



**SPECIAL TOWN MEETING MINUTES
FEBRUARY 10, 2015**

Place: Tyngsborough Elementary School
Moderator: Robert L. Kydd, Jr.

Time: 7:07 pm
Voters: 220

The meeting opened with the Pledge of Allegiance.

Motion: That the following individuals, who are not residents, be allowed to speak at the meeting: Attorney Charles Zaroulis, Superintendent of Schools Donald Ciampa, Town Accountant Catherine Gabriel, Town Administrator Curt Bellavance, and Assistant Town Administrator Nina Nazarian.

Article 1. To see if the Town will vote to appropriate, borrow or transfer from available funds, an amount of money to be expended under the direction of the School Committee for the purpose of replacing the roof and boiler at Tyngsborough High School, 36 Norris Road, Tyngsborough, MA 01879, which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) fifty-two and eight-nine hundredths percent (52.89%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA or to take any other action relative thereto.

Motion: To accept the Article as read.

Action: Moderator called for a reverse hand count. Those opposed were counted at 12. The moderator sees in excess of 60 in favor. The article passes with two-thirds voting in favor.

Article 2. To see if the Town will vote to appropriate the sum of \$1,600,000.00 for road reconstruction and/or repairs, engineering, and drainage, including all costs incidental or related thereto, to be expended by the Board of Selectmen, and to determine whether this appropriation shall be raised by borrowing or otherwise; provided that any borrowing authorized be expressly contingent upon the Town voting to approve a proposition 2 1/2 debt exclusion referendum question at a town election to be held; or take any other action relative thereto.

Motion: To accept the Article as read.

Action: Moderator called for a reverse hand count. Those opposed were counted at 21. The moderator sees in excess of 80 in favor. The article passes with two-thirds voting in favor.

Article 3. To see if the Town will vote to appropriate by transfer from available funds the sum of \$123,662 to supplement the Tyngsborough School Budget for fiscal year 2015 to be expended by the School Committee. Said amount represents reimbursements made through June 30, 2014 from the Municipal Medicaid Program for school services provided to eligible residents, or take any other action relative thereto.

Motion #1: That the Town vote to approve Article 3 as printed in the warrant.

Motion #2: To amend the Article by replacing the words "transfer from available funds" with "transfer from Free Cash".

Action #2: Passes to amend the Article.
Action #1: Article 3 passes as amended.

Article 4. To see if the Town will vote to 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 2015, or take any other action relative thereto.

FROM: Free Cash	\$60,663.34
TO: Acct. #251-422-4600 Chapter 90	\$663.34
Acct. #900-210-3010 Police Detail Fund	\$60,000.00

Motion: To amend the Article by changing "available funds" to "free cash" and deleting "and/or appropriate by transfer from one or more municipal government accounts".

Action: Article passes as amended.

Article 5. To see if the Town will vote to rescind the following borrowing authorizations:

- A. \$2,754 of the \$227,000 authorized under Article 10 of the Annual Town Meeting of May 16, 2000 for Sewer Filtration
- B. \$31,375 of the \$300,000 authorized under Article 34 of the Annual Town Meeting of May 16, 2006 for Phase III, IV, V Wastewater Management
- C. \$5,845 of the \$150,000 authorized under Article 19 of the Annual Town Meeting of May 20, 2008 for Inflow/Infiltration Study
- D. \$3,000 of the \$210,000 authorized under Article 10 of the Annual Town Meeting of June 7, 2011 for a fire truck
- E. \$6,985 of the \$35,000 authorized under Article 2 of the Special Town Meeting of February 15, 2012 for a building commissioner vehicle
- F. \$1,944 of the \$48,000 authorized under Article 2 of the Special Town Meeting of February 15, 2012 for a fire department vehicle (Car 1)
- G. \$200 of the \$25,000 authorized under Article 2 of the Special Town Meeting of February 15, 2012 for the Norris Road Field/Aud Design/Eng
- H. \$2,000 of the \$52,000 authorized under Article 8 of the Annual Town Meeting of May 21, 2013 for the Highway Wood Chipper.

Motion: That the Town vote to approve Article 5 as printed in the warrant.

Action: Does pass.

Article 6. To see if the Town will vote to authorize the Board of Selectmen to accept, for no monetary consideration, the conveyance of the following property (Senior Center) from Tyngsboro Partners, LLC upon terms and conditions deemed by the Board of Selectmen to be in the best interest of the Town.

That a certain parcel of land, together with all buildings and improvements thereon, located at 169 Westford Road in Tyngsborough, Middlesex County, Massachusetts, a lot containing 1.63 acres.

Motion: Town will vote to authorize the Board of Selectmen to accept, for no monetary consideration, the conveyance of the following property (Senior Center) from Tyngsboro Partners,

LLC upon terms and conditions deemed by the Board of Selectmen to be in the best interest of the Town.

That a certain parcel of land, together with all buildings and improvements thereon, located at 169 Westford Road in Tyngsborough, Middlesex County, Massachusetts, a lot containing 1.85 acres and any necessary easements.

Action: Article does carry as read.

Article 7. To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 44 Section 55C, for the creation of an Affordable Housing Trust Fund and to amend the Town Bylaws by adding the below as Article XLIV; or to take any other action relative thereto.

Section XLIV Affordable Housing Trust Fund

Section 1. Name of Trust

The Trust shall be called the "Tyngsborough Affordable Housing Trust Fund" (Trust).

Section 2. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Tyngsborough (Town) for the benefit of low and moderate-income households. In furtherance of this purpose, the Trustees are authorized, in accordance with the below procedures to acquire by gift, purchase or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property held by the Trust and the net earnings from such properties shall be used exclusively for the preservation and creation in the Town of affordable housing for the purposes for which this Trust was formed.

Section 3. Tenure of Trustees

There shall be a Board of Trustees (Trustees) consisting of not less than five nor more than seven trustees who shall be appointed by the Board of Selectmen (Selectmen). At least one of the Trustees shall be a member of the Selectmen, or its designee. One member of the Trustees shall be the Town Administrator, or his or her designee. Only persons who are residents of the Town shall be eligible to hold the office of Trustee, provided, however, the Town Administrator need not be a resident. Trustees shall serve for a term of two years, except that two of the initial Trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Selectmen. Any Trustee who ceases to be a resident of the Town shall cease to be a Trustee and shall promptly provide a written notification of the change in residence to the Selectmen. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee before his or her term of office expires, a successor shall be appointed by the Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining trustees.

Section 4. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, M.G.L. c. 30A, §§ 18 – 25. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

Section 5. Powers of Trustees

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of M.G.L. c. 44, § 55C:

- A. With the approval of the Selectmen, to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation, grants of funds or other property tendered to the Trust in connection with provisions of any zoning by-law or any other by-law;
- B. With the approval of the Selectmen, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- C. With the approval of the Selectmen, to sell, lease, exchange, transfer or convey any real or personal property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to Trust real or personal property notwithstanding the length of any such lease or contract;
- D. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
- E. To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
- F. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- G. To apportion receipts and charges between income and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- H. With the approval of the Selectmen, to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution, to vote any securities or certificates of interest, and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

- I. With the approval of the Selectmen, to deposit any security with any reorganization committee, and to delegate to such committee such powers and authority as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
- J. To carry property for accounting purposes other than acquisition date values;
- K. With the approval the Selectmen and the approval of Town Meeting by a two-thirds majority vote, to incur debt, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, and to mortgage and pledge Trust assets as collateral;
- L. With the approval of the Selectmen, to disburse Trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in the Town upon such terms as the Trustees shall deem most appropriate to carry out such purposes;
- M. To make distributions or divisions of principal in kind;
- N. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of M.G.L. c. 44, § 55C, to continue to hold the same for such period of time as the Trustees may deem appropriate;
- O. To manage or improve real property and, with the approval of the Selectmen, to abandon any property which the Trustees determine not to be worth retaining;
- P. To hold all or part of the Trust property not invested for such purposes and for such time as the Trustees may deem appropriate; and
- Q. To extend the time for payment of any obligation to the Trust.

Section 6. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning by-law, exaction fee, or private contribution, or other by-law shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees within one year of the date they were appropriated into the Trust, remain Trust property.

Section 7. Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

Section 8. Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically here authorized. The Trust is a public employer and the Trustees are public employees for the purposes of M.G.L. c. 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of M.G.L. c. 268A.

Section 9. Taxes

The Trust is exempt from M.G.L. c. 59 and c. 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any of its subdivisions.

Section 10. Custodian of Funds

The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

Section 11. Governmental Body

The Trust is a governmental body for purposes of Sections of M.G.L. c. 30A §§ 18-25.

Section 12. Board of the Town

The Trust is a board of the Town for purposes of M.G.L. c. 30B and M.G.L. c. 40, § 15A but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from Chapter 30B.

Section 13. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

Section 14. Recordings

The Trustees have the authority to execute, deliver, and record with the Registry of Deeds any documents required for any conveyance here authorized.

Section 15. Titles

The titles to the various Articles are for convenience only and are not to be considered part of such Articles nor shall they affect the meaning or the language of any such Article.

Or take any other action relative thereto.

Motion: That the Town vote to approve Article 7 as printed in the warrant.
Action: Does carry.

Article 8. To see if the Town will vote to transfer \$26,745.63 from Receipt Reserved for Appropriation for Affordable Housing account to the Affordable Housing Trust Fund. These funds were received on April 23, 2013 and held in a receipt reserved account pending the creation of an Affordable Housing Trust to support affordable housing with the Town; or take any other action relative thereto.

Motion: That the Town vote to approve Article 8 as printed in the warrant.
Action: Does carry.

Article 9. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts to pass an act entitled, "An Act Authorizing the Town of Tyngsborough to Grant Additional Licenses for the Sale of Alcoholic Beverages," being substantially as set forth below:

An Act Authorizing the Town of Tyngsborough to Grant Additional Licenses for the Sale of Alcoholic Beverages.

SECTION 1.

(a) Notwithstanding the maximum number of licenses authorized to be granted under section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the Town of Tyngsborough may grant up to ten (10) additional all-alcoholic beverages restaurant licenses and two (2) wine and malt restaurant licenses for the sale of alcoholic beverages to be drunk on the premises, under section 12 of said chapter 138, and two (2) additional licenses for the sale of alcoholic beverages to be drunk off the premises, under section 15 of said chapter 138, to operators and locations to be determined by the licensing authority. The licenses shall be subject to all of said chapter 138, except section 17 and section 17A.

(b) A license granted under this section shall not be transferrable to any other person, corporation or organization for three (3) years after the original issuance. A transfer in violation of the Act shall render the license void.

(c) (1) All-Alcoholic Beverages Restaurant Licenses:

One (1) license shall be located in the Town Center, a designated economic development zone which is 2,000 feet from the intersection of Middlesex Road and Kendall Road, with a maximum of fifty (50) seats; one (1) license shall be located in the same economic development zone with a maximum of seventy-five (75) seats, and one (1) shall be located in the same economic development zone with a maximum of one hundred (100) seats.

(2) Malt and Wine Restaurant Licenses:

One (1) license shall be located in the Town Center, a designated economic development zone, with a maximum of fifty (50) seats.

(3) Two (2) licenses for off-premises, package stores. Each license shall be located on the east side of the Merrimack River.

(4) A license granted under Section 1 (c) (1) and (2) located in the designated economic development zone shall have frontage on Kendall Road, Middlesex Road, or Pawtucket Boulevard; and such frontage shall be as required by the Zoning Bylaws or by variance, or if a legal pre-existing, nonconforming lot.

(d) Notwithstanding any special law or rule or regulation to the contrary, the licensing authority of the Town of Tyngsborough may approve the transfer of the licenses to any other location, except as herein provided. The licenses may be reissued by the licensing authority, if an applicant for the license files with the licensing authority a Certificate of Good Standing from the Department of Revenue (or other required documentation demonstrating tax compliance), indicating that the licensee is in good standing with the Department and that all applicable taxes have been paid.

(e) If the licenses granted under this section are cancelled, revoked or no longer in use, they shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the licenses to new applicants and under the same conditions as specified in this Act.

SECTION 2. This Act shall take effect upon its passage.

Or take any action relative thereto.

Motion: That the Town vote to approve Article 9 as printed in the warrant.
Action: Does carry.

Article 10. To see if the Town will vote to close the following accounts of the Community Preservation Fund by transferring the remaining balance in each account to the Community Preservation Account from which the funds were originally transferred from as listed below or take any other action relative thereto.

FROM:	Acct. #230-172-6815-000 CPC Purchase of 8 Acres, 68 Bowers Avenue	\$ 9,957.96
	Acct. #230-172-6810-000 CPC Blue Bird Houses	\$ 32.69
	Acct. #230-172-6809-000 CPC Sherburne Nature Boardwalk	\$ 1,615.17
	Acct. #230-172-6804-000 CPC Create Park at Frost Road	\$ 9,363.62
TO:	Acct. #230 CPC Budget Reserve Account	\$ 9,957.96
	Acct. #230 CPC Reserve for Open Space	\$11,011.48

Motion: That the Town vote to approve Article 10 as printed in the warrant.
Action: Does carry.

Article 11. To see if the Town will vote to amend the Town Bylaws, Article XL Capital Asset Committee, Section 2, as follows: The Capital Asset Management Committee (the "Committee") shall be composed of five members, consisting of **two** one members of the Board of Selectmen, one member of the Finance Committee, **and two** one members of the School Committee. **The Town Treasurer[,] and [the] Town Accountant will serve as ex-officio members with no voting powers.** The members representing the Board of Selectmen, the Finance Committee, and the School Committee shall be selected by their respective committees. The Committee shall choose its own officers.

or take any other action relative thereto. **ADD BOLDED** and DELETE UNDERLINE

Motion: That the Town vote to approve Article 11 as printed in the warrant.
Action: Does carry.

Article 12. To see if the Town will vote to amend the Town Bylaws, Article I Town Meetings, Section 2, as follows: The copies of warrants for all Town Meetings shall be posted in accordance with law at the following locations: Town Hall, **Senior Center**, Fire Station #1, **and** Fire Station No. 2 on Lakeview Avenue and Flints Corner Plaza, or take any other action relative thereto. **ADD BOLDED** and DELETE UNDERLINE

Motion: That the Town vote to approve Article 12 as printed in the warrant.

Motion #2: To add the Early Childhood Center/Lakeview School as a posting location.

Action on amendment: Does carry.

Article 13. To see if the Town will vote to amend the Town of Tyngsborough Zoning Map, Assessor's Map 20, Lot 119 (4 Cassaway Drive) from Business-1 to Business-2;

Motion: That the Town vote to approve the article as written.

Action: Moderator called for a hand count. Those in favor were counted at 71 and those opposed 26. The article passes with two-thirds voting in favor.

Motion: To adjourn the meeting.

Action: Meeting adjourned at 9:23 pm.

Attest: A true copy.

Joanne Shifres
Town Clerk