

# SPECIAL TOWN MEETING

2017  
WARRANT



TOWN OF TEWKSBURY  
COMMONWEALTH OF MASSACHUSETTS

## Finance Committee Public Hearing

September 27, 2017 7:00 P.M.  
Town Hall 1009 Main Street

## Special Town Meeting

October 3, 2017 7:00 P.M.  
Tewksbury Memorial High School

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

Middlesex, ss:

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

In the name of the Commonwealth of 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 the Tewksbury Memorial High School, 320 Pleasant Street, in said Tewksbury on Tuesday, October 3, 2017, at 7:00 P.M. to act on the following articles:

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**ARTICLE 1**

To see if the Town will vote to raise and appropriate the sum of \$2,024,585 to fund the following Fiscal Year (FY2018) Budgets; or take any action relative thereto.

School Salaries:	\$	386,306
School Operating:	\$	60,000
School Capital Outlay:	\$	64,500
School Health Insurance:	\$	75,290
School Medicare:	\$	11,311
Total School:	\$	597,407
Town Clerk Salaries:	\$	4,174
Town Clerk Capital Outlay:	\$	37,881
Facilities and Grounds Utilities:	\$	20,000
Facilities and Grounds Leases and Contracts:	\$	28,400
Facilities and Grounds Repairs and Maintenance:	\$	6,500
Facilities and Grounds Capital Outlay:	\$	52,851
Police Capital Outlay:	\$	75,965
Fire Capital Outlay:	\$	32,000
Computer Salaries:	\$	1,500
Library Capital Outlay:	\$	74,000
DPW Fleet Capital Outlay:	\$	30,000
DPW Engineering Capital Outlay:	\$	35,000
Total Town:	\$	398,271
Town Unclassified Other Post-Employment Benefits:	\$	650,000
Town Unclassified Exempt Interest Debt Service:	\$	378,907
<b>Total:</b>	<b>\$</b>	<b>2,024,585</b>

Town Manager

**Executive Summary:** This article raises and appropriates funds to FY2018 Budgets. The additional funds are available since State and Local revenue will be higher than projected.

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**ARTICLE 2**

To see if the Town will vote to raise and appropriate the sum of \$18,946.21 in order to pay for the following outstanding bills from the previous year; or take any action relative thereto.

Verizon:	\$	6,899.46
TRC Lockbox:	\$	1,503.00
Long and DiPietro, LLP:	\$	10,543.75
<b>Total:</b>	<b>\$</b>	<b>18,946.21</b>

Town Manager

**Executive Summary:** According to Massachusetts General Laws Chapter 44 § 64, bills that are late must be approved by Town Meeting before payment. This article authorizes the charges to be paid.

**ARTICLE 3**

To see if the Town will vote to transfer from the certified General Fund Free Cash a sum of \$1,550,000 to be expended by the Town Manager to fund the following; or take any action relative thereto.

Fire Engine:	\$	650,000
Roadway Maintenance:	\$	650,000
Sidewalk Improvements:	\$	250,000
<b>Total:</b>	<b>\$</b>	<b>1,550,000</b>

Town Manager

**Executive Summary:** This article transfers certified free cash for specific one time capital expenditures.

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**ARTICLE 4**

To see if the Town will vote to transfer from the certified General Fund Free Cash a sum of \$361,005 to be expended by the Town Manager to fund Sutton Brook Landfill Operations and Maintenance; or take any action relative thereto.

Town Manager

**Executive Summary:** This article transfers certified free cash to offset the cost of Sutton Brook Landfill Operations and Maintenance. Funds totaling \$361,005 from Sutton Brook Bond Proceeds were closed to Free Cash at the end of Fiscal Year 2017 and this article seeks to utilize these funds specific to Sutton Brook.

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**ARTICLE 5**

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$1,225,000 for School Department Capital Expenditures; or take any action relative thereto.

School Building Maintenance and Improvements:	\$	1,225,000
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Town Manager

**Executive Summary:** This article transfers certified free cash for specific one time capital expenditures.

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**ARTICLE 6**

To see if the Town will vote to raise and appropriate \$183,947 from Water Rates to be expended by the Town Manager for the following purposes; or take any action relative thereto.

Water Enterprise Fund Other Post-Employment Benefits:	\$	163,947
Water Enterprise Fund Occupational Health:	\$	20,000
<b>Total:</b>	<b>\$</b>	<b>183,947</b>

Town Manager

**Executive Summary:** This article raises funds within the Water Enterprise Budget to fund these accounts.

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**ARTICLE 7**

To see if the Town will vote to raise and appropriate \$48,785 from Sewer Rates to be expended by the Town Manager for the following purposes; or take any action relative thereto.

Sewer Enterprise Fund Other Post-Employment Benefits:	\$	38,785
Sewer Enterprise Fund Occupational Health:	\$	10,000
<b>Total:</b>	<b>\$</b>	<b>48,785</b>

Town Manager

**Executive Summary:** This article raises funds within the Sewer Enterprise Budget to fund these accounts.

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**ARTICLE 8**

To see if the Town will vote to transfer the sum of \$100,000 from Cable Enterprise Fund Retained Earnings to be expended by the Town Manager for the purpose of installing fiber optic cable to town and school buildings; or take any action relative thereto.

Town Manager

**Executive Summary:** This article allows the Town to utilize funds from Cable Enterprise Fund Retained Earnings that were available as of July 1, 2017 for the installation of fiber optic cable to various town and school buildings.

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**ARTICLE 9**

To see if the Town will vote to transfer the sum of \$1,669,722 from certified General Fund Free Cash to the Town Stabilization Fund; or take any action relative thereto.

Town Manager

**Executive Summary:** This article seeks approval to set aside these funds in the Stabilization Fund to be used for future emergencies or one time purchases or projects.

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**ARTICLE 10**

To see if the Town will vote to appropriate the sum of \$50,000 from the Community Preservation Fund Undesignated Reserve for the purpose of replacing the fencing at Frasca Field as recommended by the Town Manager.

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; or take any action relative thereto.

Community Preservation Committee

**Executive Summary:** The fence at the recreational facility, Frasca Field, poses a safety hazard and is in need of replacement.

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**ARTICLE 11**

To see if the Town will vote to appropriate the sum of \$50,000 from the Community Preservation Fund Undesignated Reserve for the purpose of designing a bike path as recommended by the Town Manager.

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; or take any action relative thereto.

Community Preservation Committee

**Executive Summary:** Funds will be used in the next phase of developing a bike path in the community.

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**ARTICLE 12**

To see if the Town will vote to transfer the care, custody, management and control of the Ella Fleming School located at 1503 Andover Street from the School Committee and School Department to the Board of Selectmen; or take any action relative thereto.

Town Manager

**Executive Summary:** This article would transfer control of the Ella Fleming School from the School Department to the Town.

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### ARTICLE 13

To see if the voters of the Town of Tewksbury will vote to amend the Tewksbury By-Laws Chapter 8.12 Noise By-Law Section 8.12.060 with deletions shown as ~~strike throughs~~ and additions shown in **bold**; or take any other action relative thereto.

#### 8.12.060 Special provisions.

Limitation of Construction Activity: Noise associated with Construction is permitted between 7:00 AM and 7:00 PM on weekdays and ~~7:00~~ **9:00** AM and ~~7:00~~ **5:00** PM Saturdays. Noise associated with the following activities shall be exempted from the provisions of this By-Law:

(a) Emergency Work or Emergency Vehicles.

(b) Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events, and on church grounds, including but not limited to, bells or chimes and activities at the Tewksbury State Hospital, including but not limited to, the sounding of the horn, also known as the "fire horn;"

(c) Occasional outdoor gatherings, public dances, shows, and sporting entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;

(d) The maintenance of real property (not Construction), such as temporary use of power tools and equipment such as lawn mowers, snow blowers, chain saws and similar equipment, provided said activities. The maintenance of real property (not Construction), such as temporary use of power tools and equipment such as lawn mowers, snow blowers, chain saws and similar equipment, provided said activities take place between the hours of 5:00 AM and 10:00 PM on any day. (Art. 12, STM 2003)

Town Manager

**Executive Summary:** Currently the By-Law allows for Saturday work to begin at 7:00 AM and end at 7:00 PM, the proposed changes would adjust the time to 9:00 AM-5:00 PM.

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### ARTICLE 14

To see if the Town will vote to amend the Tewksbury By-Laws, Chapter 3.12, Tax Title Procedures, Section 3.12.010, as shown below, with deletions shown as ~~strike throughs~~ and additions shown in **bold**; or take any other action relative thereto.

#### Chapter 3.12

#### TAX TITLE PROCEDURES

##### Sections:

##### **3.12.010 Property taken under tax title procedures Compliance with certain conditions.**

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##### **3.12.010 Property taken under tax title procedures Compliance with certain conditions.**

Where property of ~~less than 45,000 square feet or less without a building or 5,000 square feet or less with a building~~ has been taken by the Town under tax title procedures, the sale of such property by the Town shall comply with the following provisions:

1. The property shall first be offered for sale to abutters at an offering to be held exclusively for abutters. "Abutters" shall be defined as an individual(s), partnership, corporation or other legal entity owning a piece of property which adjoins via a common lot line the property to be offered for sale. If any abutter's common property line is part of street or way whether open to the public or not, such abutter shall not qualify to participate in the first offering of sale to abutters as noted above.
2. The Board of Selectmen shall establish the minimum bid for the sale of each property to be offered plus administrative costs including advertising costs, legal costs and any pro-forma taxes. The minimum bid shall be the greater of either the amount of property tax owed to the Town at the time such property is offered for sale or 75% of the fair market value for the property as calculated by the Board of Assessors. ~~Fair market value as calculated by the Board of Assessors and its supporting formulas and rates used, such formulas and rates based upon standard real estate and/or assessment valuation procedures, shall be filed with the Town Clerk a minimum of fourteen (14) days prior to the date of bidding or sale, whichever occurs first. The Board of Selectmen may set a higher minimum bid if it desires.~~
3. The Board of Selectmen shall notify abutters as defined in paragraph one (1) of this article by certified mail that the Town intends to sell such property and provide the date, place and time of the sale along with the minimum acceptable bid.

4. The sale of such property **shall be with the condition** ~~is to be accompanied by a recorded plan~~ and/or covenant that requires such property to be combined with the Buyer's abutting property into a single lot.
5. If no abutter's bid on a property offered for sale exceeds the minimum bid as established in subsection 2 of this section, the Board of Selectmen may then open the sale to other bidders with a minimum bid as established in said subsection.
6. The Town shall first give notice of the time and place of sale by posting such notice of sale in some convenient and public place in the Town and advertising for **two (2)** ~~three~~ successive weeks at least **fourteen (14)** ~~14~~ days before the sale. Each sale, whether exclusively to abutters or opened to other bidders, must give notice as defined herein, except that for the exclusive abutters' sale advertising shall be required for one week at least **fourteen (14)** ~~14~~ days before that sale.

Upon the petition to the Town Manager by two **(2)** abutters to a **town** lot, the Town Manager and Board of Selectmen can agree to sell a Town lot to one of the two abutters who can agree to subdivide the Town lot so that a portion of the Town lot becomes a part of each abutter's existing lot. (Art. 15, ATM 1991: By-Laws Art. IX§ 9: Art. 10, STM 2003).

Town Manager

**Executive Summary:** The amendments to the by-law would allow for the sale of land of less than 5,000 square feet to be restricted to abutters and anything larger would be subject to open competitive procurement as outlined in M.G.L. Chapter 30B. Pursuant to M.G.L. c. 40A, § 6, grandfathered single and two-family use lots of 5,000 or more square feet of area with 50 feet of frontage, the Town should have the right to sell such lots at market value as do private owners.

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### 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.**

For further information regarding Town Meeting Warrant Articles please go to the Town's website at [www.tewksbury-ma.gov](http://www.tewksbury-ma.gov) and refer to the Special Town Meeting Supplemental Information Handout October 3, 2017.

Please bring your copy of Town Meeting Warrant to Town Meeting.

## 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 <http://www.tewksbury-ma.gov/board-of-selectmen/pages/town-warrants> 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, 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.

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 12<sup>th</sup> day of September in the Year of Our Lord, Two Thousand and Seventeen.

BOARD OF SELECTMEN

Mark Kratman, Chairman

David H. Gay, Vice Chairman

Jay Kelly, Clerk

Todd R. Johnson, Esq.

Anne Marie Stronach

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Middlesex, ss.

By virtue of this Warrant, I have this day served at 1130 o'clock a.m. / p.m. the within Warrant upon the Town Hall and the eight (8) precincts in the Town of Tewksbury.

Constable for the Town of Tewksbury

9/15/17  
Date