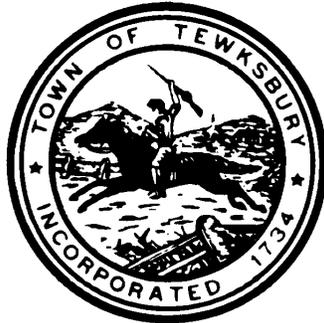


SPECIAL TOWN MEETING

**2013
WARRANT**



**TOWN OF TEWKSBURY
COMMONWEALTH OF MASSACHUSETTS**

Finance Committee Public Hearing

September 18, 2013 7:00 P.M.
Town Hall Auditorium

Special Town Meeting

October 1, 2013 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, videotaping 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 1, 2013, 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 the International Association of Firefighters AFL-CIO, Tewksbury Firefighters Local 1647 beginning July 1, 2012; or take any other action relative thereto.

Town Manager

Executive Summary: The intent of this article is to appropriate funds for a new labor agreement with the International Association of Firefighters AFL-CIO, Tewksbury Firefighters Local 1647 and implement the labor agreement and distribute funds in FY13. (A funding source and amount will be included in the Town Meeting motion.)

ARTICLE 2

To see if the Town will vote to reduce the following FY2014 Budget; or take any action relative thereto.

Unclassified: Fire and liability Insurance \$1,000

Town Manager

Executive Summary: This Article reduces the Fiscal Year 2014 Budget for Town Fire and Liability insurance to allow the Fiscal Year 2014 budget to be balanced. At the end of Town Meeting in May 2014 the budget was out of balance by \$1,000.

ARTICLE 3

To see if the Town will vote to raise and appropriate the sum of \$814,400 to fund the following FY2014 Budgets; or take any action relative thereto.

School Budget Salaries	306,000
School Budget Fixed Costs Health Insurance	94,000
Accounting Salaries Temporary Part-Time	2,800
Administrative Services Temporary Part-Time	5,600
Treasurer/Collector Full-Time Salaries	20,000
Town Hall Operating Utilities	10,000
Town Hall Operating, Repairs and Maintenance	20,000
Police Salaries Overtime	100,000
Unclassified Finance Committee Reserve	75,000
Town Unclassified Occupational Health	25,000
DPW Fleet Operating Vehicle Maintenance	25,000

DPW Fleet Operating Gas and Diesel	25,000
Council on Aging Full-Time Salaries	6,000
Veterans Operating Veterans Aid	<u>100,000</u>
Total	\$814,400

Town Manager

Executive Summary: This Article raises and appropriates funds to Fiscal Year 2014 Budgets. The additional funds are available since State Aid and local revenue will be higher than originally projected. Funds for the School Budget will be used for addressing unfunded staffing priorities as determined by the School Committee and School Administration. The remaining Town line-items fund budgets that are projected to have deficits, to replenish funds that were reduced at the Annual Town Meeting in May 2013 and in addition fund new staff initiatives such as a dedicated payroll clerk for the Finance Department and part-time assistance in Administrative Services.

ARTICLE 4

To see if the Town will vote to raise and appropriate the sum of \$265,326 from the Merrimack Special Education Collaborative (MSEC) Refund Settlement to the following Fiscal Year 2014 Budget:

School Department Circuit Breaker Fund

or take any action relative thereto.

Town Manager

Executive Summary: Funds are available from a settlement with the Merrimack Special Education Collaborative. The funds were placed into the General Fund and must be appropriated into a budget for expenditure. Fund will be placed into the School Department Circuit Breaker Fund.

ARTICLE 5

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$215,768 for the following purposes; or take any action relative thereto.

Electronic Work Parks Department Garage	5,000
15 foot Wide Gang Lawn Mower	65,000
Voting Booths	60,000
Police Cruiser Modems	26,957
Police Department Ford Explorer	37,832
2 Police Motorcycles	<u>20,979</u>
Total	\$215,768

Town Manager

Executive Summary: Funds will be used to fund one-time expenditures: \$5,000 to repair electric infrastructure at the Parks Department Garage; \$65,000 for a lawn mower to cut recreation fields and open spaces; \$60,000 for new voting booths to replace the current voting booths which are broken and are beyond repair; \$26,957 to replace 20 modems that are 10 years old for the Police Cruisers; \$37,832 to purchase 1 new unmarked SUV to replace 2001

Ford Crown Victoria; \$20,979 to purchase 2 new 2014 Police Motorcycles to replace the current 2007 and 2010 models that do not have ABS brakes which is unsafe.

ARTICLE 6

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$300,000 for School Department Capital Expenditures; or take any action relative thereto.

School Buildings and Maintenance	154,000
School Technology	98,000
School Instructional	<u>48,000</u>
Total	\$300,000

Town Manager

Executive Summary: Funds will fund one-time expenditures: Buildings/ Maintenance: \$22,000 for a new maintenance van; \$24,000 to repair Recreation Center roof; \$75,000 for security enhancements; \$15,000 for kitchen plumbing upgrades; \$18,000 for heating and plumbing repairs North Street School. Technology: \$30,000 to upgrade the Tewksbury Memorial High School Network; \$26,000 to replace/ upgrade Wynn Middle School computer lab; \$7,000 to upgrade PEG channel workstation; \$25,000 to replace/upgrade Center School phone system; \$10,000 to install wireless devices at the Elementary Schools. Instructional: \$30,000 for instructional/performance equipment for the Music Department; \$6,000 for uniforms for the TMHS Marching Band; \$12,000 for a High School wrestling mat.

ARTICLE 7

To see if the Town will vote to raise and appropriate the sum **\$12,531.74** the following fiscal year 2013 budgets to pay for the following outstanding bills from the previous year; or take any action relative thereto.

AAA Tire	55.00
Constellation Energy	1,579.39
Direct Energy	6.51
Lowell General Hospital	210.00
National Grid Electric – DPW	274.70
Ricoh - Police Dept.	289.00
Tewksbury Center Mobile	609.00
Town Counsel	9,347.14
West Information Charges	<u>161.00</u>
Total	\$12,531.74

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.

ARTICLE 8

To see if the Town will vote to transfer from the certified General Fund Free Cash a sum of \$127,000 to fund Health Insurance Mitigation; or take any action relative thereto.

Town Manager

Executive Summary: This Article utilizes Free Cash certified as of July 1, 2013 to fund a Health Insurance Mitigation Fund in accordance with an agreement of the public employee groups.

ARTICLE 9

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$350,000 to the Other Post Employment Benefit (OPEB) Account; or take any action relative thereto.

Town Manager

Executive Summary: Funds will be transferred from Free Cash certified as of July 1, 2013 into the Other Post Employment Benefit Account to fund the town's outstanding unfunded liability of \$166 million for retiree health insurance.

ARTICLE 10

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$20,000 for personnel study; or take any action relative thereto.

Town Manager

Executive Summary: Funds will be used for a study to review job descriptions and the wage and salary classification scale for AFSCME Union employees per the Collective Bargaining Agreement dated July 1, 2012-June 30, 2015. In addition, the study will include employees of the PRRB.

ARTICLE 11

To see if the Town will vote to transfer the sum of \$2,500,000 from certified Free Cash to the Town Stabilization Fund; or take any action relative thereto.

Town Manager

Executive Summary: Since Free Cash has been certified, this Article seeks approval to transfer funds into the Stabilization Fund and to be used in the future emergencies or one time purchases.

ARTICLE 12

To see if the Town will vote to raise and appropriate the sum of \$115,000 from the Water Enterprise Fund to undertake Engineering and Design for water distribution main and services installation and replacement on Crest Road and a portion of Main Street; or take any action relative thereto.

Town Manager

Executive Summary: This article funds \$35,000 for engineering and design services to replace a 6” inch AC water main on Crest Road. This water main has had numerous breaks in the past. Two recent breaks occurring within 3 weeks of each other. \$80,000 will fund engineering and design of the installation of a new waterline in a northern portion of Main Street to connect to an existing waterline on Clark Relocation Road. This work will provide the Town with an engineer’s estimate, plans and specifications for bidding purposes for both projects. Construction funding will be sought at the 2014 Annual Town Meeting.

ARTICLE 13

To see if the Town will vote to re-allocate \$52,360.00 or any amount remaining from the original appropriation of \$150,000.00 as approved at the 2012 Annual Town Meeting, Article 14 for the sludge drive collection system. This re-allocation of resources shall be for the purpose of installing various Variable Frequency Drives (VFD’s) and control systems; or take any action relative thereto.

Town Manager

Executive Summary: Variable Frequency Drives are electronic devices used to control electrical motor speeds and to allow for significant electrical energy savings. In addition, they control motor speed for improved flexibility in operating the water treatment plant and subject the mechanical systems they drive to less wear and tear. Funds will allow the Town to install 3 VFD’s ranging in size from 7.5 Horsepower (HP) to 200 HP. This installation will improve the redundancy of the finished water pumping system and extend the lifetime expectancy of the mechanical systems the VFD’s will drive while creating an energy savings.

ARTICLE 14

To see if the Town will vote to appropriate \$248,380 from the Community Preservation Fund’s Community Housing Reserve Account to be transferred to the Tewksbury Affordable Housing Trust Fund, as proposed by the Local Housing Partnership and recommended for adoption by the Community Preservation Committee. 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 to take any other action thereon.

Community Preservation Committee

Executive Summary: This is the accumulated balance of the mandatory 10% set aside for community housing purposes. This request is to transfer the \$248,380 in CPA funds to the Affordable Housing Trust Fund (AHTF) so that when an affordable housing opportunity presents itself, the Local Housing Partnership and the Board of Selectmen can act expeditiously.

ARTICLE 15

To see if the Town will vote to appropriate the sum of \$350,000 to rehabilitate existing playgrounds at the Town’s Elementary Schools, the playground site at Livingston Street Recreation Area, including and surrounding Funway Park and to include allowed costs incidental and related thereto.

To fund such rehabilitation, \$200,000 shall be transferred from the Community Preservation Fund’s Open Space Reserve Account and \$150,000 shall be transferred from the Community Preservation Fund Balance Reserve for Expenditure.

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 to take any other action thereon.

Community Preservation Committee

Executive Summary: This request will allow for approximately \$200,000 to be spent at Funway Park and its surrounding area for replacement of the existing playground equipment and other associated improvements. The \$150,000 will be used at the elementary schools at approximately \$37,500 per school for the replacement of the existing playground equipment with accessible age appropriate equipment. The use of Community Preservation Funds to rehabilitate existing playgrounds is an allowed use of the funds.

ARTICLE 16

To see if the Town will vote to rescind the following authorizations to borrow funds from previously approved Town Meeting Articles; or take any action relative thereto.

Synthetic Turf Field	750,000.00
Special Town Meeting, October 2, 2012 Article #12 \$750,000.00 Originally Authorized	
Plumbing Improvements DPW Facility	100,000.00
Annual Town Meeting, May 4, 2009, Article #15 \$300,000.00 Originally Authorized	
Total	\$850,000.00

Town Manager

Executive Summary: The Article seeks Town approval to rescind previously authorized but unissued debt. There is no need for these authorizations to be maintained since the projects are either complete or the authorization is no longer needed.

ARTICLE 17

To see if the Town will vote to amend the Personnel By-Laws Section III(e) Salaries and Wages, effective upon the retirement of the current MIS (Management Information Systems) Director by making amendments as follows:

1. Delete MIS Director from Group A-1
Minimum - \$98,240/Maximum - \$108,309

And Insert Technology Operations Manager Group A-4:
Minimum - \$69,160/Maximum - \$84,059

or take any other action relative thereto.

Town Manager

Executive Summary: The purpose of this article is to reclassify existing positions within the wage schedule.

ARTICLE 18

To see if the Town will vote to authorize the Board of Selectmen to acquire any fee, easement, or other interest in land by purchase, gift, or otherwise for the purpose of providing drainage, sidewalks, roadway reconstruction and improvements and traffic control signalization at or near the intersection of East Street from Shawsheen Street as shown on a plan entitled "Dascomb Road/East Street/Shawsheen Street" dated February 6, 2013, prepared by TEC, Inc., a copy of which may be viewed at the Department of Public Works, Engineering Division, 999 Whipple Road, Tewksbury; or take any action relative thereto.

Town Manager

Executive Summary: This will allow the Selectmen to obtain the necessary easements and layout alterations of the right of way for the roadway reconstruction on East Street and Shawsheen Street.

ARTICLE 19

To see if the Town will vote to accept as Open Space land shown as "Open Space A & B" on plan of land entitled: "Definitive Subdivision Plan Map 30 / Lots 48, 49, 52-54 , Long Pond Village, Pond Street, Tewksbury, MA dated April 9, 2010, revised thru 6/16/10, prepared by Cuoco & Cormier Engineering Associates, Inc., 170 Main Street Unit 112, Tewksbury, MA 01876" Said plan is recorded in the Middlesex North District Registry of Deeds in Plan Book 231 Plan 90; or take any other action relative thereto.

Town Manager
Community Development Director

Executive Summary: The purpose of this article is to accept the Open Space property associated with Long Pond Village subdivision.

ARTICLE 20

To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 82, Sections 21-24, as amended, and any other applicable statutes, to accept the laying out as a town way by order of the Board of Selectmen:

A certain parcel of land situated in Tewksbury, Middlesex County, Massachusetts shown as April's Way on a plan entitled, "Street Acceptance Plan, April's Way, Long Pond Village, Pond Street, Tewksbury, MA dated May 21, 2012, prepared by Cuoco & Cormier Engineering Associates, Inc., 170 Main Street Unit 112, Tewksbury, MA 01876", a copy of which order and plan has been filed with the office of the Town Clerk and the Department of Community Development; and such plan is referred to for more particular description and to authorize the Board of Selectmen to take by eminent domain, an easement, or in fee; or take any other action relative thereto.

Town Manager
Community Development Director

Executive Summary: The purpose of this article is to accept April's Way as a public way (Town Street).

ARTICLE 21

To see whether the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 138, Section 12, under which a common victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter; or take any action relative thereto.

Board of Selectmen

Executive Summary: This will allow common victuallers who hold a wine and malts license to also sell liqueur and cordials with written approval from the Board of Selectmen.

ARTICLE 22

To see if the Town of Tewksbury will vote to amend the Tewksbury Zoning Bylaw Section 6500, Interim Regulations for Medical Marijuana Treatment Centers as follows as shown below with additions to the bylaw underlined and deletions shown as a ~~striketrough~~:

6500 INTERIM RESTRICTION/ MORATORIUM FOR MEDICAL MARIJUANA TREATMENT CENTERS

6510. Purpose.

As the regulation of medical marijuana raises novel and complex legal and planning issues, the Town requires adequate time to consider ~~whether~~ how to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and, if so, where and under what conditions should such facilities be located in the Town of Tewksbury.

6560. Expiration.

This section shall be effective ~~for a period of twelve (12) months beginning at the date of the publication of the Planning Board's public hearing for this zoning amendment~~ until May 31, 2014 or until such future time that the Tewksbury Town Meeting enacts superseding zoning bylaws that set forth the allowed zoning districts, dimensional,

parking and other requirements applicable to medical marijuana treatment centers and their related uses, whichever occurs first.

Tewksbury Planning Board

Executive Summary: The passage of the law for the Humanitarian Medical Use of Marijuana on November 6, 2012 by the voters of the Commonwealth did not provide the Town with adequate time to evaluate the impacts of the law. This moratorium will allow the Town of Tewksbury the necessary time to evaluate the law and its impacts on public safety, public health, and zoning issues. Note, this is a zoning bylaw and not a health regulation.

ARTICLE 23

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by deleting Section 7300. Cluster Development in its entirety and amending Section 7500. Open Space Residential Design as shown below with additions to the bylaw underlined and deletions shown as a ~~strike through~~:

7500. OPEN SPACE RESIDENTIAL DESIGN (OSRD) SPECIAL PERMIT

7510. The Planning Board may grant a Special Permit for an Open Space Residential Design (OSRD) in the: Residential Districts- R40, ~~R80~~ and Farming.

7520. PURPOSE AND INTENT

The Purposes for OSRD are the following:

- a.** To further the goals and policies of the Town of Tewksbury's Master Plan;
- b.** To allow for greater flexibility and creativity in the design of residential subdivision developments;
- c.** To encourage ~~the permanent~~ preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, and historical resources in a manner that is consistent with Tewksbury's Master Plan;
- d.** To encourage a more creative and thoughtful approach to efficient form of land development that decreases burden on municipal economy, minimizes disturbance and loss of ~~consumes less undeveloped open space land~~ and utilizes and incorporates ~~conforms to~~ existing topography and natural features of the land to achieve a more environmentally sound design better ~~than with a conventional subdivision approach;~~
- ~~**d.** To further the goals and policies of the Town of Tewksbury's Master Plan;~~
- e.** To control suburban sprawl and maintain the character of the Town ~~increase environmental protection,~~ by conserving open space, scenic areas, views, streams, increasing recreational opportunities and other community assets;
- f.** To promote efficiency and economy of street and utility layout; lessening storm run-off, erosion and sedimentation ~~normally associated with more conventional patterns of residential development;~~ retain natural drainage courses and wetlands; and in general promoting the health, safety, convenience and welfare of residential areas and of the Town of Tewksbury as a whole;
- g.** To encourage development in harmony with the natural area, out of view from the road, and promote alternatives construction methods to typical strip residential developments lining roadsides in the Town.

7530. ELIGIBILITY

7531. To be eligible for consideration as an OSRD:

- a. The tract shall be located in the Residential Districts: R40 and ~~R80~~, and Farming,
- b. The minimum tract area shall be three (3) acres.
- c. The tract shall consist of a parcel or set of contiguous parcels.

7532. Housing Types

- a. Housing Units shall be Single Family detached units.
- b. No common wall or multi- family structures shall be allowed.

7540. SPECIAL PERMIT REQUIRED

The Planning Board may authorize an OSRD pursuant to the grant of a Special Permit. Such special permits shall be acted upon in accordance with the following provisions:

7541. PRE-APPLICATION

a. Conference.

The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board.

The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application.

b. The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of the plans to be submitted for a pre-application review.

7542. DESIGN PROCESS

At the time of the application for a Special Permit for OSRD in conformance with 7544. SITE SPECIFIC DESIGN STANDARDS, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, and open space.

a. Step One: Identifying Environmentally Sensitive ~~Conservation~~ Areas.

Identify Areas of concern, ~~preservation land~~.

1. ~~Primary Protected land Conservation~~ Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law); ~~and environmentally sensitive land areas~~ Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats; and culturally significant features such as historic and archeological sites and scenic views) shall be identified and delineated as determined by the Conservation Commission, the Planning Board or the Department of Environmental Protection.

2. The Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially Developable Area shall consist of land outside identified as environmentally sensitive ~~Primary and Secondary Conservation~~ Areas.

b. Step Two: Locating House Sites.

Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and areas of shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

c. Step Three: Aligning the Streets.

Align streets and driveways in order to access the house sites~~lots~~.

Common Driveways may be allowed subject to the requirements of the Planning Board's Rules and Regulations.

d. Step Four: Lot Lines.

Establish lot lines for each of the individual parcels and open space.

7543. PROCEDURES

a. Application.

An application for a Special Permit for an OSRD shall include a Sketch Plan as detailed below. The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of the Sketch Plan.

1. Sketch Plan.

The Sketch Plan shall be prepared by a certified Landscape Architect, or by a multidisciplinary team of which one member must be a certified Landscape Architect, and shall address the general features of the land, give approximate configurations of the lots, locations and sizes (footprints) of the houses, examples and elevations of the home types, open space, and roadways, a description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them, and include the information listed under the Subdivision Rules and Regulations. The Sketch Plan shall be submitted in accordance to the requirements as set forth in the Planning Board's Rules and Regulations (7542.b.) The Sketch Plan shall incorporate the Four-Step Design Process, according to 7542 above, and the Design Standards according to 7544 below, when determining a proposed design for the development.

2. Relationship Between the OSRD Special Permit and OSRD Definitive Subdivision Plan

The issuance of an OSRD Special Permit allows the applicant to submit an Open Space Definitive Subdivision Plan to the Planning Board for approval under the Subdivision Control Law. Any OSRD Special Permit issued by the Planning Board shall specifically state that the Open Space Definitive Subdivision Plan shall substantially comply with the OSRD Special Permit. An Open Space Definitive Subdivision Plan will be considered not to substantially comply with the OSRD Special Permit if the Planning Board determines that any of the following conditions exist:

- a.** an increase in the number of building lots;
- b.** a significant decrease in the open space acreage;
- c.** a significant change in the lot layout;
- d.** a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- e.** significant changes to the storm water management facilities; and/or,
- f.** significant changes in the wastewater management systems.
- g.** significant change or receipt of information which deviates from the information used as a basis for the approval of the OSRD Special Permit issued by the Planning Board.

If the Planning Board determines that the Open Space Definitive Subdivision Plan does not substantially comply with the OSRD Special Permit, the Board may disapprove the OSRD Definitive Subdivision Plan.

The Planning Board may conditionally approve an Open Space Definitive Subdivision Plan that does not substantially comply with the OSRD Special Permit. However, such conditional approval must identify where the plan does not substantially comply with the OSRD Special Permit and shall require that the OSRD Special Permit be amended to be in compliance with the significant changes identified by the Planning Board. The Planning Board shall also require that the applicant file an application to amend the OSRD Special Permit within a specified time period.

The public hearing on the application to amend the OSRD Special Permit shall be limited to the significant changes identified by the Planning Board in their conditional approval of the Open Space Definitive Subdivision Plan.

b. General Procedures.

Whenever an application for a OSRD Special Permit is filed with the Planning Board, with a copy filed forthwith with the Town Clerk, applicant shall also file, within five (5) working days of the filing of the completed application, additional copies to be provided according to the Planning Board's Rules and Regulations, accompanying development plan of the entire parcel under consideration, prepared by a professional architect, engineer or landscape architect, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement.

Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.

In the event that the public hearing by the Planning Board is held prior to the expiration of the 35 day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 35 day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

c. Site Visit.

Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the public hearing.

d. Other Information.

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for an application for a Special Permit for a OSRD with the public hearing required for approval of a Definitive Subdivision Plan.

7544. SITE SPECIFIC DESIGN STANDARDS

a. Basic Maximum Number of Housing Units shall be determined by one of the following methods:

1. Determination of Yield Formula

The Basic Maximum Number shall be derived from the following calculation to determine the total number of lots (or dwelling units):

$$\text{Total Number of Lots} = \frac{\text{TA} - (0.5 \times \text{WA}) - (0.1 \times \text{TA})}{\text{Existing minimum lot area (1 acre)}}$$

TA = Total Area of Parcel (Acres)

WA = Wetlands and Riverfront Areas of Parcel (Acres)

The calculation of the number of Basic Maximum Number of Housing Units shall be rounded to the next whole number for units equal to 0.5 or greater.

OR:

2. Determination of Yield Plan

The Basic Maximum Number shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional subdivision. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots (or dwelling units) resulting from the design and engineering specifications shown on the Yield Plan.

b. Affordable Housing Requirement.

~~— An application for an Open Space Residential Design Special Permit shall be subject to the Affordable Housing Requirements of Section 7010 of the Town of Tewksbury Zoning Bylaws as follows:~~

~~— Ten Percent (10 %) Rate with matching Density Bonus:~~

~~— Such application shall require that at least ten (10) percent of the total Dwelling Units be established as Affordable Housing Units (Section 7013.a) in perpetuity.~~

~~— Total Dwelling Units shall mean the Basic Maximum Number from the Determination of Yield. Dwelling Units in addition to this number achieved through density bonus provisions (Section 7544.f.) of this bylaw shall not be subject to the ten (10) percent requirement of this section.~~

~~— The calculation of the number of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.~~

~~— For each Affordable Housing Unit provided as required under this section, one market rate unit shall be added to the Basic Maximum Number of Dwelling units. This bonus unit shall not be subject to the Affordable Housing Requirement. (Reference Section 7014 a.1.)~~

eb. Dimensional Requirements

Lots sizes may be reduced in area from the requirements of the Zoning Bylaws of the Town of Tewksbury according to the following schedule:

R40 and Farming Districts, 43,560 Sq.Ft. to 10,000 Sq. Ft.

R80 District, 2 acres to 10,000 Sq. Ft.

The Planning Board may waive lot size requirements when significant benefit relating to the Purpose and Intent of the OSRD Special Permit are found as determined by the Planning Board.

dc. Flexible Frontage

1. The combined frontage of the lots of an Open Space Residential Design shall equal or exceed 50 feet for each lot created. *[For example, in an R40 development, to create a six-lot development, the combined frontage of the parcels must be a minimum of 300 feet, not to include frontage on existing public ways.]*
2. Provided that all other requirements of this bylaw are met, the minimum frontage required for individual lots within an Open Space Residential Design shall be 40 feet with the exception

described in 7544.d.3.below. Each lot shall have adequate access on a public or private way which meets the standards in this Section.

3. To the extent feasible, protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public or private road shall have the frontage normally required in the zoning district.

ed. Groups of House Lots and location of Open Space shall be determined per the requirements of the Planning Board's Rules and Regulations.

f. ~~Increases in Permissible Density~~

~~An increase in the Basic Maximum Number of Housing Units shall be allowed according to the following:~~

- ~~1. For every additional one (1) dwelling unit, above the Basic Maximum Number and the Affordable Housing Requirement, Section 7544.b., restricted to an affordable housing unit in perpetuity, as defined in Section 7013.a. one (1) additional market rate dwelling unit may also be added as a density bonus; provided, however, each development shall be allowed one additional market rate unit for one additional Affordable Housing Unit above the Basic Maximum Number as a density bonus, or, a fifteen percent (15%) maximum density bonus over the Basic Maximum Number, whichever is greater.~~
- ~~2. For each additional ten percent (10%) of the site (over and above the required fifty percent (50%)) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded upon findings of significant benefit relating to the Purpose and Intent of the OSRD Special Permit are found as determined by the Planning Board, provided, however, that this density bonus shall not exceed fifteen percent (15%) of the Basic Maximum Number.~~

ge. Open Space Restriction:

1. A minimum of fifty percent (50%) of the development tract shall be Open Space.
2. No more than fifty percent (50%) of the designated open space may be comprised of wetlands, or land having an average grade greater than twenty-five percent (25%).
3. Wastewater and stormwater management systems serving the OSRD may be located within the open space.
4. Open Space Ownership of Open Space. ~~The Open Space land shall either be conveyed to the Town of Tewksbury and accepted by it for park, conservation or open space use, or be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space. In any case, where such land is not conveyed to the Town of Tewksbury, a restriction enforceable by the Town of Tewksbury shall be recorded providing that such land shall be kept in its open and natural state and not built upon for residential use or developed for an accessory use except as provided for herein, such as wastewater and stormwater management systems serving the OSRD. In order to insure that the corporation, non-profit organization or trust will properly maintain the unsubdivided land or open space, an instrument(s) shall be recorded at the Middlesex North Registry of Deeds which shall provide as a minimum the requirements of Section 7371 through 7379 of this bylaw inclusive.~~ At the applicant's request and approval of the Planning Board, the open space may be owned by:
 - (a) A private owner for agricultural, horticultural, forestry or any other purpose not inconsistent with a prepared conservation restriction;
 - (b) A non-profit organization or agency of the Commonwealth, with their consent, whose principal purpose is the conservation of open space for any of the purposes set forth herein;
 - (c) The Town of Tewksbury Conservation Commission; or
 - (d) A homeowners association (HOA) with documentation that is provided by the applicant and reviewed and approved by Town Counsel and the Planning Board.

Selection of ownership option (a), (b) or (d) requires:

- i. The conveyance of a conservation restriction as outlined herein; and
- ii. The granting of an access easement over such land sufficient to ensure its perpetual maintenance as agricultural, conservation, or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town of Tewksbury may after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town of Tewksbury shall be assessed against the properties within the development and/or to the owner of the open space. Pursuant to G.L. Chapter 40 Section 58 the Town of Tewksbury may file a lien against the lot or lots to ensure payment for such maintenance. Pursuant to G.L. Chapter 40 Section 57 the Town of Tewksbury may also deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.

5. Open Space Recording. In order to insure that the corporation, non-profit organization or trust will properly maintain the unsubdivided land or open space, an instrument(s) shall be recorded at the Middlesex North Registry of Deeds which shall provide as a minimum the following requirements:
- (a) A legal description of the unsubdivided land or open space;
 - (b) A statement of the purposes for which the unsubdivided land or open space is intended to be used and the restrictions on its use and alienation;
 - (c) The type and name of the corporation, non-profit organization, or trust which will own, manage and maintain the unsubdivided land or open space;
 - (d) Provision for the management, maintenance, operation improvement and repair of the unsubdivided land or open space and facilities therein, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the dwelling owners common charges to pay for expenses associated with the subdivided land or open space, including real estate taxes. It shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation, non-profit organization or trust, and that each dwelling owner's share of the common charge shall be a lien against his real estate in the cluster development, which shall have priority over all other liens with the exception of municipal liens and first mortgages of record;
 - (e) The method by which such instrument(s) may be amended.

7545. PUBLIC HEARING

After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of G.L. Chapter 40A, S9 and of the zoning bylaw and regulations of the Planning Board.

7546. DECISION OF THE PLANNING BOARD

The Planning Board may grant a special permit for a OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:

- a. whether the OSRD furthers the goals and policies of the open space/ master plan.
- b. whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional subdivision plan;
- c. whether the OSRD promotes permanent preservation of open space, agricultural land forestry land, other natural resources including waterbodies and wetlands, and historical and archeological resources;

- ed. whether the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- e whether the OSRD reduces the total amount of disturbance on the site;
- ~~e~~—
- f. whether the OSRD facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner.
- g. whether the OSRD and its supporting narrative documentation complies with all sections of this zoning bylaw.
- h. whether the OSRD complies with the recommendations of the Department of Public Works, the Board of Health and the Conservation Commission.
- i. whether it appears that because of soil characteristics, drainage, traffic or other conditions , the granting of such a permit would be detrimental to the health, safety or welfare of the neighborhood or Town or inconsistent with the intent of the OSRD bylaw.

Planning Board

Executive Summary: This article deletes the cluster subdivision section of the Zoning Bylaw and revises the Open Space Residential Design Section of the Zoning Bylaw. Revisions include deletion of the affordable housing requirement and the density bonus as well as updated language on ownership of the open space.

ARTICLE 24

To see if the Town of Tewksbury will vote to amend the Tewksbury Zoning Bylaw Section 8680 Community Village Overlay District by adding the following:

- | | |
|-----------|---------------------------|
| 8684.3.o. | Retail food or drug store |
| 8684.3.p. | Drive through facility |

Planning Board

Executive Summary: Amendment allows for drive through facilities by Special Permit from the Planning Board in the Community Village Overlay District.

ARTICLE 25

To see if the Town of Tewksbury will vote to amend Section 8400 Interstate Overlay District of the Tewksbury Zoning Bylaw and the Town of Tewksbury Zoning Map 2013 as follows:

Add to Section 8410 Location., a new subparagraph #3 as described below (underlined text):

1. That portion of the Town of Tewksbury (a) situated within a one half (½) mile radius of a circle, the radius point of which is the intersection of the Massachusetts Highway Department layout of Route Interstate Route 93 and Dascomb Road, in Andover.
2. That portion of the Town of Tewksbury situated within a one quarter (¼) mile radius of a circle, the radius point of which is the intersection of Massachusetts Highway Department layout of Route 38

(Main Street) and Interstate Route 495.

3. That portion of the Town of Tewksbury situated within a one half (1/2) mile radius of a circle, the radius point of which is the intersection of Massachusetts Highway Department layout of Interstate Route 495 and Woburn Street, in Lowell, with frontage on Woburn Street, and extending 300 feet easterly of and parallel to the centerline of Woburn Street.

Richard Cuoco & Carl Crupi

Executive Summary: Article would allow extend Interstate Overlay District to vicinity of Woburn Street exit of I-495. Interstate Overlay District is only allowed to be superimposed over Heavy Industrial District. The following additional uses shall also be allowed in the Interstate Overlay District upon the issuance of a Special Permit from the Planning Board: (a) Automotive Refueling Station and accessory uses incidental thereto; (b) Car Wash; and, (c) Garaging and Towing of Motor Vehicles; and , (d) Motor Vehicle Rental or Leasing Agencies, as an accessory use only.

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, leaving additional copies 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 10th day of September in the Year of Our Lord, Two Thousand and Thirteen.

BOARD OF SELECTMEN



Scott Wilson, Chairman



Douglas W. Sears, Vice Chairman



James D. Wentworth, Clerk



Todd R. Johnson



David H. Gay

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, on the Town's Website www.tewksbury-ma.gov and describes all of the Articles which will be acted upon at the Town Meeting.

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, scrivener's 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.