



# 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 Notice **APPROVE**

Monday, November 2, 2015 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

Members Present: Selectman Rick Reault, Selectman Robert Jackson, Selectman Corliss Lambert, Selectman Steven Nocco.

Member Absent: Selectman William Gramer

Staff Present: Town Administrator Curt Bellavance, 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. "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 - [www.tyngsboroughma.gov](http://www.tyngsboroughma.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 Jackson

### **2. Meeting Minutes**

#### A. Regular Session Meeting Minutes for Review/Approval

##### i. Monday, October 5, 2015

The Board voted 3-0-1 on a motion by Selectman Jackson, second by Selectman Nocco, to approve the minutes of Monday October 5, 2015. (Selectman Lambert abstained from voting on the minutes)

##### ii. Monday, October 19, 2015

The Board voted 3-0-1 on a motion by Selectman Jackson, second by Selectman Nocco, to approve the minutes of Monday October 19, 2015. (Selectman Lambert abstained from voting on the minutes)

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

##### i. Wednesday, October 14, 2015

The Board voted 3-0-1 on a motion by Selectman Jackson, second by Selectman Nocco, to approve, but not release the executive session minutes of Monday October 14, 2015. (Selectman Lambert abstained from voting on the executive session minutes)

### **3. 6:05PM Public Hearing**

#### A. Tyngsborough Sports Center Realty Trust, Potash Hill Road: Attorney Peter Nicosia, Special Permit/Site Plan Review

The Chairman opened the hearing process for the public hearing for a special permit at the request of Tyngsboro Sports Center, Potash Hill Road.

The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to open the special permit hearing.

Selectman Jackson read the legal notice that appeared in the local newspaper on Monday, October 19, 2015 and Monday October 26, 2015.

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The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to waive the reading of the notice sent to the abutters and to waive the reading of the abutters' list.

The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to open the evidentiary portion of the hearing.

The Chairman invited the petitioners to come forward and present their petition.

Attorney Peter Nicosia representing the petitioner Darryl Wickens, the Engineer, Mr. Lees came forward to present the petition for the expansion of the Tyngsboro Sports Center. Atty. Nicosia walk through the site plan, the new location is on a 31 acre site on the south side of Potash Hill. The new Tyngsboro Sports Center building will be housed on a 17+ acre site, phase I will be 63,000 sq. ft. building, the second, phase II will be seeded until such time it is needed. This project will sit behind the Whitman's Woods apartment complex. The new facility will be approximately 56, sf in overall size with a 38 foot ceiling. The metal block building will look similar to what is on Progress Avenue and will include grass fields and hard surface courts. The similar programs will be the same as is offered on Progress Ave, with the new facility Mr. Wickens will have the ability to introduce leagues in baseball/softball/, football, lacrosse and soccer. The new facility will also include an outdoor turf field. It will be an artificial turf field. The new facility will also include a concession area and provide birthday party and meeting space. Mr. Wickens does intend to apply for a liquor license. Once the new facility is open, the old facility will be marketed for lease or sale. The opening is planned for this time next year. The new site will be open from 2PM to 1AM weekdays and from 7AM to 1AM weekends, most of the weekday programs will remain at the Progress Avenue site.

The Board is waiting for the report from David E. Ross Associates to provide a peer review of the scope of services regarding general site layout, traffic, parking, landscaping and zoning requirements. The applicant has filed notice with the Conservation Commission and the plan is currently under review.

The special permit is for the entire site so as not to have to return for a second hearing for the construction of an expansion. The Fire Department is currently reviewing, and the applicant is working with the Tyngsborough Water District to add a municipal water supply.

The Chairman asked if there was anyone present who wishes to speak in favor of this petition, no one came forward.

The Chairman asked if there was anyone present who wishes to speak against this petition. Ms. Shirley Burchfield, 17 Dickens Lane, Mary Ann Ducharme, 9 Dickens Lane, and Mr. Burchfield, 17 Dickens Lane came forward to voice their concerns about the increase in traffic, the connection of municipal water, with it affect their water supply, these residents of Dickens Lane as asking for a traffic study to be conducted, at what location the water will be connected and one suggested to ask for a bond to be posted also the residents asked if there would be lighting in the parking area. Attorney Nicosia, with new development abutters will be concerned with the change in status quo, as properties are sold there will be building, the development is an industrial zone, this proposed use is a soft use it is family based and is predominantly indoors, the plans are final and will not change. Mr. Wickens will make a good neighbor. Mr. Frost and Mr. Wickens have gone personally to speak to the neighbors and have taken the comments from Mass Hoist and Crane and are taken seriously and the traffic count has been studied the proposed building falls far less than the study states. The Tyngsborough Water District will address the water usage. The builder of the Maple Ridge development did put the water main in and probably with the knowledge of further development in mind. The traffic study was for conceptual, the stormwater issue will be reviewed

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by the State agency. There's a section that houses the historic kiln and the surrounding trees will not be cut down, the site will remain as is. The developer left an easement from Middlesex Road to serve as the water tie in location.

The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to continue the hearing for Tyngsboro Sports Center to Monday November 16, 2015 at 6:05 PM at the Town Offices at 25 Bryants Lane.

#### 4. New Business

##### A. Festival of Trees application for 1-day liquor license

The Recreation Department is holding its annual Festival of Trees this year on December 3<sup>rd</sup> through the 6<sup>th</sup>. The organization has added an additional event this year called "Paint Nite". This event is scheduled for Thursday evening, December 3<sup>rd</sup>, from 6:30 PM to 8:30 pm. The event will allow patrons to learn some techniques in painting from a professional artist. Part of the event includes the serving of beer and wine. In an effort to grow and expand this wonderful community event, the Festival of Trees is seeking a one-day special license to host this event. Mr. Mike Knight, Chairman, Scot Ellis, Vice Chair and Alison Page, Director, were before the Board to request the one day special license, they have secured a TIP Certified server and will have a ticket system for serving.

The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to grant the one day special license to the Recreation Department for the scheduled "Paint Nite".

The Board voted 3-0-1 on a motion by Selectman Jackson, second by Selectman Nocco to waive the fee for the one day special license. (Selectman Lambert abstain from voting on the waiver).

##### B. FERC: consideration to apply for Intervention Status

It is expected that Kinder Morgan is planning on filing its application during the month of November. Once the application is accepted by the Federal Energy Regulatory Commission (FERC) the Town has the option to register with FERC as an "Intervener". Once an application is filed there is a 21-sday period to register. As a municipality we would have the right to register. This process would allow the Town to have "legal standing" if we are impacted by the proposed pipeline.

Currently the preferred route does not include Tyngsborough. There is no cost to sign on as an intervener. It has been recommended by the Northern Middlesex Council of Governments (NMCOG) that communities take this step as a precautionary move.

The Board chose to register and voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to recommend that the Board of Selectmen vote to become an "Intervenor" once Kinder Morgan/Tennessee Gas Pipeline files its formal application with the Federal Energy Regulatory Commission. Further, the Board resolves to become an "Intervenor", which is an official party to the Federal Energy Regulatory Commission's proceeding, and/or take any other actions considered necessary by the Chairman of the Board. Additionally, the Board moves to instruct the Town Administrator to file a motion to intervene at the appropriate time.

##### C. Appointment of Library Circulation Assistant – Kelly Johnson

The Administrator has been working with the Library Director, Susanna Arthur, over the past several months to fill the vacant positions at the library. The most recent position was filled by promoting a Library Technician, leaving an opening for a part time Circulation Assistant position to be filled. The position was advertised in-house, as well as on the MA Board of Library Commissioner's job site. After reviewing four (4) applicants for the position and narrowing the field of candidates down, it was determined that the best candidate is Ms. Kelly Johnson. Ms. Johnson

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has been a volunteer at the library for five years. The position is a part time 10-hour per week hourly position. The circulation Assistant is a Grade 4 position. It is recommended that Ms. Johnson be hired at Grade 4, Step 2 with an hourly rate of \$15.07. The Board of Library Trustees voted to ratify the appointment of Kelly Johnson to the position of Circulation Assistant at their monthly meeting on October 27, 2015.

The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to ratify the appointment of Kelly Johnson to the position of Circulation Assistant as outlined above with a start date of November 5, 2015.

### D. Technology Use Policy

The Administrator is working on amending its "Access & Use of Telecommunications Systems Policy" as well as its "Software Policy" and create a single updated policy. These policies were adopted by the Board of Selectmen approximately 15 years ago. Attached are the two policies that are currently in effect and the updated new draft. These are for your review. Prior to any final decision being made, however, my office would like to give employees and opportunity to discuss the Policy.

## 5. Old Business

### A. Sewer Phase I West – Order of Taking

At the Annual Town Meeting held on June 8, 2015, Town Meeting voted to appropriate a sum of money for construction and land acquisition (easement) costs for the Phase I West Sewer System infrastructure project. The easements were identified in the vote. At this time there are five easements identified, two permanent easements, and three temporary easements that would expire two years from the date of taking. Once the Board votes to take the easements the Order will be recorded at the Registry of Deeds. The Order of Taking was prepared by Town Counsel along with the plans identifying the easements, and an appraisal report showing the appraised value of the easements. Based on the information provided, our office would recommend that the Board vote. The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to vote pursuant to Chapters 79 and 82 of the General Laws of Massachusetts and of any and every other power and authority in any way enabling, take by eminent domain the right and permanent and temporary easements to use for all purposes of a public sewer system. Furthermore, authorize Richard Reault, Chairman, to execute the Order of Taking on behalf of the Board of Selectmen.

### B. Melissa Robbins / Doug Deschenes (Worden Road LIP)

The Board heard a presentation from Attorney Douglas Deschenes and Attorney Melissa Robbins at the meeting of October 19. The presentation included an overview of the Local Initiative Program (LIP) that the Department of Housing and Community Development administers. The Administrator made available the general description of the program and assessors' information showing the location of the property. The office has not received any additional information for the Board at this time for the Board to act on.

### C. Surplus Vehicles – two additional vehicles

The Board voted at their meeting on September 28 to surplus a list of vehicles and equipment. Since that meeting two other vehicles have been identified: 1) 2005 Ford 500 and 2) 2001 Chevrolet Silverado pick-up truck. Our office has been working with the Highway Department and the Sewer Department on disposing of the vehicles via the requirements outlined in MGL c.30B. The two items above have been replaced. With the Board's vote the office will dispose of the two vehicles identified above and complete the disposal of 24 vehicles and equipment.

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The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Lambert to vote to surplus the two vehicles listed above and to allow the Town Administrator to dispose of the surplus supplies in a manner consistent with MGL c.30B.

### D. Special Town Meeting – articles

The Administrator has been working on drafting the Special Town Meeting Warrant. A first draft was presented. Since this is a working document expect some modification several times.

Article 1. is the layout/relocation of certain Town ways described as Mascuppic Trail; Article 2 is to modify section 2.16.00 of the Town Zoning Bylaw entitled "Mixed Use Overlay District"; Article 3 is to fix the compensation of elected officials; Article 4 if to authorize the Board of Selectmen to enter into a payment in lieu of taxes agreement; and Article 5 is for the elected officials should not hold more than one elected office at one time. Selectman Jackson had penned the article and sent to Town Counsel for review, Town Counsel reviewed and rewrote the article. Selectman Jackson read his version of the article and then read Town Counsel's version. The Board and Town Counsel, will review further and make any amendments to the articles as needed. The Board voted 3-0-1 on a motion by Selectman Jackson, second by Selectman Nocco as amended article 5 to support the one elected official to serve on one elected board at one time. (Selectman Lambert abstained from voting)

### E. 7-23 Middlesex Road, LLC Sign – appeal

The ZBA approved the application of 7-23 Middlesex Road, LLC at their meeting on October 8, 2015. The decision was filed with the Town Clerk on October 9, 2015. The 20-day appeal period ended on October 29, 2015 without any appeals. Town Counsel has informed me that the Board should take appropriate measures to dismiss the pending action. Based on Town counsel's view, our office would recommend:

The Board voted 3-1-0 to instruct Town Counsel to take the appropriate measures to dismiss the pending action regarding 7-23 Middlesex Road, LLC. (Selectman Lambert voted against the dismissal of the pending action).

### 6. Citizen/Business Time – No one came forward this evening.

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.

### 7. Correspondence

The Board review the 7 pieces of correspondence received and voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to accept the 7 pieces of correspondence.

### 8. Review of Weekly Warrants

The Administrator read the following Weekly Warrants: Warrant #17B for \$614,400.03 on 10/26/2015; Warrant #17S for \$250,706.71 on 10/26/2015; Warrant #17VET for \$9,372.29 on 10/26/2015; Warrant #17S(332) for \$171,805.19 on 10/26/2015; Warrant #18B for \$1,344,978.86 on 11/02/2015; Warrant #18P for \$880,124,33 on 11/2/2015.

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### 9. Town Administrator's Report

- Budget

The Administrator is putting together a budget schedule for the next meeting.

- Departmental Information

The Board of Health will fill the vacancy at their next meeting and will schedule a meeting with the Board to appoint a member.

- Contracting/Procurement

This past week we had bid openings for the carpet replacement the two low bidders, the OPM is checking qualifications.

Senator Donahue informed me that the Senate passed the additional liquor licenses then sent the bill back to the House for their vote.

### 10. Selectmen's Reports

Selectman Nocco spoke of a list of sales of real estate, the real estate does have a restaurant that owns an all alcoholic beverages license. The Board will watch to see if the real estate is listed for sale again.

Selectman Jackson mentioned that it could be something the Town might want to sponsor a candidates' night.

### 11. Executive Session

The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Nocco to enter into executive session to discuss exemption two (2) and three (3) as stated below, and to return to open session only to adjourn. Roll Call Vote, Selectman Steven Nocco, Selectman Corliss Lambert, yes; Selectman Rick Reault, yes; Selectman Robert Jackson, yes. The Board entered into Executive Session at 8:20 PM to discuss the following:

- A. Exemption 2. To conduct strategy sessions in preparation to conduct contract negotiations with nonunion personnel
- B. Exemption 3. To discuss strategy with respect to collective bargaining because an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares - Highway Unit

### 12. Adjournment

The Board voted 4-0 on a motion by Selectman Lambert, second by Selectman Nocco, to adjourn the meeting. The meeting adjourned at 9:00 PM.

Respectfully submitted

Therese Gay  
Admin Assistant

Approved on Monday, November 16, 2015





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

**2. Meeting Minutes**

- A. Regular Session Meeting Minutes for Review/Approval
  - i. Monday, October 5, 2015
  - ii. Monday, October 19, 2015
- B. Executive Session Meeting Minutes for Review/Approval/Not Release
  - i. Wednesday, October 14, 2015

**3. 6:05PM Public Hearing**

- A. Tyngsborough Sports Center Realty Trust, Potash Hill Road: Attorney Peter Nicosia, Special Permit/Site Plan Review

**4. New Business**

- A. Festival of Trees application for 1-day liquor license
- B. FERC: consideration to apply for Intervention Status
- C. Appointment of Library Circulation Assistant – Kelly Johnson
- D. Technology Use Policy

**5. Old Business**

- A. Sewer Phase I West – Order of Taking
- B. Melissa Robbins / Doug Deschenes (Worden Road LIP)
- C. Surplus Vehicles – two additional vehicles
- D. Special Town Meeting – articles
- E. 7-23 Middlesex Road, LLC Sign – appeal

**6. 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.

**7. Correspondence**

**8. Review of Weekly Warrants**

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## 9. Town Administrator's Report

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

## 10. Selectmen's Reports

### 11. Executive Session

- A. Exemption 2. To conduct strategy sessions in preparation to conduct contract negotiations with nonunion personnel
- B. Exemption 3. To discuss strategy with respect to collective bargaining because an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares – Highway Unit

## 12. Adjournment

### Future Meetings

**Monday, November 16, 2015 at Tyngsborough Town Offices, 25 Bryants Lane**

**Monday, November 30, 2015 at Tyngsborough Town Offices, 25 Bryants Lane**

**Monday, December 7, 2015 potential**

**Special Town Meeting: December 8**

