting Warrant with the above amended language.

The Board of Selectmen took no action to recommend or not recommend this Article 34 and will take action on the item once the language becomes available.

The Finance Committee takes no action on Article 34.

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





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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:

- 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.
- 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".
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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





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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.

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 35 on the Annual Town Meeting Warrant.

The Board of Selectman voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 35.

The Finance Committee voted 4-0-0 on a motion by Member Wickens, second by member hammer to recommend Article 35.





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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 which 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.





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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.





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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

The Board of Selectman voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to place Article 36 on the Annual Town Meeting Warrant.

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to recommend Article 36.

The Planning Board recommends Article 36.

SPECIAL TOWN MEETING WARRANT

The Board of Selectmen and the Finance Committee will meet prior to the Town Meeting to review the Special Town Meeting Warrant Articles and will make recommendations on the Town Meeting Floor for Articles 1, 2, and 4. The Board of Selectmen and the Finance Committee voted to recommend Article 3.

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





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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

The Board of Selectman voted 4-0-0 to recommend Article 3

The Finance Committee voted 4-0-0 to recommend Article 3.

Article 4. To see if the Town will vote 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

The Finance Committee adjourned their meeting at 10:40 PM.

9. Correspondence

A list of correspondence will be included with approved meeting minutes per the requirements of the Massachusetts Open Meeting Law. Copies of correspondence may be requested from the Office of the Board of Selectmen.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to accept the correspondence as placed in the packet. Two items discussed the first was a letter from NMCOG they are currently undertaking work on a Regional Bicycle and Pedestrian Plan. NMCOG is looking to the Town to designate a representative to serve as Community Liaison the the plan development process by providing input from the community. After discussions the Assistant Town Administrator will be the Board's liaison, Selectman Lambert was concerned about overburdening the Assistant, with that in mind the Board recommended that the Administrator ask for an interested party who may be interested in serving as the Town's liaison. A mention on the Memorial Day Parade, the residents are asks to participate. The Administrator asked the Board for a date that the Board and representatives from the Tennessee Pipeline could meet, a tentative date of May 14 was given. Notification will be made once the date is confirmed.

10. Review of Weekly Warrants

The Town Administrator read the following Weekly Warrants: Warrant #43B for \$763,798.22 on 4/22/2014; Warrant #43S for \$455,287.91 on 4/22/2014; Warrant #43P for \$783,322.28 on 4/22/2014; and Warrant #44B for \$411,593.23 on 4/28/2014. And Warrant #45P for \$810,614.48 on 5/5/2014; Warrant #45S for \$133,954.33 on 5/5/2014; and Warrant #45B for \$860,971.23 on 5/5/2014.

11. Town Administrator's Report

- Response to Selectmen's Requests

None

- Budget

Final action on budget warrant articles will be requested for the May 5th meeting. Significant changes are not anticipated.

Departmental expenditure reports are at the end of this report.

- Departmental Information





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Attached are copies of the following: 1) notice send to neighbors abutting the Wicassee playground notifying them of new playground equipment being installed; 2) the spring general notification reverse 911; 3) the state's response to the Chief's report regarding the Frost Road intersection; 4) and the information regarding a potential security system for public buildings in Town, presented to the Chief, Superintendent of School and the Administrator; 5) Four projects, totaling a grant request of approximately \$189,000, were submitted to the DOER for their 2014 Green Communities Competitive Grant round; mechanical upgrades at the Town Offices/Library, lighting controls at the Library and Community Room, lighting controls at the high School, and lighting controls at the elementary school.

The Sewer Commission is in the process of applying for funding through DOER for the replacement pumps with energy efficient pumps at the Mascuppic Pump Station. The funding request is for \$100,000, I intend to sign a certification of application for the finalization of this grant application. The Highway Department is planning to complete some stabilization work at the inlet of the Westford Road culvert as early as later this week. The stabilization work will likely require that the road be accessible by one lane alternating, which the Highway Dept will coordinate with the Police Department on for traffic control and police details.

Attached is a copy of the Annual Report submitted for the Town's national Pollutant discharge Elimination System (NPDES) permit. Also attached is an email which I received identifying positive interactions with the Conservation Director.

- Contracting/Procurement

Attached is a copy of the initial request for Chapter 90 funding approval. Once preliminary approval is obtained, we will come to the Board with a proposed plan for authorization.

The Massapoag road Culvert replacement substantially complete. Minor shoulder work and the replacement/installation of a road barrier remain. The Highway Department has received a price of \$4,940 to install a wooden guard rail. We are proposing to fund this guard rail installation using Winter Rapid road Recovery funding.

- Other

Attached is a sample visitor's code of conduct for a Town Hall. I would like to request the Board authorization to assemble a small working group to develop potential policies for within our Town Offices, for consideration by the Board. Also attached is a copy of a flyer I received at the Page School Electrical Technology open house on April 22nd.

Attached is a copy of the memo submitted to the town Clerk regarding the Street Acceptance hearing decision and vote.

Attached is correspondence from national Grid regarding the application of herbicides along power line rights of way.

12. Selectmen Reports

Selectman Lambert reminds the residents to come and vote on Tuesday, May 13, 2014. The culvert repair on Massapoag Road was nicely done.

Selectmen Reault sends condolences to the Lever Family, Bob Lever passed away on Monday.

The Town Administrator thanked the Assistant for supervising the repairs on the Massapoag Road culvert.

13. Executive Session





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The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to enter into Executive Session to discuss the following :

- A. **Exemption Three** – To discuss strategy with respect to collective bargaining and litigation because an open meeting may have a detrimental effect on the bargaining and litigation position of the Board, and the Chair so declares –Clerical Union; Mid-Managers Union; Police Union

and to adjourn at the conclusion of the executive session. Roll Call Vote: Selectman Rick Reault, yes; Selectwoman Karyn Puleo, yes; Selectman Robert Jackson, yes; Selectman Corliss Lambert, yes. The Board entered into Executive Session at 10:45 PM. The Board returned to open session to adjourn at 11:15 PM.

14. **Adjournment**

The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to adjourn the meeting at 11:15PM.

Respectfully submitted

Therese Gay
Admin Assistant

Approved on: Monday June 2, 2014



Correspondence - Monday April 28, 2014

Date	Author	Subject	In Packet?
4/25/2014	Town Counsel	Government Study Information	5/5/2014
4/24/2014	Tyngsboro Citizen	Middle School Students Cleaning on Earth Day	5/5/2014
4/16/2014	Sewer Dept	Info Meeting Notice	5/5/2014
4/22/2014	Veteran's Office	Memorial Day Parade Notice	5/5/2014
4/23/2014	ABCC	Hearing Notice	5/5/2014
4/23/2014	American Planning Association	Training Collaborative Notice	5/5/2014
4/17/2014	MEDC	Sping Conference Notice	5/5/2014
4/3/2014	Republican Town Committee	Formation info session	5/5/2014
4/17/2014	Town Counsel	March Monthly Report	5/5/2014
4/23/2014	COA	Newsletter	5/5/2014
4/1/2014	GLVTHS	Tyngsborough's Contribution	5/5/2014
4/14/2014	MSBA	Re Grant Payment	5/5/2014
4/22/2014	MIIA	Renewal Proposal	5/5/2014
4/7/2014	MIIA	Dividends	5/5/2014
4/7/2014	Landmark Divided	Re cellular lease	5/5/2014
4/11/2014	NMCOG	Info on various projects	5/5/2014
4/11/2014	NMCOG	April 16 Meeting Notice	5/5/2014
4/17/2014	NMCOG	Bicycle Plan	5/5/2014
4/14/2014	Keith L Morris	Vegetation Management	5/5/2014
4/18/2014	Xfinity	Service Offering	5/5/2014
4/22/2014	LRTA	Meeting Notice	5/5/2014
4/30/2014	School Committee	Minutes	5/5/2014
4/25/2014	MEMA	Grant Info	5/5/2014
4/25/2-14	Umass Lowell	Newsletter	5/5/2014
4/25/2014	Comcast	Newsletter	5/5/2014
5/1/2014	Comcast	Communications Info	5/5/2014
4/29/2014	Verizon	Communications Info	5/5/2014



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Board of Selectmen Meeting Notice

Monday, May 5, 2014 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law.

1. 6:00 PM Open Meeting/Pledge of Allegiance/Board Introduction/Read Agenda

2. 6:05 PM Street Acceptance Hearing

3. 6:15 PM POW/MIA Table and Chair Proposal

4. Meeting Minutes

A. Regular Session Meeting Minutes for Review/Approval

1. Monday, April 28, 2014

B. Executive Session Meeting Minutes for Review/Approval/Not Release

1. Monday, April 28, 2014

5. Citizen/Business Time

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

6. New Business

A. Eagle Scout Recognition

B. School Committee – Lakeview School MSEC Lease

C. Library Strategic Plan – Designate Representative

D. Property/Casualty Insurance – FY 2015

E. Requests for Comment

1. Planning Board (7-23 Middlesex Road)

2. Planning Board (7 Mackey Drive)

3. Planning Board (47 Flint Road)

4. Planning Board (54 Mission Road)

7. Old Business

A. 11 Indian Lane – Discussion

B. Old Town Hall User Agreement – Review/Discuss

8. 7:00 PM Joint Meeting with Finance Committee

A. FY 2015 Capital Plan Recommendation - Review

B. Debt Exclusion for Road Repairs / Reconstruction

C. Annual and Special Town Meeting Warrant Article Review





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1. Pedestrian Safety Bylaw
2. Government Study actions
3. Demolition By Neglect Bylaw
4. Street Opening Bylaw
5. Financial Articles
6. Community Preservation Committee
7. Mosquito Control
8. 8:15 PM: Citizens' Petitions

9. Correspondence

A list of correspondence will be included with approved meeting minutes per the requirements of the Massachusetts Open Meeting Law. Copies of correspondence may be requested from the Office of the Board of Selectmen.

10. Review of Weekly Warrants

11. Town Administrator's Report

- Response to Selectmen's Requests
- Budget
- Departmental Information
- Contracting/Procurement
- Other

12. Selectmen's Reports

13. Executive Session

- A. Exemption Three – To discuss strategy with respect to collective bargaining and litigation because an open meeting may have a detrimental effect on the bargaining and litigation position of the Board, and the Chair so declares –Clerical Union; Mid-Managers Union; Police Union
- B. Exemption Six – To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body

14. Adjournment

Future Meetings

***Tuesday, May 13, 2014 Town Election Day 7:00 AM – 8:00PM at:**

Precinct 1 – 135 Coburn Road; Precinct 2 – 180 Lakeview Avenue;

Precinct 3 – 25 Bryants Lane; Precinct 4 – 205 Westford Road

Monday, May 19, 2014 at Tyngsborough Town Offices, 25 Bryants Lane

****Tuesday, May 20, 2014 at 7:00 PM – Annual Town Meeting at Tyngsborough Elementary School, 205 Westford Road**

