

1. Minutes of the City Council Meeting, June 22, 2009.
2. PUBLIC HEARING: On the Application for Special Permit from Cheraq Patel to construct a 104 room hotel at 257 Simarano Dr. as it is in an industrial zone.
3. Communication from the Mayor re: transfer request in the amount of \$17,140.50 from Fringes to Sick Leave Buy Back associated with an employee's retirement.
4. Communication from the Mayor re: a grant awarded to the Police Department in the amount of \$17,168.00 from the US Department of Justice to establish a domestic violence high risk assessment program and team.
5. Communication from the Mayor re: a FY08 State and Tribal grant in the amount of \$286,000.00 offered through the US Environmental Protection agency which provides reimbursement monies for the design and construction of upgrades to the Westerly Wastewater Treatment Facility.
6. Communication from the Mayor re: a grant awarded to the Council on Aging in the amount of \$35,523.00 from the Executive Office of Elder Affairs which provides supplemental support to local funding for personnel, programming and expenses.
7. Communication from the Mayor re: Local Option Taxes in the FY10 budget recently signed by Governor Patrick.
8. Communication from the Mayor re: Community Preservation Act.
9. Communication from the Mayor re: TIF Proposal for Marlborough Savings Bank.
10. Communication from the Mayor re: appointment of Jay Whitaker as an alternate member of the Zoning Board of Appeals which expires two years from the date of Council approval.
11. Communication from the Mayor re: reappointments of William King and Lynn Faust to the Zoning Board of Appeals with terms expiring May 5, 2014.
12. Communication from the Mayor re: the intention of Fire Chief Adams retiring on or about February 19, 2010.
13. Communication from the City Solicitor re: draft ordinance pertinent to Genealogy fees.
14. Communication from Attorney Valeriani, on behalf of Verizon Wireless, re: request to extend time limitations to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., to September 15, 2009 at 5:00 PM, Order No. 09-1002161A.
15. Application for Fuel Storage License, 929 Boston Post Rd.
16. Communication from the Central Massachusetts Mosquito Control Project re: investigating resident's complaints on July 1, 8, 15, 22 and 29.
17. CLAIMS:
 - A. Paul Goldsmith, 64 Edson St., Stow, pothole or other road defect
 - B. Rebecca Holman, 313 Dawn Rd., Maynard, pothole or other road defect
 - C. Anna Ramsey, 17 Ellis Ave., other damage
 - D. Jon Abrahamson, 528 Belknap Rd., Framingham, pothole or other road defect
 - E. Betty Massey, 37 Ferrecchia Dr., pothole or other road defect

REPORTS OF COMMITTEES:

18. ORDERED: That the Operations and Oversight Committee review the status of city or state owned paper streets and public ways to determine the limitations, if any, of activities involving clearing, tree cutting, paving, temporary and/or permanent construction that may occur on said ways that are located in the City of Marlborough and further that the Operations and Oversight Committee review prior activities involving paper streets and public ways in connection therewith to determine if proper authorization for said use was appropriately granted.
....Submitted by Councilor Vigeant

19. ORDERED: That the City Council Operations and Oversight Committee meet with representatives of Colonial Power to review their contract and operations with the City of Marlborough.
....Submitted by Councilor Delano

UNFINISHED BUSINESS:

From City Council

20. Minutes, City Council Meeting, June 15, 2009.



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

**Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
June 22, 2009**

Regular meeting of the City Council held on Monday June 22, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juaire, Seymour, Clancy and Landers. Meeting adjourned at 9:22 p.m.

ORDERED: That the unavailable minutes of the City Council Meeting June 15, 2009, **TABLED UNTIL JULY 20, 2009**; adopted.

ORDERED: Now being the time set for the PUBLIC HEARING on the by Petition from National Grid to install 60' of primary ug across Forest St. from P.47 to a hand hole, all were heard who wish to be heard, hearing recessed at 8:03 p.m.; adopted.

ORDERED: That the following transfers requests, **DENIED**; adopted.

In the amount of \$153,000 moving funds from Account No. 100-35900 (Undesignated Fund) to Account No. 83600-32725 (Stabilization DPW Water).

In the amount of \$64,000 moving funds from Account No. 100-35900 (Undesignated Fund) to Account No. 83600-32724 (Stabilization DPW Street Signs).

In the amount of \$542,200.00 from Account No. 100-35900 (Undesignated funds) to Account No. 83600-32722 (Stabilization DPW Equipment)

In the amount of \$76,096.00 from Account No. 100-35900 (Undesignated Fund) to Account No. 83600-32723 (Stabilization GPS)

Suspension of the Rules requested – granted to allow the Mayor to speak.

MOTION made to MOVE THE QUESTION - Carries

At President Vigeant's request to recess at 8:25 PM and returned to open meeting at 8:27 PM, **APPROVED.**

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ORDERED: That the following transfer requests, **FILE**; adopted.

In the amount of \$153,000 moving funds from Account No. 83600-32725 (Stabilization DPW Water) to Account No. 19300006-58462 (DPW Water)

In the amount of \$64,000 moving funds from Account No. 83600-32724 (Stabilization DPW Street Signs) to Account No. 19300006-58311 (Street Sign Rpl.)

In the amount of \$542,200.00 from Account No. 83600-32722 (Stabilization DPW Equipment) to Account No. 19300006-58731 (DPW Equip.)

In the amount of \$76,096.00 from Account No. 83600-32723 (Stabilization GPS) to Account No. 19300006-58735 (GPS Equipment)

ORDERED: That item #5, which is a communication from the Mayor re: Council's request for additional information on expenditures and encumbrances of the Public Safety Training Revolving Account, be moved to item #16, which is a communication from the Mayor re: Public Safety Revolving fund, **APPROVED**; adopted.

ORDERED: That the re-appointment of Rustin Kyle to the Library Board of Trustees for a term expiring February 1, 2012, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the re-appointment of Leland Woodworth and appointment of Nena Bloomquist to the Arts Lottery Council for terms ending May 1, 2011, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the appointment of Mitchell Gorka as an alternate member of the Zoning Board of Appeals for a term ending three years from date of approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the communication from the Mayor re: appointment of Katherine Kimber as her new Executive Secretary and to publicly thank Diane Halper, her previous Executive Secretary for her dedication and hard work, **FILE**; adopted.

ORDERED: That the communication from the Comptroller re: Upgrade in Bond Rating, **FILE**; adopted.

ORDERED: That the communication from the Comptroller re: Competitive Bids from Note Underwriters, **FILE**; adopted.

ORDERED: That the communication from the City Solicitor re: First Student, Inc. Special Permit, Condition 12 payment, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JULY 20, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Cheraq Patel to construct a 104 room hotel at 257 Simarano Dr. as it is in an industrial zone, refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the minutes, MetroWest Regional Transit Authority, March 9, April 6, and May 11, 2009, 2009, **FILE**; adopted.

ORDERED: That the minutes of the City Council Meeting June 8, 2009, **FILE**; adopted.

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ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2010, re-authorize a revolving fund to be utilized by the Mayor. It is further ordered that:

- (a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and
- (b) that expenditures from said fund shall be limited to public safety training; and
- (c) that the Mayor shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than forty-five thousand dollars shall be expended during Fiscal Year 2010, unless otherwise authorized by the City Council and Mayor; and
- (e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and
- (f) no provisions of this order shall be changed unless approved by the Mayor and City Council, **APPROVED**, adopted.

ORDERED: That item #17, Communication from the City Solicitor regarding Special Permit from Toll MA Land Limited Partnership for Crowley Dr. in proper form, be moved to item #23, **APPROVED**; adopted.

ORDERED: That item #18, Communication from the City Solicitor regarding Special Permit from Hancock Associates for Marlborough Savings Bank, in proper form, be moved to item #24, **APPROVED**; adopted.

Councilor Delano abstained

ORDERED: That the following inter-departmental budget transfer requests from the Fringes account necessary to balance year-end FY09, **APPROVED** adopted.

FROM:

Acct. # 11990006-51500	\$19,649.00
Fringes	

TO:

Acct. # 11520001-50530	\$7,000.00
Director of Personnel	
Acct. # 11550001-50210	\$45.00
IT/Sr. System Analyst	
Acct. # 14001303-51920	\$12,109.00
DPW/Street/SLBB	
Acct. # 14001303-51430	\$495.00
DPW/Street/Longevity	

Note: The City Council approved the \$5,000.00 transfer to the Veterans benefit account at the May 11, 2009 City Council meeting.

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ORDERED: That the budget transfer request in the amount of \$350,000.00 which moves funds from Undesignated to fund the following request for Capital Outlay, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$350,000.00

Undesignated

TO:

Acct. # 19300006-58618 \$350,000.00

Hardware

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO A NEW CHAPTER 66, ENTITLED "REGISTRATION AND MAINTENANCE OF ABANDONED AND/OR FORECLOSING RESIDENTIAL PROPERTIES," AS FOLLOWS:

CHAPTER 66

REGISTRATION AND MAINTENANCE OF ABANDONED AND/OR FORECLOSING RESIDENTIAL PROPERTIES

Sec. 66-1. Purpose; Enforcement Authority.

- A. It is the purpose and intent of this Chapter to protect and preserve public safety and security, and the quiet enjoyment of occupants, abutters and neighborhoods, by: (i) requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosing residential properties with the City of Marlborough; and (ii) regulating the maintenance and security of abandoned and/or foreclosing residential properties to help prevent blighted and unsecure residences.
- B. The Building Commissioner of the City of Marlborough has enforcement authority as to this Chapter, pursuant to MGL c. 143, § 3, the State Building Code, and the City's Zoning Ordinance.

Sec. 66-2. Definitions.

When used in this Chapter 66, the following terms shall have the following meanings, unless a contrary intention clearly appears:

"Abandoned" means vacant.

"City" means the City of Marlborough.

"Commissioner" means the Building Commissioner of the City of Marlborough or his/her designee.

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“Days” means consecutive calendar days, including legal holidays as specified in MGL c. 4, § 7 and weekend days.

“Evidence of abandonment” means any condition that, by itself or in combination with other conditions, might lead a reasonable person to conclude that a property is vacant. Such conditions include but are not limited to overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents and/or governmental employees that the property is vacant; and such evidence as would constitute a violation of the City of Marlborough’s so-called Anti-Blight Ordinance, codified at Chapter 64 of the City Code.

“Foreclosing” means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower of that loan defaults.

“Initiation of the foreclosure process” means the taking of any of the following actions: (i) taking possession of a residential property pursuant to MGL c. 244, § 1; (ii) publishing the first foreclosure notice of a residential property pursuant to MGL c. 244, § 14; (iii) delivering the mortgagee’s notice of intention to foreclose pursuant to MGL c. 244, § 17B; or (iv) commencing a foreclosure action on a residential property in either the Land Court or the Superior Court.

“Local” means within twenty (20) driving miles of the property in question.

“Mortgagee” means the creditor, including but not limited to service companies, lenders in a mortgage agreement, or any successor in interest of the mortgagee’s rights, interests or obligations under the mortgage agreement.

“Mortgagee in possession” means a mortgagee that, upon default of the borrower, has taken over control and/or occupancy of a property in order to collect income from the property and/or to prepare the property for foreclosure.

“Owner” means every person, entity, service company, property manager or real estate broker, who alone or severally with others:

- (i) has legal or equitable title to any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park); or
- (ii) has care, charge or control of any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park), in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or

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- (iii) is a mortgagee in possession of any such any dwelling, dwelling unit, mobile home unit, building or parcel of land, vacant or otherwise, including a mobile home park; or
 - (iv) is an officer or trustee of the association of unit owners of a condominium;
 - (v) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities and has initiated the foreclosure process; or
 - (vi) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
 - (vii) is a person who operates a rooming house.

“Property” means any real, residential property, or portion thereof, located in the City of Marlborough, including but not limited to buildings and structures situated on the property.

“Residential Property” means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

“Vacant” means any residential building or structure not currently legally occupied.

Sec. 66-3. Registration.

- A. All owners of abandoned and/or foreclosing residential properties shall register such properties with the Commissioner on forms provided by the Commissioner.
1. Each registration must state the individual owner’s or agent’s name, phone number and mailing address located within the Commonwealth of Massachusetts as required by MGL c. 59, § 57D, MGL c. 156D, § 5.02, and 950 CMR 113.20; the mailing address may not be a post office box.
 2. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned. If the property shows evidence of abandonment, the property is abandoned for purposes of this Chapter 66. Each registration must designate a local individual or local property management company responsible for the maintenance and the security of the property. This designation must state the individual or company’s name, direct phone number, and local mailing address; the mailing address may not be a post office box.
 - a. If the owner’s inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven (7) days of the owner’s inspection.

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- b. If the owner's inspection determines that the property is not abandoned, but foreclosure proceedings have been initiated, the registration must be received by the Commissioner within seven (7) days of the initiation of the foreclosure process.
 - c. If the Commissioner's inspection pursuant to Section 66-5 determines that the property is abandoned, the registration must be received by the Commissioner within fourteen (14) days of the Commissioner's first citation for improper maintenance.
 - d. If, regardless of any determination as to abandonment, foreclosure proceedings have been initiated, the registration must be received by the Commissioner within seven (7) days of the initiation of the foreclosure process.
- B. All property registrations pursuant to this Section 66-3 are valid for one (1) calendar year from the date when the registration is received by the Commissioner. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty (30) days after the date of expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure, as the case may be.
- C. Any owner that has registered a property under this Section 66-3 must report any change in information contained in the registration within ten (10) days of the change.
- D. Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

Sec. 66-4. Maintenance and Security Requirements.

- A. Properties subject to this Chapter must be maintained in accordance with the State Sanitary Code, the State Building Code, and local regulations concerning external and/or visible maintenance including but not limited to the City of Marlborough's so-called Anti-Blight Ordinance, codified at Chapter 64 of the City Code. The local owner or local property management company must inspect and maintain the property on a monthly basis for so long as the property is abandoned or shows evidence of abandonment. The name and the 24-hour contact phone number of the local owner or local property management company responsible for the maintenance must be posted on the front of the property so as to be clearly visible by the Commissioner or his/her designee from the street.

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- B. In accordance with state law, including but not limited to MGL c. 143, §§ 6-10 and 780 CMR 121.0, abandoned property that is abandoned or that shows evidence of abandonment must be made safe and must be secured so as not to be accessible to unauthorized persons.
- C. Compliance with this Section 66-4 does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions, and/or homeowners' association rules and regulations.

Sec. 66-5. Inspections.

Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this Chapter for compliance with this Chapter and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided that such determination is reasonably calculated to ensure that this Chapter is enforced.

Sec. 66-6. Violations and Penalties.

- A. A failure to initially register with the Commissioner pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00.
- B. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00 for each violation, and a like fine for each day's continuation of such violation.
- C. A failure to maintain and/or to secure the property pursuant to Section 66-4 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00 for each week during which the property is not maintained and/or not secured in compliance with Section 66-4.
- D. The penalties provided in this Section 66-6 shall not be construed to restrict the City from pursuing other legal remedies available to the City.

Sec. 66-7. Appeals.

Any person aggrieved by the requirements of this Chapter or by a decision issued hereunder may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

Sec. 66-8. Applicability.

If any provision of this Chapter imposes greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, then the provisions of this Chapter shall control.

Sec. 66-9. Regulatory Authority.

The Commissioner shall have the authority to promulgate rules and regulations necessary to implement and enforce this Chapter.

Sec. 66-10. Severability.

If any provision of this Chapter is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from this Chapter's remaining provisions, which shall remain in full force and effect.

Sec. 66-11. Notice.

A copy of this ordinance is to be advertised in one (1) newspaper of general circulation in the City of Marlborough, and is to be mailed to all loan institutions, banks, real estate offices, and management companies located in, and/or having legal or equitable interest in any residential property located in, the City of Marlborough.

Sec. 66-12. Effective Date.

The provisions of this Chapter shall take effect immediately upon passage and all provisions shall be enforced immediately, except that no monetary fine shall be imposed pursuant to this Chapter until thirty (30) days after the date when notices are mailed pursuant to Section 66-11.

APPROVED AND ADVERTISE AFTER PASSAGE; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

Councilor Schafer abstained

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 147, ENTITLED "NON-CRIMINAL DISPOSITION," AS FOLLOWS:

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Chapter 147 is hereby amended by adding to section B the following new sub-section:

29. Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties (City Code, Chapter 66).

APPROVED AND ADVERTISE AFTER PASSAGE; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

Councilor Schafer abstained

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 ADDING A NEW CHAPTER 51, ENTITLED "PUBLIC CONSUMPTION OF MARIHUANA OR TETRAHYDROCANNABINOL," AS FOLLOWS:

- A. No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the City of Marlborough; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.
- B. This ordinance may be enforced by any police officer through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D.
- C. The fine for violation of this ordinance shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this ordinance shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

APPROVED AND ADVERTISE AFTER PASSAGE; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

Councilor Schafer abstained

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 147, ENTITLED "NON-CRIMINAL DISPOSITION," AS FOLLOWS:

Chapter 147 is hereby amended by adding to section B the following new sub-section:

30. Public Consumption of Marihuana or Tetrahydrocannabinol (City Code, Chapter 51).

APPROVED AND ADVERTISE AFTER PASSAGE; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

Councilor Schafer abstained

ORDERED:

The City Council of the City of Marlborough hereby GRANTS the application for a Revised Special Permit to Toll MA Land Limited Partnership, 250 Gibraltar Rd., Horsham, Pennsylvania to construct 69 townhouse residential retirement community units, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

PROCEDURAL FINDINGS

1. Toll MA Land Limited Partnership, a Massachusetts limited partnership, having a principal place business at 250 Gibraltar Rd., Horsham, Pennsylvania, is the "Applicant."
2. Applicant is the owner of certain property located at Crowley Drive, Marlborough, Massachusetts further shown the Marlborough Assessors Maps, Map 29 Parcel 1. The land is entirely located in a Limited Industrial District and is also located in a Retirement Community Overlay District.
3. By Special Permit approved by the Marlborough City Council dated September 8, 2003 (hereinafter, "the Original Special Permit") the construction of 210 retirement community units was approved, pursuant to conditions specified therein.
4. The Applicant, on or about March 4, 2009, filed with the City Clerk of the City of Marlborough an application to revise said Original Special Permit and issue a new Revised Special Permit (hereinafter, "the Revised Special Permit") under the provisions of Article VI Section 200-22 and Article VIII (1986 Code), and pursuant to the procedures specified in Article VIII Section 200-59 of the Marlborough Zoning Ordinance (1986 Code).

5. In connection with the Special Permit application, Applicant filed a Summary Impact Statement, certified list of abutters, filing fee, and had previously filed twenty (20) copies of the Site Plan.
6. The Site Plan was certified by the City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing for the permit application and the City Clerk caused to be advertised said date in the Metrowest Daily News and sent notice of said hearing to abutters entitled to notice under law.
8. The Marlborough City Council, pursuant to M.G.L. C. 40A, held a public hearing on April 6, 2009, concerning the said application. The hearing was opened and closed at that meeting.
9. Applicant's attorney presented testimony at the public hearing detailing the application, described the proposal to reduce the number of units to 69 units, and to reduce the area on which the development will occur. Applicant also reviewed the Original Special Permit conditions and suggested that certain conditions be changed in the Revised Special Permit to reflect the changes in said project but that all other conditions remains in effect.
10. Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding the impacts of the proposed project, and proposed building, and related site modifications.
11. Following the public hearing, Applicant's representatives appeared before the Urban Affairs Committee to discuss the proposal. As a result of discussions with the Committee, Applicant proposed to further revise the Site Plan by reducing the number of proposed units in the project.
12. Applicant submitted to the Urban Affairs Committee a revised Site Plan entitled "Preliminary Site Plan Modification Regency at Assabet Ridge Crowley Drive Marlborough, MA", dated December 10, 2008, and prepared by GCG Associates, Inc. (hereinafter, "The Site Plan").
13. The Urban Affairs Committee met to consider the Site Plan and Applicant's application for a Revised Special Permit on May 5, 2009 and May 12, 2009, voted a recommendation to the full City Council on May 12, 2009, and voted to affirm their recommendation to the full City Council on May 26, 2009.

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**BASED UPON THE ABOVE, THE CITY COUNCIL OF THE CITY OF
MARLBOROUGH MAKES THE FOLLOWING FINDINGS:**

- A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.
- B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will be in harmony with the general purposes and intent of the zoning ordinance, in that it will improve the appearance of the site and will have no significant negative impacts upon abutters. The proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience, and welfare and will not be detrimental or offensive.
- C) The City Council, pursuant to its authority under M.G.L. C. 40A, §9 and under Chapter 200 of the Marlborough City Code (1986 Code), GRANTS the Applicant a Revised Special Permit to allow the construction of 69 (sixty-nine) townhouse retirement community condominium units on the Site (the "Project"), subject to the Conditions which were a part of the Original Special Permit, except that certain conditions of the Original Special Permit, which are enumerated below, are superseded, amended or added to read as specified below:

GRANT OF REVISED SPECIAL PERMIT WITH CONDITIONS

- 1) All site work and construction at the Site shall be done in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and shall be built in accordance with the plans filed by Applicant, as most recently amended. Said plans are a plan entitled "Preliminary Site Plan Modification Regency at Assabet Ridge Crowley Drive Marlborough, MA", dated December 10, 2008, and prepared by GCG Associates, Inc.
- 2) The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough Ordinance (Chapter 63) (1986 Code) prior to the issuance of the actual Building Permits. Any additional changes, alterations, modifications or amendments as required by the Site Plan Review Committee shall be further conditions attached to the Building Permit and no Occupancy Permits shall be issued until Applicant complies with all conditions. Said Site Plan Review shall become, by reference, a part of this Special Permit.
- 3) Any signage installed or erected on the premises shall meet the requirements of the Sign Ordinance of the City of Marlborough without the request for a variance.
- 4) Applicant agrees to comply with all Rules, Regulations and Ordinances of the City of Marlborough, Commonwealth of Massachusetts, and the Federal Government as they may apply to the construction, maintenance, and operation of Applicant's facility.

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5) Landscaping shown on the approved plans filed with the City Council, as amended at Site Plan Review, shall be maintained and replaced properly as needed. The landscaping plan is shown in Sheets L-1 and L-2 of the plans referred to in Condition #1 above.

6) The issuance of an Occupancy Permit for Applicant's use shall be conditioned upon the substantial (in the sole opinion of the Building Inspector) completion and compliance with the requirements contained herein. The terms and conditions shall apply to Applicant, its successors and assigns.

7) No dwelling shall contain less than 1,000 (one thousand) square feet of living area or more than 2,400 (two thousand four hundred) square feet of living area. At least 66% (sixty-six percent) of the living area in each unit shall be located on the first floor.

8) No more than sixty-nine (69) condominium units shall be constructed on the Site.

9) The Retirement Community shall be structured as a condominium. Prior to the issuance of any occupancy permits regarding the Retirement Community, the City Solicitor shall establish to his satisfaction that a condominium has been created and that provisions of the Master deed and bylaws:

- a. Limit occupancy of condominium units to persons age 55 (fifty five) and over and their spouses
- b. Prohibit the presence of boats, boat trailers and recreational vehicles, trailers and other non-automobile vehicles or attachments.
- c. Specify that later modifications to the units which will improve the accessibility of the units to persons with disabilities will not be prohibited and will not require the prior approval of the unit owners or the trustees of the condominium association; provided, however, that there may be controls regarding the color and design of said modifications if they are on the exterior of a unit.
- d. Specify that the Condominium Association will be responsible for the permanent maintenance of all infrastructure including but not limited to roadways, drainage systems, utilities, and their appurtenances located at the Site.
- e. Prohibit rentals of the units for periods of longer than six (6) months.
- f. Specify within the Master Deed and condominium documents that any modification of the Master Deed or by-laws which changes any of the above provision is prohibited without an amendment of this Revised Special Permit.

10) The plans referred to in Condition #1 show that the proposed retirement community will be located on a lot containing 13.922 acres, as shown on said plan. Applicant will cause the creation of this separate parcel. Following the creation of said parcel, no further subdivision of the parcel shall be allowed without the prior modification of this Revised Special Permit.

1/15

- 11) Through Site Plan Review, Applicant shall work with the Police Chief, Fire Chief, and City Engineer to assure that unit numbering, street naming and internal traffic controls will be satisfactory to all parties and that upon the recommendation of the Police Chief, the Traffic Commission will be requested to make internal traffic controls enforceable through local regulation.
- 12) All units in the Retirement Community shall be sprinkled to the NFPA-13R Standards. The Retirement Community shall contain a fire alarm system acceptable to the Fire Chief.
- 13) No foundation of a building structure will be closer than 50 ft. from the rear lot line of the site.
- 14) All units shall be pre-wired for future installation of burglar, fire, and EMS alarm systems by the unit owners.
- 15) Every agreement for the sale of a condominium unit to the initial individual unit buyer shall contain an arbitration provision specifying that, in the event that any dispute arises between Applicant and said initial individual unit buyer, said dispute shall be submitted to arbitration using the rules and procedures of the American Arbitration Association, and that the decision of the arbitrator in such a procedure shall be binding on the parties, unless the prospective Buyer has rejected this arbitration provision in writing.
- 16) Site Plan Approval will include approval of a work-sequencing phasing plan regarding the order in which work will be completed at the Site.
- 17) No communication towers will be allowed on any portion of Applicant's property, including both the portion of the property that is referred to herein as the Site and the remaining 17.518 acre parcel that was originally part of the site.
- 18) A chain link fence not less than four ft. (4') high, constructed in a way that, in the sole opinion of the Building Inspector, it will adequately deter children from entering, shall be erected around all detention facilities. Access gates for maintenance shall be located as determined by the Site Plan Review Committee. The condominium unit owners shall be responsible for the property maintenance and replacement of all fencing.
- 19) Applicant will provide a payment to the City of Marlborough Inspectional Services Fund in the amount of Fifteen Thousand Dollars (\$15,000) to offset increases in costs associated with the project. The City shall expend said funds as needed to contract for temporary staff, materials, supplies and equipment so as to enable the Building Commissioner to provide adequate, timely supervision to the project. A payment of Seven Thousand Five Hundred Dollars (\$7,500) has already been made. An additional payment of Seven Thousand Five Hundred Dollars (\$7,500) shall be made prior to the issuance of the 35th Occupancy Permit. Failure to provide said funds as requested shall result in the cessation of new occupancy permit. Applicant will be required by the Building Inspector to employ so-called controlled construction supervision in order to supplement the Building Inspector's review.

1/16

20) All Site work, except for modifications as approved through the Site Plan Review process, shall be consistent with the plans on file with the City Council, entitled "Preliminary Site Plan Modification Regency at Assabet Ridge Crowley Drive Marlborough, MA", dated December 10, 2008, and prepared by GCG Associates, Inc.

21) Applicant will provide and/or accommodate for disabled persons by providing those universal design features enumerated in a MEMORANDUM dated Aug. 27, 2003, and filed with the Urban Affairs Committee, which is, by reference, a part of this Revised Special Permit.

22) Applicant will pay the sum of Sixty Nine Thousand Dollars (\$69,000) into an Affordable Housing Fund as directed by the City Council. The sum of Fifty Two Thousand Five Hundred Dollars (\$52,500) has already been paid. The remaining sum of Sixteen Thousand Five Hundred Dollars (\$16,500) will be paid prior to the issuance of 35th Occupancy Permit.

23) The community center will be built during the first phase of construction.

24) The lot to be separated from the retirement community lot and referred to in Condition #10 above shall have a twenty-five foot (25') buffer from the border between said lot and the retirement community lot that will be secured with a conservation restriction and suitably landscaped as directed in a landscape plan approved by the Site Plan Review Committee.

25) As part of the Site Plan Review process, an irrigation plan will be prepared that will assure the plant material on the site is adequately watered during the first three years following planting.

26) Applicant will designate, through appropriate signage, lining, and construction, a connection from the sidewalk across Crowley Drive to the Assabet Valley Rail Trail bike path.

27) These conditions shall supersede and replace the permit conditions of the Original Special Permit, issued for the construction of 210 units and covering a parcel containing 31.44 acres, that was recorded in the South Middlesex Registry of Deeds Book 48876 Page 571.

28) In accordance with the provisions of Massachusetts General Laws Chapter 40A, Section 11, the Applicants at their expense shall record this Revised Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Revised Special Permit has elapsed with no appeal having been filed.

Yea: 11 – Nay: 0

Yea: Delano, Ferro, Schafer, Juair, Seymour, Clancy, Landers, Ossing, Pope Vigeant, Levy

ORDERED:

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Marlborough Savings Bank, 166 Main Street, Marlborough, MA for ATM and banking services drive-through facilities, in connection with a proposed stand alone bank facility, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. Marlborough Savings Bank is hereinafter referred to as "Applicant".
2. Applicant is a party to contracts calling for the acquisition of the premises known and numbered as 81 Granger Boulevard and 51 Howe Street, Marlborough, Massachusetts described on Marlborough Assessor's Map 70, Parcels 152, 157 and 209 (hereinafter the "Site") and proposes to construct a stand alone bank facility with ATM and banking services drive-through.
3. Applicant, by and through its site engineer, Hancock Associates, has filed with City Clerk of the City of Marlborough an application for a Special Permit. Pursuant to Section 650-16 of the Zoning Ordinance of the City of Marlborough (2008 Code) Applicant is seeking permission for the drive-through facility.
4. The Site is located in a Business zone as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Special Permit Application, Applicant has submitted a traffic impact and access study, certified list of abutters, filing fees, fire truck access, and a detailed site plan entitled "Permit Site Plan, Marlborough Savings Bank", prepared for Marlborough Savings Bank, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1'=20', dated March 5, 2009 and consisting of seven pages, with a final revision dated May 29, 2009 and consisting of eight pages.
6. The site plan was certified by the acting City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the application for a Special Permit and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on April 6, 2009.

9. Applicant presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

A. Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the special permit application.

B. The City Council finds that the proposed use of the Site is an appropriate use and 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 as provided herein. The City Council makes these findings subject to the completion and adherence by Applicant, its successors and/or assigns to the conditions more fully set forth herein.

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS Applicant a Special Permit to construct and operate drive through banking services as shown on the plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:

1. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and Commonwealth of Massachusetts and shall be built according the site plan entitled "Permit Site Plan, Marlborough Savings Bank", prepared for Marlborough Savings Bank, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1"=20', dated March 5, 2009 and consisting of seven pages, with a final revision dated May 29, 2009 and consisting of eight pages.
2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit and no Occupancy Permit shall be issued until Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.
3. Applicant agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant's facility.

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4. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough without variance therefrom. Notwithstanding the foregoing, in no event shall the signage contain so-called message board or LCD components. It is a further condition that the location of the signage shall not be substantially different than that shown on the plans submitted herewith allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.
5. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.
6. All illuminations of individual parking lot light fixtures shall not exceed 200 watt fixtures and shall be screened from abutting residential property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.
7. Snow storage and removal is to be maintained and conducted on site by Applicant, its successors and/or assigns in accordance with the terms of snow removal plan as submitted with the Application for Special Permit. Applicant, its successors and/or assigns shall provide off-site snow removal as required and if deemed necessary by the City of Marlborough Commissioner of Public Works.
8. There shall be no overnight parking at the Site.
9. All catch basins shall be installed in accordance with the plans submitted to the City Council and/or the City Council's Urban Affairs Committee. The catch basins shall be monitored on a semi-annual basis with reports given to the City Engineer annually. The catch basins are to be cleaned by Applicant, its successors and/or assigns annually, or at more frequent intervals as determined necessary by the City Engineer.
10. Applicant, its successors and/or assigns agrees to plant and maintain the Project landscaping as shown on the Site Plan as submitted to the City Council and/or the City Council's Urban Affairs Committee as may be amended during Site Plan Review.
11. The drive-through teller window shall employ a pedestal speaker system of a quality that seeks to minimize the noise emanating from the speaker system and with full compliance of the noise ordinance of the City of Marlborough. The drive-through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential District in accordance with the noise ordinance of the City of Marlborough.

12. Applicant, its successors and/or assigns agrees to screen the Project's trash area by constructing a six foot (6') white vinyl fence screen. Applicant, its successors and/or assigns further agrees that the dumpsters located on Site will be covered. No trash pickup shall occur before 7:00 AM or after 6:00 PM or at any time during weekends.
13. Applicant, its successors and/or assigns agrees that the Site will be subject to a review of the traffic configuration after one-year from the issuance of the Occupancy Permit to determine whether any alterations need to be made to the entrances and egresses to the Site to accommodate traffic flow and ensure public safety and agrees to make changes in compliance with the Marlborough Department of Public Works and Traffic Commission's recommendations.
14. (a.) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee 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.

(b.) Notwithstanding condition (a.) hereof, engineering changes may be made to said plans by the Site Plan Review Committee so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow or increase the size of the building shown on the plan.
15. In connection with the installation of improvements within public right-of-ways which requires a street opening permit, the City Engineer shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant, its successors and/or assigns, and not the City of Marlborough, will bear the costs of any police detail for any work performed within the public way.
16. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Pursuant to the provisions of Massachusetts General Laws, Chapter 90 Sec. 18, Applicant, its successors and/or assigns shall submit a written request and grant of authority to the Marlborough Traffic Commission (the "Commission") to promulgate legally enforceable rules and regulations for the control of on-site and off-site traffic and parking. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the standards of the Uniform Manual On Traffic Control Devices.

17. The Police Chief or his designee, may, in the exercise of his professional discretion to protect public safety, order the temporary closure of the drive-through facilities.
18. In accordance with the recommendation of the Building Inspector, the three parcels which make up the site shall be shown as combined on a plan drafted and approved by the Planning Board of the City of Marlborough pursuant to Massachusetts General Laws, Chapter 41, Sec. 81X.
19.
 - a) The hours of operation for the drive-through teller operation shall not exceed the following times:
Monday through Friday, 8:00 AM to 6:00 PM; Saturday, 9:00 AM to 12:00 Noon.
 - b) The operation of the drive-through ATM at the site shall be suspended from 12: 00 Midnight to 5:00 AM; the City Council, after one (1) year from the date when the drive-through ATM commences operations, may review and amend the hours of operation for the drive-through ATM.
20. Applicant's Traffic Engineer will study and report to the Engineering Division of the City's Department of Public Works regarding recommendations for adjustment, if any, to the traffic signal timing on at the intersection of Granger Boulevard and South Bolton Street. Any such adjustments shall only be made with the approval of the said Engineering Division and, if needed, the Commonwealth of Massachusetts.
21. All work performed on Granger Boulevard and South Bolton Street shall be done during off peak hours and, prior to commencement of such work, Applicant, its successors and/or assigns shall provide a traffic management plan relating to the same for approval by the Engineering Division of the City's Department of Public Works.
22. Applicant, its successors and/or assigns will remove and cap existing water and sewer services to 51 Howe Street.
23. Prior to construction, utility easements shall be established and granted to the City for construction, maintenance or repair of existing City infrastructure including, but not limited to, water, sewer, drain, and traffic control. Landscaping in the area of such easements shall be coordinated by the Applicant, its successors and/or assigns with the Engineering Division of the City's Department of Public Works in the field so as to avoid conflicts with existing infrastructure.
24. All trenching shall be in compliance with Massachusetts Law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.

25. The hand hole which is currently within the proposed driveway layout of Granger Boulevard shall be relocated by Applicant, its successors and/or assigns as approved by the City of Marlborough's Department of Public Work's Engineering Division. If the reinforced concrete sidewalk panels are impacted because of said work, Applicant, its successors and/or assigns shall replace the concrete panels to the limits indicated by the City Engineer.
26. Applicant, its successors and/or assigns shall erect and maintain fencing in accordance with the plans and the fence ordinance for the City of Marlborough.
27. During construction, all workers shall park their personal vehicles either on the Site or on the upper levels of the City's parking garages. Any construction vehicles shall be parked on Site.
28. During construction, no vehicles shall be staged on public ways.
29. Applicant, its successors and/or assigns shall utilize HVAC equipment and an emergency generator on the roof of the structure with advanced acoustical technology by which excessive sound emanating from said equipment will be substantially abated in accordance with the noise ordinance for the City of Marlborough and therefore protect the public health, welfare, safety and quality of life for abutting residential properties. Testing of the emergency generator shall be limited to Applicant, its successors and/or assigns' hours of operation as set forth in Condition 19(a) herein.
30. Applicant, its successors and/or assigns shall be required to hire a site engineer who shall be competent in stormwater and erosion control management. This individual(s) credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan, the approved erosion control plan, and, if applicable, the Conservation Commission's Order of Conditions. The Applicant, its affiliates, successors and/or assigns shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

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- 31. If the drainage system (during construction and post-construction) constructed by Applicant, its successors and/or assigns fails and the failure is the cause of damage to another's property, Applicant, its successors and/or assigns shall be responsible to pay the owner of said damaged property the full cost of the repair and or replacement of the damaged property. In the event Applicant, its successors and/or assigns does not pay for the damage, it shall be a violation of this Special Permit.

- 32. In accordance with the provisions of M.G.L. c.40A, Sec.11, Applicant, its successors and/or assigns 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 before a Building Permit is issued. Applicant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

Yea: 10 – Nay: 0

Yea: Ferro, Schafer, Juair, Seymour, Clancy, Landers, Ossing, Pope Vigeant, Levy

Abstain: - Delano

ORDERED: That the sum of Fourteen Thousand Six Hundred Seventy-Seven Dollars and Zero Cents (\$14,677.00), designated as City appropriations, is hereby appropriated in the City of Marlborough.

This sum is to be placed into the budgetary line item as defined below, and it is further specified, pursuant to § 53E of Chapter 44 of the General Laws, that said amount shall be offset by the estimated receipts from the fees charged to users of the Site Plan Review process pursuant to § 63-15.F. of Chapter 63 of the City Code of the City of Marlborough, **APPROVED**; adopted.

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
26117401-50032	A portion of the salary for the City Planner.	\$14,677.00

Councilors Schafer and Pope requested to be recorded in opposition.

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ORDERED: That the budget transfer request in the amount of \$15,000.00 which moves funds from Undesignated to Affordable Housing which represents payment by St. Mary's of French Hill Redevelopment LLC in satisfaction of condition #22 of Special Permit #07-1001500C, **APPROVED**; adopted.

FROM:

Acct. # 100-35900 \$15,000.00
Undesignated Fund

TO:

Acct. # 83600-32718 \$15,000.00
Affordable Housing

ORDERED: That a Water Conservation Grant in the amount of \$35,000.00 awarded to DPW from the Massachusetts Department of Environmental Protection (DEP) to provide funding for a third party vendor to conduct a city-wide leak detection service, **APPROVED**; adopted.

ORDERED: That the budget transfer request in the amount of \$66,777.00 which moves funds from Insurance Proceeds Over 20K to City Hall Repair and Maintenance accounts to replace Rooftop Evaporative Cooler, **APPROVED**; adopted.

FROM:

Acct. # 2700099-48470 \$66,277.00
Insurance Proceeds Over 20K

TO:

Acct. # 11920006-52440 \$66,277.00
City Hall Repair and Maintenance

ORDERED: That the Department of Emergency Management Performance Grant in the amount of \$2,500.00, to be used to upgrade the Comprehensive Emergency Management Plan for purposes outlined in MGL, Chapter 44, and Section 53A, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:22 p.m.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass., _____

ORDERED:

That there being no objection thereto set **MONDAY, JULY 20, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Cheraq Patel to construct a 104 room hotel at 257 Simarano Dr. as it is in an industrial zone, be and is herewith refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002259



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 16, 2009

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

I am submitting herewith a transfer request in the amount of \$17,140.50 from Account number 11990006-51500 (Fringes) to Account Number 14001403-51920 (Sick Leave Buy Back)

The requested transfer will fund benefits associated with an employee's retirement.

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

Sincerely,

Nancy E. Stevens
Mayor

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TRANSFER REQUEST

FROM ACCOUNT				TO ACCOUNT			
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT AVAIL
			General Government			DPW Repair Dept	
\$ 217,114.00	\$ 17,140.50	11990006	51500 Fringes	\$ 17,140.50	14001403	51920 Sick Leave BB	\$ (12,243.50)

Reason: To fund benefits associated with employees retirement



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens 41
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 14, 2009

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

RE: Department of Justice Police Grant

Honorable President Vigeant and Councilors:

The Marlborough Police Department has been awarded a grant in the amount of \$17,168.00 from the U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance. This reimbursement grant will be used to establish a domestic violence high risk assessment program and team. Funds will be utilized to train personnel as well as purchase equipment utilized in the investigative portion of the program. Details of the grant and proposed expenditures are provided for your review.

As outlined in MGL, Chapter 44, Section 53A, I am recommending that the City Council approve the expenditure of these funds for the purposes outlined. I respectfully request your approval this evening.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough POLICE DEPARTMENT

508-485-1212 • FAX 508-624-6949
355 BOLTON STREET • MARLBOROUGH, MA • 01752

MARK F. LEONARD
Chief of Police

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

July 13, 2009

Dear Mayor Stevens:

The Marlborough Police Department has been awarded a grant in the amount of \$17,168.00 from the U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance. The grant is a reimbursement grant, and will be used to establish a Domestic Violence High Risk Assessment Program and Team. Funds will be used to train personnel and purchase equipment as part of the investigative nature of this program.

Attached is a copy of the grant application and budget summary, and grant award letter. I am requesting that the grant award be forwarded to the City Council for approval. Should you have any questions, please do not hesitate to call.

Sincerely,

Mark F. Leonard
Chief of Police

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**CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD**

DEPARTMENT: Police Department DATE: 7/13/2009

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Captain Timothy Naze

NAME OF GRANT: BJA FY 09 Recovery Act Edward Byrne Memorial Justice Assistance Grant Program

GRANTOR: U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance

GRANT AMOUNT: \$17,168.00

GRANT PERIOD: 7/30/09 - 6/30/12

SCOPE OF GRANT/ See Attached Grant Application

ITEMS FUNDED See Attached Grant Application and Budget Summary

IS A POSITION BEING CREATED: N/A

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY FUNDS REQUIRED? No

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO BE USED:

ANY OTHER EXPOSURE TO CITY? No

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: ASAP

DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT



**BJA FY 09 Recovery Act Edward Byrne Memorial
Justice Assistance Grant Program Local Solicitation**



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2009-F5619-MA-SB

[Application](#)

[Correspondence](#)

Switch to ...

Review SF-424 [Print a Copy](#)

Application Handbook	APPLICATION FOR FEDERAL ASSISTANCE	2. DATE SUBMITTED	Applicant Identifier
	1. TYPE OF SUBMISSION Application Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
Overview		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
Applicant Information	5. APPLICANT INFORMATION		
Project Information	Legal Name City of Marlborough	Organizational Unit Police Department	
Budget and Program Attachments	Address 140 Main Street 355 Bolton Street Marlborough, Massachusetts 01752-3812	Name and telephone number of the person to be contacted on matters involving this application Naze, Timothy (508) 624-6967	
Assurances and Certifications	6. EMPLOYER IDENTIFICATION NUMBER (EIN) 04-6001399	7. TYPE OF APPLICANT Municipal	
Review SF 424	8. TYPE OF APPLICATION New	9. NAME OF FEDERAL AGENCY Bureau of Justice Assistance	
Submit Application	10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 16.804 CFDA: 16.804 - Recovery Act - Justice Assistance TITLE: Grants - Localities		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT Develop a high risk domestic violence team whose purpose would be to coordinate a community response to domestic violence through an established team of professionals to identify and intervene in domestic violence cases where the risk of re-offense and lethality are determined to be elevated. This team would allow identification of high risk cases at their earliest point, collaborate and coordinate pertinent information about the offender, monitor the offender and support the victim, provide individualized intervention, and create a system for tracking cases as they come in. Evidence of these crimes is often found on cell phones. We face a constant challenge to stay abreast of the
Help/Frequently Asked Questions			
GMS Home			
Log Off			

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latest technologies that may be used to expose relevant clues in an investigation. We seek to develop and enhance capabilities to investigate incidents of domestic violence, stalking, and harassment by way of digital forensics. Text messaging has increasingly become the preferred method of criminal harassment as well as victim/witness intimidation. There are two key issues when it comes to collecting digital evidence: authenticity and integrity. Today with the sharp increase in the use of these mobile devices to commit crimes the state lab is overwhelmed with request for technical assistance. The time frame in which they are able to extract, analyze and return evidence is unrealistic towards a successful prosecution. We hope to purchase extraction and analysis hardware and software that will help with the preservation, acquisition, examination, analysis, and reporting of digital information present on cell phones, smartphones and PDA devices. Implementing the use of this equipment along with the training of investigators and the development of departmental policies and guidelines should facilitate efficient and effective digital forensic investigations involving cell phones and cellular devices and greatly enhance our ability to investigate cases of domestic violence.

12. AREAS AFFECTED BY PROJECT		
City of Marlborough and surrounding communities.		
13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF
Start Date:	June 01, 2009	a. Applicant
End Date:	June 30, 2012	b. Project MA03
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
Federal	\$17,168	Program is not covered by E.O. 12372
Applicant	\$0	
State	\$0	
Local	\$0	
Other	\$0	
Program Income	\$0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
TOTAL	\$17,168	N

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.

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Continue

Program Narrative (Attachment 1) Domestic Violence High Risk Assessment Program

Statement of Problem:

Domestic violence is a complex social justice, public policy, public health and public safety issue, and our responses to it have very real consequences. When our responses are inadequate, ineffective, or inappropriate, far too often the result is homicide. Over the years, progress has been made in our understanding of domestic violence, leading to dramatic changes in the types of interventions available and a willingness to support a broad range of services. But even in light of all these services and progressive responses, people – overwhelmingly women - are dying at an alarming rate at the hands of intimate partners. Current domestic violence intervention strategies appear to have little positive effect on female homicide rates. Additionally, in upwards of 80% of domestic violence homicides, the victim, perpetrator, or both had contact with the criminal justice system, a victim advocacy groups, and/or a health care provider in the 12 months that preceded the homicide (Sharps, et al, 2001), indicating that even though these cases are coming to the attention of a variety of interveners, whatever is being offered isn't stopping these homicides.

Domestic violence homicides are predictable. Jacquelyn C. Campbell, PhD, RN, from Johns Hopkins University has done extensive research over the past 30 years in an attempt to understand the complex phenomenon of domestic violence homicide. In her ground-breaking 1986 publication “Nursing Assessment of Risk of Homicide for Battered Women” she offered a psychometric data-based instrument to assess an individual’s risk of domestic violence homicide. The instrument, developed through interviews with battered women, shelter workers, police and other experts in domestic violence and determined to have both construct and predictive validity, assesses both the frequency and severity of physical abuse through questions about risk factors that are know to be associated with domestic violence homicide (Campbell, 2005). In 2007, Campbell analyzed 35 major research studies on female domestic violence homicide and attempted homicide. The results substantiated previous claims by her and others that there are reliable predictive factors in domestic violence homicide, and that those factors are distinguishable from other types of homicide (Campbell, 2007).

If we have identified someone as being at high risk, we also know who they’re at risk from. Having an identifiable perpetrator provides the opportunity to intervene. MA House Bill 30, “An Act Relative to Enhanced Protection for Victims of Domestic Violence” provides judges with the option of ordering offenders who have violated a restraining order (a known high risk indicator) to wear a Global Positioning Satellite (GPS) monitor as a condition of probation – and pay for it. GPS monitoring, administered by the Probation Department, enables the court to establish “geographic exclusion zones” including the victim’s home, work, children’s school or any place that she frequents. The system automatically notifies the authorities and the victim if the offender enters a restricted area. The courts can also impose additional penalties for violations including imprisonment (Rosenfeld, 2007). This enhanced monitoring and containment of high risk offenders can significantly increase the safety of the victim and her children and is indicative of a welcomed paradigm shift towards increased perpetrator accountability.

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If we are going to reduce domestic violence homicide must utilize what we know. We must use the fact that we can identify who is at highest risk of homicide, and who they are at risk from and respond by utilizing the tools at our disposal for enhanced containment and monitoring. We must accept the fact that the data is clearly telling us that the services/interventions upon which we have come to rely are simply not very effective in saving the lives of women as currently applied. And we acknowledge that many of our allied professionals in our communities are interacting with these high risk individuals but their information exists in isolation. We are obligated to utilize this all of this information to explore new and innovative intervention strategies that combine research based danger assessments, meaningful collaboration, information sharing and a mutual commitment to hold our individual systems accountable for outcomes. In doing so we will save lives.

Program Description:

The Marlborough Police Department wishes to develop and institute a program modeled after the Greater Newburyport High Risk Domestic Violence Case Response Team to enhance and strengthen our ability to address the needs of domestic violence victims by establishing a high risk domestic violence team whose purpose would be to coordinate a community response to domestic violence through an established team of professionals to identify and intervene in domestic violence cases where the risk of re-offense and lethality are determined to be elevated. This team would allow identification of high risk cases at their earliest point, collaborate and coordinate pertinent information about the offender, monitor the offender and support the victim, provide individualized intervention, and create a system for tracking cases as they come in. This innovative model pulls together two critical components - research based danger assessment practices (based on Campbell's work) and information sharing across disciplines - that have been missing from current domestic violence service delivery practices in MA. We believe that the implementation of this model will offer a coordinated community response to domestic violence, and dramatically improve safety for victims in Marlborough who are at the greatest risk of re-assault and a potentially lethal attack.

Goal#1: To increase awareness and understanding of domestic violence for first responders

Objective: comprehensive training of police first responders and High risk team members. As part of this program each member of the Marlborough Police Department who is identified by management as a first responder will attend training conducted by Jeanne Geiger Crisis Center on their High Risk Team model. In addition to the training of first responders two members of the Marlborough Police Department's Community Services / Domestic Violence unit will attend Danger Assessment training provided by Dr. Jacquelyn Campbell and John Hopkins University School of nursing.

Measure/timeline: The training component goal will be measurable by showing that all first responders and "team members" are trained within the first three months of the program.

Goal#2: Reduce recidivism rates for domestic violence cases and minimize the potential for re-assault and lethal attack

Objective: Identify and establish "High Risk Team." Assemble and identify local "team" members from the Marlborough Police Department, Middlesex District Attorney's office, Probation, Victim/ witness advocates, certified local batterers intervention programs, and local hospital. This team of professions will meet on a regular basis to share information and coordinate a community based comprehensive response to cases of domestic violence that have been identified as being "high risk" The cross-disciplined "team" approach will allow for better recognition of high risk cases and provide a collaborative effort to track, monitor, and prosecute domestic violence cases.

Measure/Timeline: Performance measure for this objective will be tracked by keeping records of attendance of "team members" and interested stakeholders at monthly meetings and review of monthly statistics of number of interactions with police, number of interaction with high risk team, tracking of follow through on referrals, level of engagement of process by both victims and offenders, and final disposition of cases. Statistics will be used to establish a baseline of activity, identify areas that are working well and those in need of improvement and to develop future program goals. This objective will be met by month 4 of the grant period.

Objective: Successful prosecution of offenders Imperative to meeting this objective is successful prosecution of offenders. One strategy the Marlborough Police Department will employ to further this objective is thorough investigation of DV cases using current evidence collection technology. As part of the grant funding we are looking to bolster our existing arsenal of investigative tools in regards to evidence preservation and collection. Evidence of domestic violence is often found on cell phones. As a relatively small community of approximately 37,000 with limited funding we face a constant challenge to stay abreast of the latest technologies that may be used to expose relevant clues in an investigation. The City of Marlborough seeks to develop and enhance its capabilities to investigate incidents of community based domestic violence, stalking, and harassment by way of digital forensics. Mobile phone forensics is the science of recovering digital evidence from a mobile phone under forensically sound conditions using accepted methods. Mobile phones, especially those with advanced capabilities, are a relatively recent phenomenon. Text messaging has increasingly become the preferred method of criminal harassment as well as victim/witness intimidation.

There are two key issues when it comes to actually collecting digital evidence: authenticity and integrity. You need to be able to demonstrate that the evidence is what you say it is, came from where you say it came from, and has not been modified since you obtained it. How you document evidence to demonstrate that it is authentic and reliable depends heavily on the circumstances and the mobile devices you are dealing with. Today with the sharp increase in the use of these mobile devices to commit crimes the state lab is overwhelmed with request for technical assistance. The time frame in which they are able to extract, analyze and return evidence is unrealistic towards a successful prosecution. We hope to purchase extraction and analysis hardware and software that will help with the preservation, acquisition, examination, analysis, and reporting of digital information present on cell phones, smartphones and PDA devices. Implementing the use of this equipment along with the training of investigators and the

development of departmental policies and guidelines should facilitate efficient and effective digital forensic investigations involving cell phones and cellular devices.

Measure/timeline: All Investigative equipment will be purchased immediately and put into use as soon as it arrives. We will track the success rate of prosecutions using the new evidence collection equipment.

Goal #3: Increase victim access to appropriate community-based services.

Objective: Victim outreach. Provide victims of domestic violence with awareness of community based support services that are available to them. By closely monitoring cases of domestic violence which have been identified as “high risk” the team will be able to tailor an individualized response to the victims needs.

Measure/timeline: This goal will be measured by maintaining records that indicate the services made available to victims and follow through on referrals. This outreach activity will begin immediately as cases are review and screened and will continue throughout the length of the grant period.

Organization capabilities and competencies:

The City of Marlborough’s Auditor’s office in cooperation with the Police departments program manager will closely monitor and track all drawdown’s and grant expenditures separately from all other federal as well as local funding. Separate expenditure/reimbursements accounts will be created by the auditor’s office to track all expenditures and reimbursements for grant funds.

Timeline

Program Goals	Objectives	Schedule of implementation	Cost
<i>Increase awareness and understanding of domestic violence for first responders</i>	<i>Comprehensive training of police first responders and High risk team members.</i>	Training to begin immediately after notification of award	First responders: \$7374.00 MPD High Risk Team Members: \$250.00 \$4800 for instructors cost
<i>Reduce recidivism rates for domestic violence cases and minimize the potential for re-assault and lethal attack</i>	<ul style="list-style-type: none"> • <i>Identify and establish “High Risk Team.”</i> • <i>Successful prosecution of offenders</i> 	<ul style="list-style-type: none"> • Month 4 of program, continue throughout award period. • Evidence collection equipment/technology – Month 1 	<ul style="list-style-type: none"> • N/A • \$4,744
<i>Increase victim access to appropriate community-based services.</i>	<i>Victim outreach</i>	Begins in month 4 and continues through grant period	N/A

BUDGET DETAIL WORKSHEET & NARRATIVE

#2

A. PERSONNEL *Salaries and the percentage of time for Police personnel are based on existing salary structure*

<u>Name / Position</u>	<u>Computation</u>	<u>Cost</u>
Marlborough Police Officers	Police patrol officers 4 hours ea. Training	\$5,990.
		Sub Total: \$5,990.

B. FRINGE BENEFITS *Fringe benefit rate for FY2009 is 23.1 of regular compensation. The breakdown for FY2009 has not yet been determined. In FY2008 the rate was 22% and the breakdown was group Insurance 14.13% and retirement 7.8%.*

<u>Name / Position</u>	<u>Computation</u>	<u>Cost</u>
Marlborough Police Officers	23.1% Fringe Benefit	\$1,384
		Total \$1,384
Total Personnel & Fringe Benefit		\$7,374.

C. TRAVEL N/A

D. EQUIPMENT N/A

E. SUPPLIES

<u>Item</u>	<u>Computation</u>	<u>Cost</u>
Cellebrite UFED Forensic System (Universal Forensic Extraction Device)	\$3999.00 + s/h, \$999 software/hardware upgrade	\$4,125.00
ZRT FAR Pro Imager System (digital camera, Flexible Arm/desk clamp, ZRT software)	\$619.00	\$619.00
		Sub Total: \$4,744

F. CONSTRUCTION N/A

H
1/2

G. Consultants / Contracts

<u>Name of Consultant</u>	<u>Computation</u>	<u>Cost</u>
Dr. Jacquelyn C. Campbell (John Hopkins University School of Nursing)	\$125.00x2 Online training Intimate partner violence risk Assessment.	\$250.00
Two Domestic Violence High Risk Instructors (to provide training to MPD personnel)	\$400/hr x 12hrs	\$4,800
		Sub total : \$5050.00

H. OTHER COST N/A

I. INDIRECT COSTS N/A

Budget Summary

Budget Category	Cost
A. Personnel	\$5990
B. Fringe Benefits	\$1,384
C. Travel	\$0
D. Equipment	\$0
E. Supplies	\$4,744
F. Construction	\$0
G. Consultants / Contracts	\$5050.00
H. Other	\$0
Total Direct Costs	\$17,168.00
I. Indirect Costs	\$0
Total Costs	\$17,168.00

Budget Narrative:

Personnel:

- All Marlborough Police Department first responders will attend a course in risk assessment for cases/calls involving domestic violence at a cost of \$7,374.

Consultants/Contracts:

- Training to be provided by Jeanne Geiger Crisis Center, Inc. Three 4hr blocks of training/material at a total cost of \$4800.00
- Online Training for two "DV High Risk Team" members in Intimate Partner Violence Risk Assessment provided by Dr. Jacquelyn C. Campbell of the John Hopkins University School of Nursing. Cost: \$125.00x2 Online training
Total=\$250.00

Supplies:

- Cellebrite UFED Forensic System (Universal Forensic Extraction Device) \$4,125.00
- ZRT FAR Pro Imager System \$619.00

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REVIEW NARRATIVE (Attachment 3)

Application will be submitted to the governing body of the City of Marlborough on May 15th, 2009. Due to time constraints of grant application preparation and scheduling issues of the City Counsel and Mayor, the requirement of 30days prior to the application submission can not be met. We understand that no grant funds will be made available until the city provides proof and certification of review.

The application has been made available to the public for review and comment according to established procedures for such notification.

Program Abstract (Attachment 4)
Domestic Violence High Risk Assessment Program

The Marlborough Police Department is applying for funding in the *Law Enforcement programs* category. The requested funding will be used to develop and institute a program which identifies and intervenes in domestic violence cases where the risk of re-offense and lethality are determined to be elevated. Our *goals* for the program are: 1) increase awareness and understanding of domestic violence for first responders. 2) Reduce recidivism rates for domestic violence cases and minimize the potential for re-assault and lethal attack. 3) Increase victim access to appropriate community-based services. *Strategies* employed to further these goals are as follows; 1) Train all first responders of the Marlborough Police Department in risk assessment for cases/calls involving domestic violence. 2) Use a proven risk assessment model to identify victims with the greatest potential for re-assault and lethal attack. 3) Develop individualized intervention plans to interrupt the cycle of escalating violence and minimize the risk of further abuse. 4) Strengthen the monitoring and prosecution of high risk offenders by sharing information across disciplines which will help to ensure that these dangerous cases are comprehensively and strategically addressed within the criminal justice system and beyond. *Major Deliverables* include: Trained first responders, a risk assessment tool, cellular phone digital forensic software/hardware, and a comprehensive multi-discipline team of professionals to monitor, investigate, and prosecute cases of domestic violence. Training for all first responders will be coordinated by Jeanne Geiger Crisis Center Inc. Training for high risk team members will be provided by John Hopkins School of Nursing. High risk team members and stakeholders will include coordination between Middlesex District Attorneys Office, Marlborough Police Department, Victim/Witness services of the Middlesex District Attorney, probation, certified batterers' intervention programs, and local hospitals.

Naze, Timothy

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From: donot-reply@ojp.usdoj.gov
Sent: Friday, July 10, 2009 9:35 PM
To: Stevens, Nancy; Naze, Timothy
Subject: GMS Award 2009-SB-B9-1036

Congratulations. You have been awarded a grant by the Office of Justice Programs at the Department of Justice. Accepting your award is a two step process.

The first step is to designate a Financial Point of Contact (FPOC) for your award. To designate a FPOC please follow these steps:

1. Log into GMS.
2. Click the "Awards" link on the navigation bar on the left hand side.
3. Click the "View Award Instructions" link to the right of the award you want to accept.
4. A new page displays with this message near the top: "The FPOC designation must be submitted before the Award Package can be accessed." The page contains text boxes highlighted in light yellow to capture the FPOC registration information.
 - a. If information for the FPOC of this award already exists in GMS, the first table entry will contain a box with the text "Available Financial Points of Contact." There is a box with a dropdown arrow to allow the selection of the FPOC. Select the name and click the "Load POC" box. GMS will populate the data entry fields with information from the user Profile. Click the button near the bottom of the page labeled "Submit."
 - b. If the name of the FPOC is not one of the choices using the dropdown arrow, type the appropriate information in each of the fields. Fields with an asterisk (*) are required. Click the button near the bottom of the page labeled "Submit." The FPOC will receive an email requesting them to complete the FPOC registration.
5. Click "Yes" on the confirmation page.
6. You are allowed to assign more than one FPOC to each award. You are able to change the FPOC under the "Manage Users" link on the GMS home page.

NOTE: If you come to the Financial Point of Contact designation screen and the information in the fields are already grayed out and no "Submit" button is available, then the Financial Point of Contact has already been chosen. You will have to accept your award and await confirmation before you can change this designation. If, at that time, you need instructions on how to proceed, you can review the "Creating a Financial Point of Contact instructions" or contact the GMS Helpdesk for assistance.

The second step is to click on the "Award Document" link and download the award documents. If you choose to accept the award and ALL the special conditions, please:

1. Print the Award Document and Special Conditions.
2. Have the Award Document signed by the Authorized Grantee Official (Note: In Box 18 of the Award Document, the name and the title of the authorized grantee official are preprinted. The person named as the official in Box 18 should sign the Award Document in Box 19 and enter the signature date in Box 19A).
3. Have the Authorized Grantee Official initial the bottom right corner of each page listing any Special Conditions of the Award Document.
4. Return BOTH the Award Document and the Special Conditions pages to the Office of Justice Programs, Control Desk by email to acceptance@usdoj.gov or by fax to (toll free) 1-866-388-3055 or (local) 202-354-4081. Select only ONE of these submission options to avoid duplicate submissions.

If you choose not to accept the award, or if you do not agree with the terms/conditions of the award and would like to discuss options, then please contact your OJP program manager, Patrick Fines at 2023530587.

If the Authorized Grantee Official named on the Award Document is no longer authorized to accept this award on behalf of your organization, do not alter the pre-printed name in box 18. Please go to the Grant Adjustment Notice (GAN) link and request an adjustment to the name of the authorized official. This GAN must be approved before you can accept the award. Once the GAN to change the name of the authorizing official has been approved, you should:

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1. Print the approved GAN;
2. Print the original award document;
3. Have the new approving official sign the acceptance next to the former official's name and initial the special conditions page(s);
4. Email or fax the signed acceptance, special conditions, and the approved GAN to the Control Desk as noted above in #4;

If you have programmatic questions, contact Patrick Fines at 2023530587. For financial questions, contact OCFO Customer Service at 1-800-458-0786. For questions about retrieving or printing these documents, designating a Financial Point of Contact, or creating a Grant Adjustment, please contact the GMS Help Desk at 1-888-549-9901 option #3 or email them at gms.helpdesk@usdoj.gov.

Web link to GMS: <https://grants.ojp.usdoj.gov>

Please follow these links to access important OJP instructions:

Creating a financial point of contact instructions:

http://www.ojp.usdoj.gov/funding/pdfs/fsr_user_manual.pdf

Post Award Instructions: http://www.ojp.usdoj.gov/funding/pdfs/post_award_instructions.pdf

OJP Financial Guide: <http://www.ojp.usdoj.gov/financialguide/>

Please do not reply to this message. You can contact your program manager Patrick Fines at 2023530587



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens 51
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 14, 2009

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

RE: FY08 STAG Grant

Honorable President Vigeant and Councilors:

The City of Marlborough has received funds in the amount of \$286,000.00 awarded in the FY08 State and Tribal Grant (STAG Grant) offered through the United States Environmental Protection Agency. The grant provides reimbursement monies for the design and construction of upgrades to the Westerly Wastewater Treatment Facility. Details of this grant are provided for your review.

The FY09 STAG Grant awards the City an additional \$500,000.00 for mandatory upgrades to the plant, and we await Federal and State release of these funds. The City of Marlborough has successfully acquired nearly \$11,000,000.00 in grants for essential upgrades to the Westerly Wastewater Treatment Plant. Our diligent pursuit of additional grant opportunities significantly reduces the burden on Marlborough ratepayers.

As outlined in MGL, Chapter 44, Section 53A, I am recommending that the City Council approve the acceptance of the FY08 STAG Grant for the purposes outlined. I respectfully request your approval this evening.

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

Sincerely,

Nancy E. Stevens
Mayor



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

Nancy E. Stevens, Mayor
City Hall
140 Main St.
Marlborough MA 01752

July 14, 2009

Re: STAG Grant Award

Mayor,

The City has been awarded a STAG Grant from the United States EPA in the amount of \$286,000. The grant will provide reimbursement for the design and construction of the Westerly Wastewater Treatment Facility. The grant award has a 45% local expenditure for this work to be eligible for grant reimbursement.

I request that this grant be submitted to the City Council for approval so we can move forward with final execution and start the project.

Please feel free to contact me if you have any questions on this submittal.

Respectfully submitted,

Ronald M. LaFreniere
Commissioner
Public Works

**CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD**

DEPARTMENT: PUBLIC WORKS DATE: July 14, 2009

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Ronald M. LaFreniere

NAME OF GRANT: State and tribal Grant (STAG)

GRANTOR: United States Environmental Protection Agency

GRANT AMOUNT: \$286,000

GRANT PERIOD: Until funds are expended or completion of project.

SCOPE OF GRANT/ Reimbursement grant for monies spent on Westerly Wastewater Treatment Plant design and construction. Issued by EPA to strengthen and build relationships between states and multi-jurisdictional organizations, while helping to build capacity to implement the nation's environmental laws and regulations.

ITEMS FUNDED The grant provides a reimbursement for monies spent on the design and construction of the Westerly Wastewater Treatment Plant.

IS A POSITION BEING CREATED: No

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY FUNDS REQUIRED? The City must provide a 45% local cost share for fund eligibility. This match requirement has been met by the city.

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY: N/A

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO BE USED: 30543206-58300 FY-08 SEWER for Westerly Plant Upgrades.

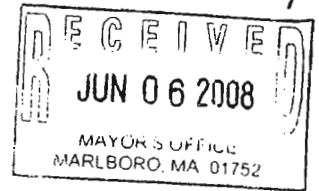
ANY OTHER EXPOSURE TO CITY? No.

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: No, but prompt approval would expedite receipt of funds.

DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023



June 5, 2008

Honorable Nancy E. Stevens, Mayor
City of Marlborough
City Hall
140 Main Street
Marlborough, MA 01752

Dear Mayor Stevens:

We are pleased to inform you that the City of Marlborough will be receiving funds appropriated through the EPA Fiscal Year 2008 Appropriations Act (P.L. 110-161). An amount of **\$286,000** has been appropriated to the City **for wastewater treatment plant upgrades**. It is important to note that this amount reflects a federal rescission (subtraction) of 1.56% from the original appropriated amount (\$300,000), as well as an additional 3.0 percent reduction to take into account the administration costs that may be incurred by the State for oversight of the proposed project. The Massachusetts Department of Environmental Protection (MADEP) will be assisting the EPA with the administration of this grant and project.

Special appropriation grants are governed by a specific set of guidelines issued for each appropriation. We are still waiting for this document, titled "Award of Special Appropriations Act Project Grants Authorized by the FY2008 Appropriations Act" that is in the process of being finalized by our EPA Headquarters office. As soon as a final version is available, which we expect shortly, the City may apply for these funds.

Several of the more relevant requirements that prospective grant recipients need to address **before** the award of the grant include:

1. Provision of the 45% local cost share for the project
2. Provision of adequate documentation in the scope of work on the environmental results and benefits of the proposed project.
3. Completion of applicable environmental review (National Environmental Policy Act).
4. Compliance with applicable procurement regulations (e.g. 40 CFR Part 31)

Please note that the 2008 STAG Earmark guidelines memo will include considerable discussion on the Agency's emphasis on sustainable water infrastructure management. EPA is strongly encouraging municipalities that are receiving water infrastructure earmark grants to implement, if they have not done so already, a wide range of practices (e.g. asset management, environmental management systems, full cost pricing, water and energy efficiency) to ensure system sustainability and thereby ~~able to~~ provide a more reliable level of service to its customers and users.

Toll Free • 1-888-372-7341

Internet Address (URL) • <http://www.epa.gov/region1>

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It is important to note that this is strictly a **reimbursement grant** where documentation of incurred costs will be required to be submitted to the MADEP for review and approval before a reimbursement can be made.

A copy of a grant application package is enclosed for your reference and use. Please note that many of the necessary grant application and post-award forms may also be accessed on-line:

<http://www.epa.gov/ogd/forms/forms.htm> or <http://www.epa.gov/region1/grants/>

Please submit a completed original grant application package, along with one copy, to Katie Connors of my staff at the following address:

U.S. EPA
Municipal Assistance Unit (CMU)
One Congress Street
Boston, MA 02114
ATTN: Katie Connors

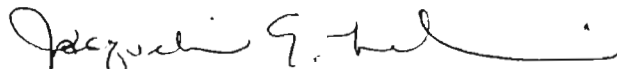
In addition, one copy of the grant application package should be sent to:

Steven McCurdy
MADEP
One Winter Street
Boston, MA 02111

We have also included a grant application preparation tips document that should provide you with a better idea of the information that should be submitted as part of the overall grant application package pertaining to scope of work, the level of budget detail, and the documentation of anticipated environmental results.

Should you have any questions regarding the grant application process, please do not hesitate to contact Katie Connors of my staff at (617) 918-1658. We look forward to working with you and your designated representatives on your proposed wastewater infrastructure project.

Sincerely,



Jacqueline G. LeClair, Manager
Municipal Assistance Unit

cc: Steven McCurdy, MADEP (w/o enclosures)

Enclosures



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens 61
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 14, 2009

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

RE: Council on Aging Formula Grant

Honorable President Vigeant and Councilors:

The Marlborough Council on Aging has been awarded a grant in the amount of \$35,523.00 from the Executive Office of Elder Affairs. This yearly grant is based on the federal census for seniors over the age of sixty. The grant provides supplemental support to local funding for personnel, programming and expenses. Details of the grant and proposed expenditures are provided for your review.

As outlined in MGL, Chapter 44, Section 53A, I am recommending that the City Council approve the expenditure of these funds for the purposes outlined. I respectfully request your approval this evening which will enable senior instruction to proceed without delay.

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

Sincerely,

Nancy E. Stevens
Mayor

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NOTICE OF GRANT AWARD

DEPARTMENT: Council on Aging DATE: 15-Jul-09

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Amy Loveless, Exec. Director

NAME OF GRANT: FY10 Formula Grant

GRANTOR: State of Massachusetts

GRANT AMOUNT: \$35, 523.00

GRANT PERIOD: FY10

SCOPE OF GRANT/
ITEMS FUNDED Annual State Formula Grant issued to individual Councils based on U.S. Bureau of C
Census for seniors over the age of 60
multiple specialized fitness instructors & programs
staff transportation, conferences
equipment & dues
toner cartridges for specialized dept printer
volunteer recognition

IS A POSITION BEING
CREATED: NO

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY
FUNDS REQUIRED? NO

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO
BE USED:

ANY OTHER EXPOSURE TO CITY? NO

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: URGENT

**DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT**



City of Marlborough

Council on Aging and Senior Center

250 Main Street
Marlborough, MA 01752
Tele (508) 485-6492 Fax (508) 460-3726

63

July 15, 2009

To Mayor Nancy E. Stevens:

I am submitting documentation for the Marlborough Council on Aging's FY10 Formula Grant award from the Executive Office of Elder Affairs, State of Massachusetts for the amount of \$35,523.00. This is a yearly grant award based on the federal census for the number of seniors over the age of 60 per individual town and cities in Massachusetts. It is supplemental support to local funding for personnel, programming and expenses.

I am requesting this grant be approved expeditiously in order to begin to fund our instructors.

Thank you for your consideration.

Amy Loveless, LICSW
Executive Director
Marlborough Council on Aging & Senior Center

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Loveless, Amy

From: Schmarsow, Emmett (ELD) [Emmett.Schmarsow@state.ma.us]
Sent: Tuesday, June 02, 2009 4:35 PM
To: Schmarsow, Emmett (EHS); Sore, Sherri (ELD)
Cc: David Stevens--MCOA; Malone, Carole (ELD); Tiernan, Peter (ELD)
Subject: Formula Grant -- Letter of Authorization



To Whom It May Concern:

This letter (e-mail) will serve to confirm that the Council on Aging in your municipality may begin to incur eligible costs for Fiscal Year 2010 as of July 1, 2009.

Please know that the contract for FY2010 for your Council on Aging will be issued as soon as practicable following the approval of the General Appropriations Agreement (GAA) by the legislature and the governor. At present this office anticipates a final budget that will, at the very least, support a FY2010 Formula Grant award equivalent to FY09 funding levels.

If you have any questions regarding Formula Grants, please contact me at emmett.schmarsow@state.ma.us.

Thank you.

Sincerely yours,

*Emmett H. Schmarsow, Program Manager for Councils on Aging and Senior Centers
MA Executive Office of Elder Affairs
1 Ashburton Pl., 5th Floor
Boston, MA 02108
tel. (800) 698-9723; (617) 222-7471
fax (617) 727-9368*



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
One Ashburton Place, Boston, MA 02108

65

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

ELEANOR SHEA-DELANEY
Interim Secretary

SANDRA K. ALBRIGHT
Undersecretary

Tel: (617) 727-7750
Fax: (617) 727-9368
TTY/TTD 1-800-872-0166
www.mass.gov/elder

February 26, 2009

Amy Loveless, Exec. Director
Marlborough Council on Aging
250 Main St.
Marlborough, MA 01752

RE: Council on Aging Formula Grant -- Fiscal Year 2009

The Executive Office of Elder Affairs is pleased to announce a Formula Grant award of \$35,523.

This grant will be used to employ a program coordinator, support fitness programs, purchase computers and provide for mileage, repairs/maintenance, office supplies, printing/copying, dues, newsletter printing, staff training and volunteer recognition.

This grant is subject to the Additional Terms and Conditions as well as the Standard Contract. The effective period of this award is July 1, 2008, through June 30, 2009.

In order to ensure prompt payment of grant funds, please submit any required material to the Executive Office of Elder Affairs, 1 Ashburton Place, 5th floor, Boston, MA 02108-1518, ATT: COA Program Manager, no later than March 13, 2009.

Sincerely,

Eleanor Shea-Delaney



66

City of Marlborough

Council on Aging and Senior Center

250 Main Street
Marlborough, MA 01752
Tele (508) 485-6492 Fax (508) 460-3726

July 10, 2009

Emmett Schmarsow, Program Manager for Councils on Aging and Senior Centers
MA Executive Office of Elder Affairs
1 Ashburton Place, 5th Floor
Boston, MA 02108

Dear Emmett,

Please find enclosed Attachment B for our FY10 Formula Grant and Letter of Authorization.

Attachment B reflects anticipated typical line item expenses. The exception(s) is the instructor line item for multiple fitness classes and the contractor line reflecting a temporary clinic nurse until a staff nurse is hired. Copy of contractor agreement to follow when received from the legal department (revisions to be made).

Thank you for your review and as always please contact me with any questions you may have.

Sincerely,

Amy Loveless, LICSW
Executive Director
Marlborough Council on Aging & Senior Center
250 Main Street
Marlborough, MA 01752

#	Personnel	Municipal Funding FY 2010	(A) Fed. Census x 6.50/elder* (see Att. D)	(B) Fed. Census x 7.00/elder* (see Att. D)	OPTIONAL Fed. Census x 7.50/elder* (see Att. D)	Hrs. per Week	NOTES/CALCULATIONS
	Director/Coordinator	\$62,137.05					35 hours/full time
	Administrative Assistant Program Coordinator Volunteer Coordinator						
	Fiscal Manager						
	Clerk Typist Secretary Receptionist	\$39,470.00					35 hours/full time
	Chef/Cook						
	Site Manager Custodian						
	Driver						
	Dispatcher						
	Outreach Worker						
	Outreach Coordinator	\$40,013.25					40 hours/full time
	Social Service Coordinator	\$15,413.00					19 hours/part time
	Nurse	\$25,688.00					19 hours/part time
	Other: (incl. instructors) Senior Aides*		\$23,400.00	\$23,400.00			Cardio Fitness classes (3) Aerobic Dance classes (2) Yoga Water Aerobic sessions (2) General Fitness Instructor
SUBTOTAL (Page 1)		\$182,721.30	\$23,400.00	\$23,400.00	\$0.00		

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Non-Personnel Cost Category	Municipal Funding FY2010	(A) Fed. Census x 6.50/elder*		(B) Fed. Census x 7.00/elder*		OPTIONAL Fed. Census x 7.50/elder*	NOTES
		(see Att. D)	(see Att. D)	(see Att. D)	(see Att. D)		
Staff/Volunteer Transport.			\$750.00		\$750.00		Rate determined locally.
Client Transportation							Secure & retain contracts/agreements
Rent/Mortgage	\$7,200.00						Retain quotes/estimates. Note completion date.
Utilities							Specify/Itemize and attach to budget.
Renovation/Construction (include estimates)	\$125.00			\$2,732.00			Cite representative items, costs
Repairs and Maintenance							Toners for high volume printer - staff/programming
Equipment/Furnishings				\$4,243.00			MCOA
Supplies--Office	\$750.00			\$750.00			ELD to be recognized as supporting this activity.
Operating Expenses	\$750.00						See maximums at page 7 of EOE-PI-09-07
Facility Maintenance							Training offered/Supervision provided
Printing/Copy (non-newsletter)				\$4,243.00			Maximum allowed recognition is \$15/yr with Formula \$
Postage							Temporary Clinic Nurse
Dues	\$100.00			\$1,000.00			
Newsletter Printing							
Conference/Education Training (Board/Staff)				\$1,000.00			
Volunteer Recognition				\$1,500.00			
Contractors/Other				\$2,880.00			
Subtotal (P 2)	\$8,925.00	\$12,123.00	\$14,855.00	\$0.00	\$0.00	9-Jul-09	<i>A. Bonilla</i>
Sub Total (P 1)	\$182,721.30	\$23,400.00	\$23,400.00	\$0.00	\$0.00	See ATT. D for Formula totals.	
TOTALS - (P 1 & P 2)	\$191,646.30	\$35,523.00	\$38,255.00	\$0.00	\$0.00	FY2010 ATT B B/R08	



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 14, 2009

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

RE: Local Option Excises

Honorable President Vigeant and Councilors:

The FY10 budget signed recently by Governor Patrick included language allowing communities to increase their hotel occupancy tax from 4 percent to 6 percent and to add an additional 0.75 percent local tax onto the state's 6.25 percent tax on restaurant meals. These local option excises were designed to give cash-strapped communities an opportunity to maintain essential services in the face of significant losses in state aid.

Following consultation with Chief Assessor Tony Trodella and the City's Comptroller/Treasurer Tom Abel, I do not recommend that the City initiate acceptance of these new local taxes. Given the City's strong financial status, as well as the City's conservative FY10 budget, these additional taxes are not currently necessary. Should the current fiscal circumstances change and we see a significant decrease in state or local revenues, my current recommendation may change.

For your review, I have attached the preliminary information provided by the Massachusetts Department of Revenue outlining the procedures for implementing local option excises on restaurant meals and room occupancies.

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

Sincerely,

Nancy E. Stevens
Mayor

Attachment



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Bulletin

2009-15B

LOCAL OPTION EXCISES

TO: Assessors, Accountants, Auditors, Clerks, Mayors, Selectmen, City/Town Managers, Finance Directors, City/Town Councils, City Solicitors and Town Counsels

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: July 2009

SUBJECT: New Local Meals Excise and Amended Local Room Occupancy Excise Rate

This *Bulletin* provides preliminary information about the procedures for implementing sections of the Fiscal Year 2010 state budget regarding local option excises on restaurant meals and room occupancies. The Department of Revenue (DOR) collects the local excises in addition to the state taxes on the occupancies or meals and distributes the collections on a quarterly schedule.

The FY10 state budget:

- Adds a new local option excise of .75 percent on sales of restaurant meals originating within the municipality.
- Increases the maximum rate of the existing local option room occupancy excise from four to six percent (four and one-half to six and one-half percent for Boston).

Local excises become operative only if accepted by a city or town. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, § 4. Questions about the charter requirements in your community should be referred to municipal counsel. As further explained in this *Bulletin*, acceptance of either local excise, or amendment of the local room occupancy excise rate, must occur at least 30 days in advance of the first day of a calendar quarter in order to become operative for that quarter. **Communities must report their acceptance or amendment of these local excises to the Division of Local Services (DLS) in the manner prescribed by this *Bulletin*.**

Additional guidance on implementation issues and procedures will be issued in the future.

If you have questions about these notification requirements, please contact the Municipal Data Bank at databank@dor.state.ma.us.

LOCAL OPTION MEALS EXCISE
Chapter 27, §§ 60 and 156 of the Acts of 2009
Adding General Laws Chapter 64L
Effective for sales of restaurant meals on or after October 1, 2009

A city or town may now impose an excise of .75% on the sales of restaurant meals originating within the municipality by accepting G.L. c. 64L, § 2(a). As with the existing local option room occupancy excise, the DOR will collect the local meals excise at the time it collects the state tax on the sale. Therefore, the local excise applies to all meals subject to the state sales tax. A community may not vary the rate or the meals subject to the excise.

The DOR will distribute the collections to the city or town on the same quarterly schedule that applies to the local room occupancy excise. G.L. c. 64L, § 2(b). The distribution schedule is found in Attachment A. A community may dispute its distribution by notifying the DOR, in writing, within one year of the distribution. G.L. 64L, § 2(b).

To assist in the administration of the excise, the DOR may provide cities and towns with certain information, including the total collections in the prior year and the identity of vendors collecting the tax locally. G.L. c. 64L, § 2(d).

Acceptance Procedure

Acceptance of the local option meals excise is by majority vote of the municipal legislative body, subject to local charter. To accept G.L. c. 64L, § 2(a), the following or similar language may be used:

VOTED: That the city/town of _____ accept G.L. c. 64L, § 2(a) to impose a local meals excise.

Acceptance Effective Date

A community's acceptance of the local meals excise becomes operative on the first day of the next calendar quarter after the vote, provided that date is at least 30 days after the vote to accept. If not, the acceptance becomes operative on the first day of the second quarter after the vote. **As a result, October 1, 2009 is the earliest an acceptance can become operative for FY10. A community must accept on or before August 31, 2009 in order for the DOR to begin collecting the excise on that date.**

For the start dates of each quarter and last date an acceptance vote will take effect for that quarter, please see the schedule in Attachment A.

A city or town may make the acceptance operative at the start of a later quarter by including the later start date in the vote ("to take effect on January/April/July/October 1, 2__.")

Notification Requirements

(1) Notice of Acceptance

The city or town clerk must notify the Municipal Data Management/Technical Assistance Bureau within the DLS whenever the statute is accepted or rescinded. (“Notification of Acceptance/Rescission–Meals Excise”). The notice is to be submitted **within 48 hours** of the vote. **Without timely notice, the DOR cannot begin collecting the excise for the city or town.**

(2) List of Restaurants

After the clerk notifies the DLS of the community’s acceptance, the local licensing board or official will be asked to verify the restaurants or other establishments that serve meals in the community. The verified information will be used by the DOR to notify vendors of their obligations to collect and pay over the local excise and to ensure that sales are properly sourced to the community. More detailed instructions will be provided, but local officials should be prepared to review and verify this information on an expedited basis.

Revenue Estimates

Within the next few weeks, the DOR expects to **release estimates** of the amounts each city or town could collect from imposing the local meals excise. At that time, we will provide further information about the use of meals excise revenue as an estimated receipt in the FY10 tax rate. **No community will be allowed to use new local meals excise revenues in the FY10 tax rate, however, unless it has accepted the statute before the rate is set.**

LOCAL OPTION ROOM OCCUPANCY EXCISE
Chapter 27, §§ 51, 52 and 154 of the Acts of 2009
Amending General Laws Chapter 64G, § 3A
Effective for occupancies on or after August 1, 2009

A city or town may impose, up to a maximum rate, a local excise on the rental of rooms in hotels, motels, lodging houses and bed and breakfast establishments by accepting G.L. c. 64G, § 3A. The maximum rate communities may now impose is 6% (6.5% for Boston). Previously, the maximum rate was 4% (4.5% for Boston). The local excise applies to all room occupancies subject to the state room occupancy excise. A community may not vary the occupancies subject to the excise, but may adopt any rate up to the maximum. A city or town that accepts the local room occupancy excise may also amend its excise rate, but it can only revoke or amend the rate once a year.

Acceptance or Amendment Procedure

Acceptance of the local option room occupancy excise, or amendment of the local excise rate, is by majority vote of the municipal legislative body, subject to local charter. To accept, the city or town must vote to accept G.L. c. 64G, § 3A and specify the local excise rate. The following or similar language may be used:

VOTED: That the city/town of _____ accept G.L. c. 64G, § 3A to impose a local room occupancy excise at the rate of _____ percent.

The following or similar language may be used to amend the local rate:

VOTED: That the city/town of _____ impose the local room occupancy excise under G.L. c. 64G, § 3A at the rate of _____ percent.

or

VOTED: That the city/town of _____ amend its local room occupancy excise under G.L. c. 64G, § 3A to the rate of _____ percent.

Acceptance or Amendment Effective Date

A community's acceptance of the local room occupancy excise, or amendment of its excise rate, becomes operative on the first day of the next calendar quarter after the vote, provided that date is at least 30 days after the vote to accept or amend. If not, the acceptance or amendment becomes operative on the first day of the second quarter after the vote. **As a result, October 1, 2009 is the earliest an acceptance or amendment can become operative for FY10. A community must accept or amend on or before August 31, 2009 in order for the DOR to begin collecting the excise or new excise rate on that date.**

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For the start dates of each quarter and last date an acceptance vote will take effect for that quarter, please see the schedule in Attachment A.

A city or town may make the acceptance or amendment operative at the start of a later quarter by including the later start date in the vote (“ to take effect on January/April /July/October 1, 2 ____.”)

Notification Requirements

The city or town clerk must notify the Municipal Data Management/Technical Assistance Bureau within the DLS whenever the statute is accepted or rescinded, (“Notification of Acceptance/ Rescission-Room Occupancy”) or the excise rate is amended (“Notification of Acceptance-Room Occupancy Rate Change”). The notice is to be submitted **within 48 hours** of the vote. **Without timely notice, the DOR cannot begin collecting the excise or new excise rate for the city or town.**

Revenue Estimates

Within the next few weeks, the DOR expects to **release estimates** of the amounts each city or town could collect from imposing or increasing the local room occupancy excise. At that time, we will provide further information about the use of room occupancy excise revenue as an estimated receipt in the FY10 tax rate. **No community will be allowed to use new local room occupancy excise revenues in the FY10 tax rate, however, unless it has accepted the statute or amended its excise rate before the tax rate is set.**

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ATTACHMENT A
LOCAL OPTION EXCISE TIMETABLE

FY QUARTER	QUARTER START DATE	ACTION DEADLINE	DISTRIBUTION DATE	REVENUE COLLECTED DURING
Q1	July 1	May 31 ¹	September 30	June, July, August
Q2 ²	October 1	August 31	December 31	September, October, November
Q3	January 1	December 1	March 31	December, January, February
Q4	April 1	March 1	June 30	March, April, May

¹ Latest date to accept or amend in order to implement for full fiscal year. In first year, community will receive collections from July – May (11 months). Community will receive full year collections thereafter.

² Earliest Quarter acceptances or amendments can become operative for FY10. If community implements in this quarter, it will receive collections from October – May (8 months) during FY10.



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 16, 2009

Arthur G. Vigeant, President
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

RE: Community Preservation Act

Honorable President Vigeant and Councilors:

Recently, my office received letters from the Sudbury Valley Trustees and The Colonial Garden Club of Marlborough, urging that the Community Preservation Act ("CPA") be added to the ballot for this coming November's election. First signed into law in 2000, the CPA is intended as a tool to help communities preserve open space and historic sites, and to create affordable housing and recreational facilities. So far, more than 41% of the cities and towns in Massachusetts have adopted the CPA.

The CPA is set up so that municipalities must adopt a local property tax surcharge to be eligible to receive matching funds from a statewide fee on transactions recorded with registries of deeds across the state. In light of the current economic climate in Massachusetts and the formidable fiscal challenges we face as a city, I am submitting the enclosed letters to you for informational purposes only. If, however, the Council wishes to add the CPA to the ballot in November, the Council should act to do so at its earliest opportunity.

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

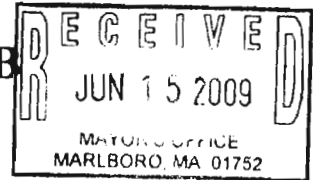
Sincerely,

Nancy E. Stevens
Mayor

Enclosures

**THE COLONIAL GARDEN CLUB
OF MARLBOROUGH**

106 Barnard Road
Marlborough, MA 01752



June 9, 2009

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

*forwarded to
City Clerk
a copy*

Dear Mayor Stevens:

On behalf of the Colonial Garden Club of Marlborough, I am writing to express our support for the Community Preservation Act (CPA). This program would provide the funding needed to protect the City's remaining open space and historic buildings. We urge you to allow the citizens of Marlborough to determine their future landscape by adding CPA to the ballot in November.

The Colonial Garden Club of Marlborough currently maintains 13 adopt a sites throughout the city. Our mission of providing beautification, conservation and education to the city, clearly supports the efforts of the CPA. Our 60 members endorse and applaud the ambition of the CPA.

The conservation of Marlborough's remaining unprotected cultural and environmental assets requires a dedicated source of funding. CPA is a statewide program created in 2000 that requires community approval to raise money from a small surcharge to property owners. If approved by Marlborough voters, these funds would be partially matched by the state and used for the protection of open space, the preservation of historic buildings and documents, and help create low income housing.

A total of 144 communities in Massachusetts have passed CPA, which has allowed them to protect some of their most important natural and cultural resources. These communities include Hudson, Sudbury, Northborough, and Southborough, all of which surround the city of Marlborough. We strongly encourage you to give the citizens of Marlborough a chance to protect their open spaces by placing a CPA measure on the November ballot.

Thank you for addressing this very important matter

Sincerely,

Priscilla Dalamangas, President

CC: The Honorable James McGovern, US Representative
The Honorable Deval L. Patrick, Governor
The Honorable James B. Eldridge State Senator
The Honorable Danielle W. Gregoire, State Representative



SUDBURY
VALLEY
TRUSTEES

Protecting the natural resources of the Sudbury, Assabet and Concord River Basin since 1953

83

June 18, 2009

City Hall
Marlborough, MA 01752

*forwarded to
City Clerk
a copy*

Dear Mayor Nancy Stevens and Members of the City Council:

On behalf of the Sudbury Valley Trustees, I write to express our strong support for Marlborough's participation in the Community Preservation Act (CPA). This important program would provide the funding needed to protect the City's last remaining natural treasures. We urge you to allow the citizens of Marlborough to determine their future landscape, by adding CPA to the ballot in November.

The Sudbury Valley Trustees is a regional land trust that conserves land and protects wildlife habitat in the Concord, Assabet and Sudbury River basin for the benefit of present and future generations. We have over 3,600 members and have protected more than 3,500 acres in 22 Massachusetts communities. We have over 80 members that live in Marlborough who support our work throughout the Concord Watershed.

The conservation of Marlborough's remaining unprotected cultural and environmental resources requires a dedicated source of funding. Created in 2000, CPA is a statewide program that requires community approval to raise money from a small surcharge to property owners. If approved by Marlborough voters, these funds would be partially matched by the State and used for the protection of open space, the preservation of historic buildings and documents and creation of low income housing.

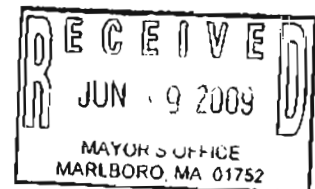
A total of 144 communities in Massachusetts have passed CPA, which has allowed them to protect some of their most important natural and cultural treasures. These communities include Hudson, Sudbury, Northborough, Southborough, etc. - all of which surround the City of Marlborough. We strongly encourage you to give the citizens of Marlborough a chance to protect the last great places in the city by placing a CPA measure on the ballot.

Future generations will thank you for your leadership on this important matter.

Sincerely,

Ron McAdow
Executive Director

CC: The Honorable Ian Bowles, Secretary of EEA
The Honorable James Eldridge, State Senator
The Honorable Danielle Gregoire, State Representative





City of Marlborough
Office of the Mayor

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Nancy E. Stevens 9/1
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 16, 2009

Arthur G. Vigeant, President
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

RE: Marlborough Savings Bank
TIF Proposal

Honorable President Vigeant and Councilors:

I am pleased to submit to you a Tax Increment Financing ("TIF") proposal from Marlborough Savings Bank ("MSB"). As you know, MSB is one of the City of Marlborough's signature institutions, having done business in the City for the last 149 years. As the MSB website so accurately states, "[f]rom schools and senior centers to hospitals and community events, we devote resources to ensure that we are contributing to improve the quality of life for all of those living and working here. It's what makes us a good neighbor."

MSB plans to expand its presence in the City to include the intersection of Granger Boulevard and South Bolton Street. MSB expects that expansion to result in an estimated capital investment of \$6.6 million, as well as in the creation of 13 new permanent full-time jobs – all in the City's downtown.

As an essential component of that expansion, MSB has approached the City to propose that the Council approve a TIF agreement. The TIF agreement is the product of negotiations between MSB and the TIF advisory committee; I wish to thank the members of the TIF committee – Ward 2 Councilor Paul Ferro, Chief Assessor Tony Trodella and City Planner Nancy Savoie for their efforts in negotiating this agreement.

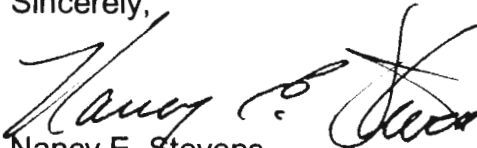
Accordingly, I enclose for the Council's consideration the following documents:

1. the proposed TIF agreement;
2. a proposed TIF plan;
3. a proposed Certified Project application;

4. a proposed application for the 81 Granger Boulevard Economic Opportunity Area;
5. a proposed Council resolution;
6. a spreadsheet presenting the tax implications of the proposed TIF agreement; and
7. a spreadsheet presenting a workforce analysis and job creation plan.

I respectfully request that the above documents, including the proposed TIF agreement, be referred to the Finance Committee for review. As always, please feel free to contact me with any questions or concerns.

Sincerely,



Nancy E. Stevens
Mayor

Enclosures

cc: Donald V. Rider, Jr. City Solicitor



City of Marlborough
Office of the Mayor

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Nancy E. Stevens
MAYOR

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Katherine M. Kimber
EXECUTIVE SECRETARY

July 15, 2009

Arthur G. Vigeant, President
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

RE: Zoning Board of Appeals- Alternate

Honorable President Vigeant and Councilors:

I am submitting for your approval the appointment of Jay Whittaker as an alternate member of the Zoning Board of Appeals. Mr. Whittaker is a long-time resident of Marlborough and previously served on the Marlborough Planning Board for 2.5 years during the Ferrechia Administration.

Mr. Whittaker's appointment is for a period of two years from the date of Council approval.

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

Sincerely,

Nancy E. Stevens
Mayor



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Office of the Mayor

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Nancy E. Stevens
MAYOR

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EXECUTIVE SECRETARY

July 15, 2009

Arthur G. Vigeant, President
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

RE: Zoning Board of Appeals

Honorable President Vigeant and Councilors:

I am submitting for your approval the reappointments of William King and Lynn Faust to the Zoning Board of Appeals.

Mr. King's and Ms. Faust's appointments are five-year terms expiring May 5, 2014.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 15, 2009

Arthur G. Vigeant, President
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

After thirty-three years of distinguished service to the City of Marlborough, Fire Chief Dave Adams has notified me of his intention to retire on or about February 19, 2010.

The following individuals have agreed to participate on the search committee for Chief Adams's successor:

Southborough Fire Chief John Mauro, Jr., Northborough Fire Chief David Durgin, Marlborough Chief of Police Mark Leonard, Marlborough Commissioner of Public Works Ron LaFreniere and Marlborough Director of Personnel David Brumby. I anticipate adding an additional private sector committee member to assist in the search for a suitable candidate.

Chief Adams has been an invaluable asset to the City of Marlborough, and he will be sorely missed. I wish to thank Chief Adams for pledging his assistance in a smooth transition of leadership.

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

Sincerely,

Nancy E. Stevens
Mayor

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 328, ENTITLED "CLERK'S FEES," AS FOLLOWS:

Chapter 328 is hereby amended by adding to section 328-1 the following new sub-section:

- P. For researching more than 2 records in response to a genealogical request, \$4.00 per half-hour (3-7 records search), \$8 per hour (8-12 records search).

ADOPTED

In City Council
Order No. 09-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

09- ORDER #1002161

Application for Special Permit from City Council for Verizon Wireless, Wireless
Communications Facility at 303 Boundary Street, Westerly Treatment Plant.

-REFER TO

PUBLIC HEARING: May 11, 2009

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

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 5:00 p.m. on September 15, 2009.

By: _____
Arthur G. Vigeant, City Council President,
acting on behalf of, and at the direction of,
the special permit granting authority:
Marlborough City Council

By: James A. Valeriani
James A. Valeriani, Attorney for Petitioner
Acting on behalf of, and at the direction of,
Petitioner:
Verizon Wireless

Note: Complete upper portion of form and forward to local fire department.
Do not make application to Department of Fire Services.



Commonwealth of Massachusetts

Department of Fire Services - Office of the State Fire Marshal



City of Town MARLBOROUGH Date _____

ASSESSOR'S MAP # _____
PARCEL # _____

APPLICATION FOR LICENSE

For the lawful use of the herein described building... or other structure..., application is hereby made in accordance with the provisions of Chapter 148 of the General Laws, for a license to use the land on which such building... or other structure... is/are or is/ are to be situated, and only to such extent as shown on plot plan which is filed with and made a part of this application.

Location of land 250 Locke Drive (Street & Number) Nearest cross street Locke Drive & Elm Street

Owner of land 250 Locke Drive Corporation Address 929 Boston Post Rd., Marlborough, MA

Number of buildings or other structures to which this application applies 1

Occupancy or use of such buildings Data Center, Group B - Business

Total capacity of tanks in gallons: - Aboveground 10500 Gallons Underground N/A

Kind of fluid to be stored in tanks: - Diesel Fuel

Approved Disapproved

(Agent of Fire Dept.)

(Signature of Applicant)

(Date)

(Address)



Commonwealth of Massachusetts

Department of Fire Services - Office of the State Fire Marshal



City of Town MARLBOROUGH Date _____

ASSESSOR'S MAP # _____
PARCEL # _____

LICENSE

In accordance with the provisions of Chapter 148 of the General Laws, a license is hereby granted to use the land herein described for the lawful use of the building... or other structure... which is/are or is/are to be situated thereon, and as described on the plot plan filed with the application for this license.

Location of land 250 Locke Drive (Street & Number) Nearest cross street Locke Drive & Elm Street

Owner of land 250 Locke Drive Corp. Address 929 Boston Post Rd. Marlborough MA

Number of buildings or other structures to which this application applies _____

Occupancy or use of such buildings Data Center Group B - Business

Total capacity of tanks in gallons: - Aboveground 10500 Gallons Underground N/A

Kind of fluid to be stored in tanks: - Diesel Fuel

Restrictions - if any: _____

(Signature of Issuing Authority)

THIS LICENSE OR A PHOTOSTATIC OR CERTIFIED COPY THEREOF MUST BE CONSPICUOUSLY POSTED IN A PROTECTED PLACE ON THE LAND FOR WHICH IT IS GRANTED



The Commonwealth of Massachusetts
 STATE RECLAMATION & MOSQUITO CONTROL BOARD
**CENTRAL MASSACHUSETTS
 MOSQUITO CONTROL PROJECT**

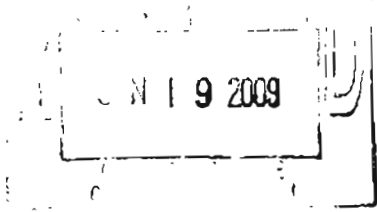
111 Otis Street, Northborough, MA 01532-2114
 Telephone (508) 393-3055 • Fax (508) 393-8492
 www.cmmcp.org



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COMMISSION CHAIRMAN
 RICHARD J. DAY

EXECUTIVE DIRECTOR
 TIMOTHY D. DESCHAMPS



June 18, 2009

Health Dept.
 City of Marlborough
 Marlborough, MA 1752

Central Massachusetts Mosquito Control Project personnel will be in your community to investigate resident's complaints about mosquitoes on the following dates during July 2009:

July 1, 8, 15, 22, 29

The above dates are very tentative, and are subject to change due to weather conditions, mosquito populations and mosquito virus activity. This program will shut down when cool night time temperature becomes predominant in this area. A notice about our spray schedule is posted on the CMMCP phone system after 3:30 p.m. each day, and it is also listed on our website.

Complaints about mosquitoes may be registered by calling the CMMCP office at 508-393-3055 between 7:00 AM - 3:30 PM, Monday through Friday or through our website.

The results of an investigation may warrant the use of a mosquito insecticide to defined, site-specific areas of the town. Such an application may be accomplished by using hand or truck mounted equipment, depending on the extent of the application.

Per 333CMR13.04: "No intentional application of pesticides shall be made to private property which has been designated for exclusion from such application by a person living on or legally in control of said property." Notices were sent to all City and Town Clerks in February to alert them of the pesticide exclusion process; CMMCP will continue to accept exemptions during the spray season. Residents should contact their Town or City clerk for more information on the exclusion process, or may contact the CMMCP office during business hours or apply for an exclusion through our website.

Please list this information in the local newspapers and on the local cable access station. Additional information on CMMCP may be found on the Internet at:
<http://www.cmmcp.org>

Sincerely,

Timothy D. Deschamps
 Executive Director

cc: City Clerk
 Police Department