

1. Minutes of the City Council Meeting, July 20, 2009.
2. CONTINUED 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. PUBLIC HEARING: On the Application for Fuel Storage Permit for 250 Locke Dr.
4. Communication from the Mayor re: transfer request in the amount of \$1,000.00 from Professional and Technical to Advertisement account for the purpose of covering current and anticipated advertisements from the City Clerk's budget.
5. Communication from the Mayor re: re-appointment of Pricilla Ryder as Conservation Officer for a three year term expiring August 31, 2012.
6. Communication from the Mayor re: re-appointment of Allan White to the Conservation Commission for a three year term expiring March 5, 2012.
7. Communication from the Mayor re: re-appointment of Thomas Krouse as a Wiring Inspector with an expiration date of February 6, 2012.
8. Communication from the Mayor re: appointment of William Short and re-appointment of Joseph Moineau to the Board of Registrars with terms expiring April 1, 2011 and April 1, 2012 respectively.
9. Communication from the Mayor re: re-appointments of Jack Gracey and Lynn Faust to the Historical Commission for a three year term expiring September 18, 2009.
10. Communication from the Mayor re: proposed Amendment to Anti-Blight Ordinance pertinent to Registered and Unregistered Motor Vehicles.
11. Communication from the City Solicitor re: Proposed Amendments to Sex Offenders Ordinance.
12. Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communications facility located at 157 Union St.
13. Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communications facility located at 115/109 Onamog St.
14. Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communications facility located at 75 Donald Lynch Blvd.
15. Communication from Patrick Hogan re: Use of Rail Trail.
16. Communication from Thomas Wellen, Executive Director of Marlborough 2010 Inc. re: FY09 Financial Report.
17. Communication from the Central Massachusetts Mosquito Control Project re: investigating resident's complaints on August 5, 12, 19, 26 and September 2.
18. Minutes, Planning Board, June 8, 2009.
19. Minutes, Traffic Commission, June 30, 2009.
20. CLAIMS:
 - A. Thomas and Barbara Etre, 36 Dove Rd., other property damage
 - B. John Emond, 103 Old Charter Rd., pothole or other road defect
 - C. Louis Albanesi, 92 Carey Ave., Revere, pothole or other road defect
 - D. Charles Wehlage, 27 Ball Hill Rd., Berlin, pothole or other road defect
 - E. Beverly Barber, 21 Highgate Rd., pothole or other road defect
 - F. David Camara, 3 Davis Rd., Hudson, pothole or other road defect
 - G. Bernie LeBlanc, 566 Bigelow St., other property damage
 - H. Mark St. Jean, 39 Boise Rd., pothole or other road defect

REPORTS OF COMMITTEES:

21. ORDERED: That the Operations and Oversight Committee review the City's policies and controls on postage and the reason(s) for the discontinued use of the City's bulk mail permit.Submitted by Councilor Levy
22. ORDERED: That the Operations and Oversight Committee review the City's ordinances and policies regulating Street Openings and Restoration of Street Surfaces and the enforcement of the same, specifically with respect to Chapters 473 and 551 of the 2008 Marlborough City Code....Submitted by Councilor Levy
23. ORDERED: That a Special Committee be established to oversee the upgrades of the Wastewater Treatment Plants. Said Committee will consist of Councilors Ossing and Delano to be chaired by the City Council President and will meet at 7PM prior to the first regular meeting of the month, with the first meeting to be held on Monday, September 14, 2009. The Mayor and/ or DPW Commissioner will be requested to attend to provide 10 – 15 minute updates to any attending members of the City Council.Submitted by Councilor Vigeant

UNFINISHED BUSINESS:

From Legislative and Legal Affairs Committee

24. **Order No. 09-1002229 – Communication from the Mayor re: Order of Taking by eminent Domain –Maple and Valley Streets.** This taking is for the purpose of acquiring the fee interest in a portion of the land located at the intersection of Maple St. and Valley St. from the developer of the apartments at the former Design Pak building, and upon which the developer constructed public safety improvements in accordance with the Special Permit. No appropriation is necessary as the developer has waived an appraisal and damages for this taking also in accordance with the Special Permit. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval 3-0.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
July 20, 2009**

Regular meeting of the City Council held on Monday July 20, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Seymour, and Landers. Councilors absent: Schafer, Juairé, and Clancy. Meeting adjourned at 8:45 p.m.

ORDERED: That the minutes of the City Council Meeting June 22, 2009, **FILE**; adopted.

ORDERED: Now being the time set for the **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, **CONTINUED UNTIL AUGUST 17, 2009**; adopted.

ORDERED: That the following budget transfer request in the amount of \$17,140.50 which moves funds from Fringes to Sick Leave Buy Back associated with an employee's retirement, **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500

\$17,140.50

Fringes

TO:

Acct. # 14001403-51920

\$17,140.50

Sick Leave Buy Back

ORDERED: That a grant awarded to the Police Department in the amount of \$17,168.00 from the US Department of Justice, Office of Justice Programs' Bureau of Justice Assistance to establish a domestic violence high risk assessment program and team in accordance with MGL, Chapter 44, Section 53A for purposes outlined, **APPROVED**; adopted.

ORDERED: That 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 in accordance with MGL, Chapter 44, Section 53A for purposes outlined, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That 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 in accordance with MGL, Chapter 44, Section 53A for purposes outlined, **APPROVED**; adopted.

ORDERED: That the Local Option Taxes in the FY10 budget recently signed by Governor Patrick which allow communities to increase their hotel occupancy tax from 4% to 6% and to add an additional .75% local tax onto the State's 6.25% restaurant meals tax, **NOT APPROVED**; adopted.

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Suspension of Rules requested to allow the Mayor to speak – DOES NOT CARRY.

ORDERED: That the communication from the Mayor regarding letters received 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, **FILE**; adopted.

ORDERED: That the Tax Increment Financing (TIF) proposal from Marlborough Savings Bank, refer to **FINANCE COMMITTEE** adopted.

Councilor Delano abstained

ORDERED: That the appointment of Jay Whitaker as an alternate member of the Zoning Board of Appeals which expires two years from the date of Council approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the reappointments of William King and Lynn Faust to the Zoning Board of Appeals with terms expiring May 5, 2014, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the intention of Fire Chief Adams retiring on or about February 19, 2010, **FILE**; adopted.

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), refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the communication from Attorney Valeriani, on behalf of Verizon Wireless, re: request to extend time limitations to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., to September 15, 2009 at 5:00 PM, Order No. 09-1002161A, **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, August 17, 2009** as date for a **PUBLIC HEARING** on the Application for Fuel Storage License at 929 Boston Post Rd., refer to **PUBLIC SERVICES COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the communication from the Central Massachusetts Mosquito Control Project re: investigating resident's complaints on July 1, 8, 15, 22 and 29, **FILE**; adopted.

ORDERED: That the following **CLAIMS**, refer to the **LEGAL DEPARTMENT**; adopted.

- 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

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

Order No. 07/08/09-1001680A – Communication from Attorney Aldo Cipriano re: real property transfer and exchange off of Bolton St., Lakeview/Bolton St. Realty LLC, and the City of Marlborough. The Committee met with the Assistant City Solicitor who outlined the steps necessary to facilitate the proposed land exchange. The Committee also reviewed a communication from DPW Commissioner Ronald LaFreniere declaring a portion of land on Bolton St to be surplus. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval 3-0, the following motions under Suspension of the Rules to address the first steps and the Order remains in Committee for further action.**

1. Accept and place on file the July 7th letter from DPW Commissioner Ronald LaFreniere declaring a parcel of land on Bolton St. to be a surplus.
2. City Council transfers the care, custody, management and control of approximately 3.09 acres shown as portions of Parcels 4C and 4D on Assessors Map 30, and further defined as "Parcel B" on the "Compiled Plan of Land in Marlborough, MA" by Thomas Land Surveyors dated April 8, 2009 from DPW for purposes of a public dump and refuse disposal of solid waste to itself for another specific municipal purpose, namely to make that parcel available for sale.
3. City Council requests the Legal Department and/or DPW to cause Parcel B as defined above to be identified on a descriptive plan, including any easements the City must retain, for recording as a deed of conveyance, and further requests the Legal Department and/or DPW to obtain an appraisal of Parcel B as required by MGL C. 30B, §16, each to be referred to the Legislative and Legal Affairs Committee for further action.

Order No. 09-1002240 - Proposed Order from Council President Vigeant re: issuance of license to food service establishments in downtown Marlborough. The Committee received input from Board of Health Chairman John Rowe and Director Robert Landry and a communication from Councilor Schafer requesting the Committee consider a 10PM restriction on sidewalk food service.

The original order was amended as follows:

- 1) Remove reference to specific business names.
- 2) Modify the effective dates to be from May 1st to September 30th.
- 3) Add a 10pm restriction.
- 4) Authorize the Building Inspector or his agents to revoke a license for violation of the terms and restrictions.
- 5) Require indemnification of the City.

Recommendation of the Legal and Legislative Affairs Committee is to recommend approval 2-1 (Clancy opposed)

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Order No. 09-1002229 – Communication from the Mayor re: Order of Taking by eminent Domain –Maple and Valley Streets. This taking is for the purpose of acquiring the fee interest in a portion of the land located at the intersection of Maple St. and Valley St. from the developer of the apartments at the former Design Pak building, and upon which the developer constructed public safety improvements in accordance with the Special Permit. No appropriation is necessary as the developer has waived an appraisal and damages for this taking also in accordance with the Special Permit. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval 3-0.**

Suspension of the Rules requested - granted

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

- 1. Section 650-5, entitled “Definitions; Word Usage,” is hereby amended by adding to said Section the following definition:

NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITY: A non-residential drug treatment program that assists individual addicted to drugs by administration of a substitute drug. Any facility that dispenses, prescribes, administers, allocates, delivers, hands out, or uses in any way a substitute drug, with or without providing other treatment services, shall be deemed a “Narcotic Detoxification and/or Maintenance Facility” and subject to the regulations under Section 650-31 of this ordinance.

- 2. Section 650-17, entitled “Table of Uses,” is hereby amended by adding to said section a new business use entitled, “Narcotic Detoxification and/or Maintenance Facility,” which shall be regulated, as follows:

RR	A1	A2	A3	RB	RC	B	CA	LI	I
N	N	N	N	N	N	N	SP	SP	SP

- 3. A new Section 650-31, entitled “NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES,” is hereby added, as follows:

650-31 NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES

- A. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and provisions of the Rehabilitation Act and the Americans with Disabilities Act, the City of Marlborough Zoning Ordinance will not prohibit the location of a facility for narcotic detoxification or narcotic maintenance within the City of Marlborough, but will instead regulate such facilities. A Narcotic Detoxification and/or Maintenance Facility should provide medical support, security, drug testing with oversight by a physician, and standards that meet or exceed state regulations under 105 CMR 164 for licensure of substance abuse treatment programs. Facilities should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these facilities are located in such a way as to not pose a direct threat to the health or safety of either the participants in the rehabilitation treatment or the public at large, the provisions of this section will apply to all such facilities.
- B. Where a Special Permit is required for a Narcotic Detoxification and/or Maintenance Facility, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:
1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment;
 6. Potential fiscal impact, including impact on City services, tax base, and employment; and
 7. The ability for the facility to:
 - a. meet a demonstrated need;
 - b. provide a secure indoor waiting area for clients;
 - c. provide an adequate pick-up/drop-off area;
 - d. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
 - e. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the facility, and its impact on neighboring uses.

The Special Permit Granting Authority may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.

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C. A Narcotic Detoxification and/or Maintenance Facility shall not be located:

1. within five thousand (5000) feet of another Narcotic Detoxification and/or Maintenance Facility; nor,
2. within seven hundred fifty (750) feet of a public or private elementary school, middle school, or secondary school, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

Suspension of Rules requested-granted

ORDERED: That the July 7th letter from DPW Commissioner Ronald LaFreniere declaring a parcel of land on Bolton St. to be a surplus, **FILE**; adopted.

Suspension of Rules requested-granted

ORDERED: That the City Council transfers the care, custody, management and control of approximately 3.09 acres shown as portions of Parcels 4C and 4D on Assessors Map 30, and further defined as "Parcel B" on the "Compiled Plan of Land in Marlborough, MA" by Thomas Land Surveyors dated April 8, 2009 from DPW for purposes of a public dump and refuse disposal of solid waste to itself for another specific municipal purpose, namely to make that parcel available for sale, **APPROVED**; adopted.

Suspension of Rules requested-granted

ORDERED: That the City Council requests the Legal Department and/or DPW to cause Parcel B as defined in Order No. 09-1001680A-2 to be identified on a descriptive plan, including any easements the City must retain, for recording as a deed of conveyance, and further requests the Legal Department and/or DPW to obtain an appraisal of Parcel B as required by MGL C. 30B, §16, each to be referred to the Legislative and Legal Affairs Committee for further action, **APPROVED**; adopted.

Suspension of Rules requested-granted

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, AS FOLLOWS:

Pursuant to Article I, § 6 of the City Code, and the licensing power granted thereby to the Mayor and the City Council to grant licenses upon such terms and under such restrictions as they may prescribe and revoke at pleasure, the City Council, subject to the concurrence of the Mayor under Article I, § 6, hereby grants a license to each food service establishment in downtown Marlborough, starting at and including Papa John's Pizza (located at 8 Hildreth Street) and proceeding westward along Main Street up to and including Marlborough House of Pizza (located at 280 Main Street), to place tables and chairs upon the sidewalk fronting each such food service establishment, but subject to the following terms and restrictions, which may be modified without notice:

- a. Such tables and chairs shall not be located in parking or landscaped areas, per the City's Zoning Ordinance;

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- b. Service of alcoholic beverages out-of-doors shall require a separate license from the License Commission and any appropriate State approval, per the City's Zoning Ordinance;
- c. Such tables and chairs shall not interfere with the accessible path of travel for handicapped individuals, per the Americans with Disabilities Act and all other applicable law;
- d. Signs shall not be permitted except in accordance with the City's Sign Ordinance;
- e. Such license shall commence on June 22, 2009 and shall terminate at close of business on September 7, 2009 (Labor Day); and
- f. All other applicable federal, State and City rules and regulations shall remain in full force and effect.

APPROVED AS AMENDED AS FOLLOWS:

1. Remove reference to specific business names.
2. Modify the effective dates to be from May 1st to September 30th.
3. Add a 10PM restriction.
4. Authorize the Building Inspector or his agents to revoke a license for violation of the terms and restrictions.
5. Require indemnification of the City; adopted.

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, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

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, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the minutes of the City Council Meeting June 15, 2009, **FILE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:45 p.m.

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IN CITY COUNCIL

JULY 20, 2009

Marlborough, Mass., _____

ORDERED:

Now being the time set for the PUBLIC HEARING on the 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 **CONTINUED UNTIL AUGUST 17, 2009.**

(IN URBAN AFFAIRS COMMITTEE)

ADOPTED

ORDER NO. 09-1002259A



IN CITY COUNCIL

JULY 20, 2009

Marlborough, Mass., _____

ORDERED:

That there being no objection thereto set **MONDAY, August 17, 2009** as date for a **PUBLIC HEARING** on the Application for Fuel Storage License at 250 Locke Dr., be and is herewith refer to **PUBLIC SERVICES COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002274



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

August 4, 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:

On behalf of the City Clerk's office, I am submitting herewith a transfer request in the amount of \$1,000.00 moving funds from account number 11610004-53180 (Prof & Tech) to account number 11610004-53150 (Advertisements) As detailed in the enclosed letter, these funds are necessary to cover current and anticipated costs associated with the advertisement of ordinances.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosures

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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
			City Clerk			City Clerk	
\$ 4,000.00	\$ 1,000.00	11610004	53180 Prof & Tech	\$ 1,000.00	11610004	53150 Advertisements	\$ 500.00

Reason: Please see Department Heads request.



**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

43

**Lisa M. Thomas
City Clerk**

August 4, 2009


Mayor Nancy E. Stevens
President Arthur G. Vigeant
140 Main St.
Marlborough, MA 01752

Dear Mayor and Council President:

I respectfully request a budget transfer in the amount of \$1,000.00 from Professional & Technical Services account #11610004-53810 to the Advertising account #11610004-53150 for the purpose covering the current and anticipated cost of advertisements. This line item was reduced from \$1,500.00 to \$500.00 for the FY10 budget.

I just received a bill in the amount of \$519.75 as the Foreclosure and Marijuana Ordinances were recently advertised after passage. This line item also covers the cost of Traffic ads, which in previous years have consumed at least 1/3 of the appropriated funds. Additionally, I have traffic ads that need to be published as well. Thank you in advance for your attention to this matter.

Sincerely,


Lisa M. Thomas
City Clerk



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 29, 2009

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

Honorable President Vigeant and Councilors:

I am submitting for your approval the re-appointment of Priscilla Ryder as Conservation Officer for a three-year term expiring August 31, 2012.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Krista F. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

July 29, 2009

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

Honorable President Vigeant and Councilors:

I am submitting for your approval the re-appointment of Allan White to the Conservation Commission for a three-year term expiring March 5, 2012.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

August 3, 2009

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

Honorable President Vigeant and Councilors:

I am submitting for your approval the reappointment of Thomas Krouse to the position of Wiring Inspector. Mr. Krouse's term has an expiration date of February 6, 2012.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

August 3, 2009

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

Honorable President Vigeant and Councilors:

I am submitting for your approval the appointment of William Short to the Board of Registrars of Voters. If approved, Mr. Short will serve out the remainder of Varoojian Aykanian's term through April 1, 2011.

I am additionally submitting the name of Joseph Moineau for reappointment to the Board of Registrars of Voters. Mr. Moineau's term will run through April 1, 2012.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Krista J. Hadmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

August 3, 2009

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

Honorable President Vigeant and Councilors:

I am submitting for your approval the re-appointments of Jack Gracey and Lynn Faust to the Historical Commission for a three-year term expiring September 18, 2009.

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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

10,
Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

August 6, 2009

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

RE: Proposed Amendment to Anti-Blight Ordinance
Registered and Unregistered Motor Vehicles

Honorable President Vigeant and Councilors:

I am informed by the Code Enforcement Officer that she encounters a large number of problems with overcrowding situations, especially in single and two-family properties, that can be identified by the excessive number of vehicles parked on the premises in question. In most cases, those vehicles end up being parked on the lawn or on landscaped locations. Such situations constitute a blight upon the entire neighborhood.

In order to enhance the ability of the Code Enforcement Officer to deal effectively with such overcrowding situations, I have enclosed a proposed amendment to the City's Anti-Blight Ordinance. That amendment would expand the types of motor vehicles that would be subject to code enforcement under the Anti-Blight Ordinance from merely unregistered vehicles to both registered as well as unregistered vehicles.

I urge your consideration and adoption of the proposed amendment. As always, please feel free to contact me with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

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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 485, ENTITLED "ANTIBLIGHT; NUISANCES," AS FOLLOWS:

1. Section 485-2, entitled "Definitions," is hereby amended by amending the definition of "Nuisance" by striking out the words "Unregistered motor vehicles " in the first line of subsection B(7) thereof and inserting in place thereof the following words:-- All motor vehicles (registered and unregistered).
2. This amendment shall become effective immediately upon passage.

ADOPTED

In City Council
Order No. 09-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



City of Marlborough
Legal Department

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

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

August 11, 2009

Arthur Vigeant
President
Marlborough City Council

RE: Proposed Amendments to Sex Offenders Ordinance

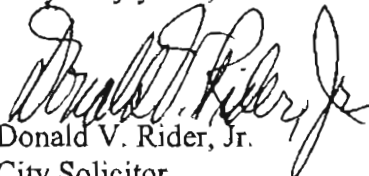
Dear President Vigeant and Members:

As you know, in May 2007 the City Council enacted an ordinance providing for residency restrictions for certain registered sex offenders, as well as safety zones around various locations in the City including schools, day care centers, parks, recreational facilities, elderly housing facilities and facilities for the mentally retarded. This ordinance is now codified at Chapter 517 of the 2008 City Code.

Since May 2007, the Attorney General's office has had occasion to render opinions concerning similar by-laws enacted by various towns around the Commonwealth. In light of those opinions, I have enclosed a proposed order for amending Chapter 517. Also enclosed is a tracked version of Chapter 517 reflecting the proposed amendments.

I look forward to discussing the above in committee. Thank you for your attention to this matter.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosures

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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 517, ENTITLED "SEX OFFENDERS," AS FOLLOWS:

1. Section 517-1, entitled "Findings and intent," is hereby amended by striking out in the last line of subsection D thereof the words "where the state law is silent" and inserting in place thereof the following words:-- to the extent state law is silent.
2. Section 517-2, entitled "Definitions," is hereby amended:
 - a. by amending the definition of "day care center" by striking out in the third line thereof the words "Office of Child Care Services" and inserting in place thereof the following words:-- Department of Early Education and Care.
 - b. by adding the following definition: "Loitering – To remain for more than fifteen (15) minutes within a five hundred (500) foot distance of the location in question."
 - c. by amending the definition of "park" by striking out in the second and third lines thereof the words ", the Commonwealth of Massachusetts or other governmental subdivision,".
 - d. by amending the definition of "registered sex offender":
 - i. by striking out in the second line thereof the words "Chapter 6, § 178C" and inserting in place thereof the following words:-- Chapter 6, § 178K(2)(c).
 - ii. by adding in the fifth line thereof, after the word "who", the following words:-- , for so long as such person.
 - iii. by adding after the word "Registry" in the sixth line thereof the following word:-- Board.
 - iv. by adding in the eighth line thereof, after the word "who", the following words:-- , for so long as such person.
 - v. by adding after the word "Registry" in the ninth line thereof the following word:-- Board.
3. Section 517-3, entitled "Residency restrictions," is hereby amended:
 - a. by amending subsection A thereof, entitled "Prohibition," by adding after the word "retarded" in the third line thereof the following words: ; provided, however, that the prohibition contained in this section shall not apply to any Level 3 offender, to the extent and in the manner such Level 3 offender is already governed by MGL c. 6, § 178K(2)(e).

4. Section 517-4, entitled "Safety zones," is hereby amended:
 - a. By striking out in subsection A, entitled "Prohibitions," in the first through third lines of sub-subsection 4 the words "A registered sex offender is prohibited, after having received notice from the Marlborough Police Department that he/she is loitering within five hundred (500) feet of a school, a day care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded, from continuing to so loiter or from returning thereto" and inserting in place thereof the following words:-- A registered sex offender, after having received notice from the Marlborough Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within a five hundred (500) foot distance of a school, a day care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded, is prohibited from continuing to so loiter.
 - b. By striking out in subsection A, entitled "Prohibitions," in the first and second lines of sub-subsection 5 the words "A registered sex offender is prohibited, after having received notice from the Marlborough Police Department that he/she is loitering within five hundred (500) feet of a school bus stop, from continuing to so loiter or from returning thereto" and inserting in place thereof the following words:-- A registered sex offender, after having received notice from the Marlborough Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school bus stop, is prohibited from continuing to so loiter.
 - c. By striking out in subsection C, entitled "Penalties," in the third through the fifth lines thereof the words "In lieu of non-criminal disposition, registered sex offenders who commit an additional violation under this section, except for those who are not yet seventeen (17) years of age when they commit any such additional violation, may be subject to immediate arrest under state law."
5. These amendments shall become effective immediately upon passage.

ADOPTED

In City Council
Order No. 09-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:

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CHAPTER 517 SEX OFFENDERS

§ 517-1 Findings and intent.

A.

It is the intent of this chapter to serve and to protect the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children, the elderly and the mentally retarded regularly congregate in concentrated numbers wherein certain registered sex offenders are prohibited from loitering and establishing temporary or permanent residence.

B.

After careful consideration, the City finds that this legislation is the most narrowly tailored means of limiting, to the fullest extent possible, the opportunity for registered sex offenders to approach or otherwise come in contact with children, the elderly and the mentally retarded in places where children, the elderly and the mentally retarded would naturally congregate, and that the protection of the health and safety of our children, elderly and the mentally retarded is a compelling governmental interest.

C.

By the enactment of this or any other legislation, the City understands that it cannot remove the threat posed to or guarantee the safety of children, the elderly and the mentally retarded, or assure the public that registered sex offenders will comply with the mandates of this statute. This legislation is intended to create a civil, nonpunitive regulatory scheme in order to protect children, the elderly and the mentally retarded to the extent possible under the circumstances and not as a punitive measure of any kind.

D.

Registered sex offenders pose a clear threat to the children, the elderly and the mentally retarded residing or visiting in the community. Because registered sex offenders are more likely than any other type of offender to reoffend for another sexual offense, the City desires to impose safety precautions in furtherance of the goal of protecting the children, the elderly and the mentally retarded. The purpose of this regulation is to reduce the potential risk of harm to children, the elderly and the mentally retarded of the community by impacting the ability for registered sex offenders to be in contact with unsuspecting children, the elderly and the mentally retarded in locations that are primarily designed for use by or are primarily used by children, the elderly and/or and the mentally retarded, namely, the grounds of a public or private school for children, a center or facility that provides day care or children's services, a park, other public recreational facility, elderly housing facilities or facilities for the mentally retarded. The City desires to add location restrictions to such offenders ~~where the state law is silent~~ to the extent state law is silent.

§ 517-2 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CHILD or CHILDREN

Person or persons under 18 years of age.

DAY-CARE CENTER

Any establishment, whether public, private or parochial, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the ~~Office of Child Care Services~~ Department of Early Education and Care.

ELDER or ELDERLY

Person or persons over 60 years of age.

ELDERLY HOUSING FACILITY

Includes any building which provides a group residence for the elderly and is located within the City of Marlborough.

ESTABLISHING A RESIDENCE

To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

FACILITY FOR THE MENTALLY RETARDED

Includes facilities under the jurisdiction of the Department of Mental Retardation and which is located within the City of Marlborough.

LOITERING

To remain for more than fifteen (15) minutes within a five hundred (500) foot distance of the location in question.

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MENTALLY RETARDED PERSON

Pursuant to MGL c. 123B, § 1, a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the Department of Mental Retardation, is substantially limited in his or her ability to learn or adapt, as judged by established standards available for the evaluation of a person's ability to function in the community.

PARK

Includes active and passive public land designated for recreational or athletic use by the City of Marlborough, ~~the Commonwealth of Massachusetts or other governmental subdivision,~~ and located within the City of Marlborough.

PERMANENT RESIDENCE

A place where a person lives, abides, lodges or resides for 14 or more consecutive days.

RECREATIONAL FACILITY

Includes, but is not limited to, a playground, a forest preserve, conservation area, jogging trail or running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football field, basketball court or hockey rink, mini-golf business, video arcade, laser tag establishment, Boys and Girls Club(s), skate park, dance or gymnastic studio, movie theater, martial arts school or family-oriented pool hall, whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within the City of Marlborough.

REGISTERED SEX OFFENDER

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For the purposes of this chapter shall mean: a) any person who is designated as a sexually violent predator pursuant to Chapter 6, § 178K(2)(c), of the Massachusetts General Laws and who is required to register as a sex offender pursuant to the guidelines of the Sex Offender Registry Board; b) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws and ~~who for so long as such person~~ is finally classified as a Level 3 offender pursuant to the guidelines of the Sex Offender Registry Board; and c) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws, ~~who for so long as such person~~ is finally classified as a Level 2 offender pursuant to the guidelines of the Sex Offender Registry Board, and who has committed a sex offense against a child, an elder and/or a mentally retarded person.

SCHOOL

Any public or private educational facility that provides educational instruction to children in grades pre-K through 12.

SCHOOL BUS STOP

Any area designated by the public school district or by a private or parochial school within the City of Marlborough as a school bus stop.

SEX OFFENDER and SEX OFFENSE

The same meanings as provided for in MGL c. 6, § 178C.

TEMPORARY RESIDENCE

A place where a person lives, abides, lodges or resides for a period of less than 14 consecutive days or 14 days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges or resides and which is not the person's permanent residence; but "temporary residence," shall not include residence at a hospital or other health care or medical facility for less than 14 consecutive days or 14 days in the aggregate during any calendar year.

§ 517-3 Residency restrictions.

A.

Prohibition. A registered sex offender is prohibited from establishing a permanent residence or temporary residence within 1,000 feet of any school, day-care center, park, other recreational facility, elderly housing facility or facility for the mentally retarded; provided, however, that the prohibition contained in this section shall not apply to any level 3 offender, to the extent and in the manner such Level 3 offender is already governed by MGL c. 6, § 178K(2)(e).

B.

Evidentiary matters; measurements. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of any school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded.

C.

Exceptions. A registered sex offender residing within 1,000 feet of any school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded does not commit a violation of this section if any of the following apply:

(1)

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The registered sex offender established the permanent residence prior to the effective date of this chapter, and:

(a)

Permanent residence was established by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in and does not move to another restricted location in Marlborough different from the permanent residence established prior to the effective date of this chapter;

(b)

Permanent residence was established through a valid, fixed-term, written lease or rental agreement, executed prior to the effective date of this chapter, as long as the registered sex offender continues to reside within and does not move to another restricted location in Marlborough different from the permanent residence established prior to the effective date of this chapter; or

(c)

Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within and does not move to another restricted location in Marlborough different from the permanent residence established prior to the effective date of this chapter.

(2)

The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has(have) established a permanent residence pursuant to § 517-3C(1).

(3)

The school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded within 1,000 feet of the registered sex offender's permanent residence was opened after the registered sex offender established the permanent residence.

D.

Forfeiture of exception. If, either after the effective date of this chapter or after a new school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded opens, a complaint or an indictment is issued by a court against a registered sex offender otherwise enjoying an exception under Subsection C that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this section.

E.

Notice to move. A registered sex offender who resides on a permanent or temporary basis within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded shall be in violation of this section and shall, within 30 days of receipt of written notice of the registered sex offender's noncompliance with this chapter, move from said location to a new location, but said location may not be within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded. It shall constitute a separate violation for each day beyond the 30 days the registered sex offender continues to reside within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded. Furthermore, it shall be a violation each day that a registered sex

offender shall move from one location in the City to another that is within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility or facility for the mentally retarded.

F.
Penalties. Any violation of this section shall be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, as follows:

(1)
First offense by registered sex offender: noncriminal fine of \$150 and notification to offender that he/she has 30 days to move.

(2)
Subsequent offense by registered sex offender: noncriminal fine of \$300 and notification to offender's parole officer and/or probation officer, and the commonwealth's Sex Offender Registry Board, that the sex offender has violated a municipal ordinance.

§ 517-4 Safety zones.

A.
Prohibitions.

(1)
A registered sex offender is prohibited from entering upon the premises of a school or day-care center unless previously authorized specifically in writing by the school administration or day-care center owner.

(2)
A registered sex offender is prohibited from entering upon the premises of an elderly housing facility or facility for the mentally retarded unless previously authorized in writing by the on-site manager of the elderly housing facility or facility for the mentally retarded.

(3)
A registered sex offender is prohibited from entering upon the premises of a park or any recreational facility.

(4)
A registered sex offender is prohibited, after having received notice from the Marlborough Police Department that he/she is loitering within 500 feet of a school, a day-care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded, from continuing to so loiter or from returning thereto. A registered sex offender, after having received notice from the Marlborough Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school, a day care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded, is prohibited from continuing to so loiter. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the registered sex offender to the outer property line of the school, a day-care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded.

(5)
A registered sex offender is prohibited, after having received notice from the Marlborough Police Department that he/she is loitering within 500 feet of a school bus stop, from continuing to so loiter or from returning thereto. A registered sex offender, after having received notice from the Marlborough Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within

five hundred (500) feet of a school bus stop, is prohibited from continuing to so loiter; provided, however, that this prohibition shall not apply on days when the schools within the City of Marlborough are not in session.

B.
Exceptions.

(1)
The prohibitions defined in § 517-4A(1) through (3) shall not be construed or enforced so as to prohibit a registered sex offender from exercising his or her right to vote in any federal, state or municipal election, or from attending any religious service.

(2)
The prohibitions defined in § 517-4A(4) and (5) do not apply to a registered sex offender's place of residence when such residence is excepted under § 517-3C.

C.
Penalties. Any violation of this section may be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, resulting in a noncriminal fine of \$150 for a first violation and a noncriminal fine of \$300 for each additional violation of this section. ~~In lieu of noncriminal disposition, registered sex offenders who commit an additional violation under this section, except for those who are not yet 17 years of age when they commit any such additional violation, may be subject to immediate arrest under state law.~~ A registered sex offender commits a separate offense for each and every violation of this section.

§ 517-5 Exemptions.

The provisions of this chapter shall not be applicable to registered sex offenders incarcerated in any facilities owned, maintained and/or operated by the City of Marlborough.

§ 517-6 Enforcement.

A.
The Marlborough Police Department shall be charged with the enforcement of this chapter.

B.
A written list describing the prohibited areas defined in this chapter inclusive of school bus stops, as well as a map depicting the residency restriction areas and a map depicting the safety zones exclusive of school bus stops, shall be created by the City and maintained by the Marlborough Department of Public Works. As to school bus stops, the list and not the map depicting the safety zones shall govern. The City shall review both the list and the maps no less than annually for changes. The list, the maps and a copy of this chapter will be available to the public at the Marlborough Police Department and Marlborough City Clerk's office, and on the City of Marlborough's website.

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**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK**

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

Clear Wireless, LLC, an affiliate of Sprint Wireless Broadband and Nextel Communications

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

157 Union Street, Marlborough, MA, Map 43, Lot 56

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

Marlborough Hospital, 157 Union Street, Marlborough, MA

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

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

Article VI Section 200 Paragraph 25 Sub-paragraph C(2) and C(4)

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

Residence A3

7. Specific reason(s) for seeking Special Permit

Modification of a wireless communications facility

Please see Supporting Statement attached hereto at Tab 2

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

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

Signature of Petitioner or Applicant

James E. Hoyt, Esq.

Address: Prince, Lobel, Glovsky & Tye LLP

100 Cambridge Street, Suite 2200
Boston, MA 02114

Telephone No. 617-456-8184

Date: June 30, 2009

**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK**

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

Clear Wireless, LLC, an affiliate of Sprint Wireless Broadband and Nextel Communications

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

115/109 Onamog Street, Marlborough, MA Map 81, Block 238

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

City of Marlborough

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

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

Article VI Section 200 Paragraph 25 Sub-paragraph C(2) and C(4)

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

Municipal

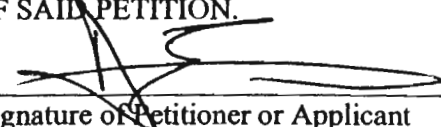
7. Specific reason(s) for seeking Special Permit

Modification of a wireless communications facility

Please see Supporting Statement attached hereto at Tab 2

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

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Signature of Petitioner or Applicant

James E. Hoyt, Esq.

Address: _____

Prince, Lobell, Glovsky & Tye LLP

100 Cambridge Street, Suite 2200
Boston, MA 02114

Telephone No. 617-456-8184

Date: August 12, 2009

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**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK**

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

Clear Wireless, LLC, an affiliate of Sprint Wireless Broadband and Nextel Communications

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

75 Donald Lynch Blvd., Marlborough, MA May 13, Lot 2

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

Albert Bombard, 76 Donald Lynch Blvd., Marlborough, MA

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

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

Article VI Section 200 Paragraph 25 Sub-paragraph C(2) and C(4)

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

Limited Industrial (LI)

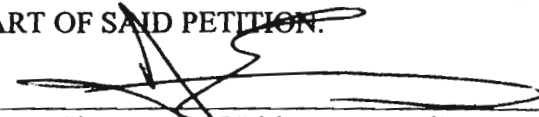
7. Specific reason(s) for seeking Special Permit

Modification of a wireless communications facility

Please see Supporting Statement attached hereto at Tab 2

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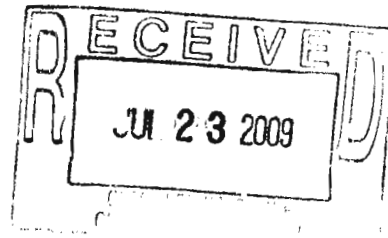
PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HERewith AND MADE PART OF SAID PETITION.



Signature of Petitioner or Applicant
James R. Hoyt, Esq.
Prince, Lobel, Glovsky & Tye LLP
Address: _____
100 Cambridge Street, Suite 2200
Boston, MA 02114

Date: August 12, 2009

Telephone No. 617-456-8184



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To: City Council

From: MPPOA, Patrick Hogan

RE: Use of Rail Trail

To Whom It May Concern:

I am writing to request permission to use a portion of the Assabet River Rail trail for the 9th Annual William Kirby Memorial 5K Police Chase. The race course will be the same as last year, beginning at the Moose Lodge and continuing up the rail trail to Hudson St. and eventually reconnecting to the trail for a return to the Moose. As was the case last year, we will be sure to clean up the trail after the race. This year's race takes place on Saturday, September 12th.

Respectfully Submitted,

Patrick Hogan
MPPOA



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Tom Wellen
Executive Director
(508) 229-2010
Twellen@marlborough2010.com

August 10, 2009

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

Re: Marlborough 2010 Inc. Fiscal Year 2009 Financial Report

Dear Mr. President and City Councilors:

As specified by the provisions of its enabling legislation, Marlborough 2010 is to provide the City with statements of its financial condition annually. Please find enclosed the unaudited Statement of Financial Condition, Statement of Activities and Statement of Cash Flows for the years ended June 30, 2008 and 2009.

With kind regards, I am

Very Truly Yours,

Thomas H. Wellen
Executive Director

Enclosures

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Marlborough 2010, Inc.
Statement of Financial Condition
Unaudited
(in dollars)

Assets

	June 30,2009		June 30 2008	
Current				
Cash	13,574		59,381	
Grants Receivable	40,778	54,352	91,355	150,736
Equipment		9,796		12,596
Other		630		630
Total Assets		64,778		163,962

Liabilities and Net Assets

Current				
Current Portion of Long-Term Debt	0		2,657	
Accounts Payable and Accrued Expenses	0		11,664	
Deferred Revenue	0	0	5,000	19,321
Net Assets				
Unrestricted	64,778		70,900	
Temporarily Restricted	0	64,778	73,741	144,641
Total Liabilities and Net Assets		64,778		163,962

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Marlborough 2010, Inc.
Statement of Financial Activities
Unaudited
(in dollars)

	Year ended June 30, 2009		Year ended June 30, 2008	
Changes in Unrestricted Net Assets				
Support and Revenue				
Membership fees	113,500		160,050	
Net Assets Released from Restrictions	<u>73,741</u>	187,241	<u>51,259</u>	211,309
Expenses				
Salaries and Related Costs	142,688		110,643	
Depreciation	2,800		1,399	
Advertising	85		676	
Community Development	14,708		12,645	
Conferences and Meetings	3,323		1,969	
Dues and Subscriptions	161		253	
Insurance	1,482		1,597	
Interest Expense	48		1,156	
Offices Supplies	280		1,062	
Professional Fees	16,059		4,077	
Repairs and Maintenance	573		125	
Utilities	3,107		2,047	
Printing and Postage	321		932	
Rent	7,560		1,890	
Travel	34		320	
Meals and Entertainment	129		237	
Bank Fees	<u>5</u>	<u>193,363</u>	<u>5</u>	<u>141,033</u>
Change in Unrestricted Net Assets		(6,122)		70,276
Changes in Temporarily Restricted Net Assets				
Grants	0		125,000	
Net Assets released from Restriction	<u>(73,741)</u>	<u>(73,741)</u>	<u>(51,259)</u>	<u>73,741</u>
Increase in Net Assets		(79,863)		144,017
Net Assets, Beginning		144,641		624
Net Assets, Ending		<u><u>64,778</u></u>		<u><u>144,641</u></u>

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Marlborough 2010, Inc.
Statement of Cash Flows
Unaudited
(in dollars)

Increase (Decrease) in Cash

	June 30, 2009	June 30, 2008
Cash Flows from Operating Activities		
Change in Net Assets	(79,863)	144,017
Adjustments to Reconcile Change in Net Assets to Net Cash Provide (Used) by Operations		
Depreciation	2,800	1,399
Change in Grants Receivable	50,577	(91,355)
Change in Other Assets	0	(630)
Decrease in Accounts Pay and Accrued Expenses	(11,664)	(3,247)
Decrease in Deferred Revenue	(5,000)	(5,000)
	<u>36,713</u>	<u>(98,833)</u>
Cash Flows from Investing Activities	(43,150)	45,184
Capital Expenditures	0	(13,995)
Cash Flows from Financing Activities		
Repayments of Amounts Borrowed	<u>(2,657)</u>	<u>(17,343)</u>
Net Change in Cash	(45,807)	13,846
Cash, Beginning	<u>59,381</u>	<u>45,535</u>
Cash, Ending	<u><u>13,574</u></u>	<u><u>59,381</u></u>



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



COMMISSION CHAIRMAN
 RICHARD J. DAY

EXECUTIVE DIRECTOR
 TIMOTHY D. DESCHAMPS



July 23, 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 August 2009:

Aug 5, 12, 19, 26 and Sept 2

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

City of Marlborough
Commonwealth of Massachusetts



PLANNING BOARD

Barbara L. Fenby, Chair
Steve Kerrigan, Clerk
Philip J. Hodge
Edward F. Coveney
Clyde L. Johnson
Robert Hanson
Sean N. Fay

PLANNING BOARD MINUTES
June 8, 2009
7:00 PM

Carrie Lizotte, Board Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: CLizotte@marlborough-ma.gov

The Planning Board for the City of Marlborough met on Monday, June 8, 2009 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Steven Kerrigan, Clyde Johnson, Robert Hanson and Sean Fay. Also present: Assistant City Engineer Richard Baldelli.

CHAIR PRO TERM

Mr. Johnson nominated Mr. Fay to be chair pro term for this meeting.

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

To elect Mr. Fay as chair pro term for the meeting.

MINUTES

Meeting Minutes May 11, 2009

On a motion by Mr. Kerrigan, seconded by Mr. Hanson, it was duly voted:

To accept and file the Meeting Minutes of May 11, 2009 with the minor changes.

CHAIRS BUSINESS

Residences of Oak Crest
Proof of Recording

Mrs. Lizotte was informed that the recording of the Certificate of Performance for the Residence of Oak Crest has been recorded with the South Middlesex Registry of Deeds.

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

To accept and file the correspondence.

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28 South Bolton Street

Mr. Fay asked Mrs. Lizotte if she knew if the owners of the property at 28 South Bolton Street had applied for their non permitted awning as discussed at the meeting on May 11, 2009. Mrs. Lizotte stated she has not seen the permit. Mr. Fay suggested sending a letter to the owners reminding them they need to pull a permit for their awning.

APPROVAL NOT REQUIRED PLAN

107 Phelps Street
Mylar Signing

Mr. Kerrigan signed the Mylar.

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Baldelli stated at this time there were no new updates.

Crystal Ridge Estates (Danjou Drive)
Correspondence from Engineering

Mr. Baldelli, Assistant City Engineer, has reviewed the current status of the subdivision. He explained the remaining work includes as-builts, plan of acceptance and legal descriptions which are now being prepared by Thomas Land Surveying. There is still an issue with a sink hole in front of Lot 5 of Danjou Drive.

Mr. Baldelli stated that he is meeting the contractor on site this coming Wednesday to discuss the status of the subdivision.

Mr. Baldelli is recommending that the bond be reduced from \$101,000.00 to \$49,000.00. Mr. Kerrigan asked Mr. Baldelli if the \$49,000.00 would cover the costs if the City has to complete the work. Mr. Baldelli did state reduction would cover the remaining the work if needed.

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

To accept and file the correspondence from Assistant City Engineer Richard Baldelli regarding the status of this subdivision and to recommend the reduction of the bond securing the subdivision from \$101,000.00 to \$49,000.00.

Devonshire at 495
Amended Covenant
Correspondence from Assistant City Solicitor

Ms. Panagore-Griffin stated that she has received the final version of the Amended and Restatement of Covenant for Devonshire @ 495, dated June 8, 2009. She forwarded an attachment of the tracked version to verify the document was one in the same. Mrs. Lizotte did verify it was the same document.

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On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file correspondence; and to endorse the Amended and Restatement of Covenant, Recorded in the Middlesex South Registry of Deeds In Book 51814 Page 225, dated June 8, 2009.

Elm Farm Valley Estates (Cleversy Drive)
Correspondence from Engineering
Legal Status

Mr. Baldelli has reviewed the status of the subdivision. He explained some of the outstanding issues are pertaining to the As built plans are labeled incorrectly, the Plan of Acceptance needs to be clarified of the sewer easement or utility easement, if the rights to the easements been deeded to the City of Marlborough and legal descriptions need been corrected.

Mr. Baldelli verbally stated that the Engineering Department has sent letters to the current homeowners on Cleversy Drive who have the easement through their yards and no response has been received. Mr. Fossile and his Attorney Michael Norris also have spoken with the owners and they have not responded to their request. At this time they are going to try once more to reach an agreement with the neighbors before the will discuss an inanimate domain.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file the correspondence from Assistant City Engineer Richard Baldelli regarding the status of this subdivision and to recommend the reduction of the bond securing the subdivision from \$47,000.00 to \$35,000.00.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To send correspondence to the Legal Department asking them the current status of the legal description for Elm Farm Valley Estates and to report back to the Planning Board with it's status.

Orchard Estates III (Balcom Road & Miele Road)
Correspondence from Engineering

Mr. Baldelli stated that he has reviewed the subdivision. He stated that the "Mylar" acceptance plans still need to be provided, the legal description needs to be submitted and all updates needs to be provided. Mr. Baldelli did not have the proper time to review the file and stated that at the next meeting he will have a more comprehensive review of the file. He is recommending a reduction from \$177,000.00 to \$129,000.00.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file the correspondence from Assistant City Engineer Richard Baldelli regarding the status of this subdivision and to recommend the reduction of the bond securing the subdivision from \$177,000.00 to \$129,000.00.

PENDING SUBDIVISION PLANS: Updates and Discussion

Marlborough Elms
City Engineer Correspondence

Mr. Cullen stated in a memo to Mr. Baldelli the initial review of the subdivision plan is still inadequate. They are still waiting for an on-the-ground surveys to be conducted, comments on an earlier submission still has not be addressed and the plans have not complied with all the pertinent information needed for further review of the plans.

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

To accept and file the correspondence.

Correspondence from Cliff Schorer

Mr. Schorer sent correspondence regarding that he was in receipt of the Code Enforcement concerns. The enclosed letter he sent to Code Enforcement that addresses the Code Enforcement concerns of the deadbolts, the excess cars and the fire alarm system.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file the correspondence.

Correspondence from Code Enforcement

Ms. Wilderman replied back to Mr. Schorer stating that she has spoken to his tenants regarding their excess vehicles. She is still awaiting a report from the licensed professional as requested in her original letter regarding the fire alarm testing.

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

To accept and file the correspondence.

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

On a motion by Mr. Kerrigan, seconded by Mr. Hanson, it was duly voted:

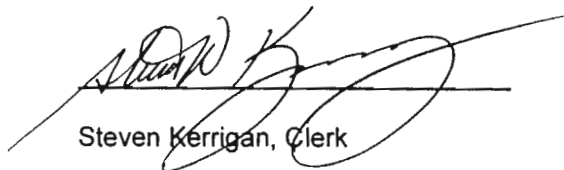
To accept all of the items listed under communications and/or correspondence.

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

To adjourn at 8:14 p.m.

A TRUE COPY

ATTEST:



Steven Kerrigan, Clerk



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

Traffic Commission

The Regular Meeting of the Traffic Commission was held on Tuesday, June 30, 2009 at 10:05 a.m. in City Council Committee Room, City Hall. Members present: Chairman Police Chief Mark Leonard, Fire Chief David Adams, City Planner Nancy Savoie. Also present: City Engineer Thomas Cullen, Timothy Collins, Engineering Division, City Councilor Ed Clancey and Private Citizen - Kenneth Almeida, Minutes taken by: Karen Lambert, MPD Records Clerk.

1- Minutes

That the minutes of the Traffic Commission meeting of Tuesday, May 26, 2009. MOTION was made, seconded, duly VOTED:
To APPROVE.

2-New Business

2b. Communication from Kenneth Almeida, re: Four way stop request – Porter Road @ Pippen Road.

Chief Leonard advised that the intent of stop signs is to make a site safer not to slow traffic. Specific warrants are spelled out in the MUTCD (Manual on Uniform Traffic Control Devices) which dictate the requirements for a stop sign - For example, traffic volume, accident issues, speed requirements, sight distance concerns etc. The Chief stated that the site probably does not meet the requirements. A better option is enforcement and he has requested directed patrols in this area. He had hoped to have 2 dedicated traffic enforcement officers at this time, but the police department is not there yet.

Mr. Almeida was given the opportunity to express his concerns. He has lived in the middle of Porter Road for five years and is very concerned about speeding in the area. He has young children as does his surrounding neighbors. Cars often travel the roadway at what he estimates to be speeds of 40+. It is dangerous to even mow his front lawn for fear of being hit. He cannot allow his children to play in the front of his house. They are having problems with people using the road as a cut through. High school students are part of the problem but local residents cutting through Porter Road are actually the major concern. He also mentioned speed bumps – anything that would help to control the

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situation. His optimal dream would be to have a "no through traffic sign" on Porter Road.

Chief Leonard advised that closing of the road was not an option. It would simply send the problem to another area. Porter Road is the most direct and easy access to Lodi. He believes that this is considered a "thickly settled zone" with a speed limit of 30mph. Chief Leonard asked the City Engineers if they can take a look at this area and see if any considerations can be made. They discussed a traffic count; however, they did not believe that it would meet the criteria for stop signs. The minimum volume for a stop sign is 300 vehicles in an 8 hour period with an average delay of 30 seconds between traffic. The requirement is 200 vehicles on a side street. It was determined that a traffic count would be better conducted when school is in session (September) as high school students are part of the problem.

Chief Leonard continued to stress that enforcement was the key here and advised that he would discuss this with his officers. He will also work to get the speed board at the location again.

MOTION was made, seconded, duly VOTED:

To collectively (Police, Engineering & DPW) review the situation.

2a. Communication from Linda Minnucci, re: Request for signage on East Dudley near DiBuono Drive.

Ms. Minnucci is concerned with speeding in the area and that it is very difficult to pull out of DiBuono and take a left or a right onto East Dudley. Tim Collins advised that he has driven down this street and that there is advance signage for a crosswalk in the easterly direction; however, the crosswalk has not been repainted and is not visible. DiBuono Drive does come up very quickly when traveling down East Dudley and there is a lot of vegetation here that blocks the intersection. If the crosswalk were repainted it might highlight the fact that the intersection is there. Also the street sign is still one of the old green ones. It could be changed to a new blue one to make it more visible. Also, Engineering can look at the vegetation situation. Sgt. Moran has been trying to find an appropriate spot for the speed board. Increased enforcement would also help the situation.

MOTION was made, seconded, duly VOTED:

To refer to the Engineering Department for review and to the Police Department for enforcement.

3-Old Business

3d. Communication from Barbara McGann, re: Request for school zone on Forest St. near AMSA Charter School.

Chief Leonard has spoken to Barbara McGann and this is still an ongoing issue. Engineering is also still waiting to hear back from them.

MOTION was made, seconded, duly VOTED:

To TABLE

3e. Advance warning signage from crosswalk on Chestnut @ Pleasant St.

Tim Collins showed a large picture of the intersection with the newly painted crosswalks. The crosswalks are clearly visible from 150 feet and the sight distance is no longer a problem. Chief Leonard advised that he is OK with the area as is. Advance warning signs do not seem necessary now.

MOTION was made, seconded, duly VOTED:

To REMOVE from Agenda

3f. Request for "School Zone" at Richer School.

Tim Collins showed a diagram of the area with the new school zone indicated. He found that the area does meet the warrants for a designated "School Zone". He included a memo to The Traffic Commission outlining his findings and he recommended that a school zone be established for Richer School. The area would be created with specific signage and the speed limit approaching the school would be reduced to 20mph during the school hours.

MOTION was made, seconded, duly VOTED:

To refer to Chief Leonard to set up the proper wording for a vote at the next meeting.

3g. Advance warning signage request for signals at Hildreth St. @ Church St.

Engineering advised that the new signage is up. The problem foliage has been cut back with the exception of the tree/shrub at #66 Hildreth St. (private residence). Tim Collins has requested, by e-mail dated 6/9/09, that Pam Wilderman contact the home owner to discuss the potential violation of a height ordinance.

MOTION was made, seconded, duly VOTED:

To REMOVE from agenda as all concerns appear to have been met.

3a. Long term oversized vehicle ordinance.

MOTION was made, seconded, duly VOTED:

To TABLE.

3b. Municipal off street parking regulation.

MOTION was made, seconded, duly VOTED:

To TABLE.

3c. High School parking regulations.

MOTION was made, seconded, duly VOTED:

To TABLE

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That there being no further business of the Traffic Commission held on this date, meeting adjourned at 10:55 a.m.

Respectfully submitted,
Karen L. Lambert - Records Clerk, MPD