

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 11 P 1:19

1. Minutes of the City Council Meeting, September 24, 2012.
2. PUBLIC HEARING On the Application for Special Permit from Attorney Mitrakas, on behalf of Logical Partners, LLC, to construct a three Townhouse Condominium Unit on Map 68, Lot 466, 126 Pleasant St. which includes a recent communication regarding an amendment, Order No. 12-1005151A.
3. PUBLIC HEARING On the Application from Attorney Gadbois to amend the Zoning Code of the City of Marlborough Chapter 650 by adding to Article VI, section 650-32 RESULTS WAY MIXED USE OVERLAY DISTRICT, Order No. 12-1005154.
4. Communication from the Mayor re: Police transfer request in the amount of \$75,985.00 which will move funds from Reserve for Salaries to various accounts to fund the Police Patrol Officers Association contract.
5. Communication from the Mayor re: Assessor's transfer request in the amount of \$13,800.00 which moves funds from Principal Assessor to Professional & Technical Services to fund the contract associated with appraisal services.
6. Communication from the Mayor re: Appointment of Harold Scheid and Bradford Dunn of Regional Resource Group, Inc. to the position of Chief Assessor and Board of Assessor's respectively, which will allow the Board of Assessors to carry out their duties for the remainder of this calendar year.
7. Communication from the Mayor re: Appointment of Ronald Saloman and Elizabeth Evangelous to the Board of Registrars.
8. Communication from the Mayor re: Proposed Order Concerning Transfer of Care, Custody, Management, and Control of a Certain Portion of Land at Memorial Beach.
9. Communication from the Council President Pope re: Appointments of Councilors Clancy and Delano to the Municipal Aggregation Committee.
10. Application from David Scarfo, agent for T-Mobile, for Special Permit for minor upgrades to existing telecom site located at 342 Lincoln St.
11. Communication from Metro PCS, LLC, re: request to extend time limitations to install a wireless communication facility onto the existing building located at 98 Pleasant St. to December 20, 2012 until 12:59 PM, Order No. 12-1005112B.
12. Communication from Cumberland Farms Inc. re: request to extend time limitations on application for Special Permit, 412 & 418 Maple St. and Walker St. to construct a convenience store with gasoline sales on the subject parcels to January 31, 2013 until 4:00 PM, Order No 12-1005081C.
13. Communication from Attorney Bergeron on behalf of Lazy Dog re: Withdrawal of Request for Pool Table License, Order No. 12-1002808B.
14. Communication from Executive Office of Energy and Environmental Affairs re: Environmental Notification Form (ENF) for the Sudbury St. Area Water and Sewer Project. (Packet is available for viewing at the City Clerk's office)
15. Minutes, Traffic Commission, June 26 & August 28, 2012.
16. Minutes, Council on Aging, September 11, 2012.
17. Notice of Massachusetts Torte Claim on behalf of James Coggins.
18. CLAIMS:
  - A. Edward McManus, 44 Queen's View Rd, other

REPORTS OF COMMITTEES:

19. **ORDERED:** That the City Council of the City of Marlborough hereby accepts the provisions of M.G.L. c. 59, § 5N, which authorizes the City to establish a program for residents of the City of Marlborough and who are veterans as authorized by the US Congress to participate in a property tax abatement program in exchange for community service in accordance with the requirements put forth in the statute. **AND, FURTHER, THAT** the City Council of the City of Marlborough adopt provisions for the proper implementation of the program.....Submitted by Councilor Jenkins

UNFINISHED BUSINESS:

**From Finance Committee**

20. **Order 12-1005143 – Transfer \$51,945.15 to Fund Non-Union Employee Salaries.** The Finance Committee reviewed the Mayor's letter dated August 23, 2012 requesting the transfer of \$51,945.15 from Reserve for Salaries to fund a 2% increase for nonunion employees for fiscal year 2013. **Recommendation of the Finance Committee is to approve a transfer of \$49,856.35 for all nonunion employees except the City Council 5-0. The City Council salaries will remain level funded.**
21. **Order 12-1005144 – Transfer \$50,904.00 to Fund Retirement of a Police Officer.** The Finance Committee reviewed the Mayor's letter dated August 23, 2012 requesting the transfer of \$50,904.00 from Fringes to Sick Leave Buy back and Longevity accounts to cover the retirement of a Police Officer. **Recommendation of the Finance Committee is to approve 5-0.**

**From Public Services Committee**

22. **Order No. 12-1005156 - Application for Livery License, Marc Marlegni, d/b/a Toy Motorsports, LLC, 896 Boston Post Rd. East.** Chief Leonard is without object to the grant of a livery to Toy Motorsports, LLC at 896 Boston Post Road East. The CORI is in order. Applicants operate an existing business in Marlborough, Toy Motorsports, at 896 Boston Post Road East. Applicants will begin the new livery operation with one (8-passenger) vehicle that will be stored in the yard at 896 Boston Post Rd. East and overnight there is available garage space. Toy Motorsports performs mild winterization, boat wrapping and works with dealerships on after-market items. The business has been in operation for three years. The livery operation will provide transportation to customers for events such as concerts, proms, sporting events, weddings and airport runs. In the future, they may consider adding a second vehicle, such as a Chevy Tahoe, for executive transportation. **Recommendation of the Public Services Committee is to recommend approval, seconded by Jenkins, of a livery license to Marc Marlegni, d/b/a Toy Motorsports, LLC, 896 Boston Post Road East 3-0.**

23. **Order No. 12-1005155 - Junk Dealer's License, Andrew Spaventa, d/b/a ecoATM, 601 Donald Lynch Blvd.** Chief Leonard is without objection to the grant of a Junk Dealer License to ecoATM. The CORI is in order. A local representative will appear as noted on package submitted/cc: councilors' mailboxes 9/17/12. ecoATM is an unmanned kiosk that will be placed in the common area of the mall in a space set aside for vending or carts. Customers can deposit their old cellular devices and will be paid cash for them at the time of transaction. Every transaction is verified by a live attendant in the ecoATM call center via webcam. The information from each transaction including pictures of the person, the device, and the ID are sent real time via internet to ecoATM's database. Law enforcement can choose to receive reports by whichever frequency and method they choose; for example, realtime via an online reporting tool or daily or weekly reports via hardcopy mail or email. Tom Tullie, father of ecoATM's Chief Executive Officer, President and Chairman, Tom Tullie, addressed the committee. Mr. Tullie stated that local contact information will be noted on the machine and available from 8AM to 12 midnight. During questioning by the committee, Mr. Tullie stated that even if there is no value in the cell phone deposited in the machine, the phone will be accepted and disposed of in a proper manner. The kiosk will be emptied as often as required. **Recommendation of the Public Services Committee is to recommend approval seconded by Jenkins, of a Junk Dealer's License to Andrew Spaventa, d/b/a ecoATM, 601 Donald Lynch Blvd. 3-0.**
24. **Order No. 12-1005153 - Communication from Attorney Beattie, re: Acceptance as Public Way of Dufrense Drive.**  
The Committee discussed the acceptance with Atty. Beattie.
- **Vote/Action taken: Motion made by Councilor Clancy, seconded by Jenkins, to refer to the Planning Board for their required recommendation to the City Council as to the acceptance of Dufrense Drive as a Public Way in the City of Marlborough 3-0.**
  - **Vote/Action taken: Motion made by Councilor Clancy, seconded by Jenkins, to refer to the Legal Department requesting submission to the City Council of the required Order of Acceptance and related documents in proper legal form 3-0.**
25. **Order No. 12-1005121A - National Grid, Petition, to relocate existing P. 2 25' in a NE direction from existing location and installation of a new anchor off relocated P. 2 on Manning St.** Email and sketch plan from City Engineer attached to the package. The City Engineer respectfully requests that the petition be approved subject to his final approval and attached sketch indicating the location of the proposed pole and the guy anchor. Crystal Tognazzi from NGrid discussed the petition with committee members. The existing pole fell during a storm. The new pole will maintain 8' clearance from the hydrant and will be erected in conformance with amended sketch plan submitted by the City Engineer. Responding to Councilor Clancy, Ms. Tognazzi stated that the yellow guard on guy wire is maintained and NGrid should be contacted for its replacement if necessary. **Recommendation of the Public Services Committee is to recommend approval, seconded by Jenkins, of the NGrid Petition to relocate existing Pole 2 on Manning Street, subject to final approval by City Engineer, Tom Cullen and per the attached sketch indicating the location of the proposed pole and the guy anchor 3-0.**



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

**Lisa M. Thomas  
140 Main St.**

**Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723**

**SEPTEMBER 24, 2012**

Regular meeting of the City Council held on Monday, SEPTEMBER 24, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:40 PM.

ORDERED: That the Metropolitan Area Planning Council - General Overlay Zoning Presentation by Mark Racicot, Land Use Planning Director, **FILE**; adopted.

ORDERED: That the Minutes of the City Council Meeting, SEPTEMBER 10, 2012, **FILE AS AMENDED**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from David Scarfo, agent for T-Mobile, for minor upgrades to existing wireless facility at 157 Union St., Order No. 12-1005150, all were heard who wish to be heard, hearing recessed at 8:45 p.m.; adopted.

**Councilors Robey and Seymour abstained**

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Attorney Brian Falk, on behalf of 54 Main St. LLC, to install a drive-thru service window which would be part of a new structure on the property for Dunkin Donuts restaurant replacing the existing Dunkin Donuts restaurant, which does not have a drive-thru service window at 54 Main St., Order No. 12-1005152, all were heard who wish to be heard, hearing recessed at 9:18 p.m.; adopted.

ORDERED: That the Police Department transfer request in the amount of \$42,576.00 which moves funds from Fringes to Sick Leave and Patrolman to fund benefits associated with the retirement of a Police Department employee, refer to **FINANCE COMMITTEE**; adopted.

**FROM:**

Acct. # 11990006-51500 \$42,576.00  
Fringes

**TO:**

Acct. # 12100003-51920 \$23,949.00  
Sick Leave Buy Back

Acct. # 12100001-50420 \$18,627.00  
Patrolman



ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Conservation Acceptance Grant from Massachusetts Department of Conservation and Recreation in the amount of \$12,000.00 to enhance natural resources and allow for a more diverse 10 acre parcel of forest area that lies both in Marlborough and Sudbury; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Council on Aging Grant from BayPath Elder Services in the amount of \$8,000.00 to assist in outreach efforts in underserved communities; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Council on Aging Grant from the Executive Office of Elder Affairs in the amount of \$46,921.00 which will be utilized for programming needs and support services provided by the Council on Aging; adopted.

### **RESOLUTION:**

**WHEREAS**, on November 23, 1998, the City Council of the City of Marlborough (“the City”) adopted an order (Order No. 98-7900A) approving a Tax Increment Financing Agreement (“the TIF Agreement”) between the City and Ken’s Foods, Inc./MIP Realty Trust (“Ken’s Foods”); and

**WHEREAS**, the TIF Agreement between the City and Ken’s Foods recites that the Ken’s Foods facility at 1 D’Angelo Drive in Marlborough is located within the South-West Quadrangle Economic Opportunity Area (“South-West Quadrangle EOA”), and that that facility consists of Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors’ Maps; and

**WHEREAS**, however, due to an apparent scrivener’s error, the South-West Quadrangle EOA, approved by the City Council on August 26, 1996 (Order No. 96-6753) and later approved by the Massachusetts Economic Assistance Coordinating Council (“EACC”) on October 30, 1996, in fact does not include either Parcel 8 on Map 116 or Parcel 5 on Map 115 of the Marlborough Assessors’ Maps; and

**WHEREAS**, parcel 8 on map 116 and parcel 5 on map 115 of the Marlborough Assessors’ Maps, among other parcels, had been included in an amendment to the Cedar Hill Economic Opportunity Area (“Cedar Hill EOA”), adopted by the City Council on August 28, 1995 (Order No. 95-5962A), later approved by the EACC on September 27, 1995; and

**WHEREAS**, Mass. Gen. Laws c. 23A, § 3E(4)(d) provides in relevant part that an EOA retains its designation as an economic opportunity area “for at least five years and not more than twenty years from the date it is so designated, as determined by the EACC;” and

**WHEREAS**, since the effective period for the Cedar Hill EOA was designated by the EACC on September 27, 1995 to be five years, the Cedar Hill EOA ceased to retain its designation as an economic opportunity area on September 27, 2000; and

**WHEREAS**, the TIF Agreement between the City and Ken’s Foods calls for the tax exemptions recited therein to run through Fiscal Year 2014 (ending on June 30, 2014); and

**WHEREAS**, both the City and Ken's Foods desire that the TIF Agreement remain in full force and effect from September 27, 2000 through Fiscal Year 2014, including that Ken's Foods continue to receive, from September 27, 2000 through Fiscal Year 2014, the benefit of the tax exemptions contemplated by the TIF Agreement between the City and Ken's Foods; and

**WHEREAS**, since the effective period for the South-West Quadrate EOA was designated by the EACC on October 30, 1996 to be twenty years, the South-West Quadrate EOA will continue to retain its designation as an economic opportunity area until October 30, 2016;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Marlborough that a petition be submitted by the City to the Massachusetts Economic Assistance Coordinating Council ("EACC"):

- a. 116 and Parcel 5 on Map 115 of the Marlborough Assessors' Maps, effective retroactive to the date of the EACC's approval of the Cedar Hill EOA on September 27, 1995; and
- b. to amend the South-West Quadrate EOA so as to include Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors' Maps, effective retroactive to the date of the EACC's approval of the South-West Quadrate EOA on October 30, 1996.

Refer to **FINANCE COMMITTEE**; adopted.

**ORDERED**: That the Minutes, Community Development Authority, August 30, 2012 & September 12, **FILE**; adopted.

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Order 12-1005143 – Transfer \$51,945.15 to Fund Non-Union Employee Salaries.** The Finance Committee reviewed the Mayor's letter dated August 23, 2012 requesting the transfer of \$51,945.15 from Reserve for Salaries to fund a 2% increase for nonunion employees for fiscal year 2013. **Recommendation of the Finance Committee is to approve a transfer of \$49,856.35 for all nonunion employees except the City Council 5-0. The City Council salaries will remain level funded.**

**Order 12-1005144 – Transfer \$50,904.00 to Fund Retirement of a Police Officer.** The Finance Committee reviewed the Mayor's letter dated August 23, 2012 requesting the transfer of \$50,904.00 from Fringes to Sick Leave Buy back and Longevity accounts to cover the retirement of a Police Officer. **Recommendation of the Finance Committee is to approve 5-0.**

Councilor Landers reported the following out of the Public Services Committee:

**Order No. 12-1005156 - Application for Livery License, Marc Marlegni, d/b/a Toy Motorsports, LLC, 896 Boston Post Rd. East.** Chief Leonard is without object to the grant of a livery to Toy Motorsports, LLC at 896 Boston Post Road East. The CORI is in order. Applicants operate an existing business in Marlborough, Toy Motorsports, at 896 Boston Post Road East. Applicants will begin the new livery operation with one (8-passenger) vehicle that will be stored in the yard at 896 Boston Post Rd. East and overnight there is available garage space. Toy Motorsports performs mild winterization, boat wrapping and works with dealerships on after-market items. The business has been in operation for three years. The livery operation will provide transportation to customers for events such as concerts, proms, sporting events, weddings and airport runs. In the future, they may consider adding a second vehicle, such as a Chevy Tahoe, for executive transportation. **Recommendation of the Public Services Committee is to recommend approval, seconded by Jenkins, of a livery license to Marc Marlegni, d/b/a Toy Motorsports, LLC, 896 Boston Post Road East 3-0.**

**Order No. 12-1005155 - Junk Dealer's License, Andrew Spaventa, d/b/a ecoATM, 601 Donald Lynch Blvd.** Chief Leonard is without objection to the grant of a Junk Dealer License to ecoATM. The CORI is in order. A local representative will appear as noted on package submitted/cc: councilors' mailboxes 9/17/12. ecoATM is an unmanned kiosk that will be placed in the common area of the mall in a space set aside for vending or carts. Customers can deposit their old cellular devices and will be paid cash for them at the time of transaction. Every transaction is verified by a live attendant in the ecoATM call center via webcam. The information from each transaction including pictures of the person, the device, and the ID are sent real time via internet to ecoATM's database. Law enforcement can choose to receive reports by whichever frequency and method they choose; for example, realtime via an online reporting tool or daily or weekly reports via hardcopy mail or email. Tom Tullie, father of ecoATM's Chief Executive Officer, President and Chairman, Tom Tullie, addressed the committee. Mr. Tullie stated that local contact information will be noted on the machine and available from 8AM to 12 midnight. During questioning by the committee, Mr. Tullie stated that even if there is no value in the cell phone deposited in the machine, the phone will be accepted and disposed of in a proper manner. The kiosk will be emptied as often as required. **Recommendation of the Public Services Committee is to recommend approval seconded by Jenkins, of a Junk Dealer's License to Andrew Spaventa, d/b/a ecoATM, 601 Donald Lynch Blvd. 3-0.**

**Order No. 12-1005153 - Communication from Attorney Beattie, re: Acceptance as Public Way of Dufrense Drive.**

The Committee discussed the acceptance with Atty. Beattie.

- **Vote/Action taken: Motion made by Councilor Clancy, seconded by Jenkins, to refer to the Planning Board for their required recommendation to the City Council as to the acceptance of Dufrense Drive as a Public Way in the City of Marlborough 3-0.**
- **Vote/Action taken: Motion made by Councilor Clancy, seconded by Jenkins, to refer to the Legal Department requesting submission to the City Council of the required Order of Acceptance and related documents in proper legal form 3-0.**

**Order No. 12-1005121 - National Grid, Petition, to relocate existing P. 2 25' in a NE direction from existing location and installation of a new anchor off relocated P. 2 on Manning St. Email and sketch plan from City Engineer attached to the package. The City Engineer respectfully requests that the petition be approved subject to his final approval and attached sketch indicating the location of the proposed pole and the guy anchor.** Crystal Tognazzi from NGrid discussed the petition with committee members. The existing pole fell during a storm. The new pole will maintain 8' clearance from the hydrant and will be erected in conformance with amended sketch plan submitted by the City Engineer. Responding to Councilor Clancy, Ms. Tognazzi stated that the yellow guard on guy wire is maintained and NGrid should be contacted for its replacement if necessary. **Recommendation of the Public Services Committee is to recommend approval, seconded by Jenkins, of the NGrid Petition to relocate existing Pole 2 on Manning Street, subject to final approval by City Engineer, Tom Cullen and per the attached sketch indicating the location of the proposed pole and the guy anchor 3-0.**

**Councilor Elder verbally reported that the Urban Affairs Committee met on September 11, 2012 pertinent to the Cumberland Farms Orders, 12-1005082 and 12-1005083. The City Solicitor has advised that a new public hearing is required by the City Council due to changes they have proposed and the time in which to act will expire at the next meeting.**

**Suspension of the rules requested – granted**

ORDERED: That the City Clerk transfer request in the amount of \$3,000.00 which moves funds from Assistant City Clerk to Sick Leave Buy Back to fund costs associated with the resignation of an employee from the City Clerk's Office, **APPROVED**; adopted.

FROM:

Acct. # 11610002-50290	\$3,000.00
Assistant City Clerk	

TO:

Acct. # 11620003-51920	\$3,000.00
Sick Leave Buy Back	

**Suspension of the rules requested – granted**

ORDERED: That the Communication from the Mayor dated September 21, 2012 pertinent to the proposed long term lease of Bigelow School including a letter of intent from the Assabet Valley Collaborative, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

**Councilor Elder filed a disclosure statement**

**Suspension of the rules requested – granted**

ORDERED: That the City Council of the City of Marlborough, confirms a grant of license to Nissan Automobiles of Marlborough, Inc./Marlboro Nissan (hereinafter, "Marlboro Nissan") to expand an existing shared driveway located on City property adjacent to the westerly side of Marlboro Nissan's building at 740 Boston Post Road, which license is a condition of the special permit granted to Marlboro Nissan by Order No. 12-1004033C, dated March 26, 2012, **APPROVED**; adopted.

**Suspension of the rules requested – granted**

ORDERED: That the amended draft Tax Increment Financing (TIF) proposal from Ken's Food Incorporated, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the City Council invite Commissioner LaFreniere and/or Assistant Commissioner Temple, along with a representative of Allied/Republic, to attend an Operations and Oversight Committee meeting to update the City Council and the viewing public on the progress of the new curbside trash pickup program. Included in this review would be a discussion about remaining challenges, recycling rates, and a forum for questions from councilors, and a platform to further educate the public, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Application for Taxi and Livery license, Yan Chun Zhang d/b/a Japan Car Service for Livery License at 197 Boston Post Rd. West, **APPROVED**; adopted.

ORDERED: That the Application, Junk Dealer's License, Gerald Dumais, d/b/a Dumais & Sons, 67 Mechanic St., **APPROVED**; adopted.

ORDERED: That the Application, Junk Dealer's License, Richard Jenkins, d/b/a MetroWest Rubbish Service, 19 Indian Lane, **APPROVED**; adopted.

**Councilor Jenkins abstained**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:40 PM.



# IN CITY COUNCIL

SEPTMBER 10, 2012

Marlborough, Mass.,

## ORDERED:

That the Communication from Attorney Mitrakas, on behalf of Logical Partners, LLC, re: amendment to the Application for Special Permit to construct a three Townhouse Condominium Unit on Map 68, Lot 466, 126 Pleasant St., Order No. 12-1005151, be and is herewith refer to **URBAN AFFAIRS COMMITTEE**.

**Councilor Tunnera abstained**

ADOPTED

ORDER NO. 12-1005151A



# IN CITY COUNCIL

AUGUST 27, 2012

Marlborough, Mass., \_\_\_\_\_ PAGE 1

## ORDERED:

That there being no objection thereto set **MONDAY, OCTOBER 15, 2012**, as date for a **PUBLIC HEARING** on the Application from Attorney Gadbois to amend the Zoning Code of the City of Marlborough Chapter 650 by adding to Article VI section 650-32 **RESULTS WAY MIXED USE OVERLAY DISTRICT** in accordance with the following proposed change, be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE**.

### ARTICLE VI

#### §650-32 – RESULTS WAY MIXED USE OVERLAY DISTRICT

##### A. Purpose and Objectives

The Results Way Mixed Use Overlay District (herein, also a “RWMUOD”) allows the application of supplemental land use controls within the boundaries of an certain overlay district, subject to City Council approval, as an alternative to land use controls that exist in the underlying district(s). The establishment goals of the Results Way Mixed Used Overlay District are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare, by promoting integrated, pedestrian friendly, mixed use development to allow for the development of housing, retail and workplaces within close proximity of each other consistent with the stated economic development objectives of the City (collectively, herein “Mixed Use Developments” or “MUD”).

For the purposes of this section, the RWMUOD shall be superimposed on the other districts existing at the time that any land in any said underlying district is also included in the RWMUOD. The RWMUOD district is adjacent to Simarano Drive to the west, Forest Street to the north, and Puritan Way and Results Way to the east as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.

For the purposes of the Zoning Ordinance, a “Mixed Use Development” or “MUD” shall include any eligible use set forth in Section D, below, which may be commingled into a single structure or structures with other eligible uses or may be located in separate structures on the site. Accordingly, Mixed Use Developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking areas, to reduce traffic congestion, to reduce automobile trips, and accordingly to improve air quality.



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## ORDERED:

### B. Authority of Permit Granting Authority

The City Council shall be the Permit Granting Authority for Special Permit and Site Plan Approval in the RWMUOD. In all instances, a development which proceeds under the RWMUOD overlay is subject to Site Plan Approval in accordance §270.2 with the exception that the City Council is the Special Permit Granting Authority for Site Plan approval in the RWMUOD.

The City Council may elect to vary the dimensional and parking requirements of this Section by Special Permit if, in their opinion, such change shall result in a substantially improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to occupancy.

### C. Exclusivity/Control

All uses and provisions of Article V of the Zoning ordinance relating to the underlying zoning district not otherwise impacted by this Section (§650-32 et. seq.) shall continue to remain in full force and effect provided however that the City Council shall be the Special Permit Granting Authority, if applicable. This Section (§650-32 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any MUD undertaken in the RWMUOD and supersedes any other provision of the Zoning Ordinance (except the provision of any other applicable overlay district). In the event of any conflict between the provisions of this Section (§650-32 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section shall govern and control.

### D. Eligible Uses

Except as specifically set forth below, all uses permitted in the Industrial and Limited Industrial Districts either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the RWMUOD. If a use requires a special permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

(1) The following additional uses are also permitted BY-RIGHT in the RWMUOD:

- (a) Research and development
- (b) Medical office and diagnostic medical laboratories appurtenant to offices of physicians and dentists





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## ORDERED:

- (c) Research and development including, without limitation, laboratories engaged in research, experimental and testing activities including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, pharmaceuticals, medicine and physics
- (d) Advanced manufacturing which shall include high technology manufacturing such as, but not limited to, laser technology, robotics, nanotechnology and computer associated design and software development
- (e) Multifamily dwelling – up to 350 dwelling units within the entire RWMUOD Zoning District including, without limitation, age restricted dwelling units
- (f) Retail sales and services – up to 75,000sf of gross floor area, up to 10,000sf of gross floor area per establishment
- (g) Hotels and motels
- (h) Hotels with conference facilities and commercial uses
- (i) Car parking lots, garages - “a structure or a group of structures that facilitate the parking of vehicles at ground level, above or below grade and shall include area for the parking vehicles at, above and/or below grade under a building or otherwise integrated into another structure
- (j) Consumer service establishments
- (k) Restaurant, café (with or without outside seating and service)
- (l) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities
- (m) Self-service laundry
- (n) Dry Cleaning (pick up and drop off only)
- (o) Drive through facilities associated with retail (e.g. banks; pharmacies) and food services



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Marlborough, Mass., \_\_\_\_\_ PAGE 4

## ORDERED:

- (2) The following additional uses are also permitted BY-SPECIAL PERMIT in the RWMUOD:
  - (a) Multifamily dwelling – more than 350 dwelling units within the entire RWMUOD Zoning District including, without limitation, age restricted dwelling units
- (3) The foregoing Sections notwithstanding, the uses set forth as follows are expressly PROHIBITED in the RWMUOD:
  - (a) Adult Bookstore, video store, paraphernalia store, movie theatre, live entertainment establishment
  - (b) Tattoo and body piercing parlors and shops
  - (c) Dye Works
  - (d) Biosafety Level 4 laboratories, as defined by the United States Center for Disease Control and Prevention

## E. Dimensional Requirements

The RWMUOD shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:

- (1) The RWMUOD shall consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the Results Way Mixed Use Overlay District.
- (2) Minimum Lot Frontage measurement shall be no less than fifty (50) feet for any lot wholly located within the boundaries of the RWMUOD.
- (3) Minimum Front Yard measurement shall be no less than thirty (30) feet for any lot wholly located within boundaries of a RWMUOD.
- (4) No less than fifteen (15) feet shall separate the structural side wall of any two or more MUD Structures. No less than fifteen (15) feet shall separate any area behind and or between structures, and fire suppression vehicles shall have clear and adequate access to all structures.
- (5) Maximum building height in RWMUOD shall not exceed 80 feet.



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## ORDERED:

- (6) Maximum Lot Coverage shall be calculated on the entire land area of the RWMUOD and not on an individual lot basis, and shall not exceed 60 percent of the total area of the RWMUOD.

### F. Parking and Curb Cut Requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of Section §650-48 and §650-49 of the Zoning Ordinance.

- (1) General - In the RWMUOD adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall consider complimentary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.
- (2) Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to other permitted uses.
- (3) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit.
- (4) Granting of Relief from Parking Regulations - The City Council may waive any of the foregoing requirements or the requirements of Section §650-48 if it makes a finding that to do so will enhance the overall design of the RWMUOD.

### G. Signage

Except as otherwise provided in this Mixed Use Ordinance, parking and circulation requirements shall conform with the provisions of Chapter 526 of the Marlborough General Code – the Sign Ordinance.

- (1) Granting of Relief from Signage Regulations - The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the RWMUOD.



# IN CITY COUNCIL

AUGUST 27, 2012

Marlborough, Mass., \_\_\_\_\_ PAGE 6

## ORDERED:

### H. Application

An application for a Special Permit or Site Plan approval for a Mixed Use Development in the RWMUOD shall comply with the requirements of Section §650-59 et. seq. of the Zoning Ordinance.

### I. Standards for Roadways and Drainage

- (1) Roadways - RWMUOD roadways to be accepted by the [City] as public ways shall be designed and constructed in accordance with the Rules and Regulations for the Subdivision of Land in the City. Private ways within the RWMUOD, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Storm Water Management System - The RWMUOD shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended.

### J. Amendments

After approval, the owner/developer may seek amendments to the approved plan. Minor amendments may be made by a majority vote of the City Council. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be major or minor. A major amendment shall require the filing of an application pursuant to Section §650-59 of the Zoning Ordinance.



# IN CITY COUNCIL

AUGUST 27, 2012

Marlborough, Mass., \_\_\_\_\_ PAGE 7

**ORDERED:**

## EXHIBIT A

A CERTAIN PARCEL OF LAND SITUATED ON THE SOUTHERLY SIDE OF FOREST STREET, WESTERLY SIDE OF INTERSTATE ROUTE 495 AND THE EASTERLY SIDE OF SIMARANO DRIVE IN THE CITY OF MARLBOROUGH, COUNTY OF MIDDLESEX, COMMONWEALTH OF MASSACHUSETTS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY CORNER OF THE INTERSECTION OF SIMARANO DRIVE AND FOREST STREET, SAID POINT BEING THE NORTHWESTERLY CORNER OF HEREINAFTER DESCRIBED PARCEL; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF ONE HUNDRED FIFTY AND THIRTY-NINE HUNDREDTHS FEET (150.39') TO A POINT; THENCE

S 89° 18' 23" E A DISTANCE OF TWO HUNDRED SIX AND THIRTY-THREE HUNDREDTHS FEET (206.33') TO A POINT THENCE

EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THIRTY AND NO HUNDREDTHS FEET (1030.00'), A DISTANCE OF THREE HUNDRED FORTY-THREE AND FORTY-TWO HUNDREDTHS FEET (343.42') TO A POINT; THENCE

N 71° 35' 25" E A DISTANCE OF FOUR HUNDRED FIFTY-SIX AND SIXTY-FOUR HUNDREDTHS FEET (456.64') TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF TWO HUNDRED TEN AND EIGHTY-FOUR HUNDREDTHS FEET (210.84') TO A POINT; THENCE

S 87° 13' 00" E A DISTANCE OF FOUR HUNDRED TWENTY-EIGHT AND NINETY-TWO HUNDREDTHS FEET (428.92') TO A POINT; THENCE

EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THREE HUNDRED SIXTY-TWO AND NINETY-THREE HUNDREDTHS FEET (1362.93'), A DISTANCE OF FOUR HUNDRED ONE AND FIFTY HUNDREDTHS FEET (401.50') TO A POINT; THENCE



# IN CITY COUNCIL

AUGUST 27, 2012

Marlborough, Mass., \_\_\_\_\_ PAGE 8

## ORDERED:

N 75° 54' 18" E A DISTANCE OF THREE HUNDRED EIGHTY-EIGHT AND THIRTY-EIGHT HUNDREDTHS FEET (388.38') TO A POINT IN THE WESTERLY LINE OF INTERSTATE ROUTE 495, THE PREVIOUS EIGHT (8) COURSES BOUNDING ON THE SOUTHERLY LINE OF FOREST STREET; THENCE

SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF TEN THOUSAND ONE HUNDRED FIFTY-TWO AND NO HUNDREDTHS FEET (10152.00'), A DISTANCE OF ONE THOUSAND SIXTY-SIX AND NINE HUNDREDTHS FEET (1066.09') BY THE WESTERLY LINE OF INTERSTATE ROUTE 495 TO A POINT; THENCE

S 78° 36' 23" W A DISTANCE OF FIVE HUNDRED THIRTY-EIGHT AND TWENTY-FIVE HUNDREDTHS FEET (538.25') TO A POINT; THENCE

S 27° 49' 51" W A DISTANCE OF ONE HUNDRED TWENTY-THREE AND THIRTY-SIX HUNDREDTHS FEET (123.36') TO A POINT; THENCE

SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND ONE HUNDRED AND NO HUNDREDTHS FEET (1100.00'), A DISTANCE OF THREE HUNDRED AND EIGHTY-SIX HUNDREDTHS FEET (300.86') TO A POINT; THENCE

SOUTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF TWO HUNDRED TWENTY-THREE AND NO HUNDREDTHS FEET (223.00'), A DISTANCE OF TWO HUNDRED TWENTY-SEVEN AND NINETY-SIX HUNDREDTHS FEET (227.96') TO A POINT; THENCE

SOUTHERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FOUR HUNDRED FIFTY AND NO HUNDREDTHS FEET (450.00'), A DISTANCE OF FOUR HUNDRED EIGHTY-ONE AND SIXTY-EIGHT HUNDREDTHS FEET (481.68') TO A POINT; THENCE

S 42° 06' 53" W A DISTANCE OF ONE HUNDRED ELEVEN AND TWENTY-SIX HUNDREDTHS FEET (111.26') TO A POINT; THENCE

SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED TEN AND NO HUNDREDTHS FEET (510.00'), A DISTANCE OF FIVE HUNDRED SEVENTEEN AND NINETY-TWO HUNDREDTHS FEET (517.92') TO A POINT; THENCE



# IN CITY COUNCIL

AUGUST 27, 2012

Marlborough, Mass., \_\_\_\_\_ PAGE 9

## ORDERED:

S 16° 04' 13" E A DISTANCE OF ONE HUNDRED FORTY-NINE AND NINETY-THREE HUNDREDTHS FEET (149.93') TO A POINT; THENCE

S 65° 34' 06" W A DISTANCE OF ONE HUNDRED THIRTY-SEVEN AND FIFTY-THREE HUNDREDTHS FEET (137.53') TO A POINT IN THE EASTERLY LINE OF SIMARANO DRIVE; THENCE

NORTHWESTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED THIRTY AND NO HUNDREDTHS FEET (530.00') A DISTANCE OF ONE HUNDRED SIXTY-EIGHT AND TWENTY-TWO HUNDREDTHS FEET (168.22') TO A POINT; THENCE

N 53° 42' 50" W A DISTANCE OF ONE THOUSAND SIX HUNDRED EIGHTY-EIGHT AND NINETY HUNDREDTHS FEET (1688.90') TO A POINT; THENCE

NORTHWESTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF SIX HUNDRED FORTY-SEVEN AND NINETY HUNDREDTHS FEET (647.90'), A DISTANCE OF SIX HUNDRED FIFTY-THREE AND TWENTY-FIVE HUNDREDTHS FEET (653.25') TO A POINT; THENCE

N 04° 03' 18" E A DISTANCE OF TWO HUNDRED THIRTY-FIVE AND NINETY-TWO HUNDREDTHS FEET (235.92') TO A POINT; THENCE

NORTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FOUR HUNDRED SEVENTY-SEVEN AND FORTY-NINE HUNDREDTHS FEET (477.49'), A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND SEVENTY-EIGHT HUNDREDTHS FEET (148.78') TO A POINT; THENCE

N 13° 47' 53" W A DISTANCE OF FOUR HUNDRED FORTY-ONE AND TWENTY-THREE HUNDREDTHS FEET (41.23') TO A POINT; THENCE

NORTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIFTY AND NO HUNDREDTHS FEET (50.00'), A DISTANCE OF SEVENTY-SEVEN AND NINETY-NINE HUNDREDTHS FEET (77.99') TO THE POINT OF BEGINNING. THE PREVIOUS SEVEN (7) COURSES BOUNDING ON THE SAID EASTERLY LINE OF SIMARANO DRIVE.



## IN CITY COUNCIL

AUGUST 27, 2012

Marlborough, Mass., \_\_\_\_\_ PAGE 10

### ORDERED:

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS AN AREA OF 109.47 ACRES AND IS MORE PARTICULARLY SHOWN ON A PLAN ENTITLED "COMPILED PLAN OF LAND IN MARLBOROUGH, MASS. & SOUTHBOROUGH, MASS." DATED NOVEMBER 23, 1994; PREPARED BY THE BSC GROUP, INC AND RECORDED WITH MIDDLESEX SOUTH DISTRICT REGISTRY OF DEEDS AS PLAN NO. 1254 OF 1994.

MARLBOROUGH ASSESSOR'S MAP 101 PARCEL 2.

ADOPTED

ORDER NO. 12-1005154





*City of Marlborough*

*Arthur G. Vigeant*  
MAYOR

*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
MARLBOROUGH

*Michael C. Berry*  
EXECUTIVE AIDE

140 Main Street

2012 OCT 11 A 10:58

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

*Patricia Bernard*  
EXECUTIVE SECRETARY

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

October 11, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Transfer Request – Funding of MPPOA Contract**

Honorable President Pope and Councilors:

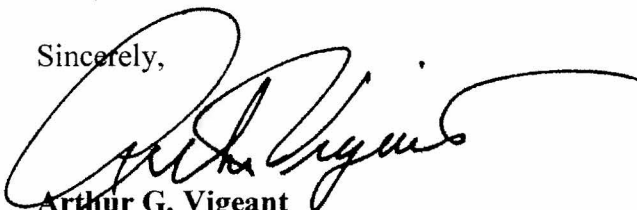
I am happy to report to you that the City of Marlborough and the Marlborough Police Patrol Officers Association (MPPOA) have reached an agreement on a new three year contract through Fiscal Year 2015.

This new contract is mutually beneficial to both sides. In keeping with previous agreements reached with other unions, this contract calls for a 6% cost of living increase over the term of the contract at 2% for each fiscal year.

I have enclosed a transfer request totaling \$75,985.00 that will fund this contract for the remaining fiscal year.

I wish to thank the leadership of the patrol officers association for their willingness to work with the city to swiftly reach a new contract. I thank you in advance for your consideration and ask that you do not hesitate to let me know if you have any questions.

Sincerely,



Arthur G. Vigeant  
Mayor

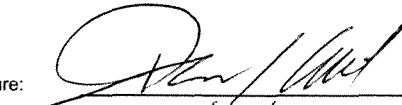
CITY OF MARLBOROUGH  
 --BUDGET TRANSFERS --

DEPT: Gen Government		FISCAL YEAR: 2013		Police	
Available Balance	FROM ACCOUNT:	TO ACCOUNT:	Available Balance		
Amount	Org Code Object Account Description:	Amount Org Code Object Account Description:	Amount	Org Code Object Account Description:	Amount
\$750,834	\$75,985 11990006 57820 Reserve for Salaries	\$676 12100001 50435 Specialist	\$25,427		
	Reason: _____	To Fund Labor Contract			
		\$35,752 12100001 50420 Police Officers	\$1,940,319		
	Reason: _____	To Fund Labor Contract			
		\$3,500 12100003 51310 OT Reg	\$138,867		
	Reason: _____	To Fund Labor Contract			
		\$2,733 12100003 51320 OT Court	\$166,088		
	Reason: _____	To Fund Labor Contract			
		\$94 12100003 51319 OT Cell Watch	\$6,386		
	Reason: _____	To Fund Labor Contract			
		\$2,940 12100003 51940 Clothing	\$42,919		
	Reason: _____	To Fund Labor Contract			

Sub-Total \$45,695

Department Head signature: \_\_\_\_\_

Date: \_\_\_\_\_

  
 \_\_\_\_\_  
 10/10/12

CITY OF MARLBOROUGH  
--BUDGET TRANSFERS --

DEPT: **Gen Government** FISCAL YEAR: 2013  
FROM ACCOUNT:

**Police**  
TO ACCOUNT:

CITY OF MARLBOROUGH  
--BUDGET TRANSFERS --

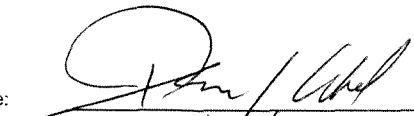
DEPT: **Gen Government** FISCAL YEAR: 2013  
FROM ACCOUNT:

**Police**  
TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
					\$3,113	12100003	51920	Sick Leave Buy Back	\$155,828
	Reason:							To Fund Labor Contract	
					\$16,255	12100003	51440	Educational Incentive	\$444,257
	Reason:							To Fund Labor Contract	
					\$2,751	12100003	51342	Longevity	\$133,840
	Reason:							To Fund Labor Contract	
					\$5,544	12100003	51490	Holiday	\$ 231,017
	Reason:							To Fund Labor Contract	
					\$1,555	12100003	51450	Night Shift Diff	\$88,950
	Reason:							To Fund Labor Contract	
					\$1,073	12100003	51410	First Responder	\$40,046
	Reason:							To Fund Labor Contract	
				Sub Total	\$30,290				
				Sub Total Page 1	\$45,695				
				Total	\$75,985				

Department Head signature:

Date:

  
10/10/12

Memorandum of Agreement  
Between  
City of Marlborough  
&  
NEPBA, Local 81  
(Police Patrol Officers)

WHEREAS, the Collective Bargaining Agreement (the "Agreement") between the City of Marlborough (the "City") and the NEPBA, Local 81 (the "Union") was scheduled to expire June 30, 2012;

WHEREAS, the City and the Union have reached an Agreement for a successor agreement for the period July 1, 2012, through June 30, 2015;

NOW, THEREFORE, the City and the Union agree the new Agreement shall consist of the prior Agreement as modified herein:

**1. Article XIV – Clothing Allowance.**

(a) Amend Section 1 of this Article to reflect the parties' agreement that the total clothing allowance amount will be increased from \$940.00 to \$1,000.00 effective July 1, 2012. Each Officer shall submit to the Chief of police for payment vouchers for the uniforms and clothing purchased in keeping with the current system.

(b) Parties agree to amend Section 6 of this Article by adding the following language to the end of the existing language:

*"The Union shall annually, on or before January 15<sup>th</sup>, provide the Chief with a list of patrol officers eligible for replacement body armor based on the five (5) year recommended replacement cycle."*

**2. Article XV - Sick Leave.**

(a) Delete Section 5 in its entirety and replace as follows:

*“Sick leave shall accrue only during the first twelve (12) months of paid on-duty injury leave. No sick leave accrual shall occur after the first twelve (12) months for any reason.”*

(b) Amend this Article by adding the following new Section 7 as follows:

“Section 7

Annually, in January, upon the request of an eligible patrol officer hired on or after July 1, 2012, the City shall buy back from the patrol officer, at his or her hourly rate of pay:

- A. Up to eighty 80 hours of sick leave, if the patrol officer (a) has accumulated at least one hundred (100) sick days before the buyback request and (b) still maintains a balance of at least ninety (90) sick days after the buy back;
- B. Up to one hundred twenty (120) hours of sick leave, if the patrol officer (a) has accumulated at least one hundred twenty (120) sick days before the buyback request and (b) still maintains a balance of at least one hundred and five (105) sick days after the buy back.”

**3. Article XIX – Salaries.**

(a) Parties agree to delete Section 1 of this Article in its entirety and replace as follows:

*“Section 1. The base salaries of Patrol Officers, which shall always be calculated on the basis of a fifty-two (52) week per year formula, shall be increased the following percentages and amounts on the dates indicated:*

<i>Effective November 1, 2012</i>	<i>2%</i>
<i>Effective July 1, 2013</i>	<i>2%</i>
<i>Effective July 1, 2014</i>	<i>2%</i>

*The wage rates are set forth in Schedule A to this Agreement.*

*For patrol officers eligible for M.G.L. c 41, Section 108L (Quinn Bill), effective November 1, 2012, an Adjusted Base Pay will be computed by adding the patrol officer's Educational Incentive Pay (Quinn Bill) to his/her Base Pay. Longevity, Night Shift Differential,*

*First Responder and Specialist Pay will be individually computed from the Adjusted Base Pay and then added with the Adjusted Base Pay to form the patrol officer's annual pay rate from which weekly and hourly rates of pay shall be calculated."*

(b) Parties agree, for patrol officers hired after July 1, 2012, that the percentage based multipliers enumerated in Sections 2-6 (Night Shift, Master Police, Educational Incentive, First Responder and Specialist Pay) of this Article will be converted to flat amounts based on the Entry Level Step base salary for patrol officers as of November 1, 2012.

(c) Parties agree to amend Section 3, subsection 3 by inserting the phrase "on the patrol officers' actual 20<sup>th</sup> and 25<sup>th</sup> anniversary date" after the word "increased".

(d) Parties agree to amend Section 4 of this Article as follows:

“SECTION 4 EDUCATIONAL INCENTIVE

(a) Educational Incentive Payments to eligible patrol officers shall be as determined by Section 108L of Chapter 41 of the Massachusetts General Laws, as amended, except that no employee shall suffer any loss of economic benefit as a result of this Section, and further that employees with an Associate's Degree shall receive a minimum of twelve (12%) percent.

(b) Patrol Officers, not eligible for Educational Incentive payments pursuant to Section 108L, shall receive the following annual educational incentive payment from the Police Department, if, the patrol officer holds a qualifying degree (as defined by Section 108L):

Master/Law Degree                      \$5,500.00(annually)

Bachelor Degree                      \$3,500.00(annually)

Above described payments shall be disbursed in two (2) equal payments on July 1 and January 1.

**4. Article XXIII – Duration of Agreement.** Parties agree to amend this Article to reflect three year term of the agreement from July 1, 2012 to June 30, 2015.

THIS AGREEMENT is subject to ratification by the Mayor of the City of Marlborough and the Union's membership and cost items are subject to appropriation by the Marlborough City Council.

THIS AGREEMENT has been duly executed by the authorized representatives of the City of Marlborough and the NEPBA, Local 81.

CITY OF MARLBOROUGH

N.E. POLICE BENEVOLENT ASSOC.,  
LOCAL 81

By: \_\_\_\_\_  
Nicholas Anastasopoulos  
Labor Counsel

By: \_\_\_\_\_  
Sean McArdle  
Business Representative

By: \_\_\_\_\_  
David Brumby  
Personnel Director

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**RATIFIED:**  
CITY OF MARLBOROUGH

**RATIFIED:**  
N.E. POLICE BENEVOLENT ASSOC.,  
LOCAL 81

By: \_\_\_\_\_  
Arthur Vigeant  
Mayor

By: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



*City of Marlborough*  
*Office of the Mayor*

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
RECEIVED MAYOR  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
*Michael C. Berry*  
EXECUTIVE AIDE  
2012 OCT 11 A 10:59  
*Patricia Bernard*  
EXECUTIVE SECRETARY

October 11, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Transfer Request – Assessing and Appraisal Services**

Honorable President Pope and Councilors:

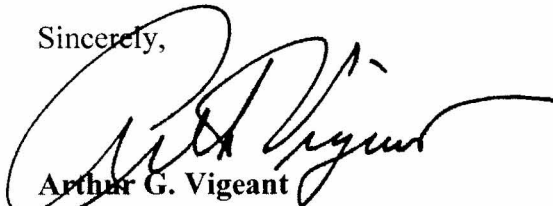
I have enclosed for your approval the following transfer request:

- 1) Transfer in the amount of \$13,800.00 from 11410001-50160 (Principal Assessor) to 11410004-53180 (Professional & Technical Services).

After a thorough investigation process that involved several options, I chose to utilize the services of Regional Resource Group to assist in the operations of our Assessor's Office until December 31<sup>st</sup>. This firm has worked in the Assessing Departments of several nearby municipalities including Wayland, Lincoln, and Berlin and came highly recommended.

This transfer will fund the contract with Regional Resource Group to provide appraisal services to the City for the remainder of this calendar year. Please do not hesitate to let me know if you have any questions.

Sincerely,

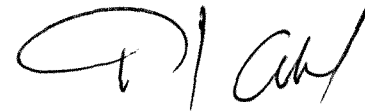
  
Arthur G. Vigeant  
Mayor



## TRANSFER REQUEST

AVAILABLE BALANCE	AMOUNT	FROM ACCOUNT			TO ACCOUNT			AMOUNT AVAIL
		ORG CODE	OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT DESCRIP	ACCOUNT
				<b>Assessor Dept</b>				<b>Assessor Dept</b>
\$ 67,764.28	\$ 13,800.00	11410001	50160	Princ. Assessor	\$ 13,800.00	11410004	53180	Prof & Tech Services
								\$ 3,000.00
					\$ 13,800.00			

Reason: To fund contract with Regional Resource Group to provide appraisal services to the city.



# CONTRACT

## CITY OF MARLBOROUGH, MASSACHUSETTS

### AGREEMENT

THIS AGREEMENT made on the 1st day of October, 2012 by and between the City of Marlborough, a municipal corporation duly organized under the laws of Massachusetts and having a usual place of business at 140 Main Street, Marlborough, Massachusetts, 01752, hereinafter referred to as the "City," and Regional Resource Group, Inc., a Massachusetts corporation having a usual place of business at 10 Monument Square, Suite 202 Leominster, Massachusetts, 01453, hereinafter referred to as the "Contractor."

### WITNESSETH:

WHEREAS, the City invited the Contractor to prepare a quote to assist the City, its Board of Assessors, and staff with interim tax assessment support; and,

WHEREAS, the CITY has decided to retain the Contractor to perform such work.

NOW, THEREFORE, the City and the Contractor agree as follows:

#### 1. THE WORK

- a. Assist the Assessor's Office and Vision Appraisal in obtaining Department of Revenue (DOR) certification of fiscal year 2013 valuations.
- b. Be available to the public during when valuations are disclosed to the public during an official 1 to 2 week hearing period. Conduct on-site inspections to resolve taxpayer valuation concerns. Continue to address taxpayer questions through the end of the contract term.
- c. Provide 30 one-half days of in-office support by an assigned associate assessor.
- d. Provide additional support with all aspects of new growth certification, classification hearings, and tax rate setting assistance.
- e. Review all proposed fiscal year 2013 assessments, developing reports and narrative materials summarizing valuations.
- f. Prepare and post on the Assessor's Office web-site information about proposed assessments.
- g. Assist with the preparation and uploading of real and personal property billing files.
- h. Be available to administrative staff to answer assessment questions.
- i. Provide 2 DOR certified interim assessors, sworn to serve in such roles by the City Clerk and thereby sign all DOR recap related reports and recaps in conjunction with the 3<sup>rd</sup> Assessor.
- j. Assist with such other tasks as would normally be required of a Principal Assessor.

The City agrees to make all required property data, valuation systems, maps, and records available to the Contractor, as well as, allow for a remote access connection to the Contractors home office.

2. TERM OF CONTRACT. It is agreed the duration of this Agreement shall be for a three (3) month term beginning **October 1, 2012 and ending on December 31, 2012.** It is understood and agreed that any contractual obligation of the City subsequent to the first three (3) weeks

of this Agreement is contingent upon and subject to the availability of appropriated funds. Either party may terminate this Agreement at any time by giving fourteen (14) days written notice to the other party of its intention to terminate as of the date specified in the notice .

3. COMPENSATION. The Contractor will charge the City a flat rate of thirteen thousand eight hundred dollars (\$13,800.00) in accordance with the following schedule:

For services provided during Week 1, ending on October 5, 2012: \$1,000.00  
For services provided during Week 2, ending on October 12, 2012: \$1,000.00  
For services provided during Week 3, ending on October 19, 2012: \$1,000.00  
For services provided during Week 4, ending on October 26, 2012: \$1,600.00  
For services provided during the month of November 2012: \$4,600.00  
For services provided during the month of December 2012: \$4,600.00

4. PAYMENT OF COMPENSATION. For Week 1 through Week 4 of this Agreement, the Contractor will invoice the City on a weekly basis for amounts due and payable by the City as set forth in paragraph 3 of this Agreement. The City shall make payments on such weekly invoices within fifteen (15) days after its receipt of an invoice upon approval by the City Auditor as provided by M.G.L. c. 41, § 56. For the months of November 2012 and December 2012, the Contractor will invoice the City on a monthly basis for amounts due and payable by the City as set forth in paragraph 3 of this Agreement. The City shall make payments for such monthly invoices within thirty (30) days after its receipt of an invoice upon approval by the City Auditor as provided by M.G.L. c. 41, § 56.
5. INDEPENDENT CONTRACTOR. The Contractor acknowledges and agrees that it is acting as an independent Contractor for all work and services rendered pursuant to this Agreement, and shall not be considered an employee or agent of the City for any purpose.
6. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold the City harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of the contractor's breach of this Agreement or the negligence or misconduct of the Contractor, or the Contractor's agents or employees.
7. INSURANCE. The Contractor shall provide to the City's Chief Procurement Officer a Certificate of Insurance evidencing insurance with the following minimum limits and acceptable to the City:

General Liability, including bodily injury and property damage in the amount not less than \$1,000,000 per occurrence with an aggregate cap no less than \$3,000,000.00.

Automobile Liability, including coverage of owned, hired or borrowed autos, in the amount of not less than \$1,000,000.00 C.S.L., if applicable.

Workers' Compensation coverage per Massachusetts General Laws and Employer's Liability coverage: Coverage A at statutory limits and Coverage B at limits of \$100,000/\$500,000/\$100,000.

The City of Marlborough shall be named as an additional insured on General Liability and Automobile Liability policies. The Certificate Holder shall be as follows:

City of Marlborough  
Attn: Chief Procurement Officer  
140 Main Street – 4<sup>th</sup> Floor  
Marlborough, MA 01752

The insurance specified in this section shall provide that such insurance applying to the City shall be primary with respect to the Contractor's activities under this Agreement and the City's own insurance shall be non-contributing.

All the insurance will be issued by a responsible insurance company licensed and authorized to do business in Massachusetts. The Contractor agrees not to change and agrees to maintain such insurance throughout the period of performance of services required by this Agreement. The policies shall contain endorsements stating that at least thirty (30) days notice will be given to the City prior to termination or any change in the policies. Should any required insurance be cancelled, materially reduced or expired, all activities under this Agreement shall immediately cease until substitute insurance in compliance with all requirements hereof has been procured and evidence thereof presented to the City.

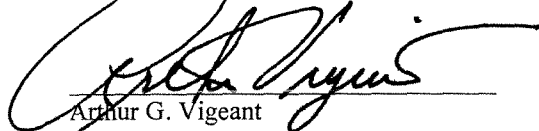
8. ASSIGNMENT. The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the City, and shall not assign any of the moneys payable under this Agreement, except by and with the written consent of the City.
9. INSPECTION, REPORTS, AND DATA. The City shall have the right at any time to inspect the work of the Contractor, including the right to enter upon any property owned or occupied by Contractor, whether situated within or beyond the limits of the City. Whenever requested, Contractor shall immediately furnish to the City full and complete written reports of his operation under this Agreement in such detail and with such information as the City may request.  
  
All data provided by the City, or developed as part of the assignment shall not be used by the Contractor for purposes other than those related to work covered by this contract without obtaining the express written permission of the City.
10. SUCCESSOR AND ASSIGNS. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the City nor the Contractor shall assign or transfer any interest in the Agreement without the written consent of the other.
11. COMPLIANCE WITH LAWS. The Contractor shall comply with all Federal, State and local laws, rules, regulations and orders applicable to the work provided pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.
12. NOTICE. Formal notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

Informal communications will be simultaneously e-mailed to the City Comptroller.

13. TAX COMPLIANCE. Contractor agrees to provide certification of tax compliance in accordance with M.G.L. c. 62C, §49A which is attached as Exhibit "A" and incorporated herein by reference.
14. CONFLICT OF INTEREST. Any activity associated with this Agreement that would constitute a violation of M.G.L. c. 268A, the Commonwealth's Conflict of Interest law, is prohibited.
15. SEVERABILITY. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
16. GOVERNING LAW. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the Contractor submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
17. ENTIRE AGREEMENT. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

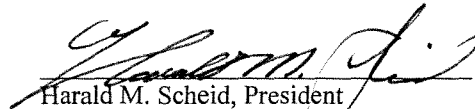
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

**FOR THE CITY OF MARLBOROUGH  
BY ITS MAYOR:**

  
Arthur G. Vigeant

Date: 10/4/12

**FOR THE CONTRACTOR  
REGIONAL RESOURCE GROUP, INC.:**

  
Harald M. Scheid, President

Date: 10/4/2012

**ACTING DEPARTMENT HEAD:**

  
Thomas Abel, Comptroller

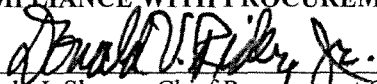
**CERTIFICATION AS TO SUFFICIENCY OF FUNDS:**



Diane Smith, City Auditor, who certifies that the proposed expenditure is not in excess of the appropriation or the unexpended balance thereof and the Mayor is authorized to sign the agreement and any amendments.

Requisition/PO# \_\_\_\_\_

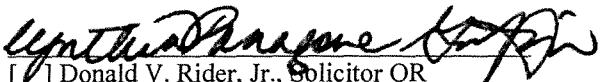
**COMPLIANCE WITH PROCUREMENT LAW:**



Beverly J. Sleeper, Chief Procurement Officer OR Donald V. Rider, Jr., Acting Chief Procurement Officer, who certifies that the services pursuant to this contract were, to the best of her/his belief and knowledge, procured pursuant M.G.L. c.30B.

Exemption: \_\_\_\_\_ Contract # \_\_\_\_\_

**APPROVED AS TO FORM:**



- Donald V. Rider, Jr., Solicitor OR
- Cynthia Panagore Griffin, Asst. Solicitor

EXHIBIT "A"



The following Certificate of Tax Compliance, which must be completed, is a part of the Agreement executed between the City of Marlborough and Regional Resource Group, Inc. for the provision of services relating to interim tax assessment support.

**Certificate of Tax Compliance**

**Certification that State Taxes are Filed and Paid:** Pursuant M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, the company is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

BY:   
Signature of Individual/Corporate Officer (Mandatory, if applicable)

TITLE: PRESIDENT REGIONAL RESOURCE GROUP, INC.  
Company/Corporate Name (Mandatory)

59-3772737  
Social Security number (voluntary) or Federal Identification Number

DATE: 10/4/2012



# City of Marlborough

## Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

*Michael C. Berry*  
EXECUTIVE AIDE

2012 OCT 11 A 10:59

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 11, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Appointment of Assessors**

Honorable President Pope and Councilors:

I wish to appoint Mr. Harold Scheid of Regional Resource Group, Inc. to the position of Chief Assessor / Board of Assessor Chairman. Additionally, I wish to appoint Mr. Bradford Dunn of Regional Resource Group, Inc. to the Board of Assessor's. Both appointments will allow the city's Board of Assessors to carry out their duties for the remainder of this calendar year.

This arrangement will have no additional cost to the City and is covered within the contract I signed with Regional Resources Group. I intend on permanently addressing the composition of the Board of Assessors at a future date after several projects of significance are completed including but not limited to the setting of the tax rate and the completion of our reevaluations.

Please do not hesitate to contact me with any additional questions.

Sincerely,

**Arthur G. Vigeant**  
Mayor





*City of Marlborough*

*Office of the Mayor*

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 11 A 10:59

October 11, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Board of Registrars**

Honorable President Pope and Councilors:

I wish to submit the names of Mr. Ronald Saloman and Ms. Elizabeth "Betty" Evangelous as appointees to the Board of Registrars. Mr. Saloman will be replacing Mr. Joe Moineau and Ms. Evangelous will be replacing the late Mr. William Short.

Both Mr. Saloman and Ms. Evangelous have a long history of community service and civic involvement that will allow them to be valuable contributors to this important board.

Please do not hesitate to contact me with any additional questions. Thank you in advance for your consideration.

Sincerely,

**Arthur G. Vigeant**  
Mayor



# City of Marlborough

## Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 11 A 11:00

October 11, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Proposed Order Concerning Transfer Of Care, Custody, Management, And Control Of A Certain Portion Of Land At Memorial Beach**

Honorable President Pope and Councilors:

Enclosed herewith please find a proposed order to transfer the care, custody, management, and control of a certain portion of land located at Memorial Beach. By Order No. 11-1004002-1, dated December 21, 2011, the Council dedicated land at Memorial Beach to recreational purposes and transferred the same land to the Recreation Commission. The transfer excluded a sub-parcel, on which a sewer pump station is located, which was to be created through the Approval Not Required (ANR) process.

Presently, an ANR plan, entitled "Approval-Not-Required, Plan of Land, World War II Memorial Beach, Hosmer Street, Marlborough, MA," and also enclosed herewith, has been created for the sub-parcel ("Lot A" on the ANR plan). By the proposed order, the care, custody, management, and control of the sub-parcel will be transferred from the City Council to the Department of Public Works.

The Legal Department and the Engineering Department are available to answer your questions.

Sincerely,

**Arthur G. Vigeant**  
Mayor

ORDERED:

That the City Council of the City of Marlborough, by two-thirds vote pursuant to Mass. Gen. Laws c. 40, § 15A, hereby transfers to the Department of Public Works of the City of Marlborough the care, custody, management, and control of Lot A, being a portion of land acquired by the City in 1953 for general purposes, located at 706 Hosmer Street at Memorial Beach, identified on Assessors Maps as Map 7, Parcel 49, and shown on an ANR Plan entitled "Approval-Not-Required, Plan of Land, World War II Memorial Beach, Hosmer Street, Marlborough, MA, Prepared For CDM Smith, Inc., Scale: 1"=50', Date: September 17, 2012," to be recorded in the South Middlesex District Registry of Deeds.

ADOPTED

In City Council

Order No. 12-

Adopted

Approved By Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:



**REFERENCES**

1. SURVEYING SURVEY, WORLD WAR II MEMORIAL BEACH, MARLBOROUGH, MA. PREPARED FOR: TCM SMITH, INC. PREPARED BY: SURVEYING AND MAPPING CONSULTANTS. DATED: MAY 11, 2012. SCALE: 1"=40'
2. RELOCATION PLAN OF HOSMER STREET CITY OF MARLBOROUGH, MASS. DATED: OCTOBER 1962. SCALE: 1"=40'
3. PLAN OF CAUSEWAY STREET IN HUDSON, MASS. (FORMERLY 201) SCALE: 1"=40' BY MACGARTH ENGINEERING SERVICES, INC.
4. PLAN OF WEST NEW LAKE SHORES SECTION 2, HUDSON, MASS. UNDED BY HAROLD C. DRIGAN, SCALE: 1"=40'. DATED: 1955. ENGINEER: ROSEBERRY ENGINEER.
5. ENGINEERING PLAN OF LAND IN HUDSON, MASS. SCALE: 1"=40'. DATED: SEPTEMBER 19, 1981. BY WEITMAN & HOWARD, INC. ENGINEERS AND ARCHITECTS.
6. RESERVOR ZONING SUBDIVISION OF LAND IN MARLBOROUGH, MASS. SCALE: 1"=40'. FEBRUARY 24, 1968. OWNED BY: RESERVOR REALTY TRUST, 10 HIGHLAND LANE, SUITE 100, INC.
7. MAP OF FORT MEADOW RESERVOR IN MARLBOROUGH AND HUDSON, MASS. BELONGING TO AMERICAN WOODEN COMPANY. DATED: 1903. BY SMITH AND BROOKS, CIVIL ENGINEERS.

CITY OF MARLBOROUGH PLANNING BOARD  
 APPROVAL UNDER THE SUBDIVISION STATUTE  
 LAW NOT REQUIRED  
 ENGAGEMENT BY THE PLANNING BOARD IS  
 NOT A DETERMINATION AS TO CONFORMANCE  
 WITH ZONING REGULATIONS  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 DATE: \_\_\_\_\_

FOR REGISTERED USE ONLY

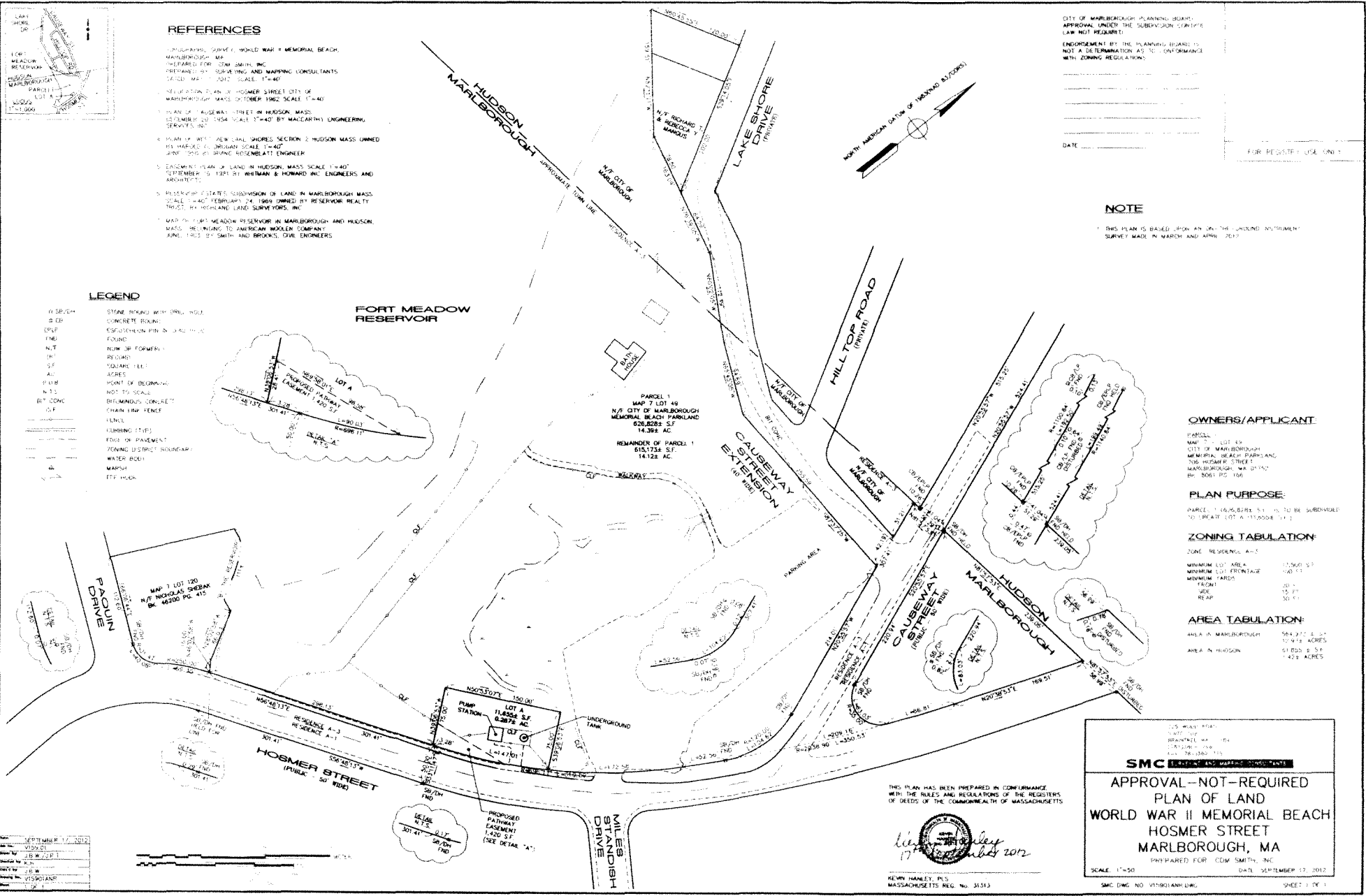
**NOTE**

THIS PLAN IS BASED UPON AN ON-THE-GROUND INSTRUMENT SURVEY MADE IN MARCH AND APRIL 2012.

**LEGEND**

- |              |                                        |
|--------------|----------------------------------------|
| 1/8" SP. CH. | STAKE REMAINS WITH DRILL HOLE          |
| 3/8" CP      | CONCRETE BOUND                         |
| ENCL.        | CONCRETE FENCE & 1/2" DIA. TUBES FOUND |
| N.T.         | BOUND OR FORMERLY                      |
| INT.         | RESERVED                               |
| SL           | SQUARE FEET                            |
| AC           | ACRES                                  |
| P.O.B.       | POINT OF BEGINNING                     |
| N.T.S.       | NOT TO SCALE                           |
| BT CONC.     | BITUMINOUS CONCRETE                    |
| OLF          | CHAIN LINK FENCE                       |
| -----        | FENCE                                  |
| -----        | FENCING (TYPE)                         |
| -----        | EDGE OF PAVEMENT                       |
| -----        | ZONING DISTRICT BOUNDARY               |
| -----        | WATER BODY                             |
| -----        | WALKWAY                                |
| -----        | FFE MARK                               |

**FORT MEADOW RESERVOIR**



**OWNERS/APPLICANT**

PARCEL:  
 MAP 7, LOT 49  
 CITY OF MARLBOROUGH  
 MEMORIAL BEACH PARKLAND  
 706 HOSMER STREET  
 MARLBOROUGH, MA 01501  
 BY: 5061 RD 156

**PLAN PURPOSE**

PARCEL 1 (6,95,028 S.F.) IS TO BE SUBDIVIDED TO TREAT LOT A (11,650 S.F.)

**ZONING TABULATION**

ZONING DISTRICT	A-2
MINIMUM LOT AREA	17,500 S.F.
MINIMUM LOT FRONTAGE	150 FT.
MINIMUM YARDS	
FRONT	20 FT.
SIDE	15 FT.
REAR	30 FT.

**AREA TABULATION**

AREA IN MARLBOROUGH	564,212 S.F.	12.912 ACRES
AREA IN HUDSON	51,020 S.F.	1.171 ACRES

U.S. ROAD FRONT  
 100.00' SEE  
 BRANTZELL MAP 104  
 178.50' SEE 104  
 100.00' SEE 104

**SMC** SURVEYING AND MAPPING CONSULTANTS

**APPROVAL - NOT REQUIRED**  
 PLAN OF LAND  
 WORLD WAR II MEMORIAL BEACH  
 HOSMER STREET  
 MARLBOROUGH, MA

PREPARED FOR: TCM SMITH, INC.  
 DATE: SEPTEMBER 17, 2012

SCALE: 1"=50' SHEET 1 OF 1

SMC ENG. NO. V19301000.DWG

THIS PLAN HAS BEEN PREPARED IN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE REGISTERERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

*Kevin Hanley*  
 September 17, 2012

KEVIN HANLEY, PLS  
 MASSACHUSETTS REG. NO. 31513

SEPTEMBER 17, 2012

DESIGNED BY	KEVIN HANLEY
DRAWN BY	KEVIN HANLEY
CHECKED BY	KEVIN HANLEY
DATE	SEPTEMBER 17, 2012



*City of Marlborough*  
*Office of the City Council*

*Patricia A. Pope*  
PRESIDENT

RECEIVED  
CITY OF MARLBOROUGH OFFICE  
*Edward J. Clancy*  
VICE-PRESIDENT

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3711 Facsimile (508) 460-3710 TDD (508) 460-3610  
Email [citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)

OCT 11 A 11:41  
*Karen A. Boule*  
CITY COUNCIL ASSISTANT

October 12, 2012

Marlborough City Council  
City Hall, 140 Main Street  
Marlborough, MA 01752

Re: Appointments of Councilors to Municipal Aggregation Committee

Dear Honorable Members:

I am pleased to appoint Councilors Edward J. Clancy and Joseph F. Delano, Jr. to the City of Marlborough Municipal Aggregation Committee. As you may know, Councilor Clancy has been a longstanding member of this committee. Councilor Delano has agreed to join Mr. Clancy on the committee to fill a vacancy.

The Mayor has advised me that the committee will soon be meeting to discuss recent developments.

Please join me in thanking the councilors for their time and efforts on behalf of the residents of the City.

Sincerely,

*Patricia A. Pope*  
Patricia A. Pope  
City Council President

/kb

CITY OF MARLBOROUGH  
OFFICE OF THE CITY CLERK

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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 SEP 28 A 10:54

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

David Scarfo, 16 Chestnut St. suite 220 Foxborough, MA 02035

2. Specific Location of property including Assessor's Plate and Parcel Number.

342 Lincoln St. Marlborough, MA 01752 / 69-263

3. Name and address of owner of land if other than Petitioner or Applicant:

Global Tower Partners, 238 Littleton Rd, Westford, MA 01886

4. Legal interest of Petitioner or Applicant (owner, lessee, prospective owner, etc.)

5. Specific Zoning Ordinance under which the Special Permit is sought:

Article V1. Section 650-25 Paragraph C Sub-paragraph 2

6. Zoning District in which property in question is located:

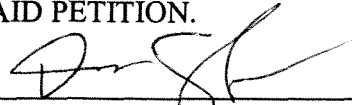
B.

7. Specific reason(s) for seeking Special Permit

Applicant proposes to do a minor upgrade to existing telecom site, which consists of removing existing 3018 equipment cabinet, replace the existing 2106 equipment cabinet with a 6102 equipment cabinet. Also, replace the existing (6) six antennas with newer models that are similar in size, remove the existing TMA's (Tower Mounted Amplifiers) and consolidate the existing coax cables.

8. List of names and addresses of abutter. SEPARATE SHEET ATTACHED

PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HERewith AND MADE PART OF SAID PETITION.

x   
Signature of Petitioner or Applicant

Address: 16 Chestnut St, suite 220  
Foxborough, MA 02035

Telephone No. 978-804-5761

Date: 9/1/12  
City Clerk's Office

LIST OF NAMES AND ADDRESS OF ABUTTERS  
AS REQUESTED ON THE APPLICATION FOR SPECIAL PERMIT OF:

DAVID SCARFO - on behalf of T-Mobile Northeast, LLC  
(Name of Petitioner)

FOR THE ISSUANCE OF SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF  
MARLBOROUGH UNDER CHAPTER 650, ZONING, OF THE CODE OF THE CITY OF  
MARLBOROUGH.

(Abutters as defined in §650-59, Section 4H, **Powers and Procedure of Special-Permit Granting  
Authorities**)

**SPECIAL PERMIT-SUMMARY IMPACT STATEMENT**

Applicant's Name: David Scarfo Address: 16 Chestnut St, Suite 220  
Foxborough, MA 02035

Project Name: T-Mobile Modernization Address: 16 Chestnut St, Suite 220  
Foxborough, MA 02035

1. PROPOSED USE: (describe) Existing telecom site upgrade /  
modification to enhance service in the area.

2. EXPANSION OR NEW: Modification (Existing Structure)

3. SIZE: floor area sq. ft. N/A 1<sup>st</sup> floor N/A all floors N/A  
# buildings N/A # stories N/A lot area (s.f.) (lease) area: No more than 100'

4. LOT COVERAGE: \_\_\_\_\_ % Landscaped area: \_\_\_\_\_ % N/A (Existing Structure)

5. POPULATION ON SITE: Number of people expected on site at anytime:

Normal: 3 Peak period: 5-7

6. TRAFFIC:

(A) Number of vehicles parked on site:

During regular hours: Normal business hrs (7AM-5PM) Peak period: 7AM-7PM

(B) How many service vehicles will service the development and on what schedule?

1 vehicle will visit site for routine maintenance approx every 2 months.

7. LIGHT: How will the development be lit at the exterior? How much light will leave the property and enter the abutting property? N/A

8. NOISE:

(A) Compare the noise levels of the proposed development to those that exist in the area now.

No major noise. Minor modification to upgrade existing facility

(B) Describe any major sources of noise generation in the proposed development and include their usual times of operation.

N/A - Minor upgrade to already existing facility

9. AIR: What sources of potential air pollution will exist at the development? \_\_\_\_\_

None

10. WATER AND SEWER: Describe any unusual generation of waste. \_\_\_\_\_

None

11. HAZARDOUS MATERIAL: List any types of Hazardous Waste that will be on-site. How will this waste be stored? Where? How much will be in storage on a daily basis? How will it be disposed? None / N/A

**\*Attach additional sheets if necessary**





**CITY OF MARLBOROUGH  
MARLBOROUGH, MASSACHUSETTS 01752**

City Hall  
140 Main St.

Marlborough, Massachusetts 01752

Voice (508) 460-3775 Facsimile (508) 460-3723 TTD (508) 460-3610

President and Members City Council

Date: 9/28/12

**SPECIAL PERMIT APPLICATION  
CERTIFICATION BY PLANNING DEPARTMENT**

Project Name: T-Mobile Modernization Project

Project Use Summary: Existing telecom site modification

Project Street Address: 342 Lincoln Street, Marlborough, MA 01752

Plate: 69 Parcel: 263

Applicant/Developer Name: David Scarfa-Tower Resource Management

Plan Date: \_\_\_\_\_ Revision Date: \_\_\_\_\_

Dear President and Members:

In accordance with the City Council's Rules for Special Permit Applications, I hereby certify that the Site Plan filed with the City Clerk has been reviewed by the Building Department within the limits of work shown on the plan, and that said plan meets all prior referenced informational requirements of Section 7; that the plan conforms in all aspects to City Code and to these Rules and Regulations, and that any necessary zoning variances have been already granted by the Marlborough Zoning Board of Appeals, and any applicable appeal period concerning said variances have run.

Very truly yours,

*[Signature]*  
Michael Mendoza

Building Inspector

**Application Fee to submit to  
City Clerk's office**

\$500.00

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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 OCT 11 A 11: 24

**AGREEMENT TO EXTEND  
TIME LIMITATIONS**

Date: 10/11/12

Order No. # 12-1005122

Application for Special Permit from City Council for MetroPCS Massachusetts, LLC

Applicant's Name

for Installation of a Wireless Communications Facility

Purpose

at 98 Pleasant Street

Location

REFER TO Wireless Subcommittee  
Committee

**PUBLIC HEARING:** \_\_\_\_\_  
Date of Public Hearing

The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the City Clerk.

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 12:59 p.m. on December 20th, 2012.

By: \_\_\_\_\_  
Patricia A. Pope City Council President,  
acting on behalf of, and at the direction of,  
the special permit granting authority:  
**Marlborough City Council**

By: Andy Candiello  
**Authorized Agent**

Acting on behalf of, and at the direction of,  
Petitioner:  
MetroPCS Massachusetts, LLC

rec'd 10/9/12  
11:46 AM  
JAM

**AGREEMENT TO EXTEND  
TIME LIMITATIONS**

Date: 10/9/2012

Order No. # 12-1005081

Application for Special Permit from Cumberland Farms, Inc. (CFI)

Applicant's Name

for Special Permit

Purpose

at 412 and 418 Maple Street

Location

REFER TO \_\_\_\_\_

Committee

**PUBLIC HEARING:** \_\_\_\_\_

Date of Public Hearing

The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the City Clerk.

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 4:00 p.m. on January 31, 2013.

By: \_\_\_\_\_

Patricia A. Pope City Council President,  
acting on behalf of, and at the direction of,  
the special permit granting authority:  
**Marlborough City Council**

By: \_\_\_\_\_

Acting on behalf of, and at the direction of,  
Petitioner:

[Signature], a Attorney   
for Cumberland Farms, Inc.

---

# MIRICK O'CONNELL

---

ATTORNEYS AT LAW

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 SEP 28 P 4:55

Arthur P. Bergeron  
Mirick O'Connell  
100 Front Street  
Worcester, MA 01608-1477  
abergeron@mirickoconnell.com  
t 508.929.1652  
f 508.463.1385

September 28, 2012

Councilor Patricia Pope, President  
Marlborough City Council  
City Hall  
Marlborough, MA 01752

Re: Order #11-1002080A *2808B*  
Application of Lazy Dog for Pool Table License at 31 Main Street

Dear Councilor Pope:

I represent Lazy Dog. My client, hereby, respectfully withdraws its request for a pool table license. My client has become aware that, since he will not be charging for the use of the pool table, no license is required.

Very truly yours,



Arthur P. Bergeron

APB/alm

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MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

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## Transmittal

To	Council Secretary Karen Boule	Page	1
CC			
Subject	Sudbury Street Area Water and Sewer Project Marlborough, MA		
From	AECOM		
Date	9/28/2012		

Please find the enclosed copy of the Environmental Notification Form (ENF) for the Sudbury Street Area Water and Sewer Project in Marlborough, MA. If you have any questions, or need more information, please call me at 781-224-6258.

Thank You,

Lisa Pietro

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**CITY OF MARLBOROUGH  
OFFICE OF TRAFFIC COMMISSION  
140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 017**

Traffic Commission Minutes

The Regular Meeting of the Traffic Commission was held on Tuesday June 26, 2012 at 10:00 a.m. in the City Council Committee Room, City Hall. Members present: Chairman - Police Chief Mark Leonard, Fire Chief James Fortin and City Clerk Lisa Thomas. Also present: City Engineer Thomas Cullen, Asst. City Engineer Tim Collins. Minutes taken by: Karen Lambert, MPD Records Clerk.

**1- Minutes**

The minutes of the Traffic Commission meeting of Tuesday, May 29th, 2012.

MOTION was made, seconded, duly VOTED:  
To APPROVE.

**2-New Business**

**2a) Request for No Right Turn on Red at the intersection of Chestnut Street and Pleasant Street.**

Tim Collins presented a diagram of the plan for the lights at this location. The lights are set for a flashing red on Chestnut Street and a flashing yellow on Pleasant Street. He explained that there is a button inside the station that when pushed activates a strobe light (which indicates that the signal has been received) and after a 4 second delay, the light will change to a green light for exiting trucks and a red light for all others. Tim Collins also mentioned a change in the timing sequence that needed to be accepted by the Commission. The timing was dropped from 2 minutes to 45 seconds. Tim is now looking for acceptance of the new sequence and the regulation for the "no turn on red". All agreed that the new conditions should be accepted and that the signs can go up. Lisa Thomas asked about holding off on advertizing until July so that the invoice could be included in the next fiscal budget. Chief Leonard advised that this would be fine as he believes the safety issue trumps the advertising issue.

MOTION was made, seconded, duly VOTED to approve the “no turn on red” condition and the new timing sequence and to REFER to Chief Leonard to prepare the new regulation for the next meeting.

**2b) Communication from Lewis F. Clark, Jr., re: Traffic concerns on Lower Pleasant St.**

Mr. Clark is a resident of lower Pleasant Street and his letter addresses several concerns in this area with regard to the speed and increased volume of traffic. He mentions that this is a residential neighborhood with a 30 MPH speed limit. He states that this speed is often “substantially exceeded” and that semi-trailers and large dirt hauling vehicles also use this road often very early in the morning. He mentions this section of road “has become the number one shortcut to the Solomon Pond Mall and other facilities on Donald Lynch Blvd, as well as the new shopping complex at Highland Commons, Hudson.” Chief Leonard understands his concern and has requested increased radar patrols in this area. Mr. Clark would like to see something more permanent to provide “traffic calming” and suggests speed humps, chicanes and speed cameras. Chief Leonard commented that the problem with the truck traffic is that an alternate route would need to be established and that there may not be sufficient volume to trip the warrants for a truck exclusion. i.e. 8% of all traffic would need to consist of trucks. Since we really don’t know the true volume here, he suggested that Engineering do a traffic count. This would be the best way to determine the number of cars traveling the road per day. He commented that he is not sure what can then be done with this information but it is a start. It was discussed that some of the truck traffic is related to short term projects and that this is an issue that goes way back. Chief Leonard said that he can also get the speed board out there again and request increased radar patrols. Solar powered speed signs are another possibility. The group realizes it has become a convenient cut through area and that the best way to start is with a traffic count to obtain true volume numbers. Tim Collins also went on to explain that when a street is designated as a “scenic road” it is a little deceiving as it actually protects the street itself, i.e. the trees and stone walls etc. It has to do with road reconstruction and has nothing to do with the speed and the width of the road.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to do a traffic count on this stretch of road and to the POLICE DEPARTMENT for continued enforcement. It was also discussed that the issue should be referred to the LEGAL DEPARTMENT.

**2c) Communication from Samantha Ewing, re: Traffic concerns on the one-way section of Essex Street.**

Ms. Ewing is concerned about this area as she has almost been in an accident herself and indicates in her correspondence that “wrong-way drivers happen on our street every day”. She hopes there is a way to make the one way section more obvious. Chief Leonard said that there are already one way signs and do not enter signs in this area. Chief Fortin suggested the possibility of blocking the roadway. Tom Cullen said that this then becomes a capital issue. Painting becomes a maintenance issue. Chief Leonard said that the “one way” here goes back as far as he can remember. He suggested that maybe Engineering can look at this area again and see if anything else can be done.

MOTION was made, seconded, duly VOTED to REFER ENGINEERING and the DPW to look into and refer for comment at the next meeting.

**2d) Request for “Autistic Child” warning sign on Concord Road.**

Chief Leonard commented that he knows this child and thinks that some type of warning sign would be appropriate as the child has been known to run off. There are no sidewalks here and the roadway is narrow and busy. A discussion then continued as to the value of such a sign with regard to drivers. Tom Cullen felt that it is more of a comfort for parents than a deterrent to drivers. Chief Leonard asked Engineering if there was an MUTCD standard for a sign to this effect. He also said that he would advise the parents that if they were to move to let the Commission know so that any specific signs could be removed.

MOTION was made, seconded, duly VOTED to REFER to the DPW to look into the proper signage and to CHIEF LEONARD to reiterate to the parents that this type of sign is not any guarantee and that it is still an issue of supervision.

**2e) No Parking signs on Devens St. and McEnelly St.**

Officer Wicks sent an e-mail to Chief Leonard commenting on the new No Parking signs on Devens Street and the “antiquated signs” on McEnelly St. indicating no parking on either side. It appears that the signs should state no parking anytime on the east side of McEnelly St. Chief Leonard will let Officer Wicks know that the Traffic Commission is in the process of reviewing all regulations street by street and will clarify the situation on McEnelly. Officer Wicks commented that the initial reporter, Mr. Patriacca, is pleased with the response to his parking concerns.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to review the regulations on McEnelly St. and make the appropriate changes.

**(Tim Collins requested a Suspension of Rules to add a new agenda item on behalf of Commissioner LaFreniere, who was not in attendance. All in Favor.)**

**2f) Situation with Right-of-Way to the Italian American Club.**

The Right of Way to the Italian American Club goes through the DPW property. The DPW has a fence and gate for security which blocks the Right of Way, causing drivers to travel a short distance on Neil Street the wrong way. They are requesting that the One Way portion of Neil Street be moved by 80 feet to allow proper access to the Italian American Club. Chief Leonard feels this will work as long as there is proper advance warning signage in place to alert those not familiar with the area. It would need to be very clear that a portion of the roadway was for 2 way traffic. The Chief’s only real concern is proper advance warning. He asked Tim Collins for the proper wording to change the existing regulation as he assumes it is regulated as one way. A regulation is not required for advance warning signs.

MOTION was made, seconded, duly VOTED to REFER to CHIEF LEONARD to prepare the regulation and to ENGINEERING to determine the appropriate advance warning signage.



(Tim Collins asked that another item be added to the agenda for next month.)

**2g) Problems with Parking on Newton Street.**

This item was on the agenda in the past and was never formally resolved. The Fire Department brought this up initially as they were unable to get their trucks through when cars were parked on both sides of the road. Pam Wilderman, from Code Enforcement, was also involved and had sent letters to residents. There was a problem with not enough parking available to residents. The problem disappeared with the winter parking ban in effect but has now become an issue again. The Traffic Commission had discussed restricting parking to one side of the road. Engineering had done a study to determine which side of the road would be best. Tim Collins determined a maximum of 24 cars on one side and 22 cars on the other. He is requesting that this issue be put back on the Agenda for further discussion and resolution. **All in Favor.**

**3-Old Business**

**3d. Traffic Commission rules and regulations update.**

Chief Leonard said that General Code has everything they need from us at this point. They know that we are working on updating the regulations street by street. It was determined that the Traffic Commission would go through the chart prepared by Engineering street by street and clarify all regulations. Any true changes would require advertizing. Lisa Thomas commented that advertizing could be expensive and asked if we could advertize by groups instead of each item individually. She suggested that the City Solicitor be invited the next meeting to determine the best way to handle the advertizing issue. Chief Leonard said that we really don't need an answer on advertizing right away. Working through the chart, in alpha order, the Commission reviewed the following streets for accuracy: Ames Place, Ames Street, Amory Road, Ash Street, Belmont Street, Berlin Road, Bigelow Street, Boundary Street, Bolton Street, Brigham Avenue, Brigham Street, Broad Street and Broadmeadow Road. Tim Collins to forward specifics on each street which will be attached to and made part of these minutes.

**3a. Municipal off street parking regulation.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3b. High School parking regulations.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3c. Stop signs on Bigelow Street.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3e. Drop off traffic concerns at Jaworek School.**

.MOTION was made, seconded, duly VOTED:  
To TABLE.

That there being no further business of the Traffic Commission held on this date, the meeting adjourned at 11:40 am.

Respectfully submitted,

Karen L. Lambert  
Records Clerk  
Marlborough Police Department

**List of documents and other exhibits used at the meeting:**

-Meeting Agenda for Tuesday, June 26, 2012 (Including City of Marlborough Meeting Posting)

-E-mail from Fire Chief Fortin to Chief Leonard, dated 5/29/12, re: Traffic Commission Meeting Agenda (Request to add "No Turn on Red" on Chestnut St.

-Correspondence from Lewis F. Clark, Jr., dated 6/9/12, re: Lower Pleasant Street Ongoing Traffic Problem.

-E-mail from Samantha Ewing for Chief Leonard, dated 6/12/12, re: Essex Street

-E-mail from Officer Wicks, re: Liberty Street, Devens St. and McEnelly St.

**Additional Handouts**

-Diagram of plan for traffic lights at Fire Station on corner of Pleasant St. and Chestnut St.



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**CITY OF MARLBOROUGH  
OFFICE OF TRAFFIC COMMISSION  
140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752**

Traffic Commission Minutes

The Regular Meeting of the Traffic Commission was held on Tuesday August 28, 2012 at 10:00 a.m. in the City Council Committee Room, City Hall. Members present: Chairman - Police Chief Mark Leonard, Vice Chairman – DPW Commissioner Ronald LaFreniere and Fire Chief James Fortin. Also present: City Engineer Thomas Cullen, Asst. City Engineer Tim Collins and Code Enforcement Officer Pam Wilderman. Also present: numerous residents of Curtis Ave. area and Mr. James Joubert, resident of Bigelow Street. Minutes taken by: Karen Lambert, MPD Records Clerk.

**1- Minutes**

The minutes of the Traffic Commission meeting of Tuesday, May 29th, 2012.

MOTION was made, seconded, duly VOTED:

To TABLE. Additional changes requested by Commissioner LaFreniere

**2-New Business**

**2a) Request for handicapped parking space on Pleasant St. in front of Slattery's Funeral Home.**

This request was brought to the attention of the Traffic Commission by Pam Wilderman. She explained that Slattery's had been cited by the AAB for not having handicapped parking near the front entry door. She went on to explain the reasons why the handicapped parking was placed at the side of the building instead. She asked that this issue be tabled for now as there is currently construction going on and that Slattery's is hiring an engineer who will be looking into the issue.

MOTION was made, seconded, duly VOTED:

To TABLE.

**2b) Silver St. parking concerns.**

Pam Wilderman received a complaint from a resident of Silver Street regarding an overnight guest who frequently parks his vehicle very close to the sharp turn in the road. She did not note any parking restrictions in the area but asked if this constituted parking within 20 feet of an intersection. It does appear to cause sight concerns. Chief Leonard advised that, even though it is almost a 90 degree curve, it would not be considered an intersection. He said that it may be possible to restrict parking on this corner if it seems appropriate. Ron LaFreniere asked Pam Wilderman if there was any need under normal circumstances for residents to be parking here. Pam advised no. Fire Chief Flynn also noted that his apparatus cannot make this turn if vehicles are parked here. The tower does have to be able to get down this road in an emergency as there are a number of tall multi-family homes here.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING and to the FIRE DEPARTMENT for review.

**2c) Communication from Bernadette Seariac Carlson, re: traffic concerns on Curtis Ave.**

Many residents of the Curtis Street Ave. area were present for this issue. The residents are extremely concerned with the high rate of speed of vehicles (both cars and motorcycles) traveling in this area. The Commission received a letter from one resident requesting the possibility of speed bumps on Curtis. Chief Leonard explained that the traffic commission has historically resisted placing speed bumps on public ways. They would cause a problem for emergency response vehicles and motorcycles. They also require maintenance and upkeep especially with New England winters. He also said that there is some discussion as to whether speed bumps really slow traffic down or whether drivers tend to speed up in between the bumps. The Traffic Commission has not given serious consideration to speed bumps on public ways.

Another suggestion was to have Curtis Ave. be made a one-way street. Chief Leonard explained that this only serves to displace the problem to another roadway. Residents have seen major problems with motorcycles racing each other, especially on weekends. Several residents said that the summer has been terrible. The resident from the corner of Hildreth and Cook said that there is a school bus stop on her corner. They have metal posts around the tree out front which are now leaning because they have been hit so many times. Just yesterday, someone hit the telephone pole in front of her house. She also noted that the crosswalk has not been replaced and said that it is almost like the stop sign is not even there. She noted another accident across the street where the car went up onto the deck. If the residents had been out there someone could have been killed. She said she can't even weed on the sidewalks because cars come over the sidewalk and blow their horn at her. She would love to see Curtis Ave. made into a one way street or a dead end.

Residents noted that the worst times appear to be between 7:00 and 9:00 am and 4:00 and 6:00 pm. They also noted a school bus accident here last year. They are tired of the constant screeching of tires and squealing of brakes. Drivers often don't stop at the stop sign at the corner of Hildreth and Curtis. They "blast onto Curtis trying to beat the car coming the other way." The situation has gotten worse than any of them ever anticipated. Residents say it is "unacceptable".

Another resident, mother of five young children, questioned how can we get drivers to be respectful and slow down? What are effective measures that can be taken?

Chief Leonard advised that the short answer would be for a police officer to be there every day. He explained that the Commission gets requests for additional stop signs almost every month. Since he has been on the board, which is the last 11 years, stop signs have only been approved at intersections that meet specified warrants. They are not used to slow traffic. He asked Commissioner LaFreniere about traffic counts in this area. Commissioner LaFreniere said that it has been a while since counts were last done here. He mentioned that there is a very short green light, due to the shopping center, at the corner of Curtis and Route 20 to discourage drivers from coming this way. Residents mentioned motorcycles going 80 or 90 mph making loops around the neighborhood.

Further discussion followed with regard to bus stop locations and safety concerns for the children waiting on dangerous corners. The sidewalks were also discussed. One resident described that "they come and go". There are areas that have no curb which makes it easy to come up on them. Commissioner LaFreniere advised that the city does have plans to resurface this roadway and that pedestrian access would be reviewed at the same time. He does agree that it is "less than an ideal situation". One problem, however, is that drivers have a tendency to speed up when a road is resurfaced. He advised that one way to address this is to possibly make the roadway a little "less open". This can be done through landscape improvements on private property. This can change the perception on site distance. He also mentioned the possibility of establishing "bike lanes". This is the use of a white edge on the side for bikes. It narrows the width that the car feels is their area to work in. A center lane would depend on the total width of the roadway. At the end of the day the problem is still with the roadway itself. It is very straight and we can't change the layout or design. Advisory signage of 20 mph could catch some attention, however, these are yellow signs that are only advisory in nature. If a true speed study were done it may indicate a speed higher than 30 mph.

The real problem needs to be addressed through enforcement. The police need to be present. Commissioner LaFreniere said that the Commission does understand the concerns. The greatest complaint that the Traffic Commission receives is in regard to speed through residential neighborhoods. We try to address these issues through signage or sometimes with physical changes that are better for the safety of pedestrians. Chief Leonard advised that he would get the speed board out there, but again, this is only a temporary solution. He does assign directed patrols in the area but they are not traffic enforcement officers. They could be there for a very short time and then get sent out on a call. He said that 12 to 13 years ago you weren't likely to speed in this area because there was always an officer present. He would love to be at that level of enforcement but the department is just not there today.

Residents also asked how they could communicate ongoing concerns and follow-up on this issue. Chief Leonard advised that they could contact him directly by phone or e-mail.

MOTION was made, seconded, duly VOTED to REFER to the POLICE DEPARTMENT for enforcement. Chief Leonard advised they can try directed patrols at the times specified by residents (especially with the start of school), and to REFER to the DPW and ENGINEERING to take a look at the future reconstruction project and try to incorporate

resident's concerns. They can also look at repainting crosswalks and possible advance warning signs.

**2d) Truck traffic on South Street.**

This issue was placed on the agenda following an anonymous e-mail forwarded by the mayor's office. The writer was requesting that truck traffic on South Street be looked at and gave an example of a truck coming around the corner at 6:10 am from West Main to South Street so fast that it went up over the sidewalk causing concern. Commissioner LaFreniere commented that a truck count here would be "skewed" because there are so many trucks on this road related to the businesses there. The roadway is capable of handling trucks but it is difficult because it's also a residential area. He noted that South Street is another roadway targeted for improvements. Chief Leonard said that this could be an isolated incident, however, he will advise Mike Barry, from the Mayor's office, that he will try to make an officer available to monitor this area.

MOTION was made, seconded, duly VOTED to REFER to the POLICE DEPARTMENT for enforcement.

**2e) Norwood St. speed signage.**

Chief Leonard advised that he received a phone call about this issue. There are no specific regulations on speed here. He advised that we could entertain thickly settled signage here. The roadway snakes through in an S pattern, the person calling lives near Chestnut. Commission LaFreniere advised that the DPW can take a look at this.

MOTION was made, seconded, duly VOTED to REFER to the DPW for possible warning signage.

**2f) Communication from Shawn Butland, re: truck exclusion on Ferrecchia Drive.**

Mr. Butland has witnessed many trucks cutting through Ferrecchia to get to Locke Drive. He said this happens all day long on weekdays and on weekends it is the busses headed to the rink. He said, "They don't slow down, they don't stop for stop signs and have no consideration for residents." He also said that when they call dispatch to complain, nothing is done.

Chief Leonard said that a truck count could be done, however, he does not think it would trip the numbers for a truck exclusion. Tim Collins advised that the counters can also check for speed. He was planning to put the counters on lower Pleasant Street at this time. Chief Leonard said he would like the counts done here also. At this point, the Commission is trying to gather information so that we can try to address concerns. He is wondering if there are really a lot of trucks or are they specific trucks that can be addressed. Tim Collins advised that he would need to wait until after the project on Masciarelli Drive is finished or it would lead to a false truck count.

Chief Leonard asked Mr. Butland to let him know if there are problems with dispatch. He would need to know when the call came in and who was spoken to as Dispatch should be sending officers out to follow up.

MOTION was made, seconded, duly VOTED to REFER to

**3-Old Business**

**3c) Stop signs on Bigelow Street.**

Mr. James Joubert, resident of Bigelow Street, was present at the meeting to follow up on status. It has been over a year since we had the informational meeting at Hillside School. He was asking why the signs are still in place. Chief Leonard said that this is a legitimate question, however, the answer is complicated. At the meeting, the Traffic Commission discussed a compromise where a couple of the signs would come down and a couple would stay. Part of the plan, however, was that we would also try to find a way to mitigate the concerns of those who did not want the signs taken down. The Traffic Commission suggested the possibility of mounting four permanent solar power speed signs (two on each side of the road) in specific locations. The problem is that these signs cost approximately \$10,000 each. There was some initial hope of mitigation funds from the NESC, however, there are no funds currently available. Chief Leonard advised that we are “stuck in limbo”. If we take signs down now, the City cannot provide the alternative. Mr. Joubert advised that he has heard that another rink is planned for NESC. He asked if any mitigation funds could possibly be obtained at that time or if any grant money was available. Chief Leonard advised that he was not aware of plans for another rink. Commissioner LaFreniere said that we can look into other forms of business assistance. He mentioned that Target has been helpful in responding to public safety concerns in the past. He advised that he can make some calls.

MOTION was made, seconded, duly VOTED to REFER to Commissioner LaFreniere for further investigation into financial assistance.

**3f) Request for “No Turn on Red” on Chestnut St., eastbound at Pleasant.**

Tim Collins advised that the signs are up, however, Chief Leonard did not have a chance to prepare the regulation. The old regulation will be repealed and replaced by a new regulation.

MOTION was made, seconded, duly VOTED to REFER back to Chief Leonard to prepare the proper regulation for the next meeting.

**3e) Drop off traffic concerns at Jaworek School.**

Tim Collins prepared a diagram of the initial draft of the proposed plan. This plan would require funding which is not available at this time. The proposed plan addresses the conflict with cars and buses at drop off and pick up and parking availability. An additional entrance had also been proposed and was incorporated into the diagram. An effort was made to close the bus loop off to cars and route cars through the front lot. The parking lot was expanded into the ball field/soccer area. Commissioner LaFreniere advised that this diagram is an effort to address the concerns of Principal Piccirelli. He wanted to get the Traffic Commission on board before he addressed anything further with the school. It then becomes a funding issue. It is really not an issue for the Traffic Commission. It would have to be advocated for as part of the capital plan. He did note

that the second entrance could cause a problem because the underground structure is unknown. He mentioned that there could be grading issues and possibly an underground retention area.

MOTION was made, seconded, duly VOTED to REFER to the DPW. Commissioner LaFreniere advised that the next step would be to schedule a meeting with John Ghiloni and Cheryl Piccirelli.

**3h) Communication from Samantha Ewing, re: Traffic concerns on the one-way section of Essex Street.**

Tim Collins advised that the appropriate signs have been moved or replaced.

**3j) No Parking signs on Devens St. and McEnelly St.**

Tim Collins advised that the appropriate signs are now in place.

**3i) Request for “Autistic Child” warning sign on Concord Road.**

Commissioner LaFreniere advised that from a permanent sign standpoint he would prefer to use more standard speed advisory signs rather than a child specific sign. Chief Leonard commented that he would normally tend to agree with the Commissioner, however, in this specific instance he is familiar with the child. The child is not inclined to listen to commands. If he were running toward the street and told to stop for oncoming cars he would not stop. Chief Leonard said that a child specific sign would actually be helpful here. Tim Collins advised that a date could be put on the back of the sign so that an annual review could be done if necessary.

MOTION was made, seconded, duly VOTED to REFER to the DPW for the appropriate signage.

**2f) Situation with Right-of-Way to the Italian American Club.**

It was agreed that the one-way portion of Neil Street should be moved back to allow proper access to the Italian American Club. Chief Leonard will prepare the appropriate regulation for the next meeting. Tim Collins will forward the specific wording

MOTION was made, seconded, duly VOTED to REFER to Chief Leonard to prepare the regulation and ENGINEERING to determine the appropriate advance warning signage.

**3d) Traffic Commission rules and regulations update.**

Chief Leonard distributed the new code books to the group. We now have something to work with while we are correcting the street by street listing. No City Council approval is necessary and the Traffic Commission is free to make their own regulations as they see fit. Revisions to the book will be incorporated along the way as changes occur.

MOTION was made, seconded, duly VOTED to TABLE for now. The street listing will be reviewed at each meeting as time permits.



**3a) Municipal off street parking regulation.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3b) High School parking regulations.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3k) Problems with Parking on Newton Street.**

Tim Collins had requested that this item be put back on Agenda for further discussion and resolution.

MOTION was made, seconded, duly VOTED:  
To TABLE.

That there being no further business of the Traffic Commission held on this date, the meeting adjourned at 11:45 am.

Respectfully submitted,

Karen L. Lambert  
Records Clerk  
Marlborough Police Department

**List of documents and other exhibits used at the meeting:**

- Meeting Agenda for Tuesday, August 28, 2012 (Including City of Marlborough Meeting Posting)
- E-mail from Pam Wilderman to Chief Leonard, dated 8/16/12, Re: Handicap Parking.
- E-mail from Pam Wilderman to Chief Leonard, dated 8/16/12, Re: Silver Street.
- E-mail from Bernadette Carlson to City Council, dated 8/15/12, Re: Speeding Traffic on Curtis Avenue.
- E-mail from Bernadette Carlson to Chief Leonard, dated 8/16/12, Re: Speeding Traffic on Curtis Avenue along with reply from Chief Leonard, dated 8/16/12.
- E-mail from Michael Berry to Chief Leonard, dated 8/20/12, Re: Traffic Commission.
- E-mails from Shawn Butland to Chief Leonard, dated 8/16/12 and 8/17/12, Re: Traffic Speed on Ferrecchia Drive, along with response from Chief Leonard.

**Additional Handouts**

DRAFT of Diagram of Jaworek School Parking Lot. (Draft reviewed & discussed and kept by Tim Collins – not distributed to members).

Marlborough Council on Aging Board

Minutes: Tuesday, September 11, 2012 Meeting

Location: Senior Center, 250 Main Street, Marlborough, MA

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2012 SEP 28 A 10:08

Attendees: Lynn Anderson, Sheila Brecken, Jennifer Claro, Jim Confrey, Brenda Costa, Marie Elwood, Jeanne McGeough

Excused: Rita Connors

Meeting was called to order at 8:32 by Board Chairman, Jim Confrey.

Minutes from August Board Meeting were reviewed and approved.

Director's Report:

The Director reported on the status on the Senior Citizen property tax program. The applications are being reviewed for income, age and residency requirement. CORI checks are being processed. A total of 25 seniors will be chosen for the program.

Trish Bernard is helping on the transportation issue. There are 4 other cities that are comparable to Marlborough that have their own senior transportation.

The Halloween party is scheduled for Friday, 10/26/12 at 12:30 pm. The menu includes chicken fajitas, beef burritos and flan for dessert. Brenda is going to contact the IC School to see if the students from the grade school can come down for a costume parade.

Tina Nolan is the temporary principal clerk. The position is for 30 hours per week.

The board decided to donate \$2.00 per board member per month as a contribution to the "Sunshine Fund" for its members. Sheila Brecken offered to oversee.

BayPath Elder Services Report:

BayPath did not have a meeting in August, so there is no report this month.

Old Business:

Board appointments and reappointments are pending.

Sheila reported that the Thanksgiving party will be November 12<sup>th</sup> tentatively at 11:30 am.

Currently the COATS system has 590 COA participants.

The By-law review committee was formed and its members are: Brenda Costa, Jim Confrey, Richard Collins and Jennifer Claro. The committee plans to meet before the next board meeting.

New Business:

The board voted to increase the program donations from \$2.00 to \$3.00 per class.

The next board meeting is 10/9/12 @ 8:45 am. The board will meet at 27 Prospect Street.

The meeting was adjourned at 9:35 am.

Respectfully submitted,

Brenda Costa  
Marlborough Council on Aging Board Secretary

# MINGACE & HEINEMAN

A Professional Corporation of Attorneys

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Christopher H. Mingace, Esq.  
Michael J. Heineman, Esq.  
Melissa DiBenedetto, Esq.  
Tia M. Dias, Paralegal

2012 OCT -9 A 11:11

284 Union Avenue  
Framingham, MA 01702  
Phone (508) 626-8500  
Fax (508) 626-8174

Sender's Email: CMingace@MingaceHeineman.com

October 5, 2012

VIA CERTIFIED MAIL

Arthur Vigeant, Mayor  
City Hall  
140 Main Street  
Marlborough, MA 01752

Lisa M. Thomas, City Clerk  
City Hall  
140 Main Street  
Marlborough, MA 01752

Donald V. Rider, City Solicitor  
City Hall  
140 Main Street, 4<sup>th</sup> Floor  
Marlborough, MA 01752

Ronald M. LaFreniere, P.E.  
Department of Public Works  
135 Neil Street  
Marlborough, MA 01752

**RE: Notice of Massachusetts Tort Claim pursuant to Massachusetts General Laws c. 258 §4 on behalf of James Coggins**

Dear Sirs and Madam:

This letter is a presentment letter pursuant to Massachusetts General Laws, Chapter 258. It is sent to you on behalf of James Coggins. Kindly direct all future correspondence concerning this matter to my attention at the address above.

During the month of July, 2012 the City of Marlborough was performing road work on Pleasant Street. The work included construction on the sidewalks along Pleasant Street. At the time of construction the City of Marlborough had dug holes in the sidewalks and on the abutting properties and covered them with large metal plates.

On or about July 16, 2012 at approximately 7:30 p.m. Mr. Coggins, a resident of the City of Marlborough, was taking his dog for a walk along Pleasant Street. As Mr. Coggins approached the area of 142 Pleasant Street he encountered one of the metal plates on the sidewalk. As it did not appear safe to walk over this plate Mr. Coggins attempted to walk along the grassy border of the sidewalk and the front lawn of the home located at 142 Pleasant Street, as Pleasant street is a highly traveled road it would have been unsafe to attempt to walk along the roadway.

As Mr. Coggins placed his left foot onto the grassy boarder of the sidewalk his right foot fell into the hole created by the town or its agent. Evidently the metal plate did not cover the hole in its

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entirety. The hole was not visible and there was no warning device of any kind to alert him of the danger on the sidewalk.

Once Mr. Coggins fell into the hole his left leg/knee bent at an awkward angle and his left arm/hand stretched out to attempt to catch himself. He was unable to stop the fall and he Mr. landed on the ground with his right foot still in the hole. The fall was at an odd and awkward angle and pulled various muscles in his body. Mr. Coggins felt immediate pain.

As a result of the fall Mr. Coggins suffered personal injuries to his head, wrist, hand, knees, hips, stomach, neck and back. Mr. Coggins continues to suffer from his injuries.

The City of Marlborough is hereby notified, in accordance with Massachusetts General Laws, Chapter 258 that James Coggins intends to file suit against the City of Marlborough for his injuries unless, within six (6) months, the City makes reasonable settlement offers.

The plaintiff's suit will include claims that:

1. The City of Marlborough was negligent in allowing the Department of Public Works to allow the sidewalks on Pleasant Street to be left with gaping holes in them.
2. The City of Marlborough was negligent in allowing the Department of Public Works to allow the installation of metal plates on sidewalks of Pleasant Street that did not cover the holes in their entirety.
3. The City of Marlborough was negligent in allowing the Department of Public Works to allow the sidewalks on Pleasant Street to be left with gaping holes in them and not to provide clear warning devices warning pedestrians of the danger.

I remain available to answer any questions you may have, or to provide any further information should you require such.

Very truly yours,

  
Melissa DiBenedetto, Esq.