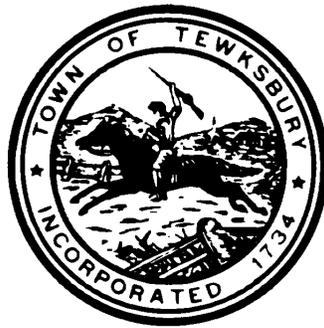


SPECIAL TOWN MEETING

**2012
WARRANT**



**TOWN OF TEWKSBURY
COMMONWEALTH OF MASSACHUSETTS**

Finance Committee Public Hearing

**September 18, 2012 7:00 P.M.
Town Hall Auditorium**

Special Town Meeting

**October 2, 2012 7:00 P.M.
Tewksbury Memorial High School**

Town of Tewksbury Website: <http://www.tewksbury-ma.gov>

TOWN MEETING GUIDELINES

- ** Voters and Visitors shall have their identification ribbons conspicuously displayed.
- ** Visitors shall sit in the designated VISITORS SECTION unless they are assigned to a designated area.
- ** Standing at the doors or in the aisles inside the gymnasium or auditorium is prohibited.
- ** No one shall enter the gymnasium or auditorium while voting is in progress.
- ** Everyone shall be at a seat so as to allow the vote to be counted without hindrance.
- ** Collecting signatures upon petitions or nomination papers is prohibited in the building where the Town Meeting is being held.
- ** Food and beverages are not allowed in the gymnasium or auditorium as per order of the School Committee.
- ** Smoking is not allowed in the School Building or on School Property.
- ** To prevent active interference with the conduct of the Town Meeting, any person taping, video taping or using any other means of sonic reproduction is assigned to the designated Press Table or the side aisle perimeters of the gymnasium or auditorium.

This meeting is being held at a site which is physically accessible to persons with disabilities.

For further information please call 978-640-4355.

CART services need to be requested as early as possible, as CART providers often fill their schedule 2-3 months in advance.

Other reasonable accommodations for disability related needs will be provided upon request.

Middlesex, ss:

To any of the Constables of the Town of Tewksbury, in said County:

In the name of the Commonwealth of the Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Tewksbury, qualified to vote in Town affairs, to meet and assemble at Tewksbury Memorial High School, 320 Pleasant Street, in said Tewksbury on Tuesday, October 2, 2012, at 7:00 P. M. to act on the following articles:

ARTICLE 1

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of money needed to fund and implement the Collective Bargaining Agreement between the Town and Local 833, the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) beginning July 1, 2012; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: The intent of this article is to appropriate or transfer funds for a new labor agreement with Local 833, the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME).

ARTICLE 2

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$422,970.00 for the following for purposes; or take any other action relative thereto.

DPW Elgin Sweeper	\$170,000
Pay-off outstanding Town Leases	\$132,970
School - 30 Smartboards	\$90,000
School - 200 Monitors	\$30,000
Total:	<u>\$422,970.00</u>

TOWN MANAGER

Executive Summary: This article allows the Town to utilize funds that were considered available as of July 1, 2012, for the above one-time expenditures. Elgin Sweeper: Funds will replace the current 2001 Elgin Pelican Street Sweeper which is currently not operational. This piece of equipment will be 12 1/2 years old before a replacement can be delivered. Lease Pay-off: Funds will be used to pay existing town leases that have been paid from within various Departments Annual Operating Budgets. By using a portion of the funds to pay these leases off the Town will save in interest costs. Smartboards and Monitors: Funds will be used to purchase for Elementary Schools used for Classroom Technology.

ARTICLE 3

To see if the Town will vote to transfer from the certified General Fund Free Cash \$14,000 to the Health Insurance Mitigation Fund; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: This article utilizes Free Cash certified as of July 1, 2012 to add funds to the Health Insurance Mitigation Fund in accordance with an agreement of the Public Employee Groups.

ARTICLE 4

To see if the Town will vote to transfer from the certified General Fund Free Cash \$3,942.18 to pay for the following outstanding bills from the previous fiscal year; or take any other action relative thereto.

To Account:	Outstanding Bill:	
FY2013 School Operating	Cascade Water	\$435.77
FY2013 School Operating	Aubuchon Hardware	\$550.17
FY2013 School Operating	Tewksbury Food Service	\$1825.24
FY2013 School Operating	Reliable Technology	\$1131.00
	TOTAL:	<u>\$3,942.18</u>

TOWN MANAGER

Executive Summary: According to Massachusetts General Laws bills that are late must be approved by Town Meeting before payment. This article authorizes the charges to be paid and allows a transfer from certified General Fund Free Cash to cover the amount.

ARTICLE 5

To see if the Town will vote to transfer from a previously appropriated Warrant Article, Article 9 of the Special Town Meeting October 5, 2004, the remaining balance of \$40,643, and further to transfer \$30,000 from certified General Fund Free Cash to fund a new roof at the Town Hall Annex and repair damage caused from the current roof; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: The town previously appropriated \$100,000 for the replacement of the Town Hall Annex Roof. After funding the design of the new roof, \$90,000 is remaining and the actual cost of the project is \$147,000 based upon bids received. \$40,643 is being transferred from a previously approved article to borrow funds. The original authorization was for \$90,000 to design, construct and equip a new wash bay and storage facility at the Recreation Department Garage and for new Windows at the Town Hall Annex. There is a balance

of \$40,643 remaining and the funds are no longer needed for their original purpose. Massachusetts General Laws Chapter 44, Section 20 allows for the transfer of previously unexpended proceeds of the loan for any purpose for which a loan may be authorized for an equal or longer period of time than that for which the original loan. The remaining funds will be transferred from Certified General Fund Free Cash that is available as of July 1, 2012 and will be used to fund the new roof and address damage caused by the current roof not being repaired. The repair cost is in addition to the new roof cost of \$147,000.

ARTICLE 6

To see if the Town will vote to transfer from the certified Water Enterprise Fund Retained Earnings the sum of \$500,000 for the purpose of paying for cost of new waterline on East Street; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: At Annual Town Meeting \$1,000,000 was authorized for new waterlines in Town. Of that amount \$825,000 was projected for the cost to remove approximately 8,200 feet of 6-inch and 8-inch asbestos cement water main and replace with 12 inch ductile iron water main on East Street (from Maple Street to Andover Town line) and on Shawsheen Street (from East Street to approximately 400 feet on Shawsheen Street). After receiving actual bids the cost of the project is \$1,295,000. This article provides funding to complete the work and provide contingency funds. Any remaining funding will be used to replace 2-inch mains and AC pipe at various locations based on the town's water model. The article allows the Town to utilize funds that were considered available as of July 1, 2012 in the Water Enterprise Fund. Water Retained Earnings as of July 1, 2012 are \$1,751,088.

ARTICLE 7

To see if the Town will vote to raise and appropriate the sum of \$92,409 from the Water Enterprise Fund to pay for the following; or take any other action relative thereto.

New Water Meters	\$15,000
Debt	\$77,409
Total:	<u>\$92,409</u>

TOWN MANAGER

Executive Summary: This article allows the Town raise and appropriate from water receipts the funds needed to purchase sixty (60) 5/8th meters for new homes and secondary meters. Funds will also be used to pay principal and interest costs for a long term borrowing.

ARTICLE 8

To see if the Town will vote to raise and appropriate the sum of \$30,847 from the Sewer Enterprise Fund for Sewer Enterprise Debt Service; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: This article allows the Town to raise and appropriate from sewer receipts for the payment of principal and interest costs for a long term borrowing that took place in August 2012.

ARTICLE 9

To see if the Town will vote to raise and appropriate the sum of \$102,575.97 from the Sewer Enterprise Fund to pay outstanding bills of a previous fiscal year; or take any other action relative thereto.

From	To	
Sewer – Operating	City of Lowell	\$102,575.97
	Total:	<u>\$102,575.97</u>

TOWN MANAGER

Executive Summary: According to Massachusetts General Laws bills that are late must be approved by Town Meeting before payment. This article authorizes the charges to be paid from Sewer Enterprise Fund to cover the amount owed to the City of Lowell for disposing and treating wastewater at their treatment plant.

ARTICLE 10

To see if the Town will vote to raise and appropriate \$275,292 and transfer that amount and \$2,557,534 from Free Cash, for a total of \$2,832,826 to the Town Stabilization Fund; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: Since State Aid will be more than projected, there is a projected General Fund surplus and Free Cash has been certified. This Article seeks approval to be set aside in the Stabilization Fund and used the future emergencies or one time purchases. Certified Free Cash as of July 1, 2012 was \$3,628,447.

ARTICLE 11

To see if the Town of Tewksbury will vote to appropriate the sum of \$375,000 to create a new recreational use through construction of 5 new tennis courts and associated fence on the campus of Tewksbury Memorial High School, 320 Pleasant Street, including allowed costs incidental and related thereto;

To fund such creation, \$375,000 shall be transferred from the Tewksbury Community Preservation Fund Budgeted Reserve.

Pursuant to Massachusetts General Laws, Chapter 44B or any other enabling authority, said funds to be expended under the direction of the Community Preservation Committee and the Tewksbury Town Manager; or take any other action relative thereto.

COMMUNITY PRESERVATION COMMITTEE

Executive Summary: The Tewksbury Town Manager and the Friends of Tewksbury Tennis propose the use of CPA funds for construction of 5 new tennis courts on our High School campus. The use of CPA funds is allowed under Massachusetts General Laws Chapter 44B, Section 5.b.2 as creation of a new recreational use. This project will increase the number of public tennis courts in town from 3, located on Livingston Street, to a total of 8, with these 5 being at the High School. There is an expressed need for the additional community tennis courts for players of all ages and abilities. For comparison, surrounding towns have a range of 13 to 18 public courts. The 5 new courts will also benefit existing and expanding high school team matches and practices, as well as public tournaments. This proposal is endorsed by the Board of Selectmen and the School Committee.

ARTICLE 12

To see if the Town will vote to raise and appropriate or transfer the sum of \$750,000 to be expended by the Town Manager for the cost of constructing an all-purpose artificial turf field at the Tewksbury Memorial High School, including the payment of all costs incidental and related thereto, and to determine whether such amount should be raised by taxation, by transfer from available funds, by borrowing pursuant to Massachusetts General Laws Chapter 44, Section 7(25), Section 8C and Section 12(a) of the Massachusetts General Laws, or pursuant to any other enabling authority, and to issue bonds or notes or by any combination of the foregoing, and further to authorize the Town Manager to seek reimbursement under the Massachusetts Division of Conservation Services PARC Grant Program and enter into all necessary agreements relating to the Grant Program and further provide that no such monies appropriated shall be expended unless the town receives a grant from the Commonwealth and further categorize the land as dedicated park land in accordance with Massachusetts General Laws Chapter 45, Section 14; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: This article authorizes the Town to apply for a Grant through Massachusetts Division of Conservation Services PARC Grant Program to fund the construction of an all-purpose artificial turf field, at the Tewksbury Memorial High School. Funds will not be expended unless the town receives the PARC Grant.

ARTICLE 13

To see whether the Town will vote to accept Massachusetts General Laws, Chapter 59, Section 5K, to establish a property tax work off program for tax payers over 60 years old; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: This article provides for the adoption of the relevant State Statute that governs the property tax work off program for tax payers over 60 years old. By adopting the State Statute it provides guidelines for the Assessors to follow, treating tax withholdings for volunteers and sets the maximum threshold for the hours worked and amount of money that may be abated. \$25,000 was appropriated for the program at the May 2012 Annual Town Meeting to eligible Senior Citizens of the Town to work for Town and School offices and receive a reduction in their property tax bill.

ARTICLE 14

To see whether the Town will vote to accept Massachusetts General Laws, Chapter 59, Section 5N, to establish a property tax work off program for tax payers who are Veterans, and to further approve utilizing funds within Article 19 of the May 7, 2012 Annual Town Meeting; or take any other action relative thereto.

TOWN MANAGER

Executive Summary: This article provides for the adoption of the relevant State Statute that governs the property tax work-off program for tax payers who are Veterans. By adopting the State Statute it provides guidelines for the Assessors to follow, treating tax withholdings for volunteers and sets the maximum threshold for the hours worked and amount of money that may be abated. \$25,000 was appropriated for the property tax work-off program at the May 2012 Annual Town Meeting and those funds will be used to also fund eligible Veterans of the Town to work for Town and School offices and receive a reduction in their property tax bill.

ARTICLE 15

To see if the Town will vote to accept Michael Road as laid out by the Board of Selectmen on September 12, 2012, in accordance with the plan of land entitled: "Street Acceptance Plan, Michael Road, Tewksbury, MA (Middlesex County North Registry District)" dated August 24, 2012, prepared by Surveying and Mapping Consultants, 325 Wood Road, Suite 109, Braintree, MA 02184, a copy of which has been filed with the Office of the Town Clerk, including the taking and/or acceptance of any easements shown on said plan; or take any other action relative thereto.

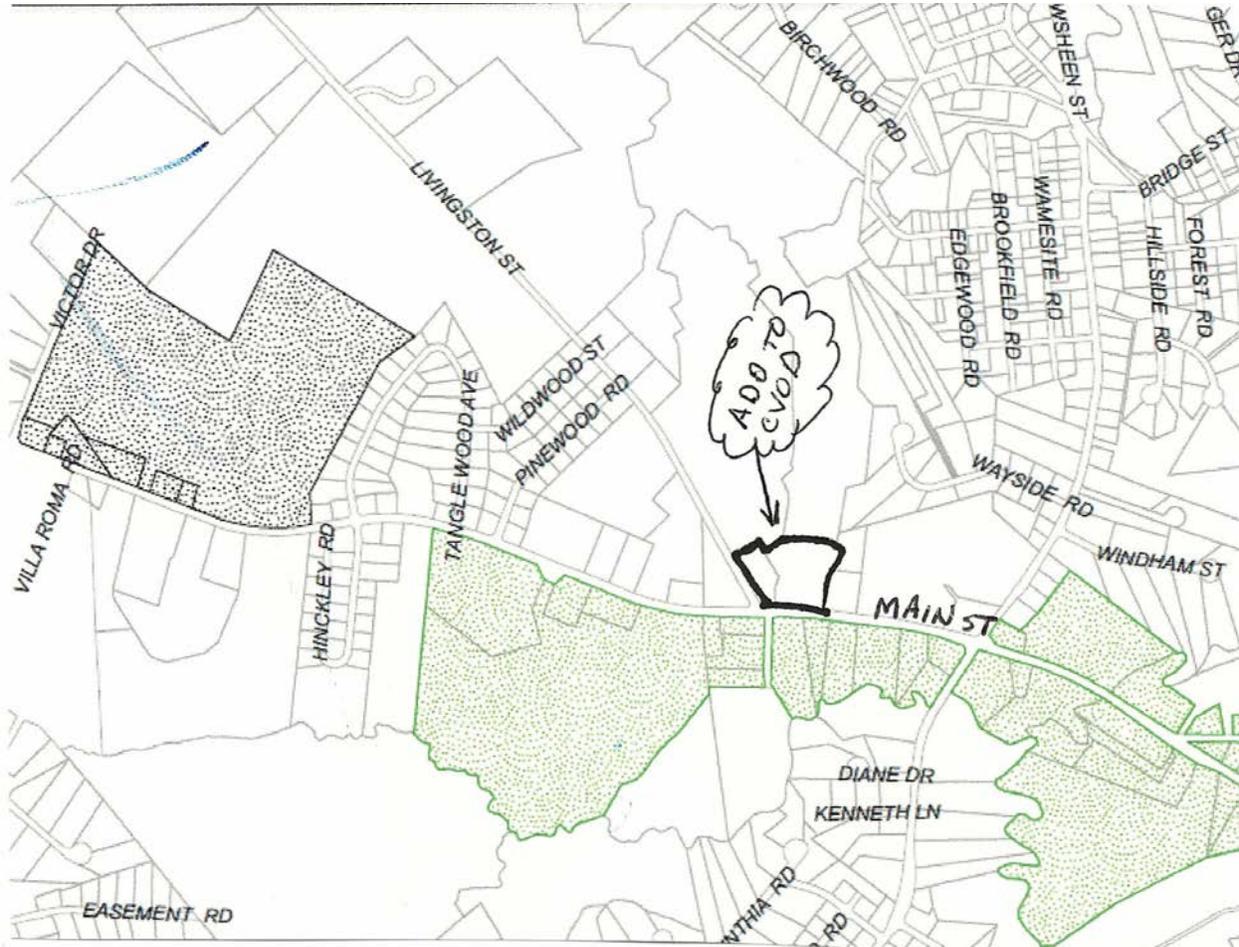
TOWN MANAGER

Executive Summary: The purpose of this article is to accept the new section of Michael Road as a public way (Town Street).

ARTICLE 16

To see if the Town will vote:

1) to amend the Town of Tewksbury Zoning Map by adding the area described on the Map below to the Community Village Overlay District; or take any other action relative thereto.



2) to amend the Tewksbury Zoning Bylaw by adding a new section 8684 n. to read as follows:
8684n. Transient overnight lodging in conjunction with and as an accessory use to function hall.

TEWKSBURY PLANNING BOARD

EXECUTIVE SUMMARY: This article will add the area described on the above referenced map to the Community Village Overlay District. The article also adds an additional accessory use for the Community Village Overlay District.

ARTICLE 17

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by taking the following actions; or take any other action relative thereto.

- 1) Section 2200- Delete 8200 Arts, Crafts, Antiques/ Cottage Industries Overlay District
- 2) Delete Section 8200 Arts, Crafts, Antiques/ Cottage Industries Overlay District

And amend the most recent Town of Tewksbury Zoning Map by deleting the Arts, Crafts, Antiques/ Cottage Industries Overlay District.

PLANNING BOARD

Executive Summary: This zoning overlay district is no longer necessary.

ARTICLE 18

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by adding the following underlined text to the existing language for Cluster Subdivision Special Permits; or take any other action relative thereto.

7340. Dimensional Requirements.

All Other Lot Coverage and Dimensional Requirements	As per the standards prescribed for that district as set forth herein; <u>unless otherwise waived by the Planning Board</u>
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PLANNING BOARD

Executive Summary: The purpose of cluster development is to encourage the preservation of open space for conservation and recreation uses; to promote the better utilization of land in harmony with its natural features and with the general intent of the Zoning By-Law through a greater flexibility in design; to allow for a more efficient provision of municipal services. This article will allow for the greater flexibility in design.

ARTICLE 19

To see if the Town will vote to amend the Town Code known as the Tewksbury By-Laws, Chapter 18. Conservation Commission Wetlands Protection By-Law by changing the definition.

18.04.020 Definitions

“No Build Zone” means that portion of the Buffer Zone up gradient of the No Disturb Zone and extending to a line ~~fifty feet (50’)~~ twenty (20’) from the edge of those Wetland Resources, contiguous or intermittent, with a defined dimension, subject to restriction, defined in this bylaw.

“No Disturb Zone” means that portion of the Buffer Zone which extends ~~twenty five feet (25’)~~ (10’) from the edge of those Wetland Resources, contiguous or intermittent, with a defined dimension, subject to restriction, defined in this bylaw.

18.04.30 Jurisdiction

(7) For the No Disturb Zone which extends ~~twenty five ten feet (25’)~~ (10’) from the edge of the Wetland Resources Area, the Commission shall require the applicant to maintain a minimum continuous ~~25 foot~~ 10 foot wide No Disturb Zone of undisturbed, natural vegetation between the proposed activity and the resource area(s). The Commission shall also require a ~~fifty foot (50’)~~ twenty foot (20’) No Build Zone from the edge of the Wetland Resource Area, whereby the applicant is required to maintain any proposed building (residential or commercial) or structure, as defined in the regulations implementing the bylaw, at least ~~50~~ 20 feet from the resource area(s). When partial encroachment into the No Build Zone setback is unavoidable, the applicant may mitigate this encroachment by increasing the size of the buffer strip area by an amount equal to or greater than the area of the encroachment, using the following guidelines:

- 1) The encroachment shall not exceed 10% of the total area of the No Build Zone setback for the lot; and
- 2) The encroachment shall not exceed 25% of the recommended width of the total setback from the resource area.

- Add: 3) Drainage features associates with storm water management are exempt from the above buffer zones.**
- 4) The commission may waive the setback entirely if there is a determination that the resource areas will not be impaired.**

18.04.45 Performance Standards

- 1) The following standards apply to the Buffer Zone of all the resource areas identified in this by bylaw:

~~25~~ 10 Foot No-Disturb Zone: Except as otherwise provided in this bylaw, no activity is permitted within ~~25~~ 10 feet of the delineated edge of the above-mentioned wetland resource areas. Prohibited activities include, but are not limited to, grading, landscaping, vegetation clearing, cutting, filling excavating, road construction, and driveway construction. This standard has been adopted because the alteration of land immediately adjacent to a wetland is likely to result in the alteration of the wetland itself. Alterations typically result from extension of lawns, depositing/dumping of yard waste, over grading, siltation, deposition of construction debris, unregulated filling, and clearing of vegetation, all of which is prohibited.

18.04.40 Exceptions

Other than as stated below, those exceptions provided in the Wetlands Protection Act shall not apply under this Bylaw.

(1) General Exceptions

c) The following are exempt minor activities as long as they are located in the No Build Zone. These activities are described in the State Wetland Regulations (310 Code of Massachusetts Regulations 10.00 Section 10.58(6)). The landowner can proceed with these tasks without prior review by the Conservation Commission.

vii) Conversion of lawns to decks, sheds, patios, and pools that accessory to single family homes, as long as:

- a. House existed prior to May 1, 2002;

- b. Activity located more than ~~25~~ 10 feet from the Wetland Resource Area or bordering vegetated wetland (whichever is farther, and
- c. Sedimentation and erosion controls used during construction

PHIL AND KRISTEN POLIMENO
TODD AND KRISTEN KEANE

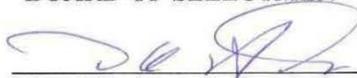
Executive Summary: This amendment provides the Conservation Commission with some flexibility on a case by case basis, for work being done in the local by-law buffer zones. The local by-law remains more restrictive than the State Wetlands Protection Act.

And you are directed to serve the within Warrant by posting up true and attested copies thereof upon the Town Hall and in each precinct, fourteen (14) days at least before the time of holding said meeting; also, having copies available at the Town Hall or at such convenient places as the Selectmen shall think proper in said Town of Tewksbury.

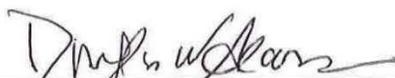
HEREOF, FAIL NOT, AND MAKE DUE RETURNS OF THIS WARRANT, with your doings thereon, to the Town Clerk at the time and place of meeting aforesaid.

Given under our hands this 12th day of September in the year of Our Lord, two thousand and twelve.

BOARD OF SELECTMEN



David H. Gay, Chairman



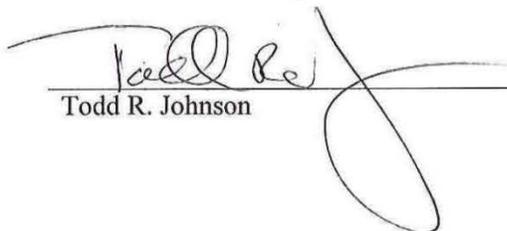
Douglas W. Sears, Vice Chairman



Scott Wilson, Clerk



Anne Marie Stronach



Todd R. Johnson

GLOSSARY OF TERMS

Town Meeting:

A duly called meeting in which all Town of Tewksbury registered voters are eligible to participate to act upon fiscal issues, zoning changes, by-law amendments, and other matters affecting the Town. Each voter has one vote in the decision making process.

The Annual Town Meeting is held each May to decide issues for the fiscal year starting July first. Special Town Meeting(s) may be called at other times, to address issues that cannot wait for the next Annual Town Meeting, a Special Town Meeting is called by the Board of Selectmen; or by a petition of 200 registered voters.

Warrant:

Public notice of business to be considered at the Town Meeting. It is publicly posted in each Precinct throughout the Town and on the Town's Website <http://www.tewksbury-ma.gov/Pages/index>.

Article(s):

Individual subjects are described in the articles so that all voters are warned of potential action to be taken. The scope of each article sets the bounds of action that may be taken. Articles are submitted by the Town Departments or by voter petitions. Articles submitted by voter petitions require ten (10) or more registered voters signatures for insertion in the Annual Town Meeting Warrant, and one hundred (100) or more registered voters signatures for insertion in a Special Town Meeting Warrant.

General Information:

The Moderator presides at the Town Meeting and is responsible for the ruling on procedural matters, overseeing an orderly debate, announcing the result of all votes and preserving decorum.

The proceedings are governed by Town Meeting Time, a handbook of parliamentary law prepared under the auspices of the Massachusetts Moderators Association. This guide may be simpler and easier to understand than the more widely known and consulted Robert's Rules of Order. Copies are available for reference at the Town Clerk's Office, Board of Selectmen's Office and the Tewksbury Public Library.

Registered voters are entitled to attend, address and vote at the Meeting. Visitors may attend the meeting and shall sit in the "reserved for visitors" section.

A voter desiring to speak should approach the microphone, await recognition by the Moderator, and identify him or herself when recognized by name and address.

Motions, Motions to Amend, and Votes Required:

An Article in the Warrant states a question for the Town Meeting voters to answer. Separate issues are described in the Town Meeting Articles so that all voters are warned of potential action to be taken. The scope or intent of each Article set the bounds of action that may be taken.

Customarily the Finance Committee Chairman makes the first or Main Motion or if the Article relates to the Zoning By-Law the Planning Board Chairman will make the first or Main Motion. The sponsor or Petitioner of an article also may make the first or Main Motion.

The Motion is then open for discussion by the assembly.

Motions to Amend the Main Motion, which is within the scope or intent of the Article, may be made on the Town Meeting floor.

Ordinarily motions require a majority vote of the voters present and voting for an Article to pass. Certain motions require a 2/3, 4/5 or a 9/10 vote to pass because of the provisions of the Town By-Laws or Massachusetts General Laws. The Moderator will announce the voting requirement before each vote requiring more than a majority vote.

Motions For Indefinite Postponement of an Article:

A motion to Indefinitely Postpone an Article is equivalent to a motion to take no action on the Article. If the Motion to Indefinitely Postpone the Article is Adopted; the Article is defeated.

Reconsideration of an Article:

No vote on a prior Article shall be Reconsidered except to correct a procedural defect, scriveners error or an oversight. Reconsideration for the above exceptions requires a majority vote.

Move the Question:

The voters have heard all the discussion that they wish to hear on the pending Article and prefer to vote at once.

The Moderator shall allow those presently standing, at the time of the motion, the opportunity to be heard and then he or she will take the vote to Move the Question.

Rules to Govern Speakers:

No voter shall speak twice on any one subject, if any other voter who has not spoken already and is standing to be recognized by the moderator. No voter shall speak for more than five minutes at one time, except by vote of permission of the assembly.