

REGULAR MEETING
DECEMBER 6, 2010

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MADEIRA

2010 DEC -2 P 5: 32

1. Minutes of the City Council Meeting, November 22, 2010.
2. PUBLIC HEARING with Board of Assessors to establish the percentages of tax levy for each property classification for FY2011.
3. Communication from the Mayor re: Commonwealth's Finalization of the City's FY2011 Tax Levy.
4. Communication from the Mayor re: request for Executive Session for the purpose of discussing litigation strategy.
5. Communication from the Mayor re: DPW transfer request in the amount of \$226,000.00 which moves funds from Stabilization-Capacity Study to Capital Outlay-East Plant for purposes of a study as outlined in the Commissioner's memorandum.
6. Communication from the Mayor re: budget transfer request in the amount of \$39,850.24 which moves funds from Open Space Stabilization to Open Space account for annual payment to Ward Mountain LLC.
7. Communication from the Mayor re: Human Services transfer request in the amount of \$31,665.91 which moves funds from Undesignated to Director and \$75.00 which moves funds from Undesignated to Office Supplies to fund the Human Services Department for the remainder of the 2011 fiscal year and submission of Human Services Task Force recommendations.
8. Communication from the Mayor re: appointment of Eric Asman to the Community Development Authority for a term to expire April 15, 2012.
9. Communication from City Solicitor Rider re: Proposed Home Rule Petition-Subdivision Roads.
10. Communication from City Solicitor Rider re: Proposed Home Rule Petition-Local Room Occupancy Excise.
11. Communication from City Solicitor Rider re: Proposed Amendments to the Sign Ordinance.
12. Communication from DPW Commissioner LaFreniere re: Determination that a Portion of the Former Landfill Property off Hudson St. is Surplus and Available for Lease for Other Municipal Purposes.
13. Petition of National Grid to install stub P. 85-5 as midspan pole to service new construction of Farm Commons Dr.
14. Minutes, Planning Board, November 8, 2010.

REPORTS OF COMMITTEES:

15. ORDERED: That the Mayor, City Solicitor and Fire Chief meet on December 6, 2010 with the City Council in Executive Session to update the City Council on the status of the new ladder truck and legal strategies to correct ongoing issues regarding repair and downtime since its purchase and to update the City Council on pending litigation with respect to Fire Department personnel.....Submitted by Councilor Vigeant, Elder, Delano, Pope, Ferro, Tunnera, Ossing, Levy

UNFINISHED BUSINESS:

From Legislative and Legal Affairs Committee

16. **Order No. 10-1002594 - Communication from City Solicitor and Chief Procurement Officer requesting authorization pursuant to Section 12(b) of M.G.L. Chapter 30B (Uniform Procurement Act) to award supply and service contracts not to exceed five years, including any renewal, extension, or option, if the Chief Procurement Officer deems such terms to be in the best interest of the City for any procurement subject to Chapter 30B. The Committee reviewed the letter dated May 20, 2010 from the City Solicitor and the Chief Procurement Officer. Recommendation of the Legislative and Legal Affairs Committee is to approve 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
NOVEMBER 22, 2010**

Regular meeting of the City Council held on Monday, NOVEMBER 22, 2010 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy and Landers. Meeting adjourned at 9:15 p.m.

ORDERED: That the minutes of the City Council Meeting November 8, 2010, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition from Massachusetts Electric Co. and Verizon New England Inc. to install new P.17-84 and remove pole on Church St., Order No. 10-1002733, all were heard who wish to be heard, hearing recessed at 8:05 p.m.; adopted.

Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy & Landers.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Andy Candiello on behalf of MetroPCS Massachusetts, LLC, to install a Wireless Communications Facility onto the existing communications tower at 860 Boston Post Rd. East, Order No. 10-1002715, all were heard who wish to be heard, hearing recessed at 8:11 p.m.; adopted.

Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Clancy, & Landers.

ORDERED: That the transfer request in the amount of \$1,125.10 from Holiday Pay to Sick Buy Back to fund benefits associated with an employee's resignation, **APPROVED**; adopted.

FROM:

Acct. # 12200003-51490 \$1,125.10

Holiday Pay

TO:

Acct. # 12200003-51920 \$1,125.10

Sick Buy Back

ORDERED: That the Commonwealth of Massachusetts, State 911 Department Support and Incentive Program grant in the amount of \$93,328.00 awarded to the Marlborough Police Department to cover personnel costs in the 911 dispatch center as well as tying in the Fire Department's computer system, to be used for purposes outlined in MGL, Chapter 44, Section 53A, **APPROVED**; adopted.

ORDERED: That the Emergency Management/FEMA Flood grants totaling \$20,242.99 awarded to the Department of Emergency Management which provide 75% reimbursement for allowable expenditures related to the March 2010 floods, to be used for purposes outlined in MGL, Chapter 44, Section 53A, **APPROVED**; adopted.

ORDERED: That the State 911 Department Training grant in the amount of \$15,482.00 awarded to the Marlborough Police Department to be used for expenses associated with personnel attending training classes, to be used for purposes outlined in MGL, Chapter 44, Section 53A, **APPROVED**; adopted.

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- ORDERED: That the Citizen Corps grant in the amount of \$4,000.00 awarded to the Department of Emergency Management as a reimbursement, by which a portion of the grant must be expended by December 31, 2010, to be used for purposes outlined in MGL, Chapter 44, Section 53A, **APPROVED**; adopted.
- ORDERED: That the appointment of Nelson Lambert to the Parks and Recreation Commission for a term to expire on May 6, 2013 and reappointment of Craig Hunt to same who will serve a term of three years upon approval, refer to **PERSONNEL COMMITTEE**; adopted.
- ORDERED: That item #10, Communication from City Solicitor Rider re: Special Permit, Clear Wireless, LLC, 115 Onamog St., in proper legal form, Order No. 10-1002648B, **MOVE TO ITEM #27 ON THE 11/22/10 AGENDA**; adopted.
- ORDERED: That item #11, Communication from Assistant City Solicitor, Panagore Griffin re: re: Acceptance of Peebles Way, Municipal Easements and Open Space in the Deerfield Village Subdivision, Order No. 10-1002714A, **MOVE TO ITEM #23 ON THE 11/22/10 AGENDA**; adopted.
- ORDERED: That the Communication from the Executive Director of PERAC, Joseph Connarton, re: Appropriation for Fiscal Year 2012, **FILE**; adopted.
- ORDERED: T That the Communication from Gary White re: Acceptance of Easements of Fahey St., Order No. 10-1002596A, refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Communication from Attorney Norris re: Easement Agreement of Blum Property on Shorter St, refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Communication from Andy Candiello on behalf of MetroPCS to withdraw without prejudice the Application for Special Permit for proposed installation of a Telecommunications Facility onto the existing utility pole at Donald Lynch Blvd., adjacent to the existing power sub-station, be **WITHDRAWN WITHOUT PREJUDICE, APPROVED**; adopted.
- ORDERED: That the Communication from Attorney Valeriani on behalf of Verizon Wireless, re: request to extend time limitations to permit, construct, operate and maintain a Wireless Communication Facility consisting of a 130' antenna-monopole-tower at 800 Bolton St. to February 28, 2011 at 11:00 PM, **APPROVED**; adopted.
- ORDERED: That the Communication from David Carroll, Area Manager for Tennessee Gas Pipeline Co. re: Emergency Personnel List, refer to **EMERGENCY MANAGEMENT DIRECTOR, DON CUSSON**; adopted.
- ORDERED: That the Communication from Steven Clinton, MassDevelopment Senior Vice President re: Summary of a Revenue Bond Project to be financed on behalf of UMass Memorial Medical Center, **FILE**; adopted.
- ORDERED: That the Minutes, Traffic Commission, August 31 & September 28, 2010, **FILE**; adopted.
- ORDERED: That the Minutes, Planning Board, October 18, 2010, **FILE**; adopted.
- ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
- A. Kimberly Lowell, 52 Broad St. Apt 2, pothole or other road defect
 - B. Paul Pazi, 178 Lincoln St., pothole or other road defect

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Reports of Committees:

Councilor Clancy reported the following out of the Legislative and Legal Affairs Committee:

Order No. 10-100594 - Communication from City Solicitor and Chief Procurement Officer requesting authorization pursuant to Section 12(b) of M.G.L. Chapter 30B (Uniform Procurement Act) to award supply and service contracts not to exceed five years, including any renewal, extension, or option, if the Chief Procurement Officer deems such terms to be in the best interest of the City for any procurement subject to Chapter 30B. The Committee reviewed the letter dated May 20, 2010 from the City Solicitor and the Chief Procurement Officer. Recommendation of the Legislative and Legal Affairs Committee is to approve 3-0.

Suspension of the Rules requested – granted

ORDERED: That the City of Marlborough amend its local room occupancy excise, from the rate of 4% previously adopted in City Council Order No. 85-436 accepting MGL c. 64G, § 3A, to the rate of 6%, **APPROVED**; adopted.

Yea: 7- Nay: 4

Yea: Delano, Tunnera, Seymour, Clancy, Landers, Pope, & Vigeant

Nay: Ferro, Elder, Ossing, & Levy

ORDERED: That in light of the recent certification of Free Cash, the City Council respectfully requests the Mayor to forthwith submit a transfer of funds from Free Cash to OPEB in the amount of \$1 million dollars, refer to the **MAYOR**; adopted.

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that PEBBLES WAY be accepted as a public way

From PEBBLES WAY To Terminus

and the associated easements and open space be accepted as municipal easements and as municipal open space as shown on plans thereof and as hereinafter described:

DESCRIPTION

Plan entitled "Plan Of Acceptance, Easements, And Open Space In Peebles Way, In Marlborough, Massachusetts, Scale 1"=30', Dated November 23, 2009, By Thomas Land Surveyors & Consultants, Inc., 265 Washington Street, Hudson, MA," recorded herewith in the Middlesex South Registry Of Deeds at Plan Book ____ as Plan ____ Of _____;

Title to the roadway known as PEBBLES WAY and title to all of the easements, including flowage, drainage, and open space access easements, as shown on said plan has been granted to the City of Marlborough in a Quitclaim Deed from Kenneth J. and Karen A. Giardina, 650 Berlin Road, Marlborough, Massachusetts, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

Plan entitled "Definitive Plan of Deerfield Village, Subdivision of Land in Marlborough, Mass., last revised August 25, 1999, Scale 1"=40', by Highland Land Surveyors, Inc., 69 Maple Street, Marlboro, Mass." recorded at the Middlesex South District Registry of Deeds as Plan 422 of 2000;

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Title to open space as shown on said plan has been granted to the City of Marlborough in a Quitclaim Deed from Kenneth J. and Karen A. Giardina, 650 Berlin Road, Marlborough, Massachusetts, said deed recorded at the Middlesex County South Registry of Deeds at Book 31411, Page 341.

IT IS THEREFORE ORDERED THAT:

PEEBLES WAY be accepted as a public way, its open space be accepted as municipal open space, and its associated easements be accepted as a municipal easements in the City of Marlborough.

2 ROLL CALLS

Yea: 11- Nay: 0

Yea: Delano, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Vigeant, Levy

ORDERED: That the Petition from Massachusetts Electric Co. and Verizon New England, Inc. install new intermediate P. 31-50 which is east of present P. 31 on Essex St. and relocate P. 19 on Cook Ln., **APPROVED**; adopted.

ORDERED: That the Petition from Massachusetts Electric Company and Verizon New England Inc. to install intermediate pole on Cook Lane P. 19-50 for the purposes of feeding a new urd, **APPROVED**; adopted.

ORDERED: That the City of Marlborough hereby grants a permanent utility easement, attached hereto, to Massachusetts Electric Company for upgrades to the overhead electric system and the underground electric system at the Westerly Wastewater Treatment Plant, 303 Boundary Street, Marlborough, MA; and further, that the Mayor is hereby authorized to execute said grant of easement, **APPROVED**; adopted.

**DECISION ON A SPECIAL PERMIT
CLEAR WIRELESS, LLC
CITY COUNCIL ORDER NO. 10-1002648C**

Re: 115 Onamog Street, Marlborough, MA

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to CLEAR WIRELESS, LLC, a Nevada Limited Liability Company having a usual place of business at 4400 Carillon Point, Kirkland, WA 98033, as provided in the Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is CLEAR WIRELESS, LLC, a Nevada Limited Liability Company which has a business address of 4400 Carillon Point, Kirkland, WA 98033, and is an affiliate of Sprint Wireless Broadband Company, LLC and Nextel Communications of the Mid-Atlantic, Inc. (hereinafter "Applicant").

2. Through its Application for a Special Permit (hereinafter "Application"), the Applicant seeks permission to install three (3) panel antennas, six (6) "back-haul" dish antennas, and an array of three (3) Remote Radio Heads, all on two mounting bands at the approximate height of 87 feet on the existing municipal water tank, as well as the placement of one (1) associated radio equipment cabinet within a proposed extension of the existing chain link fenced area, one (1) GPS antenna, and associated coax cables and cable trays (hereinafter "Proposed WCD Project"), substantially as depicted on a set of plans entitled "Fairmont Hill Water Tank MA-BOS5415-A" by Bay State Design and dated 04/05/10 provided as part of the Application (hereinafter "Plans").
3. The location of the Proposed WCD Project is 115 Onamog Street, Marlborough, MA. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 81, Block 238 (hereinafter "the Site"). The owner of record for the Site is the City of Marlborough.
4. The Applicant is a lessee of the owner for purposes of this Application.
5. The Site is zoned A-3 (Residence). Wireless communication devices are allowed by grant of Special Permit in A-3 (Residence) Zoning Districts.
6. The Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit (hereinafter "Rules and Regulations"), the Building Inspector on behalf of the City Planner certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCD Project on September 27, 2010, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCD Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCD Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Applicant's Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the proposed Wireless Communications Device.

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**BASED UPON THE ABOVE, THE MARLBOROUGH CITY
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application.
- B) The Site is an appropriate location for the Proposed WCD Project and the Proposed WCD Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this Approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its proposed WCD Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.
- D) The Council, pursuant to its authority under Mass. Gen. Laws Chapter 40A and the City of Marlborough Zoning Ordinance, **GRANTS** the Applicant a Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 12:**
- 1) The Proposed WCD Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Application, as amended during the application/hearing/Wireless Communications Committee process, and in compliance with the Conditions of the Grant of Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
 - 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of this Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCD Project.
 - 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.
 - 5) Applicant shall minimize the visual impacts of the Proposed WCD Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.

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- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the Proposed WCD Project referenced in this Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCD Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCD Project only in cases of power outages to the Proposed WCD Project and for purposes of routine testing and maintenance. The temporary generator shall be utilized in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code.
- 8) No operation of the Proposed WCD Project shall commence until the Applicant has received written approval from the Building Inspector that all the above conditions have been satisfied.
- 9) The issuance of the Special Permit is further subject to detailed Site Plan Review, if applicable, in accordance with the City of Marlborough ordinance, prior to the issuance of the actual Building Permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the building permit and no certificate of use and occupancy shall be issued until all conditions are complied with by Applicant. Further, any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Special Permit, and any non-compliance with said changes, alterations, modifications or amendments shall constitute a violation of this Special Permit.
- 10) In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and said recording shall be made before a building permit is issued. Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office and to the City Solicitor's office.

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- 11) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Commissioner for the Proposed WCD Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCD Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCD Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council i) shall provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCD Project; ii) shall include a professional opinion by a third party certifying that the Proposed WCD Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCD Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCD Project that may increase the actual output of radio frequency energy emitted by the Proposed WCD Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter i) shall state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCD Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.
- 12) Subject to final agreement between the City of Marlborough and the Applicant, the Applicant shall execute a lease agreement with the City of Marlborough to be drafted by the City Solicitor, approved by the Chief Procurement Officer and executed by the Mayor, and the Applicant shall provide the necessary insurance and indemnification provisions as required by said lease.

Yea: 11- Nay: 0

Yea: Delano, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Vigeant, Levy

ORDERED: That the Public Facilities Director be, and hereby is, authorized to issue a Notice of Award of a contract to the lowest eligible bidder in the amount not to exceed \$818,000.00 for the completion of the Sligo Tower Rehabilitation Project; and, further, that the Mayor be, and hereby is, authorized to negotiate and sign said contract, **APPROVED;** adopted.

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ORDERED: That the Communication from the Chair of the Library Board of Trustees, Susan Laufer, re: appointment of Margaret Cardello as Library Director and request that she commences at Step 1, **APPROVED**; adopted.

ORDERED: That the Fire Department transfer request in the amount of \$2,447.82 which moves funds from Firefighter to Additional Overtime and \$641.89 which moves funds from Fire Captain to Additional Overtime to fund coverage for an injured employee, **APPROVED**; adopted.

FROM:

Acct. # 12200001-50450 \$2,447.82
Firefighter

Acct. # 12200001-50800 \$641.89
Fire Captain

TO:

Acct. # 12200003-51300 \$2,447.82
Additional Overtime

Acct. # 12200003-51300 \$641.89
Additional Overtime

ORDERED: That the Fire Department transfer request in the amount of \$3,059.76 moving funds from Firefighter to Additional Overtime to fund coverage for an injured employee, **APPROVED**; adopted.

FROM:

Acct. # 12200001-50450 \$3,059.76
Firefighter

TO:

Acct. # 12200003-51300 \$3,059.76
Additional Overtime

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:15 p.m.; adopted.

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Public Hearing – 2011 Tax Levy

LEGAL NOTICE
CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

Notice is given that the City Council of the City of Marlborough will hold a **Joint Tax Classification Public Hearing** with the Board of Assessors on **Monday, December 6, 2010** at 8:00 p.m. in Council Chambers, 2nd Floor, City Hall, 140 Main Street, Marlborough, MA to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2011. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law.

Per Order of: City Council President, Arthur G. Vigeant

Please publish in the MWDN on Wednesday, November 24, 2010.

Please bill:

**Marlborough City Clerk, 140 Main Street, Main Floor, City Hall,
Marlborough, MA 01752 – please send tear sheets.**



City of Marlborough
RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
Office of the Mayor

2010 DEC -2 P 3 3180 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens 3,
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. LaRose
EXECUTIVE SECRETARY

December 1, 2010

Council President Arthur G. Vigeant
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

To provide for the Commonwealth's finalization of the City's FY 2011 tax levy, I am submitting the following Board of Assessors' recommendations for your approval:

- A three percent (3%) residential tax exemption for owner-occupied homes (submitted by Mayor)
- Residential property FY 11 levy of 51.2118%
- Commercial/Industrial/Personal property FY11 levy of 48.7882%

In recent years, the residential tax exemption has been reduced to 3%. While I recognize that Council may favor the elimination of the residential exemption, I believe this is not the right time for such action. Elimination of the remaining exemption would place an additional burden on our most vulnerable residents. The exemption provides a small but valued benefit to our city's seniors, veterans and those living in fixed, low and moderate income households.

To reduce the FY2011 tax levy, I am submitting the following four sheets of transfer requests:

Sheet 1: Transfer in the amount of \$994,076.00 moving funds from account number 10000-35900 (Undesignated Funds). An additional transfer in the amount of \$1,022,246.00 from account number 10000-35900 (Undesignated Funds) will offset the tax levy by eliminating the snow/ice deficit.

Sheet 2: Transfer in the amount of \$10,000.00 from account number 13860006-59254 (Interest on BAN), \$40,000.00 from account number 61075206-59080 (Interest Expense) and \$43,909.00 from account number 17520006-59254 (Interest on BAN).

Sheet 3: Transfer in the amount of \$912,015.00 from account number 10000-32200 (Overlay Reserve).

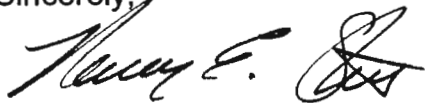
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Sheet 4: Transfer in the amount of \$21,300.00 from account number 27000-33020 (Sale of Graves) and transfer in the amount of \$194,200.00 from Account No. 61000-31200 (Aquifer Protection).

Chief Assessor Tony Trodella, Comptroller Tom Abel and I will be present at the December 6th meeting to respond to any Council inquiries. Your prompt review and vote will provide the necessary timeframe for preparation of the City's tax request to the Commonwealth.

As always, please feel free to call with any questions or concerns.

Sincerely,



Nancy E. Stevens
Mayor

Enclosures

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TRANSFER REQUEST

Office of the Mayor

AVAILABLE BALANCE	AMOUNT	FROM ACCOUNT		ACCOUNT DESCRIP	TO ACCOUNT		AMOUNT AVAIL
		ORG CO OBJECT	ORG CODE OBJECT		AMOUNT	ACCOUNT DESCRIP	
		Undesignated Fund			Tax Levy		
\$ 3,663,525.09	\$ 994,076.00	10000	35900	Undesignated Fund	\$ 994,076.00	To Reduce FY 11 Tax Levy	
\$ 2,669,449.09	\$ 1,022,246.00	10000	35900	Undesignated Fund	\$ 1,022,246.00	To Reduce Snow & Ice Deficit on FY 11 Tax Levy	
Totals	\$ 2,016,322.00				\$ 2,016,322.00		

Reason: Free Cash used to reduce FY 11 tax levy

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TRANSFER REQUEST
Office of the Mayor

		FROM ACCOUNT		TO ACCOUNT			
		Interest Short Term Loans		FY 11 Tax Levy			
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 10,000.00	\$ 10,000.00	13860006	59254 Interest on BAN	\$ 10,000.00	To Reduce	FY 11 Tax Levy	
\$ 40,000.00	\$ 40,000.00	61075206	59080 Interest Expense	\$ 40,000.00	To Reduce	FY 11 Tax Levy	
\$ 161,038.00	\$ 43,909.00	17520006	59254 Interest on BAN	\$ 43,909.00	To Reduce	FY 11 Tax Levy	
	Total			\$ 93,909.00			

Reason: Budgeted funds used to reduce FY 11 tax levy

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TRANSFER REQUEST
Office of the Mayor

FROM ACCOUNT			TO ACCOUNT				
AVAILABLE BALANCE	AMOUNT	ORG CO OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 912,015.00	\$ 912,015.00	10000	32200 Overlay Reserve	\$ 912,015.00	To Reduce FY 11 Tax Levy		

Reason: Overlay Surplus used to reduce FY 11 tax levy

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TRANSFER REQUEST

Office of the Mayor

FROM ACCOUNT	TO ACCOUNT
Various Other Funds to Reduce Tax Levy	FY 11 Tax Levy

AVAILABLE BALANCE	AMOUNT	ORG C OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 21,300.00	\$ 21,300.00	27000	33020 Sale Of Graves	\$ 21,300.00	To Reduce FY 11 Tax Levy		
\$ 1,245,809.00	\$ 194,200.00	61000	31200 Aquifer Protection	\$ 194,200.00	To Reduce FY 11 Tax Levy		
	Total			\$ 215,500.00			

Reason: Other funds used to reduce FY 11 tax levy

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CITY OF MARLBOROUGH

CLASSIFICATION HEARING

Allocation of Local Tax Levy

Fiscal 2011

December 6, 2010

MARLBOROUGH BOARD OF ASSESSORS

**Anthony R. Trodella
Anthony C. Arruda Jr.
Daniel C. Brogie**

Information

One of the City Council's responsibilities is to annually determine the percentage of the local tax levy to be borne by each class of property. This responsibility and procedure are described in chapter 40, Section 56 of the Massachusetts General Laws.

The Council's decision is based on technical data and recommendations provided by the Board of Assessors. Examples included herein assume adoption by the City Council of the classification as presented by the Board of Assessors.

State law and the regulations of the state Department of Revenue define certain parameters for the City Council's decision. Those parameters are complex, and form the basis of the Board of Assessors' report to the Mayor and the Council.

Beyond those parameters, the Council's decision has policy ramifications that can only be weighed by the elected officials of our community.

It must be understood that the rates and percentages are made final only after the Department of Revenue reviews and certifies our submission on the recap sheet. FY 2011 new growth and values have been approved by the Dept of Revenue.

Definitions

The following are definitions of terms frequently used in the discussion of the tax rate.

Levy: The levy is the actual amount to be raised by taxes. The levy amount is determined by the budget. The total amount of the approved budget less all revenues from other sources is the amount of the levy.

Levy Ceiling: The levy ceiling is 2.5 percent of the full value of the city. This is sometimes referred to as the "Chapter 797 levy"; in reference to the state law that defines it.

Levy Limit: Also referred to as the "allowable levy", this is calculated by adding 2.5 percent of the previous fiscal year's levy limit plus the new growth revenue of the present fiscal year to the last year's levy limit. To exceed the levy limit requires an override of Proposition 2½.

Excess Levy Capacity: The excess levy capacity is the difference between the levy and the levy limit.

The following chart is an illustration of these terms as applied to fiscal 2011.

FISCAL 2010 LEVY LIMIT	
FY 2010 LEVY LIMIT	\$98,943,862
2.5% FY2010 Levy Limit	\$2,473,597
FY 2011 Growth	\$2,030,246
FY2011 Levy Limit	\$103,447,705
FY2011 Levy	\$83,495,276*
Excess Levy Capacity	\$19,952,429

***THIS INCLUDES OFFSETTING THE TAX LEVY WITH \$3,237,746 FROM UNDESIGNATED FUNDS AND OTHER SOURCES.**

The task before the City Council is to vote on the **PERCENTAGE OF LEVY** to be borne by the different classes of properties, as prescribed by Chapter 40, Section 56 of the Massachusetts General Laws. While the vote technically is not to set a tax rate or rates, the rates fall out as merely a mathematical calculation based on those percentages. We have provided information on what the tax rate would be for the recommended classification. The Department of Revenue actually sets the rate by certifying all the information submitted to them on the Re-cap sheet.

Although it is never used in any of the calculations within this report, it is interesting to note that the “hypothetical” average single family home is assessed at \$307,047 for FY2011. This is down from \$314,593 for FY2010

Dividing the total value of all single-family homes by the number of single-family properties derives this value. This is a decrease of approximately 2.4% from fiscal 2010. *Individual assessments will increase or decrease at varying levels. **NOT NECESSARILY AT -2.4%***

It is important to recognize that this decrease is never uniform across all types of residential properties. There will be variations based on market activity within these property types. As an example, single family homes decreased at a lesser rate than 4 to 8 unit properties.

These varying assessment levels also result in increases or decreases in actual tax bills that vary accordingly.

RECOMMENDATIONS

The key elements that were considered and are included in the criteria that lead to the recommendation being made by the Board of Assessors are as follows:

1. The recommendation by the Mayor of a 3% Residential Exemption in the amount of \$8,085 for owner-occupied, residential properties. Dividing the value of all residential properties by the number of residential properties and taking 3% of that value derives this amount. *THIS IS A LOWER DOLLAR AMOUNT THAN THE 3% EXEMPTION FOR FY2010 DUE TO THE REDUCED ASSESSMENT OF THE AVERAGE RESIDENTIAL PROPERTY.*

This Residential Exemption does not influence the Residential/CIP shift at all.

The Board of Assessors continues to recommend a gradual reduction in the Residential Exemption to 0. However, with the current foreclosure and financial stress on all taxpayers, we agree with the exemption at this time.

2. An increase of the split in the CIP factor to 1.50 for the Residential/CIP tax structure so that the City of Marlborough will continue to spread the cost of running the City as equitably as possible between both residential and commercial/industrial/personal property tax payers.
3. *Due to assessment levels this year, the shift can be adjusted to 1.75. The Board feels that by not raising it to the max will continue to send an important signal that Marlborough is a competitive place to do business and wants to encourage both residential and non-residential growth while maintaining basically the same percentage of levy paid as last year by both the RESIDENTIAL and CIP tax -payer.*

This will have a resulting positive impact of meeting the stated goals of the City to lower the split when financially feasible and make changes when the economy requires it.

4. Supporting the Mayor's recommendation to apply \$3,237,746 from "UNDESIGNATED FUNDS AND OTHER SOURCES" to the tax levy.

It is important to note that although the CIP properties account for 32.5255% of the total assessed values in the City, they pay 48.7882% of the tax levy.

Based on these parameters being in place as part of the total package, the Board of Assessors recommends that residential properties bear 51.2118% and the Industrial/Commercial/Personal property bear 48.7882% of the TAX LEVY. This results in a minimal change in the percentage of the levy paid by the residential tax payers over last year's percentages and results in the desired effect of benefiting the residential population while still allowing the CIP taxpayer to be competitive.

It must be noted that this year's MEASURE and LIST concentrated on the commercial/industrial properties. The Measure and List will result in an accurate evaluation of all properties in the city. This will lead to more accurate assessments for all properties so as to benefit the residential and commercial/industrial taxpayer and measure a continuing proper level of new growth.

The chart below summarizes the Board's specific recommendations and their impact on the tax rate.

IT IS TO BE NOTED THAT THE FINAL TAX RATE WILL BE SET BY THE DEPARTMENT OF REVENUE WHEN THE RE-CAP FINANCIAL AND VALUATION INFORMATION IS APPROVED.

Class	Assessed Value	Total Levy	Levy Percent	Tax Rate per Thousand
Residential	3,068,007,247	42,759,434	51.2118	14.25 (+6.26%)
CIP	1,478,905,863	40,735,842	48.7882	27.54(+8.34%)
Total	4,546,913,110	83,495,276	100	

CIP LEVY % SEPARATION

COMMERCIAL % = 26.1724
INDUSTRIAL % = 14.2026
PERSONAL % = 8.4132

By way of example, please note that under this recommendation the tax bill on the HYPOTHETICAL, AVERAGE SINGLE FAMILY HOME would be \$4260, an increase +\$147.00 (+3.57%).

IMPLICATIONS ON A RETAIL STRIP STORE

FY 2010 RATE=\$25.42/\$1000
FY2010 ASSESSMENT=\$2,581,100
Fy2011 ASSESSMENT =\$2,413,400
DIFFERENCE = -\$167,000(-6.50)

TAX BILL =\$66,465
DOLLAR CHANGE+\$854(+1.3%)

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THIS EXAMPLE IS REFLECTIVE OF A LOWERING OF ASSESSED
VALUES ON THIS PROPERTY AS COMPARED TO FY 2010 LEVELS.

**If there was no rate shift, the tax rate would be \$18.36 per \$1000 of value.
This would translate into an average single family tax bill of \$5,489 (+\$1376
difference)**

**ONCE AGAIN, PLEASE NOTE THAT INDIVIDUAL BILLS WILL VARY
DUE TO CHANGES IN ASSESSMENT LEVELS AND THESE
EXAMPLES DO NOT CLAIM UNIFORMITY AMONGST ALL TAX
BILLS.**



City of Marlborough

Office of the Mayor

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

140 Main Street

Marlborough, Massachusetts 01752

2010 DEC - 2 10 3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens 4
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. LaRose
EXECUTIVE SECRETARY

December 6, 2010

Arthur G. Vigeant, President
Marlborough City Council
City Hall, 140 Main Street
Marlborough, MA 01752

RE: Request for Executive Session

Honorable President Vigeant and Councilors:

I hereby request the opportunity to meet with you in executive session during your scheduled Council meeting of December 6, 2010. I am requesting this meeting for the purpose of discussing litigation strategy, as an open meeting may have a detrimental effect on the litigation position of the City of Marlborough.

I have enclosed a proposed Council order reflecting this request, which is in conformance with the terms and conditions set forth in M.G.L. c. 30A, §§ 21(3).

Thank you for your attention to this matter.

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

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/ 2

ORDERED:

It is moved, in conformance with the provisions of § 21(3) of Chapter 30A of the General Laws of the Commonwealth, that the City Council conduct an executive session for the purpose of discussing strategy with respect to litigation, as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough. It is further moved and stated that the City Council will re-convene in open session after the executive session.



City of Marlborough

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CITY OF MARLBOROUGH

Office of the Mayor

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Nancy E. Stevens
MAYOR 51

Krista F. Holmi
EXECUTIVE AIDE

Katherine M. LaRose
EXECUTIVE SECRETARY

December 1, 2010

Arthur G. Vigeant, President
Marlborough City Council
City Hall, 140 Main Street
Marlborough, MA 01752

RE: Transfer Request – East Side Study

As detailed in the attached communication from DPW Commissioner Ron LaFreniere, the planning and design effort for East Plant upgrades includes an EPA administrative order requiring the City to investigate and identify the major sources of infiltration and inflow (I & I) to our sewer collection system. Estimated cost for this study is \$226,000.00. After consideration of several funding sources outlined in the Commissioner's memorandum, I am submitting for your approval the following transfer request:

Transfer in the amount of \$226,000.00 moving funds from account number 83600-32711 (Stabilization-Capacity Study) to account number 19300006-55950 (Capital Outlay-East Plant).

As always, please feel free to contact me with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Enclosures



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CITY OF MARLBOROUGH
Department of Public Works
Office of the Commissioner
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 460-3610

MEMORANDUM

To: Mayor Nancy E. Stevens
From: Ronald M. LaFreniere, Commissioner
Date: December 1, 2010
Re: East Side I&I Study; Request for Funding

As part of the planning and design effort for the upgrades to the East Plant, the city is required under its administrative order (AO) from EPA to investigate and identify the major sources of infiltration and inflow (I&I) to our sewer collection system. As you know, the planning effort for the East Plant is underway with our wastewater consultant engineer, CDM and is being paid for from funds that remained in the original bond for the preliminary design on the West Plant.

CDM has estimated the I&I study for the east side will cost about \$226,000. We have applied for loan assistance to perform this work under the SRF but if the city were to borrow money through this program the overall project costs would increase due to the 2% debt service of the loan as well as the additional costs of meeting MBE/WBE requirements under the SRF program.

There are a couple of other options to fund this work....

- A new bond authorization for this specific purpose

or

- Use of existing funds in one of the city's designated stabilization accounts that were generated through the Interim Sewer Connection Program. There appears to be a little more than \$320,000 in this designated stabilization account entitled Capacity Study.

CDM would like to begin the baseline flow measurement work shortly for the I&I study because this is the time of year when I&I is at its lowest point.

Please let me know how you would like to proceed and get back to me if you have any questions on the above information.

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TRANSFER REQUEST

DPW

FISCAL YEAR: 2011

FROM ACCOUNT:

TO ACCOUNT:

Available
Balance

Amount

Org Code Object

Account Description:

Amount

Org Code Object

Account Description:

Available
Balance

\$320,385

\$226,000.00

83600 - 32711

Stabilization-Capacity Study

\$226,000.00

19300006 - 55950

Capital Outlay-East Plant

\$0

Reason:

To fund Infiltration & Inflow Study for the East Plant



City of Marlborough

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Office of the Mayor

2010 DEC -2 P 3:39 140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. LaRose
EXECUTIVE SECRETARY

November 30, 2010

Arthur G. Vigeant, President
Marlborough City Council
City Hall, 140 Main Street
Marlborough, MA 01752

RE: Transfer Request

Honorable President Vigeant and Councilors:

Pursuant to the City's agreement with Ward Mountain LLC, the annual payment of \$39,850.24 for the property is now due. To complete this transaction, I am submitting for your approval the attached transfer request:

Transfer in the amount of \$39,850.24 moving funds from account number 83600-11520 (Open Space Stabilization) to account number 1930006-58170 (Open Space Acquisition).

As always, please feel free to contact me with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

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TRANSFER REQUEST

AVAILABLE BALANCE	AMOUNT	ORG C/OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
		Undesignated Fund					
		Capital Outlay					
\$ 786,135.00	\$ 39,850.24	83600	11520 Open Space Stabilization	\$ 39,850.24	19300006	58170 Open Space Acquisition	\$ -

Reason: To Fund Annual Land Purchase Payment for Mt. Ward



City of Marlborough

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Office of the Mayor

2010 DEC -2 P 3:39 140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. LaRose
EXECUTIVE SECRETARY

December 2, 2010

Arthur G. Vigeant, President
Marlborough City Council
City Hall, 140 Main Street
Marlborough, MA 01752

RE: Human Services Task Force Recommendations

Honorable President Vigeant and Councilors:

I am resubmitting for your approval the following transfer request to fund the Department of Human Services for the remainder of the 2011 fiscal year:

Transfer in the amount of \$31,665.91 moving funds from account number 1000-35900 (Undesignated Fund) to account number 15270001-50595 (Director) and transfer in the amount of \$75.00 moving funds from account number 1000-35900 (Undesignated Fund) to account number 15270005-54220 (Office Supplies).

On the agenda for the November 8, 2010 City Council meeting, I submitted to you a letter outlining my plans and timeline for the reorganization of the Human Services Department as well as a transfer to fund the current department for the remainder of the fiscal year. At that meeting, the transfer request was sent back to me with a request for an organizational chart, job descriptions and salary ordinances. Attached for your information are the draft organizational chart and draft job descriptions. We are currently working to more clearly define the roles and responsibilities of each of the positions. Once we have finalized the job descriptions, I will be submitting for your approval salary ordinances reflecting the roles and responsibilities of each position.

We continue to work on numerous pieces of the reorganization such as location, the possibility of including the Board of Health in the new structure, as well as shared nursing services between the Board of Health and the Council on Aging. I look forward to having the Human Services Task Force reconvene in January to continue their work on this reorganization.

Thank you for your continued support on this important endeavor.

As always please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Enclosures

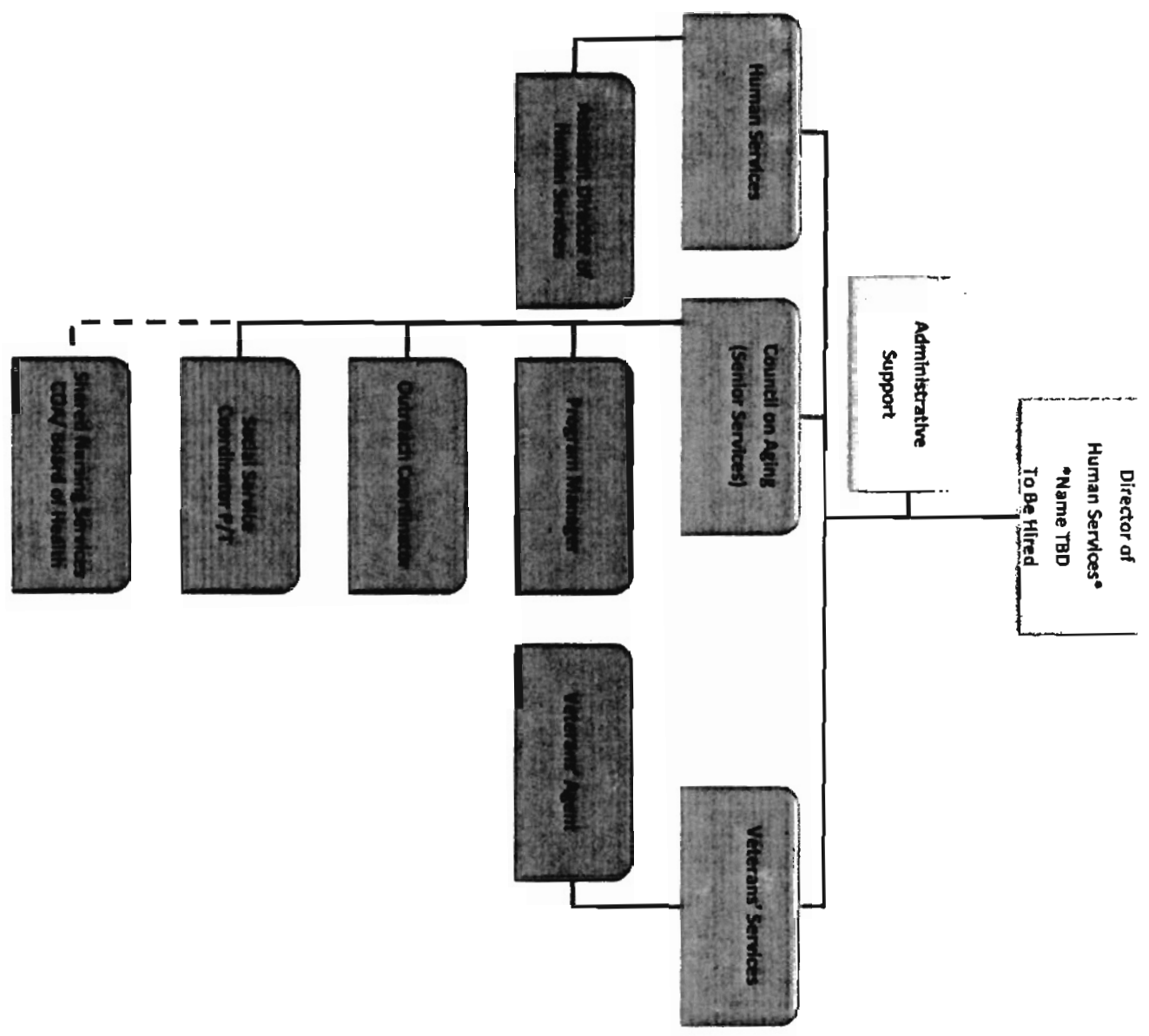
72

TRANSFER REQUEST

		FROM ACCOUNT			TO ACCOUNT				
AVAILABLE BALANCE	AMOUNT	ORG C OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL		
\$ 3,745,266.00	\$ 31,665.91	10000	35900 Undesignated Fund	\$ 31,665.91	15270001	50595 Director	\$ 4,182.31		
	75.00	10000	Undesignated Fund	\$ 75.00	15270005	54220 Off Supplies	75.00		
			Undesignated Fund			Human Services			

\$ 31,740.91

Reason See Attached request from Mayor



DIRECTOR OF HUMAN SERVICES
DRAFT DOCUMENT

Position Summary:

Position provides the necessary social service programs to meet the needs of the elderly population, veterans and community members who are vulnerable within the City of Marlborough. He/she will be responsible for planning and administering all the operations of the Human Services Department (Council on Aging, Veterans, Human Services). The Director of Human Services will direct strategic planning for the department and will ensure that programs and services are run in accordance with City and Council policy and any applicable legal boundaries.

Supervision:

Supervision Scope: Performs complex and highly responsible duties requiring considerable judgment in planning and supervising department operations and personnel particularly in situations not clearly defined by precedent or established procedures, requiring a complete knowledge of the Human Services' mission and goals; works independently and in combination with others.

Supervision Received: Works under the policy direction of the Mayor, receiving regular guidance, intent, and special directives; assumes responsibility for developing and achieving the department goals and objectives. The position is subject to review and evaluation according to the City's personnel plan.

Supervision Given: Supervises and provides daily instructions, tasks assignment, and/or general guidance to all Human Services' staff and volunteers.

Job Environment:

Work is performed in an office environment. Majority of work is performed in a moderately noisy work environment, with frequent interruptions. Frequently subjected to the stress of other individuals and the volume and/or rapidity with which tasks must be accomplished

Regularly operates a computer, telephones, and other standard office machines.

Interacts frequently with citizens and their family members, social workers, members of the medical community, vendors, outreach workers, case managers, local, state, and federal governmental organizations, and local community organizations. Contacts are in person, by telephone, in writing and involve discussing routine to complex information, requiring significant persuasiveness and resourcefulness to influence the behavior of others. Contacts with clients require considerable perceptiveness and persuasion.

Has access to department personnel records, bid documents, and a wide variety of confidential and personal information about program participants which requires the application of appropriate judgment, discretion and professional protocols.

Errors in judgment may result in significant delay or loss of services to the City's residents, possible injury to clients and volunteer work force, monetary loss, and have legal repercussions.

Essential Functions:

(The essential functions or duties listed below are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

Interviews, hires and trains staff, volunteers, and students. Provides job instruction and direction. Occasionally required to work evening and/or weekend hours.

Performs research and identifies potential new sources of revenue for Human Services; prepares grant applications for federal, state, and private for profit and non-profit organizations. Manages all grant-funded activity.

Plans, prepares and oversees the department budget and related fiscal issues. Maintains personnel files on all department employees.

Supervises the content and production of the COA newspaper column, news releases, Resource Guide, and schedules of activities. Supervises the preparation of department public relations information for the media. Maintains numerous current resource files.

Makes presentations to groups and organizations regarding Human Services functions and activities. Ensures visibility through a variety of outlets to enhance the Human Services' image as a resource to community residents, organizations, and other City departments.

Performs direct counseling and crisis intervention with clients by phone and in person, often on an emergency basis. Communicates with clients' families, club officers, agencies and other organizations regarding referrals and the need for information and counseling.

Attends committee meetings; compiles and reports program statistics, suggests innovative projects, drafts annual budget for review, drafts policies and procedures for Human Services, advises and updates appropriate parties on department operations, grant applications, staff, and the status of a variety of programs.

Performs an ongoing evaluation of the human services being funded by the City. Constantly assesses the quality and effectiveness of programs.

Other Functions:

Communicates and collaborates with other Human Services organizations, legislators, and local organizations to plan, prepare and recommend programs, legislation changes, etc. to better meet the needs of the community.

Represents the City of Marlborough on appropriate outside boards and committees of organizations whose functions coincide with, or relate to Human Services.

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Recommended Minimum Qualifications:

Master's Degree in social work or other related field; five years of high level experience in the field of aging or human services, two of which will have been in a supervisory position; or any equivalent combination of education and experience.

Knowledge, Ability and Skill-

Knowledge: Thorough knowledge of the federal and state services and local resources available to Human Services organizations. Working knowledge of federal and state regulations pertaining to Humans Services organizations. Knowledge of grant writing techniques.

Ability: Ability to remain calm, concentrate and perform all responsibilities in a competent manner at all times. Able to communicate effectively and efficiently verbally and in writing at all times. Ability to delegate responsibility and work well with subordinates. Ability to maintain detailed and extensive records and to prepare reports from same. Ability to deal tactfully, patiently and appropriately with all clients. Ability to maintain and respect the confidentiality of clients. Ability to work effectively under time constraints to meet deadlines.

Skill: Compassion for the all clients. Excellent public relations and communication skills.

Physical and Mental Requirements:

A high level of recurring intellectual effort is required to maintain a current knowledge of the resources available to the department as well as to manage the operations of the department. Employee is frequently required to walk, stand, sit, talk, and hear; uses hands to finger, handle, feel or operate objects, tools, or controls, and reach with hands and arms as in physically picking up files, papers and other common office objects. Employee must occasionally lift and/or move objects weighing up to 10 pounds such as a briefcase, books, supplies, etc. Employee must possess the ability to operate a keyboard at a moderate speed. Vision and hearing at or correctable to normal ranges.

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VETERANS' AGENT
DRAFT DOCUMENT

Position Summary:

Position assists and advises veterans, their dependents and beneficiaries regarding their entitled benefits under state and federal law, ensures that accurate records are maintained, and ensures that applicants receive valid information and sound advice. Veterans' Agent is responsible for maintaining and improving upon the efficiency and effectiveness of all areas under his/her control.

Supervision:

Supervision Scope: Performs varied and responsible duties requiring a high level of initiative and independent judgment in the administration and execution of department services and the administration of benefits and other assistance services to veterans and their dependents. Duties require strict adherence to state and federal laws. Participates in department planning under the guidance of the Director of Human Services.

Supervision Received: Works under the direction of the Director of Human Services and in accordance with Massachusetts General Laws, and Rules and Regulations of the United States Veterans' Administration. Incumbent functions independently referring specific problems to supervisor only where clarification or interpretation of City policy or procedure is required. The position is subject to review and evaluation according to the City's personnel plan.

Supervision Given: None

Job Environment:

Administrative work is performed in a quiet office environment with frequent interruptions; may be required to transport veterans to Veteran's Administration facilities to medical care.

Regularly operates a computer, telephones, copier, facsimile machine, and other standard office machines; occasionally operates an automobile.

Interacts constantly with veterans, the general public, other municipal departments, as well as local, state and federal agencies and organizations involved with veterans. Contacts are made in person, via telephone, and in writing, requiring patience, tact, and discretion. Contacts also require a moderate level of persuasiveness and resourcefulness to influence the behavior of others.

Has access to department-related confidential and/or sensitive information about veterans including financial and medical records, the disclosure of which would cause a significant breach of trust and seriously damage the reputation of the department.

Errors in judgment could result in financial hardship, confusion, legal repercussions, and reduced standards of service to the City's veterans who use the services of the department.

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Essential Job Functions:

(The essential functions or duties listed below are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

Interviews applicants and processes applications for Chapter 115 benefits including financial aid, medical benefits, etc. Gathers supporting documents, reports, and statements. Conducts investigations to verify accuracy. Ensures that applications conform to applicable state laws and are accurate. Processes claims for Veterans Administration compensation and pensions, educational benefits, tax exemptions, annuities, etc.

Ensures that veterans, their widows and dependents needs are being met and that the City's interests and the state's rules and regulations are being complied with. Monitors all cases in progress; maintains necessary correspondence and closes cases as appropriate.

Ensures proper veterans burials as required by law and ensures proper identification, maintenance and decoration of graves.

Assists veterans in obtaining military records, discharges, and medals which were awarded but not received by the individuals. Assists veterans who have clouded discharges in receiving upgrades when warranted. Assists families in obtaining records relating to the death of veterans who were killed in action.

Implements appropriate hospitalization/health care arrangements for veterans in need of specialized services.

Provides assistance to local veterans organizations and groups in events and ceremonies honoring the services of veterans and plays an active role in these events.

Other Job Functions:

Prepares and/or oversees the preparation of a variety of reports and records. Attends Veterans Administration meetings to maintain current knowledge of all applicable laws, rules and regulations regarding veterans.

In conjunction with the Director of Human Services, lobbies the City Council in favor of veterans' issues. Lobbies the State House on behalf of veterans and their issues.

Performs similar or related work as required, directed or as situation dictates.

Education, Training and Experience:

Bachelor's degree in business administration or social services; five years of experience in social welfare or related work; experience in veterans benefits administration highly desirable; or any equivalent combination of education and experience.

Special Requirements:

Possession of a valid motor vehicle operator's license is required.
Incumbent must be an honorably discharged United States veteran (with wartime service).

Knowledge: Thorough knowledge of state and federal laws pertaining to veterans and their dependents. Working knowledge of the methods and principals of veterans benefits assistance, case work, administration, and available resources.

Ability: Ability to remain calm, concentrate and perform all responsibilities in a competent manner at all times. Able to communicate effectively and efficiently verbally and in writing at all times. Ability to work effectively under time constraints to meet deadlines. Ability to supervise and coordinate and to establish and maintain effective working relationships with employees, veterans, officials and the general public. Ability to plan, negotiate, and assume leadership in relations with community and governmental agencies, and in establishing and coordinating programs for veterans. Ability to treat individuals with dignity, fairness, sensitivity, and compassion.

Skill: Skill in using the above mentioned tools and equipment.

Physical and Mental Requirements.

Recurring intellectual effort is required to maintain a current knowledge of applicable laws, principals, and resources. Employee is frequently required to walk, stand, sit, talk, and hear; uses hands to finger, handle, feel or operate objects, tools, or controls, and reach with hands and arms as required. Occasionally lift and/or move objects weighing up to 10 pounds such as a briefcase, books, supplies, etc. Employee must possess the ability to operate a keyboard at a moderate speed. Vision and hearing at or correctable to normal ranges.

ASSISTANT DIRECTOR OF HUMAN SERVICES
DRAFT DOCUMENT

Position Purpose:

Position performs administrative and professional work assisting the Marlborough community in its ability to utilize current federal, state, and local resources to address issues affecting the quality of life of its' citizens. Employee provides information, referral services to social service agencies in the City, advocacy, and follow-up to residents. The Assistant Director of Human Services is responsible for maintaining and improving the efficiency and effectiveness of all areas under his/her direction and control.

Supervision:

Supervision Scope: Performs varied and highly responsible duties in managing the activities of the department. Incumbent is required to work independently in formulating decisions regarding policies, procedures, operations and plans at the municipal-wide level. Participates in department planning under the guidance of the Director of Human Services.

Supervision Received: Works under the direction of the Director of Human Services. Employee receives occasional guidance, intent, and special directives; shares responsibility for developing and achieving the department goals and objectives. The position is subject to review and evaluation according to the City's personnel plan.

Supervision Given: None.

Job Environment:

Work is performed under typical office conditions; frequently required to work evening and/or weekend hours; incumbent occasionally required to attend evening meetings.

Operates microcomputers using standard office automation applications, calculator, telephone, copier, facsimile machine and all other standard office equipment; operates an automobile to perform client visits.

Makes regular contacts with a wide variety of service agencies and programs; makes constant contacts with residents, many of whom are in crisis, requiring considerable discretion, resourcefulness and persuasiveness to achieve desired objectives.

Has access to an extensive amount of sensitive and confidential information, the disclosure of which may cause very poor public relations and be very damaging to the reputation of the department and the City, as well as seriously harmful to residents who use the services of the department.

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Essential Job Functions:

(The essential functions or duties listed below are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

Performs referral services to residents in need; interviews residents; performs referral to appropriate human service agency; performs related record keeping; performs advocacy on behalf of the resident; participates in case conferences; and performs follow-up. Maintains extensive human service directories.

Establishes new programs as needed; identifies gaps in the human service system and works to fill them.

Promotes community awareness and education on local, state, and federal levels. Attends meetings of local, state, and federal organizations and agencies to promote issues relevant to Marlborough. Presents on weekly local television program to inform residents of available services. May be required to speak at corporations, conventions, health fairs, etc., to promote department activities.

Performs crisis intervention. Works with individuals and families during crisis. Arranges for emergency assistance and provides referral to appropriate agency.

Assists with the coordination and networking among human service agencies, City government, the public school system, and the public and private sectors to facilitate the utilization of existing services, to broaden the base of human service delivery, to assess the overlapping and gaps that occur, and to establish new programs.

Cultivates volunteers to assist with programs.

Performs similar or related work as required, directed or as situation dictates.

Education, Training and Experience:

Bachelor's Degree in related field; and three to five years of experience in the human services field, of which some experience has been in a management capacity; or any equivalent combination of education and experience.

Special Requirements:

Possession of a motor vehicle operator's license is required.

Knowledge, Ability and Skill.

Knowledge: Considerable knowledge of the needs of the young, elderly, families, and the homeless people and the service programs available to meet their needs. Thorough knowledge of federal, state and local laws, ordinances, regulations and policies relating to human services programs.

Ability: Ability to interact in a positive and effective manner with people at all levels. Ability to communicate clearly and concisely, in writing and orally. Ability to maintain accurate and detailed records. Ability to prepare and analyze comprehensive reports.

7/12

Ability to carry out assigned projects to their completion. Ability to efficiently and effectively administer a human services referral system.

Skill: Empathy in dealing with people in crisis situations. Skill in the use of personal computers, particularly word processing and spreadsheet applications.

Physical and Mental Requirements:

Intellectual and mental acuity to perform conceptual and detailed technical work. Recurring intellectual effort is required to maintain a current knowledge of applicable laws, principals, and rules and regulations. Employee is frequently required to walk, stand, sit, talk, and hear; uses hands to finger, handle, feel or operate objects, tools, or controls, and reach with hands and arms as in physically picking up files, papers and other common office objects. Employee must occasionally lift and/or move objects weighing up to 10 pounds such as a briefcase, books, supplies, etc. Employee must possess the ability to operate a keyboard at a moderate speed. Vision and hearing at or correctable to normal ranges.

COUNCIL ON AGING PROGRAM MANAGER
DRAFT DOCUMENT

Position Summary:

At the general direction of the Director of Human Services, the Council on Aging (COA) Program Manager is responsible for the planning, implementation and oversight of COA programs. As a member of the COA management team, the Program Manager will assist as requested, with day to day operational issues and tasks required to run the senior center.

Essential Functions:

(The essential functions or duties listed below are intended only as illustration of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

- Develop programs, activities, classes, workshops and trips to address identified client needs.
- Oversee the daily operations of the senior center in the absence of the Director of Human Services
- Monitor program budgets
- Manage participant information for all activities
- Work with the Friends of Marlborough Seniors to facilitate, coordinate and supervise fundraising and solicitation events
- Work closely with the Volunteer Coordinator to ensure adequate volunteers for all programs, activities and events
- Develop and maintain an annual satisfaction survey to determine what activities to offer which will best meet the social, recreational, fitness and health needs of seniors.
- Manage program services through external vendors where required
- Participate in grant writing and monitor grant plans
- Participate in meetings with community partners
- Lead /participate in internal and external committee initiatives
- Provide monthly feedback to the COA regarding the changing needs of seniors and develop suggestions for meeting those needs.

7/14

Education and Experience:

Must possess a Bachelor's Degree in a related field; two years of supervisory experience; at least five years of work experience in the area of services to senior citizens; or any equivalent combination of education and experience.

Knowledge, Skills and Abilities:

Extensive knowledge of federal and state laws, policies and regulations pertaining to seniors; ability to assess information and evaluate programs; knowledge of budgeting; ability to accomplish work objectives with minimal resources. Must exercise sound judgment in developing, applying and interpreting program policies and procedures. Excellent organizational and communication skills both written and verbal. Knowledge of Microsoft Word, Publisher and Access.



City of Marlborough

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Office of the Mayor

2010 DEC -2 P 3:40

140 Main Street
Marlborough, Massachusetts 01752

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

Nancy E. Stevens
MAYOR

81

Krista J. Holml
EXECUTIVE AIDE

Katherine M. LaRose
EXECUTIVE SECRETARY

December 2, 2010

Arthur G. Vigeant, President
Marlborough City Council
140 Main Street
Marlborough, MA 01752

RE: Appointment – Community Development Authority

Honorable President Vigeant and Councilors:

I am submitting for your approval the appointment of Eric Asman to the Community Development Authority. Mr. Asman will fill the vacancy created by Michael Hogan's resignation from the Board. For your review, I have included Mr. Asman's letter of interest.

Upon approval, Mr. Asman will serve Mr. Hogan's remaining term, expiring April 15, 2012.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

82

December 1, 2010

Mayor Nancy Stevens
City Hall
140 Main Street
Marlborough, MA 01752

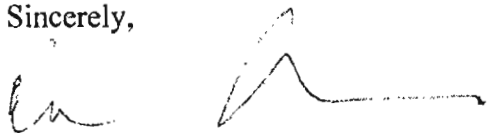
Dear Mayor Stevens,

This letter is to formally express my interest in serving on the board for the Marlborough Community Development Authority. It is my hope that I be able to help Marlborough continue on the path of improvement that I have seen first hand as a French Hill resident.

I am an eight year Marlborough resident, and I have been involved in leadership of the French Hill Neighborhood Association for the last three years. My business, an office of Fairway Independent Mortgage Company, is also located in Marlborough. I have helped to organize local businesses in forming a second chapter of BNI (Business Network International) in Marlborough. I am also a member of the Marlborough Chamber of Commerce.

Thank you for considering me for this position.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Asman', with a stylized flourish extending to the right.

Eric Asman



City of Marlborough

Legal Department

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH 140 MAIN STREET

2010 DEC 2 5 38
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

91
DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

December 2, 2010

Arthur Vigeant
President
Marlborough City Council

RE: Proposed Home Rule Petition – Subdivision Roads

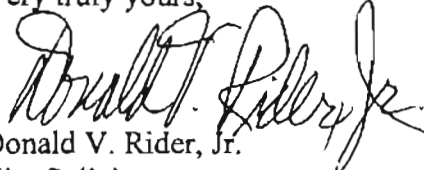
Dear President Vigeant and Members:

I am enclosing a draft order for a proposed home rule petition pertaining to subdivision roads that, for various reasons, have not been accepted as public ways. The proposed petition would provide a simplified procedure for laying out and, where appropriate, accepting subdivision roads as public ways.

As you know, home rule petitions must be approved and submitted to the Legislature for its subsequent approval as special legislation. Since I am informed that the upcoming submittal deadline to the Legislature is mid-January 2011, your expedited review of and action upon the enclosed order is respectfully requested.

Thank you for your attention to this matter.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Nancy Stevens, Mayor
Planning Board

92

DRAFT

ORDERED:

That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:-

**AN ACT
PROVIDING A SIMPLIFIED PROCEDURE
FOR THE LAYOUT AND ACCEPTANCE OF CERTAIN WAYS
IN AND BY THE CITY OF MARLBOROUGH**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of Chapters 82 and 79 of the General Laws or any other general or special law, the city of Marlborough may employ the procedure hereinafter set out for municipal acceptance of roads constructed within a subdivision in accordance with a definitive plan approved by the planning board of the city of Marlborough. The said board, upon request of either the city council for the city of Marlborough or of a developer, or upon its own initiative, shall prepare a written certification that a subdivision road has been laid out and constructed in accordance with the board's rules and regulations and the approved definitive plan. The said board shall submit to the said city council the board's certification, together with original mylars of an acceptance plan, in required form for recording at the Registry of Deeds, and an as-built plan(s). The cost for preparing acceptance plans and as-built plans, if necessary, shall be paid from any funds which may remain in the subdivision bond of the developer. The said city council shall hold a public hearing, after giving written notice by first-class mail, postage prepaid, to the owner of record of each property abutting the road, as appears from municipal records, and after giving notice by publication in a newspaper of local circulation at least seven days prior to the hearing. The sole purpose of the public hearing shall be to

determine whether it is in the public interest to accept the road as a public way. If the said city council determines, after the public hearing, that it is in the public interest to accept the road, it shall so vote, by a two-thirds majority, and cause to be prepared for recording at the Middlesex South District Registry of Deeds an order of acceptance containing said vote. The order of acceptance, together with the original mylar acceptance plan(s), shall be recorded within thirty (30) days following the said vote, and, upon recordation, shall operate to vest in the city of Marlborough, with no additional notice or other action required, the ownership in fee to the road, together with the ownership of all utility, drainage, flowage, and other easements shown for all municipal purposes including but not limited to repair, improvement, reconstruction, removal and replacement, as well as all pipes, structures, and other improvements located therein. No owner of, or holder of any interest in, land abutting a road so accepted or subject to an easement shown on said acceptance plan shall have any claim for compensation against the city on account of said acceptance.

SECTION 2. This act shall take effect upon its passage.

ADOPTED

In City Council
Order No. 10-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

City of Marlborough
Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

10,
DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

December 2, 2010

Arthur Vigeant
President
Marlborough City Council

RE: Proposed Home Rule Petition - Local Room Occupancy Excise

Dear President Vigeant and Members:

In light of the City Council's November 22, 2010 vote to amend Marlborough's local room occupancy excise from the rate of 4% to the rate of 6%, and pursuant to public meeting discussions held by the Council and its L&L Committee, I am enclosing a draft order for a proposed home rule petition pertaining to that amended excise. The proposed petition would create a Business and Economic Development Special Revenue Fund ("the Fund"). The Fund's purposes would be to promote and to sustain the development of business and the local economy in Marlborough.

Specifically, the proposed petition, starting on July 1, 2011, would take the amount of the local room occupancy excise corresponding to the 2% increase that the City will be collecting, and would credit that 2% amount to the Fund. In addition, any grants and monetary gifts or donations made to the City in furtherance of the Fund's above-referenced purposes would also be deposited into the Fund. In turn, a majority vote would be required for the Council to appropriate from the Fund.

As you know, home rule petitions must be approved and submitted to the Legislature for its subsequent approval as special legislation. Since I am informed that the upcoming submittal deadline to the Legislature is mid-January 2011, your expedited review of and action upon the enclosed order is respectfully requested.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure
cc: Nancy Stevens, Mayor

102

DRAFT

ORDERED:

That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:-

**AN ACT ESTABLISHING
A BUSINESS AND ECONOMIC DEVELOPMENT SPECIAL REVENUE FUND
IN THE CITY OF MARLBOROUGH**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city of Marlborough shall establish in the city treasury a special revenue account to be known as the Business and Economic Development Special Revenue Fund in the city of Marlborough, into which account shall be deposited a) certain receipts comprising a portion of the total local room occupancy tax received annually by the city under section three A of chapter sixty-four G of the General Laws, as set forth in section 2 herein; and b) any grants and monetary gifts or donations made to the city in furtherance of the purposes of this act. The purposes of this act, and of the Business and Economic Development Special Revenue Fund, shall be to promote and to sustain the development of business and the local economy in the city of Marlborough.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the amount of the room occupancy excise based on rates in excess of 4% collected under section three A of chapter sixty-four G of the General Laws by the city of Marlborough for the fiscal year beginning July 1, 2011 and each fiscal year thereafter shall be credited to the Business and Economic Development Special Revenue Fund, subject to further appropriation by a majority vote of the city council of the city of Marlborough.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the amount of the room occupancy excise based on a rate equal to 4% collected under section three A of chapter sixty-four G of the General Laws by the city of Marlborough for the fiscal year beginning July 1, 2011 and each fiscal year thereafter shall be credited to the General Fund in the city of Marlborough.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, any interest accruing on any amount on deposit in the Business and Economic Development Special Revenue Fund shall be credited to the General Fund in the city of Marlborough.

SECTION 5. Nothing in or resulting from this act shall affect amounts distributed in any fiscal year to the city of Marlborough from the Local Aid Fund.

SECTION 6. The city of Marlborough may amend this act by a two-thirds vote of the city council of the city of Marlborough. Such amendatory vote shall designate a) that the Business and Economic Development Special Revenue Fund shall thereupon cease to have effect in the city of Marlborough; b) that all unexpended and uncommitted amounts on deposit in the Business and Economic Development Special Revenue Fund, as of the date of said amendatory vote, shall forthwith be credited to the General Fund for the city of Marlborough; and c) that the portion of the total room occupancy excise in excess of 4% received annually by the city under section three A of chapter sixty-four G of the General Laws and theretofore credited to the Business and Economic Development Special Revenue Fund, as set forth in section 2 herein, as well as any grants and monetary gifts or donations made to the city in furtherance of the purposes of this act, shall thereafter be credited to the General Fund for the city of Marlborough.

SECTION 7. If the city of Marlborough votes, pursuant to section three A of chapter sixty-four G of the General Laws and sections (2)(h) and (2)(i) of 830 Code of Massachusetts Regulations Part 64G.3A.1, to revoke its acceptance of the room occupancy excise rate in excess of 4% under section three A of chapter sixty-four G of the General Laws, then the Business and Economic Development Special Revenue Fund shall thereupon cease to have effect in the city of Marlborough, and all unexpended and uncommitted amounts on deposit in the Business and

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Economic Development Special Revenue Fund, as of the date of said revocation vote, shall forthwith be credited to the General Fund for the city of Marlborough.

SECTION 8. This act shall take effect upon its passage.

ADOPTED

In City Council
Order No. 10-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
City of Marlborough
Legal Department

DEC -2 A 11:56 140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

11,
DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

December 1, 2010

Arthur Vigeant
President
Marlborough City Council

RE: Proposed Amendments to Sign Ordinance

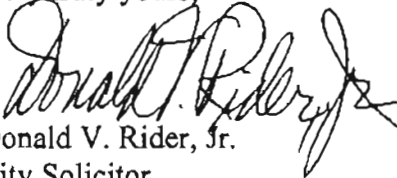
Dear President Vigeant and Members:

As you know, Building Inspector Steven Reid and his staff enforce the City's sign ordinance, which is codified at Chapter 526 of the 2008 City Code. Based on his experience with that enforcement, Inspector Reid has identified a number of areas in the sign ordinance that could benefit not only from some grammatical or word usage changes, but also from some enhancement of the enforcement provisions themselves.

Focusing on the areas identified by Inspector Reid, I have drafted and enclosed for the Council's consideration a proposed order for amending the sign ordinance. Please note that due to the sheer length of that ordinance, I have chosen not to enclose herein a tracked version of the proposed amendments, but the tracked version can certainly be provided for the relevant Council committee meeting.

Thank you for your attention to this matter.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Nancy Stevens, Mayor
Steven Reid, Building Inspector

112

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 526, ENTITLED "SIGNS," AS FOLLOWS:

1. Section 526-2, entitled "Definitions," is hereby amended by adding after the definition of "SIGN" the following definition:

SIGN CONTRACTOR: A person, whether doing business as an individual, a sole proprietor, a partnership, a limited liability partnership, a corporation, a limited liability corporation, or any other form of business entity, and including his or her agents, employees, assigns and subcontractors, who erects, alters or re-locates a sign for or on behalf of an owner.

2. Section 526-3, entitled "Permit requirements," is hereby amended:

- a. by amending subsection B thereof, entitled "Application":

- i. by amending subsection (1) thereof, entitled "All signs":

1. by amending the introduction thereof, by adding in the first line thereof, after the word "drawing," the following words:-- or design graphic.

2. by amending subsection (d) thereof, by adding in the first line and again in the third line thereof, after the words "plot plan," the following words:-- or site plan.

3. by amending subsection (e) thereof, by adding in the first line thereof, after both mentions of the words "sketch," the following words:-- or design graphic.

- ii. by amending subsection (2) thereof, entitled "Action on applications," by striking out the word in the fourth line thereof the word "approved" and inserting in place thereof the following word:-- denied.

- b. by amending subsection G thereof, entitled "Removal of existing signs," by striking out the entire subsection and inserting in place thereof the following words:-- All non-conforming signs shall be brought into conformance no later than June 23, 2000.

3. Section 526-6, entitled "Signs permitted in all zoning districts," is hereby amended by amending subsection A thereof, entitled "Temporary off-premises

signs,” by amending in subsection (2) thereof, entitled “Other public and nonprofit events,” by striking out in the fourth line thereof the word “longer” and inserting in place thereof the following word:-- larger.

4. Section 526-7, entitled “Prohibited signs” is hereby amended:

- a. by amending subsection H thereof by striking out the words “is prohibited.”
- b. by amending subsection K thereof by striking out the entire subsection and inserting in place thereof the following words:-- Any sign erected in violation of this chapter.
- c. by amending subsection L thereof by striking out in the third line thereof the words “safe sight distances as specified by Chapter 650, Zoning” and inserting in place thereof the following words:-- the 25-foot site visibility triangle requirements contained in the City’s zoning ordinance.

5. Section 526-8, entitled “Residence districts” is hereby amended by striking out in the third line thereof the words “an accessory” and inserting in place thereof the following word:-- a customary.

6. Section 526-9, entitled “Nonresidence districts,” is hereby amended:

- a. by amending the introduction thereof, by adding in the first line thereof, after the word “Industrial,” the following word:-- and.
- b. by amending subsection B thereof, entitled “Flat wall signs,” by amending subsection (2) thereof, entitled “Canopy, marquee or awning sign,” by amending subsection (c) thereof, entitled “Illumination,” by adding after the word “backlit” the following words:-- , except in the Downtown Business District.
- c. by amending subsection C thereof, entitled “Freestanding signs”:
 - i. by amending subsection (1) thereof, entitled “General,” by amending subsection (b) thereof, entitled “Sign setback,” by adding after the words “freestanding sign” the following words:-- must be on the subject lot and.
 - ii. by amending subsection (2) thereof, entitled “Calculation of area,” by amending in subsection (c) thereof, entitled “Bonus area for message board,” by striking out in the first line thereof the word “shall” and inserting in place thereof the following word:-- may.
- d. by amending subsection D thereof, entitled “Commercial centers”:

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- i. by amending subsection (1) thereof, entitled “Bonus freestanding sign area for commercial centers,” by amending subsection (a) thereof, entitled “Secondary signs,” by striking out in the fifth line thereof the word “for.”
 - ii. by amending subsection (5) thereof, entitled “Alterations to nonconforming freestanding signs,” by striking out the subsection in its entirety and inserting in place thereof the following words:-- When a freestanding sign in a commercial center or on any parcel with multiple tenants does not conform to this chapter, then any alteration of that sign, whether in whole or in part, shall require that the entire sign shall be brought into conformity with § 526-3.G(3).
 - e. by amending subsection L thereof, entitled “Downtown Business District,” by amending subsection (f) thereof, entitled “Design Review Board,” by striking out subsection [4] thereof in its entirety and inserting in place thereof the following words:-- The term of the Design Review Board shall continue until such time as the Marlborough Historic Districts Commission is abolished.
7. Section 526-12, entitled “Administration and penalties,” is hereby amended:
- a. by amending subsection B, entitled “Failure to act on permit,” by striking out in the second line thereof the word “refused,” and inserting in place thereof the following word:-- denied.
 - b. by amending subsection D, entitled “Penalties”:
 - i. by adding to the title the following words:-- against owners.
 - ii. by adding at the end of the subsection the following words:-- In the event that a fine assessed pursuant to this subsection D remains unpaid by an owner as of the date when the owner and/or the owner’s sign contractor submits any application for a sign permit for or on behalf of the owner, the Building Inspector or his/her designee may deny said application and may continue to so deny for so long as said fine remains unpaid.
 - c. by adding a new subsection E, entitled “Penalties against sign contractors,” and adding the following words:-- If the Building Inspector or his/her designee determines that a sign contractor has erected, altered or re-located a sign in violation of § 526-3, then, in addition to the remedies provided for in § 526-12.D as against the owner, the Building Inspector or his/her designee may enforce § 526-3 by assessing against said sign

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contractor a fine of \$50.00 per day, each day being considered a separate violation. As a non-criminal alternative to this penalty, the Building Inspector or his/her designee may, pursuant to M.G.L. c. 40, § 21D, treat a sign contractor violation of § 526-3 by assessing against the sign contractor a non-criminal fine of \$50.00 for a first violation, and a non-criminal fine of \$50.00 per day for each additional violation of § 526-3, each day being considered a separate violation.

- 8. The effective date of these amendments shall be thirty (30) days after their approval.

ADOPTED

In City Council
Order No. 10-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



CITY OF MARLBOROUGH
Department of Public Works
Office of the Commissioner
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 460-3610

November 29, 2010

Arthur Vigeant, President
& Members of the Council
Marlborough City Council
140 Main Street
Marlborough, MA 01752

RE: Determination That a Portion of the Former Landfill Property Off Hudson Street Is Surplus and Available For Lease For Other Municipal Purposes

Dear President Vigeant & Members:

Please accept this communication of my determination that a portion of the former landfill property off Hudson Street, taken by the City for the purposes of a city dump and for refuse disposal of solid waste is surplus and available for lease for other municipal purposes. The portions of the property affected, shown in orange and red on the attached plan, consist of 2 square-shaped areas (Parcel A and Parcel B) with connecting access/egress corridors (Easement A and Easement B) all together totaling 1.17 acres.

The Department of Public Works considers the above described areas surplus now that the City's solid waste disposal operations are managed elsewhere in the city.

Should you have any questions, please let me know.

Very truly yours,

Ronald M. LaFreniere, P.E.
Commissioner of Public Works

Cc: Mayor
Chief Procurement Officer
Legal Department

nationalgrid

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2010 NOV 30 A 10:46

131

November 23, 2010

City of Marlborough
City Council
140 Main Street
Marlboro, MA 01752

Council Members:

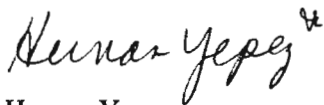
Enclosed you will find a petition for Farm Rd. petition # 9679439

Description: National Grid to install P85-5 as midspan pole to service new construction on Farms Commons Drive.

If you have any questions regarding this petition please contact Tara Andreola 508-482-1281.

Thank you for your attention to this matter.

Respectfully yours,



Hernan Yopez
Manager of Distribution Design
401-784-7173

KH/ta

Enclosures

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

OWN COPY

132

October 19, 2010

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
MARLBOROUGH, MA 01747

To the City Council
of the City of Marlborough, Massachusetts
2010 OCT 30 AM 10 46

MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.

request permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary to be owned and used in common by your petitioners, in the following public way or ways:

Farm Rd.

National Grid to install P.85-5 as midspan pole to service new construction on Farms Commons Dr.

Wherefore they pray that after due notice and hearing as provided by law, it be granted joint or identical locations for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked: **MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.**

Plan No. 9679439 Dated: 10/19/2020

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree to reserve space for one cross arm at a suitable point on each of said poles for the fire, police, telephone and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

MASSACHUSETTS ELECTRIC COMPANY

By: *[Signature]*
Manager of Distribution Design

VERIZON NEW ENGLAND, INC.

By: *[Signature]*
Manager, R.O.W.

City of Marlborough
Commonwealth of Massachusetts

14
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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2010 NOV 23 A 10:01



PLANNING BOARD

Barbara L. Fenby, Chair
Colleen Hughes, Clerk
Philip J. Hodge
Edward F. Coveney
Clyde L. Johnson
Sean N. Fay

Carrie Lizotte, Board Secretary

Phone: (508) 460-3769

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PLANNING BOARD MINUTES

November 8, 2010

7:00 PM

The Planning Board for the City of Marlborough met on Monday, November 8, 2010 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Colleen Hughes, Clerk, Philip Hodge, Clyde Johnson, Edward Coveney and Sean Fay. Also present: City Engineer Thomas Cullen.

MINUTES

Meeting Minutes October 18, 2010

On a motion by Ms. Johnson, seconded by Mr. Hodge, it was duly voted:

To accept and file the minutes of October 18, 2010.

CHAIRS BUSINESS

APPROVAL NOT REQUIRED PLAN

424 South Street

Approval

Mr. Cullen gave an overview of the email that was provided between his office and the proponents' engineer Mr. Thomas Dipersio. Mr. Cullen verbally recommends the endorsement to approve the ANR for 424 South Street.

On a motion by Mr. Johnson, seconded by Mr. Fay it was duly voted:

To accept and endorse a plan of land believed to be Approval Not Required of South Street Reality Trust, 424 South Street, Marlborough, MA 01752. Name of Engineer: Thomas Land Surveyor and Engineering Consultants, 265 Washington Street, Hudson, MA 01749. Deed of property recorded in South Middlesex Land Court Case #4975B. Approximately 8.6 Acres located on the northerly side of 424 South Street.

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Cullen stated that the Waters Edge subdivision is closer to an acceptance, they still have some minor housekeeping that needs to be performed; Davis Estates is almost at completion with the detention fencing in place and the City will soon take the ownership of the extra decorative lights. He is expecting to have a letter with a recommendation to take the bond and finish the Berlin Farms subdivision since there has been no response from the developer or the developer's attorney. He also reported that he has sent Attorney Norris correspondence about the Shorter Street Subdivision regarding the private way.

Blackhorse Farms

Correspondence from Benchmark Engineering

Mr. Donald Seaberg of Benchmark Engineering provided a response to the subdivision status request for Blackhorse Farms/Carisbrook II. In his correspondence he stated the following:

- The roadway has been swept and will be swept on a regular basis as required.
- The catch basins will be inspected and cleaned as required consistent with the City's requirements.
- Erosion controls are currently being inspected on a weekly basis and will be maintained/fixed as needed.
- All the materials noted by the City Engineer have been removed and the subdivision was clean of debris left over from construction.
- It is their understating that the main concern of the gate/barricade is the snow removal and that they are proposing that the gates be opened prior to any snow storm to allow the plows the opportunity to use the cul-de-sac as a turn around.

On a motion by Mr. Fay, seconded by Ms. Hughes it was duly voted:

To accept and file the correspondence.

Mr. Fay provided some pictures to the Board that he took over the previous weekend. These pictures show the silt fencing in disarray and needing tacks, debris in the leaves and the gate is locked. Mr. Fay stated that he was disappointed that the photos appeared to be inconsistent with the representations made in the developer's correspondence.

Correspondence from the City Engineer

Mr. Cullen provided an email that was written in response to Mr. Seaberg response. He stated that for each response of Mr. Seaberg, he would like a date provided when the work has been completed since no one from his office was notified on the maintenance of the subdivision and when things were performed. Mr. Cullen will be recommending the Planning Board to reject having the gate opened during a snow storm. He stated that the concerns of illegal dumping are the reason for the gate, and then he suggested they complete the subdivision and have it approved by the City.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

Mr. Seaberg stated that he would have to talk to the developers regarding the dates when the tasks were performed and will provide them to Mr. Cullen. He also stated that the site is stable.

Mr. Fay stated that he disagreed with Mr. Seaberg on the condition of the subdivision. He stated that he believes the site is a hazard to the community. Mr. Cullen stated that it's still a subdivision creating frontage on a road and he believes that the site is stable.

The Planning Board decided not to take action until Mr. Cullen gets the report as requested in his correspondence.

Elm Farm Valley Estates

Correspondence from Attorney Norris

Attorney Norris sent correspondence requesting that his clients bond be reduced to \$0.00. He also enclosed correspondence that he sent to the City Solicitor, Donald Rider. In his correspondence to the Solicitor, Mr. Norris stated that his clients should not be held responsible for the Engineering departments mistakes, release all funding and accept the subdivision.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

Mrs. Geraldine Fossile spoke to the Board about the issues that still exist. She stated that when the subdivision was approved it was all done correctly and that it was City Engineers fault for not seeing the correct wording on the easements. She thinks it's unfair of the City to still hold their bond monies.

The City Solicitor, Donald Rider, stated that he has received one of the three approvals for the change in easement language from the current homeowners. He stated that he will try once again to go to the residences and speak to the homeowners where the easements are located. He asked the Planning Board not to make any further decisions until the next Planning Board meeting on November 22, 2010.

Forest Grove

Correspondence from Benchmark Engineering

Mr. Seaberg stated in his correspondence that they have given the Open Space Development Special Permit requirement of \$5,000 to the Conservation Officer.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file the correspondence.

Correspondence from Priscilla Ryder

Ms. Rider sent correspondence notifying the Planning Board that they have received condition #15 of the Open Space Special Permit, in which the trail system and kiosk have been installed by volunteers.

On a motion by Mr. Johnson, seconded by Mr. Coveney, it was duly voted:

To accept and file the correspondence.

Subdivision Acceptance

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

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To accept and file the letter from City Engineer Thomas Cullen, and endorse his recommendation that the subdivision known as "Forest Grove Subdivision, As-built plot plan dated January 4, 2004 with revised date of January 7, 2010 drawn by: Cabco Consult Land and Environmental Consulting Services, with the streets have remained in satisfactory condition for the year long maintenance period. The remaining bond will stay in place until certification of the recordings.

Kingsview

Request for Lot release #15K

Attorney Vincent Vilkas is seeking relief for lot #15K (14 Princess Road) from the original covenant in 1960.

On a motion by Ms. Hughes, seconded by Mr. Coveney it was duly voted:

To allow Ms. Fenby sign the Certificate of Performance request granting relief from the covenant for lot #15K of the Kingsview Subdivision.

Mr. Fay stepped out of the room stating a potential conflict of interest.

Water's Edge

Request for acceptance

Attorney Christopher Flood represents Farooq Ansari and is seeking a subdivision acceptance on the development known as Water's Edge. He stated that they have sent the Department of Public works the necessary document package and would like the Planning Board to accept the subdivision.

On a motion by Ms. Hughes, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence, to refer the correspondence to the City Engineer for his review.

Mr. Fay returned to the room.

PENDING SUBDIVISION PLANS: Updates and Discussion

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

162 Main Street

Variance Request

Elias DeAquino is seeking a variance request for his proposed awning at 162 Main Street. Mr. DeAquino stated the Planning Board should allow the awning because it would look good, it would add a vision to the downtown district and people would be able to locate the church.

Correspondence from Steve Reid

The Building Commissioner responded to the variance request by stating that the location of the property is the building next to City Hall and has roughly 5 to 6 businesses and the location is also in the "Downtown Business District". He gave the following reasons why he denied the sign:

- Application was not signed by the owner of the property;
- The represented façade width is 20" which through calculation of 1.5 Sq Ft for each lineal feet of façade equals a maximum of 30 Sq Ft allowable of flatwall sign, application is requesting 60 Sq Ft;
- Flatwall signage cannot cover more then 7/8 of faced width, this application exceeds that requirement;
- Also, application must be presented to the Marlborough Design Review Board for their approval, has not yet been requested to pass their judgment.

On a motion by Mr. Fay, seconded by Mr. Hodge it was duly voted:

To accept and file correspondence; to unanimously deny the variance request without prejudice.

Mr. DeAquino needs to complete the necessary steps prior to asking the Planning Board for variance relief.

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

On a motion by Ms. Hughes, seconded by Mr. Johnson, it was duly voted:

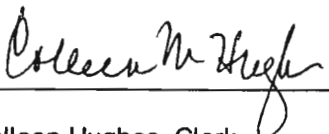
To accept all of the items listed under communications and/or correspondence.

On a motion by Mr. Johnson, seconded by Mr. Coveney, it was duly voted:

To adjourn at 7:58 p.m.

A TRUE COPY

ATTEST:



 Colleen Hughes, Clerk