



# 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

**APPROVED**

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Monday, November 18, 2013 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

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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.

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

## **2. 6:00 PM FY 2014 Tax Classification Hearing**

The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Curseaden to open the Tax Classification Hearing.

The Clerk, Selectman Reault, read the notice that was advertised in the Lowell Sun on Monday, November 4 and Monday November 11, 2013.

The Assessors' Office did submit the hearing packet to the Board and they should note that the anticipated tax rate is an estimate, pending the Department of Revenue approval of New Growth. The average residential tax bill is anticipated to increase approximately \$164.00. New Growth is estimated at \$165,300, down from \$285,256 in FY 2013.

A member of the Board of Assessors, Phil O'Brien, and the Assistant Assessor were present this evening to present the Tax Classification that is required by law, prior to the Assessors Setting the tax rate. The purpose of this meeting is to inform the public of the options available and ultimately, for the Selectmen to determine whether or not to shift the tax rates among the various classes of property. The vast majority of municipalities that shift their rates are cities and very large towns, which have a large value percentage of non-residential properties, which Tyngsborough does not. Tyngsborough has always maintained a residential factor of "1". And therefore, the tax rate has been the same for each type of property, whether residential, commercial, industrial or personal property. The Assessors recommend the Board vote to keep the tax classification at a factor of "1". After a brief question/comment session, the Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to close the hearing.

The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Reault to approve a tax classification factor of one for Fiscal Year 2014.





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The Chair called for a 5 min recess at 6:20 PM for the purpose of signing the appropriate form. The Board returned to open session at 6:25 PM.

### 3. Meeting Minutes

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

##### 1. Monday, November 4, 2013 – Regular Session

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve the Minutes of Monday November 4, 2013.

#### B. Executive Session Minutes for Review/Approval

##### 1. Monday, October 28, 2013

The Board voted 3-1-1 on a motion by Selectman Reault, second by Selectman Jackson for discussion, to approve/and not release the Minutes of Monday October 28, 2013. Discussion, Labor Counsel advised the Board that the minutes should not be released. Selectmen Reault, Puleo and Lambert voted to approve and not release on the advice of Labor Counsel. Selectman Jackson favors to approve and release. Selectman Curseaden abstains.

### 4. 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.

Ms. Samantha Allen, Lowell Sun reporter, requested a copy of the executive session minutes of Monday October 28, 2013 citing Mass General Law Chapter 30A section 22. The Board asked Ms. Allen to meet with them after the meeting.

Ms. Mary Jo Tatseos presented the Board with a shovel from the ground breaking ceremony for the Greater Lowell Vocational Technical High School. The school is undergoing renovation to update the school to better serve the students. The School Committee and staff thank the Board for their support of the students.

### 5. 6:30 PM Special Permit Request – 28 Westford Road

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

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to waive the reading of the legal notice and the list of abutters.

Attorney Douglas Hausler and Mr. Ron Greenwood, were present for the hearing and presented the petition for an increase in vehicles for sale. Attorney Hausler representing Mr. Greenwood has submitted a complete special permit application as requested by the Building Commissioner. Mr. Greenwood has addressed all concerns relating to the petition. Selectman Jackson voiced his concern that the Town's center has an increase in used car lots. Selectman Jackson usually supports business owners but now questions if this is right for our community. Selectman Curseaden questioned the accessibility to the customers, where will they park. Atty. Hausler the accessibility can be defined by the elimination of additional spots and can designate spots for the customers. The Fire Department has not yet viewed the plan as they came in only today 11/18/2013. Selectman Lambert asked if the access will accommodate emergency vehicles, Atty.





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Hausler indicated that it does and will do whatever the Fire Department asks. Selectman Reault, asked if there are cars for sale right now, it doesn't look like there are 15 cars for sale. Will there be improvements to the property Mr. Greenwood indicated no. Selectman Lambert would like to continue the hearing until the Fire Department and requester agree. Not interested in Tyngsborough to become a car lot, if the Town wants to then he would approve of the plan. The building is reasonably well kept and the business is well managed. Selectman Curseaden awaits the Fire Department's comments. Selectman Puleo also has concerns about the number of car lots in Town, is not happy on the site view and has safety concern and will defer to the Fire Department. The Board voted 5-0-0 on a motion by Selectman Lambert, second by Selectman Curseaden to continue the hearing to Monday December 9, 2013. Atty. Hausler asked who he should contact to coordinate with the Board about their concerns. The Chairman answered that it would be the Town Administrator. The Chair called a 5 min recess at 7:05 PM. The Board returned to open session at 7:10 PM.

### **6. 7:00 PM Joint Meeting with Council on Aging**

The Chairman, Theresa Martineau and Vice-chairman, Robert McCarthy of the Council on Aging Committee were present at the meeting along with the Director Barbara Roche.

#### **A. "Yellow Dot" Program – Overview**

Ms. Roche presented the "Yellow Dot" program. This program is design to assist first responders in the event of an automobile accident or other medical emergency involving the participant's vehicle. The program can help save lives during the critical "golden hour" by improving communication at a time when accident victims may be unable to communicate for themselves. It is simple: Participants in the free program receive a yellow dot to place on their rear window; it alerts emergency services and first responders to look for a 'File of Life' in the glove box. This file, just like the 'File of Life' that you place on your refrigerator, contains important personal information regarding your emergency contacts, physicians' information, medical conditions, recent surgeries, allergies and medications being used in the event that you are unable to give the information. The Yellow Dot program is a free service provided to individuals of all ages, with an emphasis on senior citizens. The program is a cooperative effort between the Town of Tyngsborough's Council on Aging and the Police Department and Fire Department, with additional sponsorship from Carbon Colors, Inc. The Police Chief and the Fire Chief supports this program by assuring the information. The yellow sticker will be placed in the rear window of the car. The Chiefs will put a policy in place. Captain Sands will be at the center to help the seniors with the file of life.

#### **B. Senior Center – Discussion**

The Board of Selectmen, the Council on Aging Members met with the architect for Tyngsboro Partners along with Mr. Finnegan and Mr. Piznola. The architect presented the proposed senior center building that will be built on Westford Road. The building has been redesign from a two story building to a single story, eliminating the basement and the need for an elevator and stairs. The architects will meet with the Council on Aging members on Tuesday to review the plans and make any comments or voice any change that is needed. The Board is pleased with the presentation as is the Council Members. Tyngsboro Partners is meeting with the Zoning Board of Appeals on December 12 to address the change to the Comprehensive Permit. Mr. Finnegan and Mr. Piznola ask if the Board could write a letter support the change, and the Council Member will





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do the same. The Board voted 5-0-0 on a motion by Selectman Lambert, second by Selectman Reault to compose a letter of support on the changes to the Zoning Board of Appeals.

### C. Wyndbrook – Affordable Housing Unit Availability

Wyndbrook affordable housing units: residents have the opportunity to apply for these units. The applications are in the office. Mr. Finnegan and Mr. Piznola spoke on the availability of 6 affordable units at Wyndbrook since the lottery did not have suitable response the agency is offering the units at a first come first serve and are available to residents of other communities.

## 7. Old Business

### A. Pendergast Dog Hearing – Sign Decision

The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to authorize the Chairman to sign the decision relative to the November 4, 2013 dog hearing.

### B. License Renewal Requests – Continue Discussion

The requested information has been provided, discussions continue. The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Curseaden to notify the establishments of pending license fee increases for the calendar year 2014 renewals. The Board voted 5-0-0 on a motion by Selectman Puleo, second by Selectman Lambert to have the Town Administrator notify the licensees of the potential license fee changes for calendar year 2014.

### C. Street Acceptance / Road Repair – Continue Discussion

The Proposal submitted on November 4<sup>th</sup> continues to be reviewed and revised based on comments from members at and after the meeting. Of note: 1) attempting to model a schedule based on current funding versus the “ideal” 20 year cycle; 2) investing upfront on engineering for projects that could be funded from other funding sources; and 3) the most advisable methodology to invest in arterial versus residential streets. We hope to have a more concrete model based on this feedback for the December 9<sup>th</sup> meeting. Discussion on funding the project, the Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to ask the Administrator to write a letter to the State that the Town has put together a plan and now ask for additional funding for relief.

## 8. New Business

### A. MGL Chapter 41 Section 41A – Accept (dissemination of Town employee paychecks)

The Massachusetts General Law Chapter 41 Section 41A allows the Town Treasurer to deliver employee payroll checks to employees by giving them to the employee’s respective department head, with the authorization of the Board of Selectmen. This has been a practice in the Town Offices for a number of years; however it was recently identified that the Board may not have been requested to approve the practice. At the request of the Finance Coordinator/Town Treasurer, the Board is respectfully requested to authorize the Town Treasurer to distribute employee payroll checks through the respective department heads.

The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to adopt Mass General Law Chapter 41 Section 41A as requested by the Finance Coordinator/Town Treasurer.





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### B. Old Town Hall

#### 1. Project Update

It is anticipated that the Old Town Hall will be available for use beginning on or about January 2, 2014. The project remains within the appropriation. In addition to the construction completion, a significant amount of attention is being paid to outfitting the building with tables and chairs, as well as maintenance equipment. Selectman Reault stopped by the Old Town Hall to see how things were going. The building will be ready in a couple of weeks, major inspections to be done end of this week. Selectman Puleo asked about an open house, the Administrator and Selectman Reault met with the Historical Commission and they hope to have an open house before the end of January. There will be more details about an open house at the Monday December 9, 2013 meeting.

#### 2. Facility Use Policy – Review Draft

The Administrator submitted a draft facility use policy. This policy is the current policy for the Town Offices and Littlefield, edited for the Old Town Hall and including items from the facility use policy for a similar building (Chelmsford's North Town Hall/Community Center, the policy for which is attached). Important policy decisions are as follows: 1) Fee structure? 2) Requirement to have on-site custodial staff during events? and 3) The Board's willingness to issue one-day liquor alcoholic beverages licenses for the property? The Administrator is looking for feedback on the draft policy. Mr. Joseph Jacoppi has volunteered and so did Selectman Jackson to help review the draft policy. After some discussion the Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert that the A&B groups move forward and to come back with a recommendation.

#### 3. Review/Approve Request of Education Foundation of Tyngsborough

There is a request to use the facility January 10 – 11, 2014, and request for the One-Day License, the request is from the Education foundation of Tyngsborough. The Education Foundation has submitted a revised request for the use of the Old Town Hall and a revised One Day Special License. The Board reviewed the request and voted 4-0-1 on a motion by Selectman Reault, second by Selectman Lambert to approve the use of the Old Town Hall on January 24 and 25, 2014. Selectman Jackson discloses that the Member of the Education Foundation is his wife and though sees no conflict he will not be participating this evening. There was some discussion on the volume of people who will be attending, because of the limited space for parking. There is a need to address the issue of parking for the patrons. The Board voted 4-0-1 on a motion by Selectman Reault, second by Selectman Lambert to approve the One Day Special License for January 24 and 25, 2014 and the Board waives the fee. There was some discussion on the consumption of alcohol on Town property. Town Counsel is in the opinion that the Board can issue, though the One Day Special License is restricted to 30 licenses per calendar year, and the owner of the property being the Board of Selectman can authorize the consumption of alcohol on the property. The Education Foundation now has members who are TIP Certified. The Administrator will request a copy of the certification for the file.

### C. Review December Meeting Schedule

The Board discussed the meeting dates for December and agreed to meet on Monday December 9 and Monday December 16, the Board will meet on December 23 only if necessary.

### D. Request for Comments

#### 1. 3A Gas Inc., 257 Middlesex Road

The petitioner withdrew the application without prejudice.





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### 2. 30 Progress Avenue

The Administrator has no comments on the 30 Progress Avenue petition. The Board voiced no comments on the request.

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

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### 10. 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 Lambert to accept the correspondence as read with the inclusion of the Police Chief's letter. The Board asked that the Chief attend their next meeting for discussion.

### 11. Review of Weekly Warrants

The Town Administrator read the following Warrants:

Warrant #21B for \$705,029.55 on 11/18/2013; Warrant #21S for \$328,300.19 on 11/18/2013; and Warrant #21P for \$809,635.65 on 11/18/2013; and Warrant #20B for \$225,914.75 on 11/12/2013.

### 12. Town Administrator's Report

- Response to Selectmen's Requests
- Budget

The Administrator is attempting to arrange a joint meeting with the Finance Committee regarding the budget for December 9, 2013.

Attached is a copy of the notification of the certified Free Cash as of July 1, 2013. On November 12, 2013, the department of Revenue certified Free Cash as of July 1, 2013 for the Town at \$761,894. The DOR also certified \$1,998,879 in Sewer Enterprise available funds. Please note that the Sewer available fund amount reflects a change in DOR requirements, which no longer permit independent reserve accounts for capital and operating accounts and require that such funds be reflected within the Sewer available funds. The Sewer certified Free Cash includes reserve account funds from previous years' appropriations. An overview of the source of the General Fund Free Cash amount is as follows: 1) \$505,575 in departmental appropriations turned back; 2) \$173,549 in un budgeted revenue, \$111,943 of which was unanticipated state aid and a decreased in state assessments, Local Receipts yielded unbudgeted revenue of \$61,606; 3) \$82,770 in adjustments, including available Overlay, Police Detail, and SRF funds. The performance seen in various revenue categories is being reviewed closely, in advance of potential adjustments to revenue projections for the Fiscal Year 2015 budget, however the state assessment budget is generally dictated by the state-issued Cherry Sheet (which is released with the Governor's proposed budget). The Administrator provided the approved Free Cash policy worksheet populated with the relevant data





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or the Board's review. If the minimum parameters were followed, the balance of Free Cash would be \$509,076. If the maximum parameters were followed, the balance of Free Cash would be \$193,320. The Administrator, the School Superintendent and the Police Chief have met to discuss the security of the school building and the town hall.

- Departmental Information

Chief Howe has begun working with the Superintendent of Schools regarding school building security. Both men have approached me about pursuing this collaboratively as a townwide building safety initiative, which I agree should be examined to identify any unknown best practices. Training will occur in February. Please see the attached correspondence.

- Contracting/Procurement
- Other

Attached is a copy of correspondence sent to MassHousing relative to 125-135 Middlesex Road.

### 13. Selectmen's Reports

Selectman Lambert thanked the Administrator for bringing information to the Board, thank you to the Highway for their continued efforts to make the town a nice place. Thank you to the Board for the time and efforts the Board has put in these past few months. Selectman Reault thanked the American Legion for the Veterans Day ceremony. Selectwoman Puleo noted that the holiday coming up, the town hall will be closed November 28 and 29, and December 25 and January 1, 2014. The Festival of Trees is December 6-8 with the tree lighting on December 7<sup>th</sup>. The Howe bridge in Lowell will open to commuters tomorrow November 19<sup>th</sup>.

### 14. Executive Session

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to enter into Executive Session to discuss the following :

- A. Exemption Two – To conduct strategy sessions in preparation for negotiations with nonunion personnel or conduct contract negotiations with nonunion personnel – Deputy Police Chief.
- B. 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 exit executive session only to adjourn. Roll Call Vote: Selectman Rick Reault, yes; Selectwoman Karyn Puleo, yes; Selectman Robert Jackson, yes; Selectman Curseaden, yes; Selectman Corliss Lambert, yes. The Board entered into Executive Session at 8:30PM.

### 15. Adjournment

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to adjourn the meeting at 9:10PM.

Respectfully submitted

Therese Gay  
Admin Assistant

Approved on: Monday December 9, 2013

*Town of Tyngsborough*  
massachusetts





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**2. 6:00 PM FY 2014 Tax Classification Hearing**

**3. Meeting Minutes**

- A. Regular Session Meeting Minutes for Review/Approval
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- B. Executive Session Minutes for Review/Approval
  - 1. Monday, October 28, 2013

**4. Citizen/Business Time – No one came forward this evening.**

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**5. 6:30 PM Special Permit Request – 28 Westford Road**

**6. 7:00 PM Joint Meeting with Council on Aging**

- A. "Yellow Dot" Program - Overview
- B. Senior Center – Discussion
- C. Wyndbrook – Affordable Housing Unit Availability

**7. Old Business**

- A. Pendergast Dog Hearing – Sign Decision
- B. License Renewal Requests – Continue Discussion
- C. Street Acceptance / Road Repair – Continue Discussion

**8. New Business**

- A. MGL Chapter 41 Section 41A – Accept (dissemination of Town employee paychecks)
- B. Old Town Hall
  - 1. Project Update
  - 2. Facility Use Policy – Review Draft
  - 3. Review/Approve Request of Education Foundation of Tyngsborough
- C. Review December Meeting Schedule
- D. Request for Comments





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### **11. Review of Weekly Warrants**

### **12. Town Administrator's Report**

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

### **13. Selectmen's Reports**

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### **15. Adjournment**

