

LYNNFIELD TOWN WARRANT
THE COMMONWEALTH OF MASSACHUSETTS
TOWN MEETING – OCTOBER 15, 2018

Essex, ss.

To the Constable of the Town of Lynnfield in the County of Essex, GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet in the Middle School Auditorium, and in the Cafeteria and Gymnasium, if necessary, on Monday, October 15, 2018 at 7:00 p.m. then and there to act on the following articles:

ARTICLE 1. To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds, sums of money to pay overdue bills of a prior fiscal year; or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 2. To see if the Town will vote to raise and appropriate or transfer from available funds, sums of money to supplement certain accounts in the current 2019 Fiscal Year for various purposes; or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 3. To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, or from any or all such sources, a sum of money for the design, purchase and construction of a septic system for the Lynnfield Public Library, the Meeting House, and the Historic Center, and any necessary site work at those locations, or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 4. To see if the Town will vote to accept as a public way, as laid out and reported by the Board of Selectmen, Parsons Avenue Extension as shown on the plan of land entitled "Street Acceptance Plan, Parsons Ave. Ext., Lynnfield, Mass." dated August 28, 2018, by Hayes Engineering, Inc., a copy of which plan is on file at the office of the Town Clerk and available for inspection, and to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain such interests in land as may be necessary or appropriate to create such public way, or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 5. To see if the Town will vote to amend the General Bylaws by adopting the following as Article IV, § 45-5 of Chapter 45:

"Article IV. Conduct of Town Meetings

"§ 45-5 Limitation of Formal Presentations.

“Any person who wishes to offer the principal presentation in support of the main motion under an article must so notify the Moderator prior to the session at which the article is called. Unless granted an extension of time by vote of the meeting, the individual speaking as the principal proponent on a main motion shall not speak for more than ten (10) minutes. If more than one person indicates a desire to make a presentation in support of the article, the Moderator may divide the time. The same rules will apply should there be a principal speaker in opposition.”

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 6. To see if the Town will vote to amend the General Bylaws by adopting the following as Article IV, § 45-6 of Chapter 45:

“§ 45-6 Speakers from the Floor.

“No person shall speak more than three (3) minutes at one time, and no more than twice upon any question, provided that no person shall speak a second time on any question if there are others who desire to speak on it for a first time, except to answer an inquiry or to give information requested, without first obtaining leave of the meeting.”

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 7. To see if the Town will vote to amend the General Bylaws by adopting the following as Article IV, § 45-7 of Chapter 45:

“§ 45-7 Meeting Start Time / End Time.

“Each session of a Town Meeting required by Section 2-3-1 or Section 2-3-2 of the Charter or of a Special Town Meeting shall begin no earlier than 7:00 PM, and no such session shall conclude later than 10:30 PM unless at such hour a deliberation and / or vote is in progress in which event action under the article shall be completed prior to adjournment. No consideration of an article shall be commenced after 10:30 PM unless the meeting votes to hear and act upon such article notwithstanding the hour, or votes to postpone adjournment to a specific, later time, or votes to defer adjournment until all warrant articles have been acted upon.”

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 8. To see if the Town will vote to amend the General Bylaws by adopting the following as Article IV, § 45-8 of Chapter 45:

“§ 45-8 Reconsideration.

“When final action has been taken under an article and the meeting has taken up the next order of business, or adjourned, the subject matter of such article may not again be taken under consideration unless, in the discretion of the Moderator, a significant error or omission occurred in connection with the meeting’s action under that article, or a significant change in circumstances has occurred, such that there is a substantial likelihood that the outcome could change upon reconsideration or that reconsideration is in the Town’s best interest.

“Upon a motion and second for reconsideration, the Moderator shall ask the maker of the motion to state the circumstances necessitating reconsideration. If, in the opinion of the Moderator, reconsideration meets the criteria established in the above paragraph, the Moderator shall so state and the meeting shall proceed without debate to a majority vote on the motion for reconsideration.”

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 9. To see if the Town will vote to amend the General Bylaws by replacing Chapter 45, Article III, § 45-4, which appears below:

“§ 45-4 Notice of Town Meetings.

“A. Notice of the Town Meeting required by Section 2-3-1 of the Charter shall be given by posting a copy of the Warrant calling the same in compliance with MGL c. 30A, § 20, and in at least six public places in the Town, and such other places as the Selectmen may designate, at least seven days before the time of holding of said meeting.

“B. Notice of every other Town Meeting, including that required by Section 2-3-2 of the Charter, shall be given by posting a copy of the Warrant calling the same in compliance with MGL c. 30A, § 20, and in at least six public places in the Town, and such other places as the Selectmen may designate, at least 14 days before the time of the holding of said meeting.”

with the following:

“§ 45-4 Notice of Town Meetings.

“A. Notice of the Town Meetings required by Section 2-3-1 and Section 2-3-2 of the Charter shall be given by posting a copy of the Warrant calling the same in compliance with MGL c. 30A, § 20, and in at least six public places in the Town,

and such other places as the Selectmen may designate, at least seven days before the time of holding of said meeting.

“B. Notice of every other Town Meeting shall be given by posting a copy of the Warrant calling the same in compliance with MGL c. 30A, § 20, and in at least six public places in the Town, and such other places as the Selectmen may designate, at least 14 days before the time of the holding of said meeting.”

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 10. To see if the Town will vote to amend the Re-codified Zoning Bylaw by restoring certain provisions that were inadvertently omitted in the process of re-codification, specifically:

1. by adding, as § 4.1.3, the following:

“4.1.3 Building Heights. In all districts, no building shall be constructed to exceed more than three (3) stories or forty (40) feet in height, the height in each case to be measured vertically from the average finished grade of the ground adjoining such building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs. Provided, however, in a Commercial District and in a Limited Industrial District, the height of a building may exceed forty (40) feet by one foot for each additional foot by which:

1. the front yard depth exceeds the depth herein required, or
2. the narrower side yard exceeds the side yard width herein required, or
3. the rear yard exceeds the rear yard depth herein required, whichever of the three additional distances is the smallest.

A building thus permitted to exceed forty (40) feet in height may be constructed to contain more than three (3) stories, but no such building shall in any case have a height greater than fifty (50) feet.”; and

2. by adding, at the end of footnote 2 in the Table of Dimensional and Density Regulations in § 4.1.2, the words “40 feet.”; and
3. by adding, after the date “1996” in § 2.3.1, the following: “and ‘Additional Groundwater Protection District Lynnfield, MA August 25, 2009,’”; and

4. by deleting the five stray asterisks (“*****”) that appear in the first line of the Table of Use Regulations, Appendix A;

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 11. To see if the Town will vote to adopt as Chapter 197 of the General Bylaws the following:

“Chapter 197. Security Posted in Connection With Licenses, Permits & Approvals

“Article I. Purpose and Authority

“§ 197-1. The purpose of this Bylaw is to provide a mechanism for the application by Town officers, boards, committees and commissions of security posted by applicants in connection with their obtaining licenses, permits, approvals, authorizations and contracts. This Bylaw is adopted pursuant to the home rule authority of the Town and the authority conferred by G.L. c. 44, § 53G1/2.

“Article II. Scope

“§ 197-2. It is the intent of this Bylaw to govern as broad a range of situations as possible in which Town officers, boards, committees and commissions require some form of security from applicants, provided only that this Bylaw shall not apply to deposits or other financial surety received under G.L. c. 41, § 81U. Without limiting the generality of the foregoing, this Bylaw shall apply to surety required by (a) the Board of Selectmen to secure performance under any contract which such board is authorized to execute by general or special law or by any of the General Bylaws; (b) the Board of Selectmen to secure performance of any condition for the issuance by such board of any license, permit or approval including, without limitation, a street opening permit under § 217-7 or drain connection permit under § 217-7 of the General Bylaws; and (c) the Conservation Commission to secure performance of any obligation undertaken by an applicant for an order of conditions or other approval granted by such commission including, without limitation, under § 240-9 of the General Bylaws.

“Article III. Form and Handling of Surety

“§ 197-3. Subject to any restrictions set forth in any authorizing statute or Bylaw, Town officers, boards, committees and commissions may require, accept, hold and apply security in any reasonable form including, but not limited to, a deposit of money or negotiable securities, a bond issued by a bonding company authorized to do business within the Commonwealth of Massachusetts, a letter of

credit, and a so-called 'tri-partite' agreement of the kind described in G.L. c. 41, § 81U(4).

“§ 197-4. Any deposit of money hereunder shall be held by the Treasurer in a special account established specifically for such purpose, separate and apart from all other funds. Any negotiable securities, bonds, letters of credit and so-called 'tri-partite' agreements shall also be held by the Treasurer, and any funds generated from such surety shall likewise be deposited in such a special account. Any such account shall be an interest-bearing account with a Massachusetts bank. All interest accruing on each such account shall be added to the principal of such account for disposition as set forth herein.

“Article IV. Performance Standards

“§ 197-5. Any Town officer, board, committee or commission demanding surety from any applicant hereunder shall be responsible for determining, in the exercise of his or its reasonable discretion and in good faith, the extent, quality and adequacy of any work done by such applicant or performance by such applicant of the obligation for which such surety was given. Such officer, board, committee or commission may, but need not, reduce the amount of surety held upon proof of satisfactory partial work or performance by such applicant, provided that nothing herein shall require that such reduction be commensurate with the extent of such performance.

“§ 197-6. If and when such Town officer, board, committee or commission determines that such applicant has fully and satisfactorily completed all work and performed all obligations for which such surety was given, such surety shall be released and returned to the applicant, including any accrued interest.

“Article V. Default

“§ 197-7. If any Town officer, board, committee or commission which has received surety for work or for the performance of any obligation hereunder determines at any time that the applicant who posted such security is in default of his, her or its obligations (whether because of a failure to complete such work or performance by a designated deadline, or the unsatisfactory quality of such applicant's work or performance, or otherwise), such officer, board, committee or commission may declare such applicant in default.

“§ 197-8. Upon a declaration of default, such officer, board, committee or commission shall be entitled to apply any and all surety posted by such applicant (including any interest received thereon) to the completion of the work or the performance of the obligations for which such surety was posted. Without limiting the generality of the foregoing, such officer, board, committee or commission may take any and all actions necessary or appropriate to enforce any bond, make demand on any issuer of a letter of credit, and demand payment under

any so-called 'tri-partite' agreement, and any money received as a result thereof shall be deposited in an account held by the Treasurer under § 197-4, above. Monies in such special account may be expended by such officer, board, committee or commission, without further appropriation, to complete the work or perform the obligations which such applicant was obliged to do or perform. Any monies remaining in such account after all work has been done and all obligations performed to the full satisfaction of such officer, board, committee or commission shall be returned to the applicant, including any accrued interest.

“Article VI. Procedure for Return of Surety

“§ 197-9. At any time, and from time to time, an applicant whose surety is being held by the Treasurer on behalf of a Town officer, board, committee or commission may give written notice to such officer, board, committee or commission that in such applicant's opinion the work or performance that such surety was intended to secure has been fully and satisfactorily completed. Such notice shall contain a demand for the return of surety and the full name and address of the applicant. If such officer, board, committee or commission determines that such work or performance has been fully and satisfactorily completed, then he, she or it shall release the surety, or so much of it as may then remain, including any accrued interest, as set forth in § 197-6, above. If such officer, board, committee or commission determines that such work or performance has not been fully and satisfactorily completed, then he, she or it shall specify in a written notice to the applicant the details wherein such work or performance remains incomplete or unsatisfactory within forty-five (45) days after the receipt by such officer, board, committee or commission of the said notice and demand from the applicant. In the event that such forty-five- (45-) day period expires without such specification, then the applicant shall be entitled to the return of all surety then remaining, including any accrued interest. Any notice under this Bylaw by an applicant to a Town officer, board, committee or commission shall be given by certified mail, return receipt requested, and shall not otherwise be effective.

“§ 197-10. If any applicant appeals from an act or omission of any Town officer, board, committee or commission hereunder, whether by means of an action in the nature of mandamus or certiorari or otherwise, and such action results in a judgment in favor of such officer, board, committee or commission, then the latter's reasonable attorneys' fees and expenses incurred in defense against such action may be reimbursed from the surety posted by such applicant.

“Article VII. Severability

“§ 197-11. If any term, condition or provision set forth in this Bylaw should be found by a court of competent jurisdiction to be illegal, invalid or unenforceable as applied under particular circumstances, such term, condition or provision shall not be deemed stricken from this Bylaw but rather shall be, to the greatest extent

possible, deemed applicable only to such circumstances as will not support a finding of such illegality, invalidity or unenforceability. The illegality, invalidity or unenforceability of any term, condition or provision of this Bylaw shall not affect the legality, validity or enforceability of any other term, condition or provision of this Bylaw.”

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 12. To amend the Zoning District Map of the Town of Lynnfield entitled “Zoning District Map of the Town of Lynnfield dated Dec 1953” as amended to date by changing from Residential A (RA) to Limited Business (LB), the parcel of land off Lynnfield Street, Lynnfield, containing 33,300 ± square feet as shown on a plan entitled “Plan Showing Proposed Zoning District Reconfiguration in Lynnfield, Massachusetts 5 Red Twig Lane and Portion of 3 Red Twig Lane (Assessor's Map 53, Parcel 2544 and Portion of Parcel 2439)” prepared for Michael and Heidi Tourkistas dated September 19, 2018, prepared by The Morin-Cameron Group, Inc., Scale: 1” = 20’, showing the existing area of Residence A District to be Rezoned to Limited Business zone, a copy of which is on file with the Town Clerk, and bounded and described as follows:

Beginning at the northeast corner of the premises at Lynnfield Street and other land now or formerly of Lynnbrook Realty Trust.

Thence by land n/f S43°03'00"W a distance of 92.45' to land now or formerly of 100 Lynnfield Street Realty Trust;

Thence by land n/f 100 Lynnfield Street Realty Trust S43°03'00"W a distance of 50.38' to a point

Thence by land n/f 100 Lynnfield Street Realty Trust S53°22'00"W a distance of 7.97' to a point;

Thence by land n/f of Heidi and Michael Tourkistas N50°00'03"W a distance of 135.25' to a point;

Thence by land n/f of Heidi and Michael Tourkistas N14°46'05"W a distance of 132.87' to land now or formerly of Heidi and Michael Tourkistas;

Thence by land n/f of Heidi and Michael Tourkistas N49°13'57"E a distance of 78.00';

Thence by land of Heidi and Michael Tourkistas and Lynnfield Street S49°13'30"E a distance of 240.73' to land now or formerly of Lynnbrook Realty Trust and Lynnfield Street and the point of beginning.

Containing 33,300+/- square feet as shown on referenced plan.

Being a portion of land of Michael Tourkistas and Heidi Tourkistas by deeds filed as Document No. 268911, noted on Certificate No. 61821 and Document No. 279037, noted on Certificate No.'s 20087 and 62749 at the Essex South Registry District of the Land Court;

or what action it will take thereon.

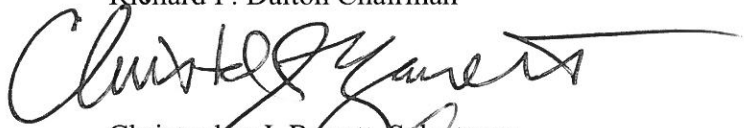
Submitted by PETITION

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, or before hand as aforesaid.

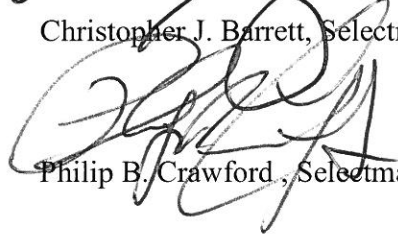
Given under our hands this 26th day of September, 2018.



Richard P. Dalton Chairman



Christopher J. Barrett, Selectman



Philip B. Crawford, Selectman

A true copy

ATTEST: _____, Constable

Date:

Pursuant to the within Warrant, I have this day notified and warned the inhabitants of the Town of Lynnfield as herein directed by posting eight attested copies of the Warrant in said Lynnfield 14 days before the time and calling of said meeting.

Paul Minsky
Constable

Posted at:
Center Post Office
Center Market
Library
Pump 'n Pantry
Senior Center
Lynnfield Water District
South Post Office
Town Hall