

REGULAR MEETING
OCTOBER 5, 2009

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

1. Minutes of the City Council Meeting, September 28, 2009.
2. PUBLIC HEARING: On the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for installation of a wireless communications facility at 342 Lincoln St.
3. PUBLIC HEARING: Proposed Zoning Ordinance Amendment, Chapter 650, regarding Narcotic Detoxification and Maintenance Facilities.
4. Communication from the Mayor re: budget transfer requests in the amount of \$5,000.00 from Chief PS Operator to Interim Foreman, \$30,000.00 from Water MWRA to Water Plant, \$9,500.00 from Foreman to Contract Services and \$19,911.40 from Equipment Operator to a different Equipment Operator account to supplement funding in said accounts.
5. Communication from the Mayor re: Massachusetts Interlocal Insurance Association (MIIA) Rewards.
6. Minutes, Traffic Commission, August 25, 2009.
7. Minutes, Planning Board, September 14, 2009.

REPORTS OF COMMITTEES:

8. ORDERED: That the Mayor be and is hereby requested, in her role as Chair of the Marlborough School Committee, to report on the status of stimulus funds received for school support and the anticipated timeline for return to General Government of funds appropriated to the School Department for FY2010, per agreement between the City Council and Mayor during the FY2010 budget process. Said report to be submitted at the City Council's regular meeting of October 26, 2009.Submitted by Councilor Joseph Delano

UNFINISHED BUSINESS:

From Finance Committee

9. **Order No. 09-1002304 – Two DPW Transfers to Part Time Help Accounts:** The Finance Committee reviewed the Mayor's letter dated September 9, 2009 describing two DPW transfers. The first transfer is for \$11,500.00 from Equipment Operators – Water to Temporary Part Time Help Water and Sewer. The Finance Committee was concerned that the transfer was made after the account was in deficit. Per Mass General Law, Chapter 44, Section 31, no department shall incur liability in excess of the appropriation made for the use of such department. The Finance Committee voted 5 – 0 to approve the transfer. The Finance Committee also recommended that the Mayor reinforce the expectation to all department heads the need to project expenses and not allow accounts to go into deficit. The hiring of part time help should be brought to the attention of the City Council as a potential deficit spending part time help accounts. The second transfer is for \$7,448.00 from Motor Equipment Repairmen to the Temporary Part Time Help Fleet Maintenance. The Finance Committee reinforced that this transfer was an example of the proper method of requesting a transfer in that there were sufficient funds in the account when requesting the transfer. **Recommendation of the Finance Committee is to approve 5-0.**
10. **Order No. 09-1002305 – Transfer \$22,141.80 from Fringes to Sick leave Buy Back:** The Finance Committee reviewed the Mayor's letter dated September 9, 2009 requesting the transfer of \$22,141.80 from the Fringes account to the Sewer Department Sick Leave Buy Back account to cover the retirement of a DPW worker in the Sewer Department. **Recommendation of the Finance Committee is to approve 5-0.**

From Legislative and Legal Affairs Committee

11. **Order No. 09-1002309** - Communication from the Mayor re: Grant of Easement, Division of Capital Asset Management for the purpose of maintaining an existing municipal sewer line located beneath Commonwealth-owned land on Pleasant St. The Committee discussed the history of the existing sewer line and the proposed sewer easement with the DPW Commissioner and Assistant City Solicitor. The Division of Capital Asset Management, acting on behalf of Massachusetts Department of Highways, plans to transfer control of this land to the Department of Fish and Game. The City needs to secure this permanent easement prior to that transfer in order to have access to maintain the sewer line. The value of the easement has been set at \$5,000. This order requires two votes by the Council: (1) to appropriate the \$5,000 cost and (2) to approve the Order for Acquisition of Easement.

Order 09-100-2309-1 Order for Appropriation

Recommendation of the Legislative and Legal Affairs Committee is to approve the appropriation of \$5,000.00, 3-0.

Order 09-100-2309-2 Order for Acquisition of Easement

Recommendation of the Legislative and Legal Affairs Committee is to approve the purchase of the easement 3-0.

12. **Order No. 08/09-1001787B** - Communication from the Mayor re: Renewal of Ordinance on Claims Procedures. The Committee reviewed this request to renew an ordinance adopted by City Council last year which expired June 30th due to a sunset clause. The proposed ordinance expedites the claims process for mailbox damage and allows employees of the Legal Department to assist residents with claims against 3rd parties. In FY09, while the ordinance was in effect, seven mailbox claims were filed and six claims paid totaling \$325.38 (\$54.23 average cost). There were no requests for assistance from the Legal Dept. Due to the low number of claims; the Committee recommended removing the sunset clause in the proposed ordinance.

Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Proposed Ordinance as amended and under Suspension of the Rules to advertise Ordinance and place item on the October 26, 2009 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the October 5, 2009 agenda 3-0.

From City Council

13. **Order No.09-1002277** - Communication from City Council President Vigeant with Proposed Amendment to the Zoning Ordinance to regulate the location of, but not prohibit, narcotic detoxification and/or maintenance facilities in the City of Marlborough. The Committee discussed the proposed ordinance as drafted by the Solicitor and reviewed maps displaying buffers of 500, 750 and 1000 feet around excluded locations specified in §C2 of the ordinance. The Committee agreed to further amend the ordinance to reflect a 1000' buffer but also requested additional maps reflecting 1500' and 2000' buffers be prepared for the full Council prior to a final vote.

Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Ordinance with an amendment of a 2,000' buffer from a School, Recreational Facility, a Park, an Elderly Housing Facility and Retirement Community, set a Public Hearing for October 5, 2009,

refer to Planning Board, and under Suspension of the Rules to advertise amended Ordinance and place item on the October 5, 2009 agenda 3-0.

14. **Order No.09-1002273 - Communication from City Clerk – Fee Genealogy Process.**
The Committee reviewed the proposed amendment to Ch. 328 of the City Code as requested by the City Clerk and drafted by the City Solicitor to add a new sub-section P detailing fees for genealogical research at \$10.00 per half-hour and \$20.00 per hour. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Proposed Ordinance as amended and under Suspension of the Rules to advertise Ordinance and place item on the October 5, 2009 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the September 28, 2009 agenda 3-0.**

15. **Order No.09-1002289 - Communication from the City Solicitor with Proposed Amendments to the Sex Offender Ordinance in light of opinions from the Attorney General concerning similar by-laws enacted by various towns around the Commonwealth.** The City Solicitor reviewed the proposed order reflecting recommended changes to the City's Sex Offender Ordinance in Ch. 517 of the City Code to address concerns raised by the Office of the Attorney General in reviewing similar ordinances adopted by towns in the Commonwealth. One further correction was noted in changing "Department of Mental Retardation" to "Department of Developmental Services" to properly reflect the name change of this state department. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Proposed Ordinance as amended and under Suspension of the Rules to advertise Ordinance and place item on the October 5, 2009 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the September 28, 2009 agenda 3-0. Councilor Schafer abstained.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
September 28, 2009**

Regular meeting of the City Council held on Monday, September 28, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Vigeant, Delano, Ferro, Schafer, Juaire, Seymour, Clancy and Landers. Councilors absent: Pope. Meeting adjourned at 9:12 p.m.

ORDERED: That the minutes of the City Council Meeting SEPTEMBER 14, 2009, **FILE**; adopted as amended.

ORDERED: Now being the time set for the PUBLIC HEARING on the 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., all were heard who wish to be heard, hearing recessed at 8:15 p.m.; adopted.

Councilor Seymour abstained

City Clerk read into the record Certification by City Councilor Pope, Required Under Chapter 79 of the Acts of 2006, for the Public Hearing, September 28, 2009 re: Clear Wireless LLC. at 157 Union St.

ORDERED: Now being the time set for the PUBLIC HEARING on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communications facility located at 115/109 Onamg St., all were heard who wish to be heard, hearing recessed at 8:30 p.m.; adopted.

City Clerk read into the record Certification by City Councilor Pope, Required Under Chapter 79 of the Acts of 2006, for the Public Hearing, September 28, 2009 re: Clear Wireless LLC. at 115/109 Onamg St.

ORDERED: Now being the time set for the PUBLIC HEARING on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communications facility located at 175 Donald Lynch Blvd., all were heard who wish to be heard, hearing recessed at 8:45 p.m.; adopted.

City Clerk read into the record Certification by City Councilor Pope, Required Under Chapter 79 of the Acts of 2006, for the Public Hearing, September 28, 2009 re: Clear Wireless LLC. at 175 Donald Lynch Blvd.

ORDERED: That the Green Communities Planning Assistance Grant awarded to the City of Marlborough from the Commonwealth of Massachusetts Department of Energy Resources (DOER) to obtain Green Community status and in accordance with MGL, Chapter 44, Section 53A for purposes outlined, **APPROVED**; adopted.

ORDERED: That the Communication from the Mayor re: reopening of the police substation at 87 Broad Street on French Hill, **FILE**; adopted.

ORDERED: That the EPA New England for the Targeted Brownfields Assessment Program Grant awarded to the City of Marlborough for the site located at 25 East Main St. in which the City of Marlborough will receive services (now estimated up to \$125,000.00) for assessing contaminants at this site to be used in accordance with MGL, Chapter 44, Section 53A for purposes outlined, **APPROVED**; adopted.

ORDERED: That the Communication from the Mayor regarding the Bolton Street lead service replacement project, refer **BACK TO MAYOR**; adopted.

ORDERED: That the appointment of Beverly Sleeper to the position of Chief Procurement Officer for a three-year term expiring November 20, 2012, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the two transfer requests in the amount of \$1,160.84 and \$1,488.26 from the Mayor's Longevity and Sick Leave Buy Back accounts to the Council on Aging's Longevity and Sick Leave Buy Back accounts associated with the former Executive Secretary to the Mayor accepting a position of Principal Clerk with the Council on Aging, **APPROVED**; adopted.

FROM:

Acct. # 11210003-51430	\$1,160.84
Longevity	

TO:

Acct. # 15410003-51430	\$1,160.84
Longevity	

FROM:

Acct. # 11210003-51920	\$1,488.26
Sick Leave Buy Back	

TO:

Acct. # 15410003-51920	\$1,488.26
Sick Leave Buy Back	

ORDERED: That the correspondence from City Auditor Diane Smith providing a status update and timeline with respect to the closing of the FY09 books and submittals required for the certification of free cash, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 26, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communication facility located at 2 Mount Royal Ave., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 26, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for modification of a wireless communication facility located at 460 Boston Post Rd. East, refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the minutes, Planning Board, August 17 2009, **FILE**; adopted.

ORDERED: That the minutes, MetroWest Regional Transit Authority, June 8 and July 27, 2009, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
A. Jasmine Volpe, 75 Jackson Circle, other property damage

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Order No. 09-1002304 – Two DPW Transfers to Part Time Help Accounts: The Finance Committee reviewed the Mayor’s letter dated September 9, 2009 describing two DPW transfers. The first transfer is for \$11,500.00 from Equipment Operators – Water to Temporary Part Time Help Water and Sewer. The Finance Committee was concerned that the transfer was made after the account was in deficit. Per Mass general law Chapter 44 section 31, no department shall incur liability in excess of the appropriation made for the use of such department. The Finance Committee voted 5 – 0 to approve the transfer. The Finance Committee also recommended that the Mayor reinforce the expectation to all department heads the need to project expenses and not allow accounts go into deficit. The hiring of part time help should be brought to the attention of the City Council as a potential to deficit spend part time help accounts. The second transfer is for \$7,448.00 from Motor Equipment Repairmen to the Temporary Part Time Help Fleet Maintenance. The Finance Committee reinforced that this transfer was an example of the proper method of requesting a transfer in that there were sufficient funds in the account when requesting the transfer. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002305 – Transfer \$22,141.80 from Fringes to Sick leave Buy Back: The Finance Committee reviewed the Mayor’s letter dated September 9, 2009 requesting the transfer of \$22,141.80 from the Fringes account to the sewer department sick leave buy back account to cover the retirement of a DPW worker in the sewer department. **Recommendation of the Finance Committee is to approve 5-0.**

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

Order No. 09-1002309 - Communication from the Mayor re: Grant of Easement, Division of Capital Asset Management for the purpose of maintaining an existing municipal sewer line located beneath Commonwealth-owned land on Pleasant St. The committee discussed the history of the existing sewer line and the proposed sewer easement with the DPW Commissioner and Assistant City Solicitor. The Division of Capital Asset Management, acting on behalf of Massachusetts Department of Highways, plans to transfer control of this land to the Department of Fish and Game. The City needs to secure this permanent easement prior to that transfer in order to have access to maintain the sewer line. The value of the easement has been set at \$5,000. This order requires two votes by the Council: (1) to appropriate the \$5,000 cost and (2) to approve the Order for Acquisition of Easement.

Order 09-100-2309-1 Order for Appropriation

Recommendation of the Legislative and Legal Affairs Committee is to approve the appropriation of \$5,000.00, 3-0.

14

Order 09-100-2309-2 Order for Acquisition of Easement

Recommendation of the Legislative and Legal Affairs Committee is to approve the purchase of the easement, 3-0.

Order No. 08/09-1001787B: Communication from the Mayor re: Renewal of Ordinance on Claims Procedures. The Committee reviewed this request to renew an ordinance adopted by City Council last year which expired June 30th due to a sunset clause. The proposed ordinance expedites the claims process for mailbox damage and allows employees of the Legal Department to assist residents with claims against 3rd parties. In FY09, while the ordinance was in effect, seven mailbox claims were filed and six claims paid totaling \$325.38 (\$54.23 average cost). There were no requests for assistance from the Legal Dept. Due to the low number of claims; the Committee recommended removing the sunset clause in the proposed ordinance

Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Proposed Ordinance as amended and under Suspension of the Rules to advertise Ordinance and place item on the October 26, 2009 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the October 5, 2009 agenda 3-0.

Suspension of the Rules requested - granted

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 TO SECTION 7-13 OF CHAPTER 7 OF ARTICLE II THE FOLLOWING NEW PARAGRAPHS:

It shall be deemed to be within the proper discharge of the official duties of the employees in the Legal Department for said employees to contact private contractors and/or their insurers in an effort to assist, or attempt to assist, those claimants whose claims against the City of Marlborough have been denied based upon a determination by the Legal Department or the City's insurer that said private contractors are responsible for satisfying those claimants' claims; provided however, that nothing contained herein shall be construed to create an attorney-client relationship between any claimant so assisted, or attempted to be assisted, and either the Solicitor or the Assistant Solicitor, whose sole client is and shall remain the City of Marlborough; and provided, further, that nothing contained herein shall be construed so as to interfere, in the sole determination of the Solicitor or the Assistant Solicitor, with the proper discharge of any other official duties of the employees in the Legal Department. This paragraph shall be applicable to only those claims accruing on or after November 1, 2009.

Notwithstanding the immediately preceding paragraph, any written claim presented to the City of Marlborough alleging that a residential mailbox has been damaged by the operation of a snow plow shall be granted upon written confirmation provided by the Department of Public Works to the Legal Department that City of Marlborough snow plow operations were in effect during the date when, and on the street where, the claimed mailbox damage occurred; provided, however, that such claim must be accompanied both by an auto-dated photograph(s) of the damaged mailbox as well as by a paid receipt showing the actual cost of the mailbox's repair or replacement; and provided, further, the maximum amount of reimbursement shall be set at Seventy-Five and 00/100 (\$75.00) Dollars, except that in the absence of such photograph(s)

and/or such paid receipt, the maximum amount of reimbursement shall be set at Thirty and 00/100 (\$30.00) Dollars. This paragraph shall be applicable to only those mailbox claims accruing on or after November 1, 2009, **ADVERTISED AND PLACE ON OCTOBER 26, 2009 AGENDA**; adopted.

(In Legal and Legislative Affairs Committee)

Suspension of the Rules requested – granted

ORDERED: That the following budget transfer request in the amount of \$496,000.00 from Stabilization to DPW Projects which allows for the replacement of all lead services that currently exist within the Bolton St. right-of-way project, refer **BACK TO MAYOR**; adopted.

FROM:

Acct. # 836000-11515

\$496,000.00

Stabilization

TO:

Acct. # 19300006-58514

\$496,000.00

DPW Projects

ORDERED: That the re-appointments of Jack Gracey and Lynn Faust to the Historical Commission for a three year term expiring September 18, 2012, **APPROVED**; adopted.

ORDERED: That the re-appointment of Thomas Krouse as a Wiring Inspector with an expiration date of February 6, 2012, **APPROVED**; adopted.

ORDERED: That the appointment of William Short to the Board of Registrars with a term expiring April 1, 2011, **APPROVED**; adopted.

ORDERED: That the re-appointment of Pricilla Ryder as Conservation Officer for a three year term expiring August 31, 2012, **APPROVED**; adopted.

Councilor Clancy abstained due to his role as Chairman of the Conservation Commission.

ORDERED: That the re-appointment of Allan White to the Conservation Commission for a three year term expiring March 5, 2012, **APPROVED**; adopted.

Councilor Clancy abstained due to his role as Chairman of the Conservation Commission.

ORDERED: That the Application of National Grid to install 60' of primary underground service wire across Forest Street from Pole #47 to a hand hole to service Special Olympics at 512 Forest Street, **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 26, 2009** as date for a **PUBLIC HEARING** requested by Attorney Arthur Bergeron, on behalf of 400 South St. LLC, 424 South St. LLC and 428 South St. LLC, to request that City Council rezone Map 93 Parcels 18A, 19, 20, 22, 23 32, 101 and 103 from Industrial (I) to Commercial & Automotive (CA), refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:12 p.m.

2



IN CITY COUNCIL

SEPTEMBER 14, 2009

Marlborough, Mass.,

ORDERED:

That there being no objection thereto set **MONDAY, OCTOBER 5, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for installation of a wireless communications facility at 342 Lincoln St., be and is herewith refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002314



IN CITY COUNCIL

3,

SEPTEMBER 14, 2009

Marlborough, Mass.,

PAGE 1

ORDERED:
Suspension of the Rules requested - granted

Notice is given that the **City Council of the City of Marlborough** will hold a **PUBLIC HEARING ON Monday, October 5, 2009 at 8:00 p.m. in City Council Chambers, 2nd floor City Hall, 140 Main Street, Marlborough, Massachusetts** on the Proposed Zoning Change as follows:

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:



IN CITY COUNCIL

SEPTEMBER 14, 2009

Marlborough, Mass.,

PAGE 2

ORDERED:

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;



IN CITY COUNCIL

33

SEPTEMBER 14, 2009

Marlborough, Mass., PAGE 3

ORDERED:

- 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.

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

- 1. within five thousand (5,000) feet of another Narcotic Detoxification and/or Maintenance Facility; nor,
- 2. within two thousand (2,000) feet of:
 - a. a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough;
 - b. a recreational facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - c. a park (as defined in § 517-2 of the Code of the City of Marlborough, as amended).
 - d. an elderly housing facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - e. a retirement community (as defined in § 650-4 of the Zoning Ordinance of the City of Marlborough, as amended) located within the City of Marlborough.

Be and is herewith **ADVERTISED, REFER TO PLANNING BOARD AND PLACE ON OCTOBER 5, 2009 AGENDA.**

(In Legal and Legislative Affairs Committee)

ADOPTED

ORDER NO. 09-1002277A



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

October 1, 2009

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

RE: Transfer Requests

Honorable President Vigeant and Councilors:

Attached herewith, please find a transfer request for 4 accounts in the Department of Public Works. As noted, the transfers are intended to supplement funding in certain accounts out of other accounts with anticipated surplus funding. The additional funding, if approved, will cover excess water production at Millham Reservoir, sidewalk and street repairs on South Bolton Street and Reservoir Street, as well as anticipated shortfalls in 2 personnel accounts.

Transfer in the amount of \$5,000.00 moving funds from account number 61090001-50780 (Chief PS Operator) to account number 61090003-51470 (Interim Foreman).

Transfer in the amount of \$30,000.00 moving funds from account number 61090006-52320 (Water MWRA) to account number 61090006-52322 (Water Plant).

Transfer in the amount of \$9,500.00 moving funds from account number 14001301-50690 (Foreman) to account number 14001304 (Contract Services).

Transfer in the amount of \$19,911.40 moving funds from account number 14001503-50740 (Equipment Operator) to account number 140001303-50740 (Equipment Operator).

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosures

42

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: PUBLIC WORKS FISCAL YEAR: 2010

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
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<u>\$30,362.04</u>	<u>\$5,000.00</u>	<u>61090001</u>	<u>50780</u>	<u>CHIEF PS OPERATOR</u>	<u>\$5,000.00</u>	<u>61090003</u>	<u>51470</u>	<u>INTERIM FOREMAN</u>	<u>\$3,444.77</u>
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Reason: Funds available due to retirement

Additional funds needed to cover Chief Pump Station Operator position caused by retirement

<u>\$53,760.67</u>	<u>\$30,000.00</u>	<u>61090006</u>	<u>52320</u>	<u>WATER MMWRA</u>	<u>\$30,000.00</u>	<u>61090006</u>	<u>52322</u>	<u>WATER-PLANT</u>	<u>\$0.00</u>
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Reason: Surplus caused by final water rates being lower than originally projected by MMWRA

Additional funds needed to produce excess water made available by substantial rainfall

<u>\$203,640.50</u>	<u>\$9,500.00</u>	<u>14001301</u>	<u>50690</u>	<u>FOREMAN</u>	<u>\$9,500.00</u>	<u>14001304</u>	<u>53140</u>	<u>CONTRACT SERVICES</u>	<u>\$2,699.50</u>
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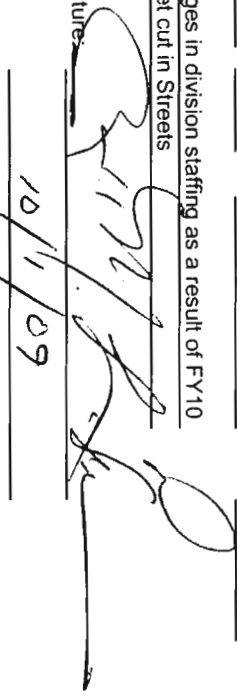
Reason: Surplus due to vacant position

Permanent repair work needed to granite curbing and sidewalk area on South Bolton St. and sidewalk and adjacent riprap area on Reservoir St.

<u>\$472,900</u>	<u>\$19,911.40</u>	<u>14001503</u>	<u>50740</u>	<u>EQUIPMENT OPERATOR</u>	<u>\$19,911.40</u>	<u>14001303</u>	<u>50740</u>	<u>EQUIPMENT OPERATOR</u>	<u>\$492,989.14</u>
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Reason: Surplus due to vacant position

Changes in division staffing as a result of FY10 budget cut in Streets

Department Head signature: 

Date: 10/1/09



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

51
Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

October 1, 2009

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

RE: MIIA Rewards

Honorable President Vigeant and Councilors:

I am pleased to report that for the fifth year, the City participated in the MIIA (Massachusetts Interlocal Insurance Association) rewards program during its July 1, 2008 to June 30, 2009 policy period. Coordinated by the City's Chief Procurement Officer, Beverly Sleeper, City officials and employees were asked to complete certain training activities intended to minimize the City's future insurance claims. In return, the City earns credits to reduce its insurance policy premiums. The policy credits detailed below would not have been possible without this teamed effort.

The City was awarded \$18,192.00 by the MIIA for participating in loss control trainings offered by MIIA and implementing key risk management procedures. This year, the City received additional participation credits for its longevity as a MIIA member for FY09 in the amount of \$16,751.00 and \$12,264.00 for FY10. This brings the City's total credit during this policy term to \$47,207.00. The City also participated in MIIA's Sanitary Sewer Overflow Program Grant and received \$6,201.00 in equipment for use by the Department Of Public Works, Water and Sewer Division.

The City began participating in the MIIA rewards program during its July 1, 2004 to June 30, 2005 policy period. In the first year of participation, the City was awarded \$9,257.00. In the second year of participation during its July 1, 2005 to June 30, 2006 policy period, the City was awarded \$11,632.00. In the third year of participation during its July 1, 2006 to June 30, 2007 policy period, the City was awarded \$14,090.00. In the fourth year of participation during its July 1, 2007 to June 30, 2008 the City was awarded \$16,014.00.

Participation in the program is voluntary; however, the City recognizes the opportunity to save money by taking steps to minimize claims and control insurance costs. The City will continue to participate in this cost-saving program.

I have been informed that during this policy period, the City is eligible to apply for MIIA Loss Control Training Grants in the amount of \$5,000.00. The City is also eligible to apply for MIIA's Sanitary Sewer Overflow Program Grant in the amount of \$10,000 during this policy period.

As always, please let me know if you have any questions.

Sincerely,

Handwritten signature of Nancy E. Stevens in cursive, with a small 'KH' mark at the end.

Nancy E. Stevens
Mayor

Cc: Personnel Director
Chief Procurement Officer



**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, August 25, 2009 at 10:05 a.m. in City Council Committee Room, City Hall. Members present: Chairman Police Chief Mark Leonard, Vice Chairman – DPW Commissioner Ronald LaFreniere, Fire Chief David Adams, City Clerk Lisa M. Thomas, City Planner Nancy Savoie. Also present: Timothy Collins, Engineering Division, City Councilors Edward Clancy and Steven Levy and Captain Tim Naze – MPD, Minutes taken by: Karen Lambert, MPD Records Clerk.

1- Minutes

That the minutes of the Traffic Commission meeting of Tuesday, July 28, 2009.

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

2-New Business

2a. Crosswalk in front of 200 Nickerson Rd.

A request was received to repaint the crosswalk at this location. Ron LaFreniere advised that if the crosswalk was “permitted” it could be repainted immediately. If not, this issue would have to be addressed first. Tim Collins advised that he went out and did a visual of the site. He explained that the location was initially developed as a private driveway and later became a public way – as per City Council Order #95-6355, dated 12-4-09. In his memo of 8/20/09, to the Traffic Commission, he further explained this site and the sidewalk/crosswalk/stop sign locations. He noted that when the location was changed to a public way the traffic regulations were never amended to include the four crosswalk locations and the stop conditions. It is his recommendation to amend the rules and regulations to reflect this.

MOTION was made, seconded, duly VOTED to REFER to the Chairman (Chief Leonard) to draw up the proper format for adding the crosswalks and stop conditions.
To APPROVE.

2b. Left Turn restriction from Brown St. onto Main St.

63

Tim Collins presented a memo to the Traffic Commission, dated 8/25/09, requesting changes to the intersection of Brown Street and Main Street. The memo explains the traffic flow in the area. Tim is requesting that 1) the "RIGHT TURN ONLY" on Brown Street be eliminated and the green arrow signal changed to a green ball and that 2) the "NO RIGHT TURN ON RED" restriction be expanded to include the intersection of Brown and Main St. Tim also showed two diagrams of the intersection - one indicating the proposed left turn from Brown Street onto East Main - and one indicating the current northbound option (right onto Main, left onto Ames, left onto Granger returning to the original signalized intersection).

Chief Leonard questioned the geometrics of the intersection. The left out of Brown Street causes an unusual turn pattern. We are all aware that not everyone stops at the "NO RIGHT TURN ON RED". If someone does a "rolling stop" or takes an illegal right on red out of East Main St. it could be very dangerous. The Chief also questioned the safety for emergency vehicles. Ron LaFreniere agreed with the Chief. He said that even if traffic stops at the "NO RIGHT TURN ON RED" they are often looking left and would potentially not see someone taking a left out of Brown Street. The inconvenience to the residents on Brown Street wanting to travel northbound on East Main does not outweigh the safety issues for the general public.

It was agreed that there should be a "NO RIGHT TURN ON RED" at Brown Street for consistency.

MOTION was made, seconded, duly VOTED to ACCEPT and PLACE ON FILE - the memo from Engineering (dated 8/25/09) to the Traffic Commission.

MOTION was made, seconded, duly VOTED to REFER to Chief Leonard to put together the regulations to enact the "NO RIGHT TURN ON RED" from Brown Street.

3-Old Business

3a. Long term oversized vehicle ordinance.

Councilor Levy was interested in an update on this issue. Chief Leonard advised that this issue initially came up because of neighborhood concerns regarding large campers, boats etc. parked in driveways. This progressed into a larger issue regarding commercial vehicles on public ways. Councilor Levy remembered that landscaping vehicles on public ways was an issue. Ron LaFreniere mentioned problems with commercial vehicles in driveways. Is it a commercial vehicle because of the license plate or wording on the outside of the vehicle? The Chief advised that the Commission had looked into ordinances in other communities but never really came to any conclusions. It was never really narrowed down as to what we were trying to regulate (public vs. private).

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

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

Chief Leonard does not see a school zone going in here. This issue will probably work itself out on its own.

MOTION was made, seconded, duly VOTED:
To TABLE until further information is available.

3e. Communication from Kenneth Almeida, re: Four way stop request – Porter Rd. @ Phippen Rd.

Chief Leonard reiterated that the Commission was going to wait until school is in session to obtain accurate traffic counts in this area. He also noted that there would be increased enforcement in the area at the start of school.

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

3f. Crosswalk @ Artist's Lofts on Lincoln Street.

The wording to amend the Rules and Regulations of the Traffic Commission was prepared by Chief Leonard and presented to the Commission.

MOTION was made, seconded, duly VOTED:
To APPROVE the new crosswalk location on Lincoln Street.

3g. Communication from Jim Joubert, re: Stop signs on Bigelow St.

Tim Collins advised that the traffic counts have started. Two intersections have been completed. Chief Leonard mentioned that Councilor Juairé wants to be kept informed on this issue. Any changes here would affect the residents in his council district. It may turn out that all the stop signs are justified, however, if any changes are to be made, the abutters would need to be notified and a public hearing would need to be held in the evening. There are arguments on both sides with regard to the four way stops. It would be a controversial issue that would need to be looked at in a public forum. Tim Collins advised that he did find some old counts and that they indicated a 30% drop in volume after the stop signs were put into place. It is possible that traffic would increase if the signs were removed. Chief Leonard indicated that the goal is not necessarily to slow traffic, and there are other factors that need to be considered. The Commission has been very strict with regard to requests for new stop signs. The location must meet the

warrants spelled out in the MUTCD (Manual on Uniform Traffic Control Devices). The only exception has been safety issues, i.e. with regard to traffic accidents).

MOTION was made, seconded, duly VOTED:

To TABLE until we have final traffic counts and an update from Engineering.

3h. Communication from Councilor Clancy, re: Request for hidden driveway sign at 369 Stevens St.

Tim Collins presented two photos that he had taken of this location. This roadway is currently under reconstruction. He said that the driveway is 150 feet from the crest of the hill. The houses on the street are set back about 30 feet, the speed is posted at 30 MPH and he noted that the school zone signs will be going up soon. There is actually a large tree that is part of the problem. It obstructs the view when backing out of the driveway. The resident was not asking that the tree be taken down. The request was for a warning that hidden driveways were ahead. It was brought up that the finish coat was going on today and that speeds would pick up. This is the roadway that people use to get into the back driveway of the high school.

Ron LaFreniere does agree that there are issues here but also noted that he doesn't know how much benefit a sign would be.

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

3i. Additional item brought up by Lisa Thomas – status of the Traffic Commission Rules and Regulations Manual.

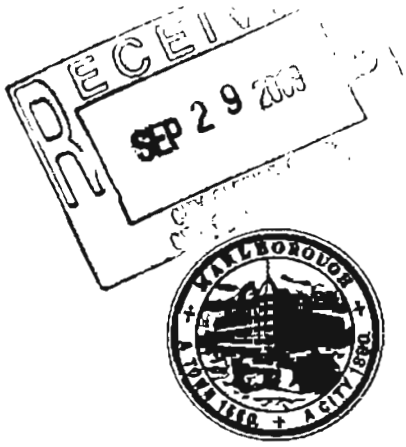
Lisa noted that she was working on updating this manual when she first came to work for the City. She took several different versions and began to merge them into one in a web accessible format. The project has become too much for her to continue and is getting more and more behind as new advertisements and amendments constantly need to be added. There are actually two issues to be addressed 1) the format 2) the content. It was discussed by the group and determined that the format should be completed first and then content would need to be addressed page by page. Ron indicated that the project would require an appropriation from the city. They would need to hire someone to get the document into the proper format. Lisa said that her office could keep the manual up to date once it is current.

MOTION was made, seconded, duly VOTED to REFER to Lisa Thomas (City Clerk's Office) to determine the time frame and cost to bring the manual up to date.

That there being no further business of the Traffic Commission held on this date, meeting adjourned at 11:15 a.m.

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

City of Marlborough
Commonwealth of Massachusetts



PLANNING BOARD

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

PLANNING BOARD MINUTES
September 14, 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, September 14, 2009 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Steven Kerrigan, Edward Coveney, Robert Hanson and Sean Fay. Also present: Assistant City Engineer Richard Baldelli.

MINUTES

Meeting Minutes August 17, 2009

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

To accept and file the Meeting Minutes of August 17, 2009.

CHAIRS BUSINESS

ANR Amended Language

Back in September of 2008, the Planning Board voted to amend the time table to allow 21 days to determine approval of an ANR plan. Mr. Kerrigan and the City Solicitor have recently agreed on the amended language and the Planning Board can start the next process of a public hearing.

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

To set a public hearing date of October 5, 2009 at 7:30 pm.

APPROVAL NOT REQUIRED PLAN

Toll Brothers
Crowley Drive-Submittal

Arthur Bergeron presented an ANR plan depicting the Assabet Ridge/Metropark property on Crowley Drive. In an agreement with Toll Brothers and the developer of Metropark, if Toll Brothers could not fulfill the private agreement, Toll Brothers would then return the land back to Metropark. This plan shows two lots, with Lot 1 being a total of 606,449 Sq ft (13.922 acres) and Lot 2 being a total of 762,768 Sq ft (17.511 Acres).

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

To accept and refer the proposed plan to the City Engineer for his review and recommendation at the next meeting on Monday, September 28, 2009.

Pleasant Street/Fitchburg Street Submittal

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

To table this matter until the end of the meeting.

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

To take this off the table.

Mr. Steen presented the ANR of Pleasant Street/Fitchburg Street to the Planning Board. This new ANR plan shows three lots consisting of Lot 1 (18,007 Sq ft), Lot 2 (18,038 Sq ft) and Lot 3 (24,094 Sq Ft). Mr. Fay posed the question about adequate access to all lots. Mr. Steen stated that there was enough access through "Old Fitchburg Street" and if necessary he would get a road opening through Massachusetts State Highway for access on Fitchburg Street.

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

To accept and refer the proposed plan to the City Engineer for his review and recommendation at the next meeting on Monday, September 28, 2009.

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

At this time Mr. Baldelli is still awaiting for further reports from the developers.

Forest Trail (Mosher Lane)

Mr. Baldelli stated that he is awaiting written confirmation from the fire and police chiefs regarding the completeness of the subdivision and waiver requests.

PENDING SUBDIVISION PLANS: Updates and Discussion

Marlborough Elms (Elm Street)

At this time there is still no response from the engineer or the developer.

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

To send a letter to the proponents that the extension of the definitive subdivision request will be expiring on October 4, 2009 unless further extension requests are requested.

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

Taylor, Event to take place at Ghiloni Park on September 27, 2009

Ms. Taylor is seeking relief from the Planning Board to place her banner for her event on September 27, 2009 for a fundraiser at Ghiloni Park. Through an email provided by her and through the Mayor's office she has provided some information including the size, location and the date of the event. The Planning Board will need a formal variance application if granted a variance. Mr. Kerrigan sighted the sign ordinance rule 163-6-A (2), which states "other public and non profit events, signs of any type advertising a charitable, religious, cultural, or educational event may be displayed in designated locations for a designated period of time with the approval of the Planning Board".

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

To **GRANT** a variance from the sign ordinance rule 163-6-A (2), "Other public and non profit events", with intent that the sign will only be placed the morning of September 27, 2009, removed promptly after event at the corner of Concord Road and Boston Post Road East and the wording of non-profit must be displayed on such banner.

INFORMAL DISCUSSION

Clover Hill, Thomas Dipersio

Mr. Dipersio presented to the Board a concept plan for an Limited Development Subdivision located at 187 Clover Hill Street. Mr. Dipersio showed the current layout, a conventional layout and the layout with the limited development subdivision. The conventional layout shows by right a 5 lot subdivision. The LDS layout shows 4 lots, two conventional parcels and two LDS parcels.

The Planning Board was a little concerned with the LDS layout. The two LDS layout lots were lot 3 of 67,567 Sq ft and lot 4 of 62,152 Sq ft. Lot 1 D consisted of 25,217 Sq Ft Lot 2 D consisted of 23,067 Sq ft conventional lots. Mr. Dipersio believes that this was possible with his understanding of the Limited Development Subdivision Rules and Regulations. It was asked by Mrs. Lizotte if it was possible to do an LDS subdivision then create two conventional lots within the LDS lots. The Planning Board stated that it is either a conventional subdivision or it is a LDS, it was never their intention to have both on the same plan.

Mr. Dipersio is going to speak with his client to see how they would like to proceed.

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

To adjourn at 8:15 p.m.

A TRUE COPY

ATTEST:



Steven Kerrigan, Clerk

74