

1. Minutes of the City Council Meeting, October 5, 2009.
2. PUBLIC HEARING: On the Petition from Atty. Bergeron, on behalf of 400 South St. LLC, 424 South St. LLC, and 428 South St. LLC, to request rezoning of Map 93, Parcels 18A, 19, 20, 22, 23, 32, 101 and 103 from Industrial (I) to Commercial and Automotive (CA).
3. 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.
4. PUBLIC HEARING: 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.
5. Communication from the Mayor re: Update on School ARRA Funds, Order No. 09-1002340.
6. Communication from the Mayor re: FY09 Closing Timetable.
7. Communication from the Mayor re: budget transfer requests in the amount of \$15,000.00 from Water Meter Reader to Overtime-Water and \$5,500.00 from Equipment Operator-Water to Overtime-Water for the purposes of covering anticipated shortfalls and to meet additional demands placed on the account following an employee's retirement.
8. Communication from the Mayor re: budget transfer request in the amount of \$100,000.00 from Stabilization to Water Meters which will fund approximately one year's worth of replacement meters and hand-held meter readers.
9. Communication from the Mayor re: Proposed Ordinances Pertinent to Marlborough's Storm Drain System.
10. Communication from the City Solicitor re: Proposed Acquisition of Utility Easement and Sidewalk Easement, Marlborough Savings Bank Site - 81 Granger Blvd., Order No. 09-1002152C.
11. Communication from the Assistant City Solicitor re: Order of Taking by Eminent Domain of Land at the Corner of Maple St. and Valley St. with Revised Plan.
12. Notice from the City Clerk re: 2009 Biennial Municipal Election Call.
13. 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 December 22, 2009 at 5:00 PM, Order No. 09-1002161C.
14. Communication from Steve Garofalo, Trustee SMC Realty Trust, re: Request for Road Acceptance - Blake Circle.
15. Application of Sylvia Jahns, for Junk Dealer's license.
16. CLAIMS:
 - A. Kathy Calderini, 150 Evelina Dr., residential mailbox claim
 - B. Central Realty Trust, 53 Central St., other property damage

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From City Council

17. **Order No. 08/09-1001787D** - 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 City Council is to table until October 26, 2009.**

18. **Order No. 09-1002277C - 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 City Council is to table until October 26, 2009.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
October 5, 2009**

Regular meeting of the City Council held on Monday, October 5, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juare, Seymour, Clancy and Landers. Meeting adjourned at 8:20 p.m.

ORDERED: That the minutes of the City Council Meeting SEPTEMBER 28, 2009, **FILE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Applicant request that the Special Permit be **WITHDRAWN WITHOUT PREJUDICE** prior to the **PUBLIC HEARING** on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for installation of a wireless communications facility located at 342 Lincoln St., **APPROVED**; adopted.

ORDERED: Now being the time set for the **PUBLIC HEARING** on the Proposed Zoning Ordinance Amendment, Chapter 650, regarding Narcotic Detoxification and Maintenance Facilities, all were heard who wish to be heard, hearing recessed at 8:07 p.m.; adopted.

ORDERED: That the following 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, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 61090001-50780 \$5,000.00
Chief PS Operator

TO:

Acct. # 61090003-51470 \$5,000.00
Interim Foreman

FROM:

Acct. # 61090006-52320 \$30,000.00
Water MWRA

TO:

Acct. # 61090006-52332 \$30,000.00
Water-Plant

FROM:

Acct. # 14001301-50690 \$9,500.00
Foreman

TO:

Acct. # 14001304-53140 \$9,500.00
Contract Services

FROM:

Acct. # 14001503-50740

\$19,911.40

Equipment Operator

TO:

Acct. # 14001303-50740

\$19,911.40

Equipment Operator

ORDERED: That the Communication from the Mayor pertinent to the City's 5th year of participation in the Massachusetts Interlocal Insurance Association rewards program from July 1, 2008 to June 30, 2009, **FILE**; adopted.

ORDERED; That the minutes, Traffic Commission, August 25 2009, **FILE**; adopted.

ORDERED: That the minutes, Planning Board, September 14, 2009, **FILE**; adopted.

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, refer to the **MAYOR**; adopted.

ORDERED: That the following budget transfer request in the amount of \$11,500.00 from Equipment Operator-Water to Temp. P.T. Help Water & Sewer and \$7,448.00 from Motor Equipment Repairman to Temp. P.T. Help Fleet Maintenance, **APPROVED**; adopted.

FROM:

Acct. # 61090001-50740

\$11,500.00

Equipment Operator-Water

TO:

Acct. # 61090003-51240

\$11,500.00

Temp. P.T. Help Water & Sewer

FROM:

Acct. # 14001403-50745

\$7,448.00

Motor Equipment Repairman

TO:

Acct. # 14001403-51240

\$7,448.00

Temp. P.T. Help Fleet Maintenance

Councilor Schafer requested to be recorded in opposition.

ORDERED: That the following budget transfer request in the amount of \$22,141.80 from Fringes to Sick Leave Buy Back associated with an employee's retirement, **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500

\$22,141.80

Fringes

TO:

Acct. # 60080003-51920

\$22,141.80

Sick Leave Buy Back

ORDERED:

Order For Appropriation

That the City Council of the City of Marlborough hereby appropriates the sum of \$5,000.00 from Legal Department account number 11510006-57600 for the purposes of acquiring a permanent municipal sewer easement from the Division of Capital Asset Management and Maintenance, acting on behalf of the Massachusetts Highway Department, for the purposes of installing, maintaining, replacing, removing, and using an existing underground municipal sewer line located across and under land of the Commonwealth on Pleasant Street, as described in the attached Grant Of Easement and as shown on the plan attached to said Grant as "Exhibit A," entitled "Sewer Easement Plan in Marlborough, MA," prepared for the City of Marlborough, City Hall, 140 Main Street, Marlborough, MA 01752, dated November 1, 2006, revised December 6, 2006, Scale: 1"=40', prepared by Bruce Saluk & Associates, Inc., 576 Boston Post Road, Marlborough, MA 01752, **APPROVED**; adopted.

ORDERED:

Order For Acquisition Of Easement

That the City of Marlborough purchase a permanent Grant of Easement, to be executed by the Mayor on behalf of the City, from the Division of Capital Asset Management and Maintenance, acting on behalf of the Massachusetts Highway Department, has granted a permanent easement to the City for the purposes of installing, maintaining, replacing, removing, and using an existing underground municipal sewer line located across and under land of the Commonwealth on Pleasant Street, as described in the attached Grant Of Easement and as shown on the plan attached to said Grant as "Exhibit A," entitled "Sewer Easement Plan in Marlborough, MA," prepared for the City of Marlborough, City Hall, 140 Main Street, Marlborough, MA 01752, dated November 1, 2006, revised December 6, 2006, Scale: 1"=40', prepared by Bruce Saluk & Associates, Inc., 576 Boston Post Road, Marlborough, MA 01752, which shall be recorded at the Middlesex South District Registry of Deeds, **APPROVED**; adopted.

Yea: 11 – Nay: 0

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

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

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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, **TABLED UNTIL OCTOBER 26, 2009**; adopted.

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 (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, **TABLED UNTIL OCTOBER 26, 2009**; 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, \$10.00 per half-hour (3-7 records search), \$20 per hour (8-12 records search), **APPROVED**; adopted.

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

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.

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- b. by amending the definition of “facility for the mentally retarded” by striking out in the first line thereof the words “Department of Mental Retardation” and inserting in place thereof the following words:-- Department of Developmental Services.
 - c. 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.”
 - d. by amending the definition of “mentally retarded person” by striking out in the third line thereof the words “Department of Mental Retardation” and inserting in place thereof the following words:-- Department of Developmental Services.
 - e. 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,”.
 - f. 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, **APPROVED**; adopted.

Councilor Schafer abstained

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:20 p.m.

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IN CITY COUNCIL

SEPTMBER 28, 2009

Marlborough, Mass., _____

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), be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002316A

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IN CITY COUNCIL

SEPTMBER 28, 2009

Marlborough, Mass., _____

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., be and is herewith refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002329



IN CITY COUNCIL

SEPTEMBER 28, 2009

Marlborough, Mass., _____

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, be and is herewith refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002330



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens 51
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

October 22, 2009

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

RE: Order Number 09-1002340 - Update on School ARRA Funds

Honorable President Vigeant and Councilors:

Attached please find a report submitted by Assistant Superintendent Jim Jolicoeur outlining the status of School Department ARRA funding.

Assistant Superintendent Jolicoeur and I will be available at the Council meeting on Monday October 26 to answer any questions you may have.

Sincerely,

Nancy E. Stevens
Mayor

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MARLBOROUGH PUBLIC SCHOOLS
OFFICE OF THE ASSISTANT SUPERINTENDENT

Marlborough District Education Center
17 Washington Street
Marlborough, MA 01752

James R. Jolicoeur, Assistant Superintendent
Phone: 508 460- 3554 Fax: 508 485-1142
E-mail: jjolicoeur@mps-edu.org

October 13, 2009

To: Mayor Nancy Stevens
From: Jim Jolicoeur
Subject: ARRA Funds

Below I have provided the essential information regarding the ARRA stimulus funds targeted for the Marlborough Public Schools. This should provide you with the information you need to address the City Council agenda item.

I have attached the reports I discussed at the School Committee meeting last evening. The reports are two page reports, primarily to provide the readers with the column headings on the first page and the detailed information for the Marlborough Public Schools on the second page. As indicated, the full reports are available from the Department of Elementary and Secondary Education website or I can provide complete hardcopy.

The first report is titled **FY 10 Chapter 70 and Net School Spending Requirement**. On page 2 on the detail line for Marlborough, the last column indicates the amount of money to be provided to Marlborough to reach its Foundation Budget for FY 2010. This amount (\$1,661,188) will not be received by the City as Chapter 70 receipts; rather it will be received by the school district in the form of a SFSF (stimulus funding) grant. The SFSF funds are federal stimulus funds that are being distributed by the Commonwealth of Massachusetts, via their education departments, to school districts. This money has to be requested through a grant application process. The school department is in the process of completing this grant application by the deadline of November 1, 2009.

The School Department worked with the City in a similar fashion in FY 2009, when the fourth quarter Chapter 70 payment to the school district was received via a grant rather than through the normal payment process. This money was accounted for by the school department and the City Auditor's office and the full amount (\$1,222,644) was returned to the City at the end of the fiscal year.

The second report titled **Allocation of ARRA Funds to Local School Districts** provides the detail the City Council is looking for. Again, the first page provides the column titles and page 2 provides the detail for Marlborough. This is a summary of all of the funds to be received by Marlborough.

- The first column is the FY 2009 4th quarter payment of Chapter 70 that has already been received and is accounted for (\$1,222,644).
- The fourth column is the foundation money we have to apply for by November 1 (\$1,661,188). As stated, this will be received via a grant and accounted for as in FY 2009 and will be returned to the City.

- Columns 2, 3, and 5 are ARRA funds that have been received as part of funding for specific student populations, as follows:

- \$636,501 – IDEA funds targeted for special education student programs,
- \$24,739 – IDEA funds targeted to special education for the Pre-K student population, and
- \$213,147 – Title I funds targeted towards the Title I student population.

When Councilor Levy raised the issue regarding the stimulus funds during the FY 2010 budget process, a meeting was held with all stakeholders in regard to these funds and how they would be accounted for. The process of returning the Chapter 70 – oriented funds to the City was agreed to and it was also agreed that the ARRA funds directed towards specific student populations would be expended specifically on these populations, as required by federal law, and could not be returned to the City.

If you need further information prior to the next City Council meeting, please contact me.

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Massachusetts Department of Elementary and Secondary Education
Office of School Finance

29-Jun-09

FY10 Chapter 70 And Net School Spending Requirement

LEA	District	foundation enrollment	foundation budget	required contribution	chapter 70 aid	required net school spending	SFSF grant to reach foundation *
1	ABINGTON	2,261	19,474,319	12,084,604	7,652,405	19,737,009	0
2	ACTON	2,380	19,717,634	14,236,925	5,123,578	19,360,503	357,131
3	ACUSHNET	1,312	11,223,342	5,326,164	6,380,293	11,706,457	0
4	ADAMS	1	12,307	3,310	8,958	12,268	39
5	AGAWAM	4,327	38,739,894	21,200,429	16,156,816	37,357,245	1,382,649
6	ALFORD	0	0	0	0	0	0
7	AMESBURY	2,411	21,190,912	13,555,005	8,897,607	22,452,612	0
8	AMHERST	1,405	12,789,869	8,287,309	6,141,373	14,428,682	0
9	ANDOVER	5,994	52,920,928	46,055,668	7,318,616	53,374,284	0
10	ARLINGTON	4,570	40,248,798	33,205,258	6,104,708	39,309,966	938,832
11	ASHBURNHAM	0	0	0	0	0	0
12	ASHBY	0	0	0	0	0	0
13	ASHFIELD	12	171,297	113,319	97,305	210,624	0
14	ASHLAND	2,504	21,943,205	17,161,770	4,502,102	21,663,872	279,333
15	ATHOL	0	0	0	0	0	0
16	ATTLEBORO	6,093	58,918,761	28,533,080	29,646,276	58,179,356	739,405
17	AUBURN	2,351	20,439,500	14,187,753	5,691,647	19,879,400	560,100
18	AVON	549	5,079,185	4,655,392	862,748	5,518,140	0
19	AYER	1,052	10,086,780	6,445,455	4,168,122	10,613,577	0
20	BARNSTABLE	5,583	50,897,965	45,599,938	7,589,756	53,189,694	0
21	BARRE	5	61,533	22,041	17,501	39,542	21,991
22	BECKET	7	86,146	68,508	79,753	148,261	0
23	BEDFORD	2,506	22,837,847	20,263,035	2,964,642	23,227,677	0
24	BELCHERTOWN	2,720	23,575,322	9,788,345	12,900,818	22,689,163	886,159
25	BELLINGHAM	2,548	22,336,539	13,855,656	8,389,773	22,245,429	91,110
26	BELMONT	3,856	33,630,844	27,745,446	4,511,739	32,257,185	1,373,659
27	BERKLEY	1,078	9,064,947	3,849,845	5,426,422	9,276,267	0
28	BERLIN	213	1,739,192	1,464,517	528,296	1,992,813	0
29	BERNARDSTON	2	24,613	12,834	0	12,834	11,779
30	BEVERLY	4,220	39,194,006	34,064,888	7,109,675	41,174,563	0
31	BILLERICA	6,091	52,105,541	33,750,443	17,116,639	50,867,082	1,238,459
32	BLACKSTONE	15	208,217	92,534	124,797	217,331	0
33	BLANDFORD	6	73,839	45,404	44,506	89,910	0
34	BOLTON	0	0	0	5,654	5,654	0

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Massachusetts Department of Elementary and Secondary Education
Office of School Finance

FY10 Chapter 70 And Net School Spending Requirement

LEA	District	foundation enrollment	foundation budget	required contribution	chapter 70 aid	required net school spending	SFSF grant to reach foundation*
140	HUBBARDSTON	1	12,307	4,308	8,415	12,723	0
141	HUDSON	2,770	25,532,072	16,165,733	8,247,011	24,412,744	1,119,328
142	HULL	1,284	11,794,688	9,783,137	3,814,006	13,597,143	0
143	HUNTINGTON	29	380,509	174,361	214,502	388,863	0
144	IPSWICH	1,929	16,957,085	14,253,296	2,499,977	16,753,273	203,812
145	KINGSTON	1,210	10,163,781	6,164,282	3,812,342	9,976,624	187,157
146	LAKEVILLE	685	5,602,858	3,253,249	2,389,045	5,642,294	0
147	LANCASTER	0	0	0	0	0	0
148	LANESBOROUGH	250	2,211,538	1,508,600	844,664	2,353,264	0
149	LAWRENCE	13,141	146,793,573	5,813,067	133,334,130	139,147,197	7,646,376
150	LEE	749	6,993,248	5,210,177	2,026,303	7,236,480	0
151	LEICESTER	1,823	16,403,919	7,103,381	9,713,210	16,816,591	0
152	LENOX	664	5,746,214	5,564,115	1,194,985	6,759,100	0
153	LEOMINSTER	6,344	63,052,402	21,186,482	39,667,839	60,854,321	2,198,081
154	LEVERETT	120	1,038,637	875,032	282,057	1,157,089	0
155	LEXINGTON	6,096	55,137,317	49,717,650	7,449,035	57,166,685	0
156	LEYDEN	0	0	0	0	0	0
157	LINCOLN	682	5,820,339	5,207,737	759,016	5,966,753	0
158	LITTLETON	1,645	14,231,659	10,530,521	2,957,052	13,487,573	744,086
159	LONGMEADOW	3,022	25,548,586	21,378,942	4,340,920	25,719,862	0
160	LOWELL	14,277	154,968,735	33,789,587	117,484,100	151,273,687	3,695,048
161	LUDLOW	2,998	27,121,644	13,598,080	12,434,935	26,033,015	1,088,629
162	LUNENBURG	1,622	13,799,998	9,022,501	4,528,374	13,550,875	249,123
163	LYNN	13,795	155,276,011	38,113,716	115,255,564	153,369,280	1,906,731
164	LYNNFIELD	2,262	19,408,008	16,010,874	4,013,888	20,024,762	0
165	MALDEN	6,883	70,256,110	28,341,018	40,412,820	68,753,838	1,502,272
166	MANCHESTER	0	0	0	0	0	0
167	MANSCFIELD	4,862	43,173,221	24,399,237	16,918,143	41,317,380	1,855,841
168	MARBLEHEAD	3,216	27,241,690	22,473,658	4,805,402	27,279,060	0
169	MARION	401	3,266,374	3,033,215	456,004	3,489,219	0
170	MARLBOROUGH	4,653	46,013,474	32,958,768	11,393,518	44,352,286	1,661,188
171	MARSHFIELD	4,577	40,253,568	26,887,757	14,331,875	41,219,632	0
172	MASHPEE	1,857	16,283,467	14,193,190	4,437,308	18,630,498	0
173	MATTAPOISETT	479	3,955,928	3,490,891	556,663	4,047,554	0
174	MAYNARD	1,335	12,185,553	8,524,586	3,197,900	11,722,486	463,067

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MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

ALLOCATION OF ARRA FUNDS TO LOCAL SCHOOL DISTRICTS

LEA	District_name	FY09 State			FY10 State			ARRA National			Total District -- Federal ARRA Funds
		Fiscal Stabilization	School-age IDEA	Pre-K IDEA	Fiscal Stabilization	Title I	School Lunch	Equipment Grant			
0001 Abington		\$821,183	\$304,916	\$11,860	\$0	\$0	\$0	\$0	\$1,137,960		
0002 Acton		\$549,814	\$286,963	\$11,167	\$357,131	\$0	\$0	\$0	\$1,205,075		
0003 Acushnet		\$684,672	\$154,579	\$6,012	\$0	\$33,363	\$0	\$0	\$878,625		
0004 Adams (Non-Op)		\$0	\$0	\$0	\$39	\$0	\$0	\$0	\$39		
0005 Agawam		\$1,733,796	\$543,299	\$21,126	\$1,382,649	\$182,559	\$0	\$0	\$3,863,429		
0006 Alford (Non-Op)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
0007 Amesbury		\$954,806	\$310,794	\$12,086	\$0	\$91,246	\$0	\$0	\$1,368,932		
0008 Amherst		\$659,034	\$202,537	\$7,872	\$0	\$60,353	\$0	\$0	\$929,797		
0009 Andover		\$785,364	\$944,367	\$36,746	\$0	\$0	\$0	\$0	\$1,766,477		
0010 Arlington		\$655,099	\$721,268	\$28,059	\$938,832	\$0	\$0	\$0	\$2,343,258		
0011 Ashburnham (Non-Op)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
0012 Ashby (Non-Op)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
0013 Ashfield (Non-op)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
0014 Ashland		\$483,123	\$326,928	\$12,719	\$279,333	\$0	\$0	\$0	\$1,102,102		
0015 Athol (Non-Op)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
0016 Attleboro		\$3,181,356	\$961,961	\$37,402	\$739,405	\$273,579	\$0	\$0	\$5,193,703		
0017 Auburn		\$610,773	\$284,018	\$11,046	\$560,100	\$61,811	\$0	\$0	\$1,527,749		
0018 Avon		\$92,582	\$96,458	\$3,750	\$0	\$30,328	\$0	\$0	\$223,118		
0019 Ayer		\$447,283	\$154,600	\$6,010	\$0	\$40,495	\$0	\$0	\$648,388		
0020 Barnstable		\$814,460	\$673,878	\$26,197	\$0	\$291,576	\$0	\$0	\$1,806,111		
0021 Barre (Non-Op)		\$0	\$0	\$0	\$21,991	\$0	\$0	\$0	\$21,991		
0022 Beckett (Non-op)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
0023 Bedford		\$318,137	\$289,277	\$11,254	\$0	\$0	\$0	\$0	\$618,669		
0024 Belcherown		\$1,384,393	\$320,143	\$12,452	\$886,159	\$60,664	\$0	\$0	\$2,663,811		
0025 Bellingham		\$900,310	\$326,352	\$12,692	\$91,110	\$0	\$0	\$0	\$1,330,464		
0026 Belmont		\$484,157	\$527,219	\$20,513	\$1,373,659	\$0	\$0	\$0	\$2,405,548		
0027 Berkley		\$582,312	\$110,864	\$4,313	\$0	\$17,651	\$0	\$0	\$715,140		
0028 Berlin		\$56,692	\$26,991	\$1,050	\$0	\$0	\$0	\$0	\$84,733		
0029 Bernardston (Non-Op)		\$0	\$0	\$0	\$11,779	\$0	\$0	\$0	\$11,779		

0141 Hudson	\$884,991	\$401,417	\$15,611	\$1,119,328	\$63,556	\$0	\$2,484,903
0142 Hull	\$409,283	\$158,609	\$6,166	\$0	\$60,688	\$0	\$634,745
0143 Huntington (Non-op)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0144 Ipswich	\$268,274	\$245,543	\$9,552	\$203,812	\$76,869	\$0	\$804,051
0145 Kingston	\$409,104	\$196,411	\$7,641	\$187,157	\$33,363	\$0	\$833,676
0146 Lakeville	\$256,370	\$95,413	\$3,712	\$0	\$0	\$0	\$355,495
0147 Lancaster (Non-op)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0148 Lancasterborough	\$90,641	\$33,707	\$1,311	\$0	\$6,373	\$0	\$132,031
0149 Lawrence	\$14,308,148	\$2,416,857	\$93,807	\$7,646,376	\$3,193,956	\$48,480	\$27,707,624
0150 Lee	\$217,444	\$126,956	\$4,935	\$0	\$23,616	\$0	\$372,951
0151 Leicester	\$1,042,329	\$234,975	\$9,137	\$0	\$61,811	\$0	\$1,348,252
0152 Lenox	\$128,234	\$105,710	\$4,112	\$0	\$34,862	\$0	\$272,918
0153 Leominster	\$4,256,774	\$910,065	\$35,365	\$2,198,081	\$336,266	\$0	\$7,736,551
0154 Leverett	\$30,268	\$19,787	\$769	\$0	\$0	\$0	\$50,824
0155 Lexington	\$799,359	\$818,090	\$31,832	\$0	\$0	\$0	\$1,649,282
0156 Leyden (Non-op)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0157 Lincoln	\$81,450	\$134,318	\$5,224	\$0	\$0	\$0	\$220,992
0158 Littleton	\$317,323	\$215,019	\$8,368	\$744,086	\$0	\$0	\$1,284,796
0159 Longmeadow	\$465,826	\$402,516	\$15,662	\$0	\$0	\$0	\$884,004
0160 Lowell	\$12,607,274	\$2,442,821	\$94,864	\$3,695,048	\$1,781,596	\$0	\$20,621,603
0161 Ludlow	\$1,334,399	\$423,097	\$16,451	\$1,088,629	\$128,190	\$0	\$2,990,765
0162 Lunenburg	\$485,942	\$216,906	\$8,439	\$249,123	\$49,781	\$0	\$1,010,192
0163 Lynn	\$12,368,129	\$2,388,947	\$92,740	\$1,906,731	\$2,681,010	\$0	\$19,437,558
0164 Lynnfield	\$430,732	\$319,861	\$12,446	\$0	\$0	\$0	\$763,040
0165 Malden	\$4,336,719	\$1,064,272	\$41,342	\$1,502,272	\$542,390	\$0	\$7,486,995
0166 Manchester (Non-op)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0167 Mansfield	\$1,815,494	\$613,856	\$23,881	\$1,855,841	\$0	\$0	\$4,309,072
0168 Marblehead	\$515,670	\$425,433	\$16,552	\$0	\$76,515	\$0	\$1,034,170
0169 Marion	\$48,934	\$50,114	\$1,950	\$0	\$13,120	\$0	\$114,118
0170 Marlborough	\$1,222,644	\$636,501	\$24,739	\$1,661,188	\$213,147	\$0	\$3,758,219
0171 Marshfield	\$1,537,960	\$556,454	\$21,646	\$0	\$94,816	\$0	\$2,210,875
0172 Mashpee	\$476,170	\$223,443	\$8,689	\$0	\$60,798	\$0	\$769,100
0173 Mattapoisett	\$59,736	\$60,039	\$2,336	\$0	\$0	\$0	\$122,111
0174 Maynard	\$343,168	\$168,914	\$6,570	\$463,067	\$33,254	\$0	\$1,014,973
0175 Medfield	\$637,107	\$336,458	\$13,093	\$0	\$0	\$0	\$986,658
0176 Medford	\$1,228,458	\$821,987	\$31,956	\$0	\$241,788	\$0	\$2,324,189
0177 Medway	\$370,037	\$314,944	\$12,254	\$1,410,689	\$0	\$0	\$2,107,925



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens 61
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

October 21, 2009

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

RE: FY09 Closing Timetable

Honorable President Vigeant and Councilors:

City Auditor Diane Smith has communicated that the reporting requirements for the certification of free cash are complete and submitted. Approval takes approximately one to two weeks.

Additionally, the City Auditor has completed and submitted the FY2009 City Financial Schedule A report.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure



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CITY OF MARLBOROUGH
Office of the City Auditor
140 Main St.
Marlborough, MA 01752
508.460.3774

MEMORANDUM

TO: Mayor Nancy E. Stevens
FROM: Diane Smith, City Auditor
DATE: October 21, 2009
RE: FY09 End of Year Close Timeline Update

All reporting for the certification of free cash has been delivered to the Department of Local Services. Approval typically takes 1 - 2 weeks after submission.

The FY2009 Schedule A is complete and will be submitted today.

If you have any questions please feel free to contact me directly.

Cc: Thomas Abel, Comptroller/Treasurer



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Office of the Mayor

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Nancy E. Stevens
MAYOR

Krista J. Admi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

October 22, 2009

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

Honorable President Vigeant and Councilors:

I am submitting herewith two transfer requests funding DPW overtime accounts. These funds are necessary to cover anticipated shortfalls and to meet additional demand placed on the account following an employee retirement.

Transfer in the amount of \$15,000.00 from account number 61090001-50460 (Water Meter Reader) to account number 61090003-51310 (Overtime-Water).

Transfer in the amount of \$5,500.00 from account number 61090001-50740 (Equipment Operator-Water) to account number 61090003-51310 (Overtime-Water).

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

Sincerely,

Nancy E. Stevens
Mayor

Attachment

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CITY OF MARLBOROUGH
--BUDGET TRANSFERS --

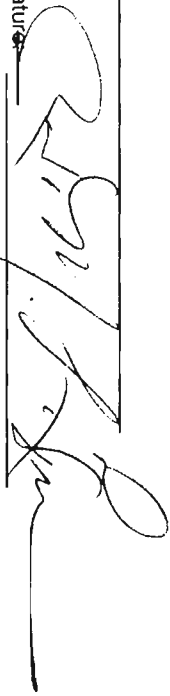
DEPT: PUBLIC WORKS FISCAL YEAR: 2010

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$49,516.00	\$15,000.00	61090001	50460	Water Meter Reader	\$15,000.00	61090003	51310	Overtime (Water)	\$61,103.80
				Reason: Monies available due to long-term workman's Comp. injury.				Reason: Monies needed to cover underfunded budget and additional demand placed on account caused by retirement.	
\$406,339.01	\$5,500.00	61090001	50740	Equipment Operator (Water)	\$5,500.00	61090003	51310	Overtime (Water)	\$61,103.80
				Reason: Monies available due to long-term workman's Comp. injury.				Reason: Monies needed to cover underfunded budget and additional demand placed on account caused by retirement.	
				Reason: _____				Reason: _____	
				Reason: _____				Reason: _____	
				Reason: _____				Reason: _____	

Department Head signature



Date: 10/22/09



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Office of the Mayor

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Nancy E. Stevens
MAYOR

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October 22, 2009

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

Honorable President Vigeant and Councilors:

I am submitting herewith a transfer request in the amount of \$100,000.00 from account number 836000-11515 (Stabilization) to Account No. 61090006-55740 (Water Meters). While the City aggressively pursued grant opportunities to help fund this necessary expenditure, we were not able to secure alternate funding.

This transfer request will fund approximately one year's worth of replacement meters and hand-held meter readers.

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

Sincerely,

Nancy E. Stevens
Mayor

Attachment

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TRANSFER REQUEST

DPW Water Department

		FROM ACCOUNT			TO ACCOUNT		
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 7,311,244.00	\$ 100,000.00	836000	11515 Stabilization	\$ 100,000.00	61090006	55740 Water Meters	\$ 50.00

Reason: To fund the cost associated with the purchase of water meters and hand held readers.



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MAYOR

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October 22, 2009

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

RE: Proposed Ordinances Pertaining to Marlborough's Storm Drain System

Honorable President Vigeant and Councilors:

Urban stormwater runoff has long been identified as a primary cause of water quality degradation throughout the United States. As you know, street drains typically drain stormwater directly into the nearest surface waters such as wetlands, streams or reservoirs, with that stormwater conveying any and all pollutants in its way. In New England, such stormwater runoff causes approximately 70% of the pollution found in surface water.

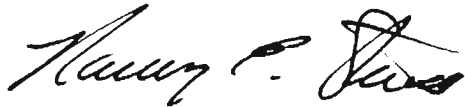
To combat this problem of water quality degradation, the U.S. Environmental Protection Agency (EPA) is requiring that municipalities take steps to limit and control the conveyance of pollutants, including soils and hazardous materials, from street drains into the waters of the U.S. Those federal requirements are set forth in permits issued to municipalities such as Marlborough via Phase II of the EPA's National Pollution Discharge Elimination System (NPDES). Having issued a Phase II NPDES permit to Marlborough, the EPA is requiring that the city enact legislation that will protect the city's storm drain system and, in turn, the city's water quality.

Accordingly, I propose to you tonight two new ordinances pertaining to the municipal storm drain system. The first, entitled "Stormwater Management," proposes a permitting process to control pollution emanating from or associated with construction-related activities as they come on-line in the future. The second, entitled "Detection and Elimination of Illicit Discharge to Municipal Storm Drain System," looks to address illicit discharges, connections and obstructions that already exist, or that may come to exist, in the city's storm drain system. Moreover, since both proposed ordinances would allow for non-criminal dispositions of violations, an amendment to Chapter 315 of the City Code is also enclosed. All of these proposed ordinances are the result of the combined efforts of Tom Cullen, Ron LaFreniere, Nancy Savoie, Priscilla Ryder and Don Rider over the past few months.

I respectfully ask that the Council look to advertise and schedule a public hearing as soon as possible, so that the proposed ordinances, if they meet with your approval, can be enacted this calendar year. I am confident that the proposed ordinances will provide the city with the tools needed to enable better enforcement and protection of the municipal storm drain system, thus improving the overall health of the city's wetlands, streams and reservoirs.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy E. Stevens". The signature is fluid and cursive, with a large initial "N" and a stylized "S".

Nancy E. Stevens
Mayor

Enclosures

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 A NEW CHAPTER 271, ENTITLED "STORMWATER MANAGEMENT," AS FOLLOWS:

CHAPTER 271. STORMWATER MANAGEMENT

A. Purpose

- 1. This ordinance complies with the requirements of Phase II of the National Pollutant Discharge Elimination System (NPDES) stormwater program promulgated on December 8, 1999 (and as may be subsequently amended) under the Federal Clean Water Act (CWA). Under the Phase II stormwater program, the U.S. Environmental Protection Agency (EPA) requires regulated municipalities to reduce the discharge of pollutants in stormwater to the maximum extent practicable and to adopt ordinances to address the control of sources of pollutants entering the municipal storm drain system.
- 2. Regulation of discharges to the municipal storm drain system is necessary for the protection of Marlborough's water bodies, drinking water and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.
- 3. This ordinance establishes stormwater management standards for the temporary and final conditions that result from development and redevelopment projects. Those standards seek to minimize adverse impacts offsite and downstream which would be born by abutters, citizens and the general public. The harmful impacts of increased and contaminated stormwater runoff associated with developed land uses and the impacts of soil erosion and sedimentation include without limitation:
 - a. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - b. contamination of drinking water supplies;
 - c. alteration or destruction of aquatic and wildlife habitat;
 - d. flooding;

- e. erosion of stream channels; and
- f. overloading or clogging of municipal catch basins and storm drainage systems.

B. Objectives

1. Protect groundwater and surface water to prevent degradation of drinking water supply and waterways;
2. Require practices that minimize soil erosion and sedimentation and that control the volume and rate of stormwater runoff resulting from land-disturbing activities;
3. Maintain the natural hydrologic characteristics of the land to the maximum extent practicable as determined by the City Engineer, in order both to reduce flooding, stream bank erosion, siltation, non-point source pollution and property damage, as well as to maintain the integrity of stream channels and aquatic habitats;
4. Promote the infiltration and the recharge of groundwater;
5. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
6. Require practices to control waste at a construction site, such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste, that may cause adverse impacts to water quality;
7. Prevent pollutants from entering the Marlborough municipal storm drainage system and to minimize discharge of pollutants from that drainage system;
8. Ensure adequate long-term operation and maintenance of structural stormwater best management practices so that stormwater structures work as designed;
9. Comply with state and federal statutes and regulations relating to stormwater discharges;
10. Establish Marlborough’s legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement; and
11. Encourage the use of environmentally sensitive design and low impact development techniques.

C. Definitions

The following definitions shall apply in the interpretation and enforcement of this

ordinance:

CLEARING: Any activity that removes the vegetative surface cover.

DEVELOPMENT: The modification of land to accommodate a new use, revised use, or expansion of use, usually involving construction.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the existing soil cover which includes the position or location of soil, sand, rock, gravel, or similar earth material. Land-disturbing activities include, but are not limited to, clearing, clearing of trees, grading, filling and excavation.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Commonwealth of Massachusetts Department of Environmental Protection, as amended from time to time, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131, § 40 and Massachusetts Clean Waters Act MGL c. 21, §§ 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

MASSACHUSETTS STORMWATER HANDBOOKS: The Massachusetts Stormwater Handbooks (“Handbooks”) that were produced by MassDEP and the Massachusetts Office of Coastal Zone Management are to be used as guidance for controlling stormwater. The Handbooks, all published in February 2008 and as amended from time to time, consist of three volumes: Volume 1: Overview of Massachusetts Stormwater Standards; Volume 2: Technical Guide for Compliance with the Massachusetts Stormwater Management Standards; and Volume 3: Documenting Compliance with the Massachusetts Stormwater Management Standards.

MUNICIPAL STORM DRAIN SYSTEM: The municipal storm drain system is a conveyance or a system of conveyances designed or used for collecting or conveying stormwater, which is not a combined sewer, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SOIL: Any earth, sand, rock, gravel, clay or similar material.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT: A permit issued by the City Engineer, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment or the City from the deleterious affects of uncontrolled and untreated stormwater runoff.

Additional terms that apply to issuance of a Stormwater Management Permit established by this ordinance shall be defined and included as part of the rules and regulations promulgated and, from time to time, amended under Section H.2 of this ordinance, a copy of which is available at the Engineering Division of the Marlborough Department of Public Works and at the office of the City Clerk. Terms not defined in said rules and regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

D. Authority

This ordinance is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

E. Applicability

This ordinance shall be applicable to the following activities. Compliance with all provisions of this ordinance, to the maximum extent practicable as determined by the City Engineer, shall be a requirement for issuance of a Stormwater Management Permit.

1. All subdivisions as defined in the Massachusetts Subdivision Control Law (MGL c. 41, §§ 81K – 81 GG) requiring approval of a definitive subdivision plan;
2. “Minor Residential Projects” and “Nonresidential and Major Residential Projects,” as defined in the Building and Site Development Ordinance (Chapter 270, Article II § 270-2), when a construction activity results in a land disturbing activity that will disturb equal to or greater than 5,000 ft² of land that drains to the Marlborough municipal storm drain system, onto an adjacent property, into a municipal/private street, or into a wetland/stream;

- 3. Land-disturbing activity a) which is equal to or greater than 5,000 ft² occurring, at least in part, within the City of Marlborough, b) which in the sole opinion of the City Engineer has caused or will cause stormwater-related problems within the City, and c) which does not otherwise require a permit or approval from the City.

F. Exemptions

- 1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL c. 40A, § 3;
- 2. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
- 3. Repair or replacement of an existing roof of a single-family dwelling;
- 4. The construction of any fence that will not alter existing terrain or drainage patterns;
- 5. Construction and/or maintenance of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;
- 6. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the City Engineer; and
- 7. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this ordinance. (This exemption does not apply to amendments or extensions of approved projects that have not started construction. In these cases, the applicant may need to re-design the project to comply with these requirements.)

G. Coordination with Other City Permits

- 1. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.
- 2. No order of conditions from the Marlborough Conservation Commission, building permit, special permit, variance or finding shall constitute

compliance with this ordinance. For a project or activity to which this ordinance is applicable, no work may commence until the developer submits to the City Engineer the required documentation of compliance, the City Engineer issues a Stormwater Management Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved plans and Stormwater Management Permit.

- 3. If a project or activity to which this ordinance is applicable falls within the specific jurisdiction of the Planning Board for definitive subdivision review and/or the specific jurisdiction of the Site Plan Review Committee, then the Stormwater Management Permit review and approval process may, but need not, occur in conjunction with the definitive subdivision plan review process and/or the Site Plan Review Committee approval process. The application submission requirements, public notices, and fee requirements of the above processes shall govern. Notwithstanding these requirements, such projects or activities are subject to the provisions of this ordinance. Documentation of compliance with this ordinance, as described in Section J herein, shall accompany each application for definitive subdivision approval by the Planning Board and for approval by the Site Plan Review Committee. Applicants under this ordinance should refer to the Subdivision Regulations (Chapter A676, Article III, § A676-10) for definitive plan application and submission requirements, and to Site Plan Review and Approval (Chapter 270, Article II § 270-2) for site plan application and submission requirements.

No work may commence without prior written approval of the City Engineer, confirming that the project or activity is in compliance with the Stormwater Standards and Design Guidance in Section I herein.

- a. The City Engineer’s sign-off on the Site Plan Review Permit shall constitute approval of the Stormwater Management Permit.
- b. Before a definitive subdivision plan is approved, the City Engineer will document, in his written statement to the Planning Board, actions taken regarding the Stormwater Management Permit.
- c. The City Engineer shall state in writing reasons for disapproval or recommended modifications to the plan and shall rescind such disapproval if and when the plan has been amended to conform to the rules, regulations, and recommendations of the City Engineer.

H. Administration

- 1. Stormwater Authority. The City Engineer is hereby designated as the Stormwater Authority. The City Engineer, or his/her agent, shall administer, implement and enforce this ordinance. The City Engineer may delegate in writing another City department, commission or board to act as

his/her authorized agent for site inspections and enforcement of this ordinance.

- 2. Stormwater Regulations. The City Engineer may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, procedures and administration of this ordinance after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the City Engineer may promulgate rules and regulations to effectuate the purposes of this ordinance. Failure of the City Engineer to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this ordinance.
- 3. Stormwater Management Handbooks. The City Engineer will utilize the Massachusetts Stormwater Management Policy and Massachusetts Stormwater Handbooks Volumes 1, 2 and 3, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this ordinance. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically made more stringent in this ordinance and the rules and regulations promulgated hereunder, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Handbooks' design and sizing criteria shall be presumed by the City Engineer to be protective of Massachusetts water quality standards.
- 4. Actions by the Stormwater Authority. The City Engineer may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of the rules and regulations promulgated as part of this ordinance: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- 5. Appeal of Action by the Stormwater Authority. An action by the City Engineer, acting in his or her capacity as the Stormwater Authority, shall be final. Further relief of an action by the City Engineer made under this ordinance shall be reviewable in the Superior Court in a complaint filed within 60 days thereof, in accordance with MGL c. 249, § 4.

I. Stormwater Standards and Design Guidance

All projects shall meet the Massachusetts Stormwater Management Standards to the maximum extent practicable, as detailed in the Massachusetts Stormwater Handbook, as amended from time to time. Additional guidance on applying the Massachusetts Stormwater Management Standards to applicable

projects is contained in the City of Marlborough rules and regulations for stormwater.

J. Permit Procedures and Documentation of Compliance

- 1. Permit procedures and requirements, including permit submittals, right-of-entry, and the public hearing process, shall be defined and included as part of the rules and regulations promulgated under Section H.2 of this ordinance.
- 2. All projects shall document compliance with the Stormwater Standards and Design Guidance criteria contained in this Ordinance in accordance with the Massachusetts Stormwater Handbook, as amended from time to time. Submittal requirements are further specified in the City of Marlborough Rules and Regulations for Stormwater.

K. Enforcement

- 1. The City Engineer or his/her authorized agent shall enforce this ordinance and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the City Engineer.
- 2. As an alternative to criminal prosecution or civil action, the City Engineer may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D and Chapter 315-2 of the Marlborough City Code. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the City Engineer's agents, officers, and designees may enter upon privately owned property for the purpose of performing their duties under this ordinance and may make or cause to be made such examinations, surveys or sampling as the City Engineer deems reasonably necessary to determine compliance with a permit issued under this ordinance. Enforcement shall be further defined and included as part of the rules and regulations promulgated under Section H.2 of this ordinance.

L. Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

9/11

M. Effective Date

This ordinance 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:

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 A NEW CHAPTER 511, ENTITLED "DETECTION AND ELIMINATION OF ILLICIT DISCHARGE TO MUNICIPAL STORM DRAIN SYSTEM," AS FOLLOWS:

CHAPTER 511. DETECTION AND ELIMINATION OF ILLICIT DISCHARGE TO MUNICIPAL STORM DRAIN SYSTEM

A. Purpose

1. This ordinance complies with the requirements of Phase II of the National Pollutant Discharge Elimination System (NPDES) stormwater program promulgated on December 8, 1999 (and as may be subsequently amended) under the Federal Clean Water Act (CWA). Under the Phase II stormwater program, the U.S. Environmental Protection Agency (EPA) requires regulated municipalities to reduce the discharge of pollutants in stormwater to the maximum extent practicable and to adopt ordinances to address the control of sources of pollutants entering the municipal storm drain system.
2. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
3. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the City of Marlborough's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

B. Objectives

The objectives of this ordinance are:

1. to prevent pollutants from entering the City of Marlborough's municipal storm drain system;
2. to prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
3. to require the removal of all such illicit connections;

- 4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
- 5. to establish the legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement.

C. Definitions

The following definitions shall apply in the interpretation and enforcement of this ordinance:

- 1. ENFORCEMENT AUTHORITY: The City Engineer shall be authorized to enforce this ordinance.
- 2. CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), as amended.
- 3. DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.
- 4. GROUNDWATER: Water beneath the surface of the ground.
- 5. ILLICIT CONNECTION: A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this ordinance.
- 6. ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section I herein. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section I, subsection 1, of this ordinance.
- 7. MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Marlborough.
- 8. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States

Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

9. NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.
10. PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
11. POLLUTANT: Any element or property of sewage, and any residential, municipal, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any storm drainage system or waters of the Commonwealth. Pollutants shall include, without limitation:
 - a. paints, varnishes, and solvents;
 - b. oil and other automotive fluids;
 - c. non-hazardous liquid and solid wastes and yard wastes;
 - d. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 - e. pesticides, herbicides, and fertilizers;
 - f. toxic or hazardous material or waste; sewage, fecal coliform, and pathogens;
 - g. dissolved and particulate metals;
 - h. animal wastes;
 - i. rock, sand, salt, soils;
 - j. construction wastes and residues; and
 - k. noxious or offensive matter of any kind.

- 12. POLLUTION: A stormwater condition caused by or involving a pollutant.
- 13. PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
- 14. STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.
- 15. SURFACE WATER DISCHARGE PERMIT: A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
- 16. TOXIC OR HAZARDOUS MATERIAL OR WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- 17. WATERCOURSE: A natural or man-made channel through which water flows, or a stream of water, including a river, brook or underground stream.
- 18. WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.
- 19. WASTEWATER: A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present, which is contributed to or permitted to enter the publicly-owned treatment works.

D. Authority

This ordinance is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

E. Applicability

This ordinance shall apply to all discharges of pollutants entering the municipal storm drain system.

F. Responsibility for Administration

The City Engineer shall administer, implement and enforce this ordinance. Any powers granted to or duties imposed upon the City Engineer may be delegated in writing by the City Engineer to another City department, commission or board to act as his/her authorized agent.

G. Prohibited Activities

1. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge or wastewater into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth.
2. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
3. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the flow of stormwater into or out of the municipal storm drain system without prior written approval from the City Engineer.

H. Exemptions

1. Discharge or flow resulting from fire fighting activities.
2. The following non-stormwater discharges are exempt from the prohibitions of this ordinance, provided that, in the opinion of the City Engineer, the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - a. Waterline flushing;
 - b. Flow from potable water sources;
 - c. Springs;
 - d. Natural flow from riparian habitats and wetlands;
 - e. Diverted stream flow;
 - f. Rising groundwater;
 - g. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

- h. Water from exterior foundation drains, footing drains, crawl space pumps, or air conditioning condensation;
- i. Discharge from landscape irrigation or lawn watering;
- j. Water from individual residential car washing;
- k. Discharge from de-chlorinated swimming pool water (less than 1.0 ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- l. Discharge from street sweeping;
- m. Dye testing, provided verbal notification is given to the City Engineer prior to the time of the test;
- n. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- o. Discharge for which advanced written approval is received from the City Engineer as necessary to protect public health, safety, welfare or the environment.

I. Emergency Suspension of Storm Drainage System Access

The City Engineer may suspend municipal storm drain system access to any person or property without prior notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Enforcement Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

J. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, that person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police

departments and the City Engineer. In the event of a release of non-hazardous material, the reporting person shall notify the City Engineer no later than the next business day. The reporting person shall provide to the City Engineer written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years following the date of discharge.

K. Enforcement

1. General. The City Engineer or his/her authorized agent shall enforce this ordinance, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
2. Civil Relief. If the City Engineer finds that a person is in violation of the provisions of this ordinance, or any permit, notice, or order issued thereunder, the City Engineer may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
3. Orders. In order to enforce the provisions of this ordinance, the City Engineer or his/her agent may issue a written order to the person found by the City Engineer to be in violation of this ordinance. Such order may include:
 - a. elimination of illicit connections or discharges to the municipal storm drain system;
 - b. performance of monitoring, analyses, and reporting;
 - c. cessation of unlawful discharges, practices, or operations; and
 - d. remediation of pollution in connection therewith.

If the City Engineer determines that abatement or remediation of pollution is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the City of Marlborough may, at its option, undertake such work, and that the expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the City of Marlborough, including administrative costs. Within thirty (30) days of receipt of the notification of the costs incurred by the City, the violator or property owner may file with the City Engineer a written protest objecting to the amount or basis of those costs. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the City Engineer affirming or

reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the thirty-first day on which the costs first become due.

- 4. Criminal Penalty. Any person who violates any provision of this ordinance or any order issued hereunder shall be punished by a fine of \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 5. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the City Engineer may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D and Chapter 315 of the Code of the City of Marlborough. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 6. Entry to Perform Duties under this Ordinance. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the City Engineer and his/her agents may enter upon privately owned property for the purpose of performing their duties under this ordinance, and may make or cause to be made such examinations, surveys or sampling as the City Engineer deems reasonably necessary.
- 7. Appeals. The decisions or orders of the City Engineer shall be final. Further relief shall be to a court of competent jurisdiction.
- 8. Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

L. Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

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M. Effective Date

This ordinance 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:

921

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 315, ENTITLED "ENFORCEMENT," AS FOLLOWS:

Chapter 315 is hereby amended by adding to section B the following new sub-sections:

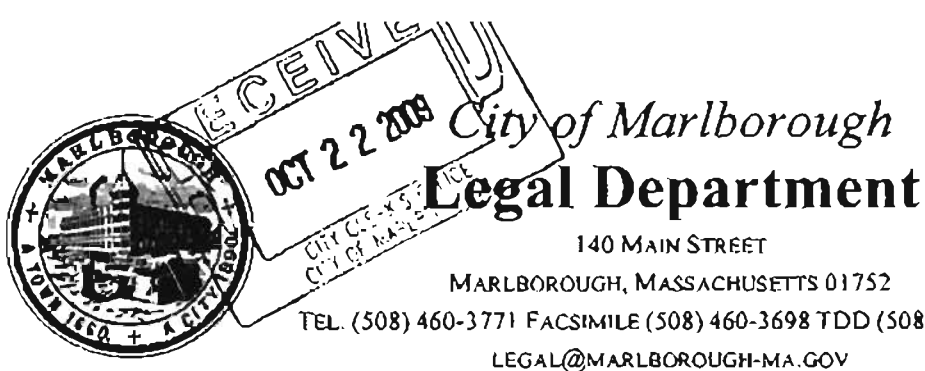
31. Stormwater Management (City Code, Chapter 271); and
32. Detection and Elimination of Illicit Discharge to Municipal Storm Drain System (City Code, Chapter 511).

ADOPTED

In City Council
Order No. 09-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



101
DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

October 22, 2009

Arthur Vigeant
President
Marlborough City Council

RE: Proposed Acquisition of Utility Easement and Sidewalk Easement
Marlborough Savings Bank Site - 81 Granger Boulevard

Dear President Vigeant and Members:

Enclosed for your convenience is a City GIS map showing the intersection of Granger Boulevard and South Bolton Street, the site of the special permit recently granted by the Council to the Marlborough Savings Bank. If you locate the present-day Howe Street on the map, you will notice dashed lines running northerly from the Bank's site and ending at Main Street. Those dashed lines represent an easement retained by the City in 1979, the year when the Council voted to grant to the Marlborough Redevelopment Authority the City's interest in the portion of Howe Street from just north of Lambert Street and terminating at Main Street. The City's retained easement in that abandoned portion of Howe provided the City with the right to repair, maintain and have unlimited access to such municipal utilities, drains and facilities as existed in Howe at that time, thirty years ago.

On October 1, 2009, the Bank conveyed to the Fitzpatrick Family Investment Trust various parcels that the Bank had earlier acquired from both the Marlborough Community Development Authority and an individual person. The Trust now owns all the parcels located at 81 Granger Boulevard. In turn on October 1, the Trust executed two easement deeds to the City of Marlborough. I enclose those two easements, which supplement the easement retained by the City in 1979.

The Trust's first easement provides the City with the right to install, repair, maintain and improve subsurface drainage and other municipal utilities, as well as traffic safety lights, within a 4,045 square foot easement area. The second easement provides the City with the right to a combined 180 square foot easement area for sidewalk usage, as well as to maintain, use and service that sidewalk. The proposed easement areas are shown on plans attached to the easement deeds.

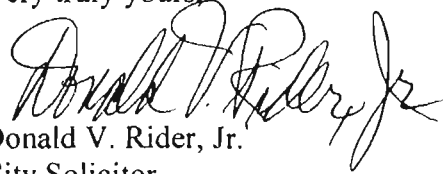
In order for the City to acquire the utility easement and the sidewalk easement, the Council must vote to accept the Trust's deeds of those easements. Given that the easement deeds recite only nominal consideration, no vote to appropriate funds is called for. Accordingly, on

behalf of the Department of Public Works, I ask that the Council vote to accept the proposed acquisition of the two easements. A suggested order is enclosed.

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I am available to discuss the above with you at your convenience. Thank you for your attention to this matter.

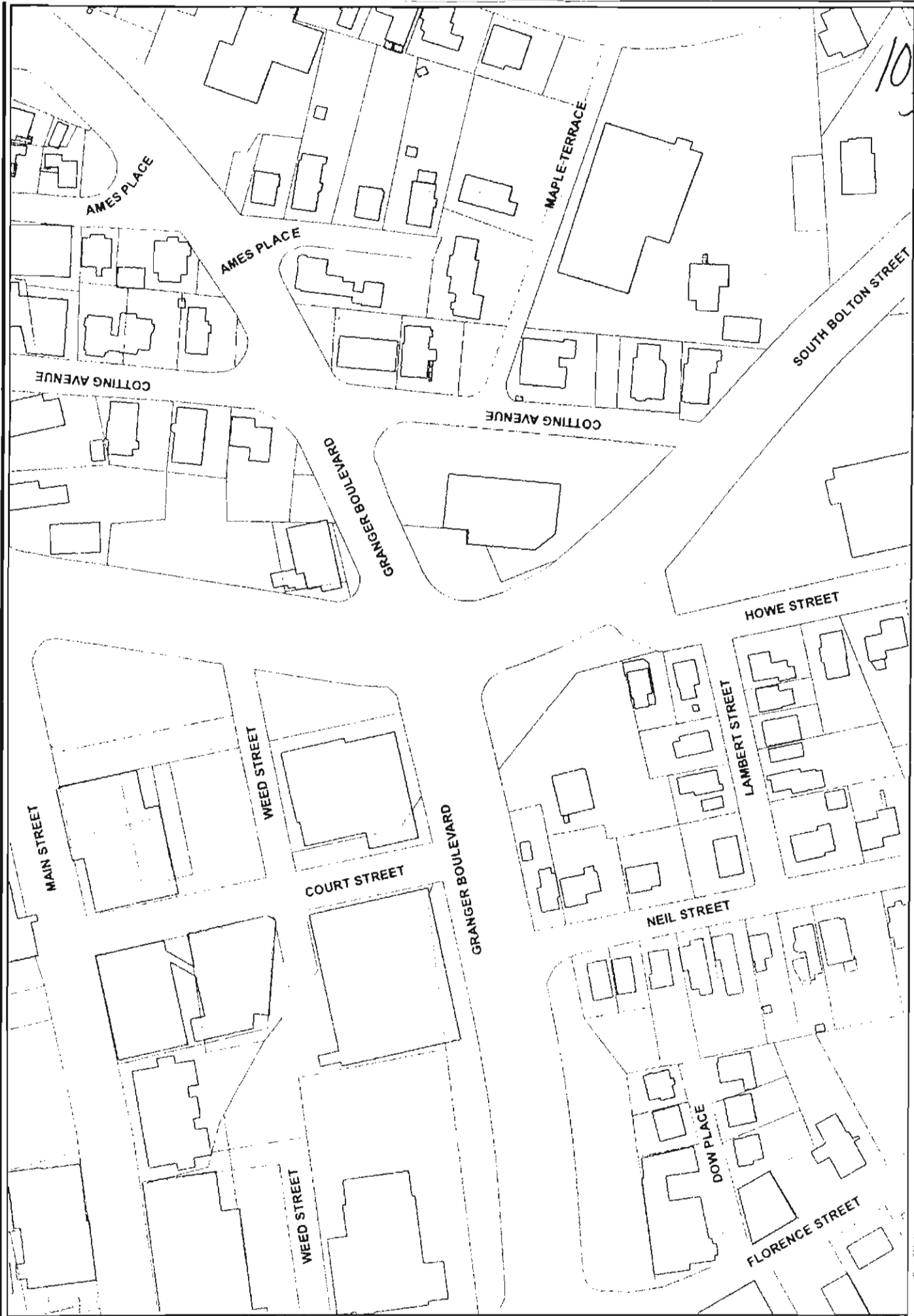
Very truly yours,



Donald V. Rider, Jr.
City Solicitor

Enclosures

cc: Ronald LaFreniere, DPW Commissioner

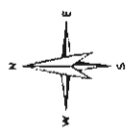


This map is a reproduction of the original map on file in the City of Marlborough GIS Department. It is not intended to be used as a legal document. The City of Marlborough is not responsible for any errors or omissions on this map.

City of Marlborough, MA



1 inch = 135 feet



City of Marlborough
GIS
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Bk: 53650 Pg: 534 Doc: DEED
Page: 1 of 3 10/08/2009 10:20 AM

MASSACHUSETTS EASEMENT DEED

STEPHEN M. FITZPATRICK, TRUSTEE OF FITZPATRICK FAMILY INVESTMENT TRUST, under declaration of trust dated December 4, 2007 and recorded with Middlesex South District Registry of Deeds in Book 50587, Page 296 of 3 Reservoir Lane, Upton, MA 01568

for consideration paid of less than \$100.00

grant to **THE CITY OF MARLBOROUGH**

with **quitclaim covenants**

an easement over and upon the land in Marlborough, Middlesex County, Massachusetts shown as "Utility Easement" on a plan entitled "Exhibit Easement Plan of Land in Marlborough, MA", drawn by Hancock Survey Associates, Inc., scale: 1"=30', dated September 10, 2009, which plan is attached hereto and made a part hereof, to which plan reference may be made for a more particular description of said easement area.

Said "Utility Easement" consists of 4,045 square feet of land, more or less, according to said plan, and said easement is for the purposes of installation, repair, maintenance, and improvement of subsurface drainage and other municipal utilities. Said easement shall also be for the purposes of installation, repair, maintenance and improvement of traffic safety lights within the easement area.

The undersigned, Stephen M. Fitzpatrick, as Trustee of Fitzpatrick Family Investment Trust, u/d/t dated December 4, 2007, does hereby certify as follows: a) He is a duly authorized Trustee of the above-referenced Trust, and the above-referenced Trust allows reliance on the facts stated in this Certificate; b) He has full power and authority and further am duly authorized by the terms of said Trust, and has been directed by all beneficiaries, none of whom is a minor or a corporation, to execute this Massachusetts Easement Deed on behalf of the Trust; c) The aforementioned Trust is in full force and effect, and has not been altered, amended, revoked, or terminated; and d) There are no amendments, appointments or resignations to this Trust, other than that noted at the Middlesex South District Registry of Deeds.

*Tranger Blvd
S. Bolton St - Marlboro*

SEM AYKANIAN
ATTORNEY AT LAW
74 MAIN STREET
MARLBOROUGH, MA 01752

(508) 485-4882
(508) 485-4974

For grantor's title see deed of Marlborough Savings Bank dated October 1, 2009 and recorded herewith.

Witness the execution hereof as a sealed instrument this 1st day of October, 2009

FITZPATRICK FAMILY INVESTMENT TRUST

by: Stephen M. Fitzpatrick Trustee
Stephen M. Fitzpatrick, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex County

On this 1st day of October, 2009, before me, the undersigned notary public, personally appeared Stephen M. Fitzpatrick, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]

Notary Public
My commission expires:

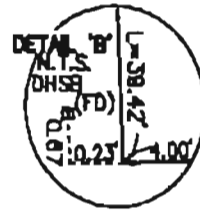


SEM AYKANIAN
ATTORNEY AT LAW
74 MAIN STREET
MARLBOROUGH, MA 01752

(508) 465-4882
(508) 465-4974

GRANGER BOULEVARD
(PUBLIC - VARIABLE WIDTH)
(PLAN 488 OF 1983)
(ROUTE 20)

METRIC FROM PLAN 1194 OF 1979



L=39.42'
Δ=90°20'30"
R=25.00

CONCRETE SIDEWALK

L=24.81'
Δ=56°51'35"
R=25.00

SOUTH BOLTON STREET
(PUBLIC - VARIABLE WIDTH)
(PLAN 550 OF 1983)
(ROUTE 85)

FITZPATRICK
FAMILY
INVESTMENT
TRUST

N74°49'41"E
4.00'

N12°51'48"W
58.27'

L=101.38'
R=397.10'
Δ=14°57'40"

UTILITY
EASEMENT
4,045± S.F.

N12°14'31"E
50.49'

N12°14'31"E
50.50'

S52°08'48"W
33.08'

L=3.71'
Δ=114°12'27"
R=19.00'

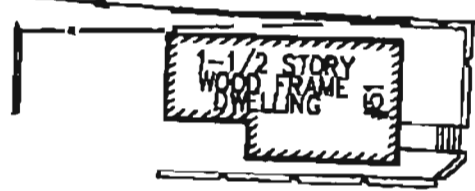


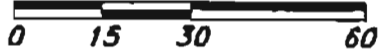
EXHIBIT EASEMENT PLAN
OF LAND IN
MARLBOROUGH, MA

PREPARED FOR
FITZPATRICK FAMILY INVESTMENT TRUST

HANCOCK

Survey Associates, Inc.
315 ELM STREET, MARLBOROUGH, MA 01752
VOICE (508) 460-1111, FAX (508) 460-1121

SCALE: 1" = 30'



P:\Land Projects\02\14630\day\14630CAL.dwg Sep 10, 2009 - 3:59 pm

DATE:
9/10/09

JOB
NO.
14630

A3

107



2009 00196686

Bk: 53650 Pg: 537 Doc: DEED
Page: 1 of 3 10/08/2009 10:20 AM

MASSACHUSETTS EASEMENT DEED

STEPHEN M. FITZPATRICK, TRUSTEE OF FITZPATRICK FAMILY INVESTMENT TRUST, under declaration of trust dated December 4, 2007 and recorded with Middlesex South District Registry of Deeds in Book 50587, Page 296 of 3 Reservoir Lane, Upton, MA 01568

for consideration paid of less than \$100.00

grant to **THE CITY OF MARLBOROUGH**

with **quitclaim covenants**

an easement over and upon the land in Marlborough, Middlesex County, Massachusetts shown as "Sidewalk Easement Area A" and "Sidewalk Easement Area B" on a plan entitled "Exhibit Easement Plan of Land in Marlborough, MA prepared for Fitzpatrick Family Investment Trust", drawn by Hancock Survey Associates, Inc., scale: 1"=30', dated September 17, 2009, which plan is attached hereto and made a part hereof, and to which plan reference may be made for a more particular description of said easement areas.

Said "Sidewalk Easement Area A" consists of 7 square feet of land, more or less, and said "Sidewalk Easement Area B" consists of 173 square feet of land, more or less, both according to said plan, and said easements are for the purposes of sidewalk usage, maintenance, repair and service relative thereto.

The undersigned, Stephen M. Fitzpatrick, as Trustee of Fitzpatrick Family Investment Trust, u/d/t dated December 4, 2007, does hereby certify as follows: a) He is a duly authorized Trustee of the above-referenced Trust, and the above-referenced Trust allows reliance on the facts stated in this Certificate; b) He has full power and authority and further am duly authorized by the terms of said Trust, and has been directed by all beneficiaries, none of whom is a minor or a corporation, to execute this Massachusetts Easement Deed on behalf of the Trust; c) The aforementioned Trust is in full force and effect, and has not been altered, amended, revoked, or terminated; and d) There are no amendments, appointments or

Howe St 9/15/09

SEM AYKANIAN
ATTORNEY AT LAW
74 MAIN STREET
MARLBOROUGH, MA 01752

(508) 485-4882
(508) 485-4974

108

resignations to this Trust, other than that noted at the Middlesex South District Registry of Deeds.

For grantor's title see deed of Marlborough Savings Bank dated October 1, 2009 and recorded herewith.

Witness the execution hereof as a sealed instrument this 1st day of October, 2009

FITZPATRICK FAMILY INVESTMENT TRUST

by: Stephen M. Fitzpatrick Trustee
Stephen M. Fitzpatrick, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex County

On this 1st day of October, 2009, before me, the undersigned notary public, personally appeared Stephen M. Fitzpatrick, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Sem Aykanian - Notary Public
My commission expires: Sept. 15, 2011

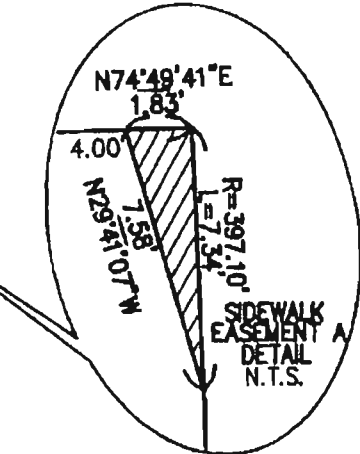
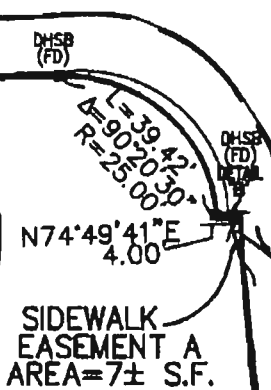
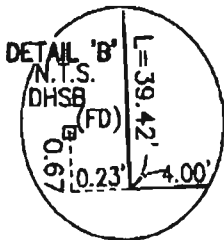


SEM AYKANIAN
ATTORNEY AT LAW
74 MAIN STREET
MARLBOROUGH, MA 01752

(508) 485-4882
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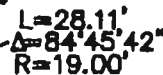
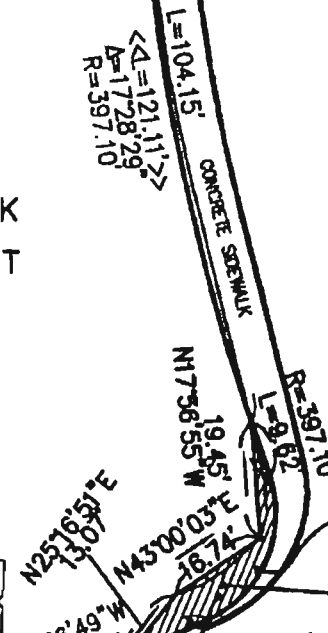
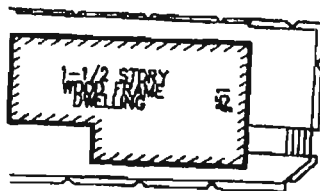
GRANGER BOULEVARD
(PUBLIC - VARIABLE WIDTH)
(PLAN 488 OF 1983)
(ROUTE 20)

ASSESSORS' MAP NO. 70, LOT 209
PLAN REFERENCE: PLAN 377 OF 2009



FITZPATRICK
FAMILY
INVESTMENT
TRUST

SOUTH BOLTON STREET
(PUBLIC - VARIABLE WIDTH)
(PLAN 590 OF 1983)
(ROUTE 85)



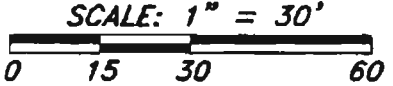
HOWE STREET
(PUBLIC - VARIABLE WIDTH)
(PLAN 1194 OF 1979)



PATRICIA A. PETERSON
DEED BOOK 27382, PAGE 145
55 HOWE STREET

EXHIBIT EASEMENT PLAN
OF LAND IN
MARLBOROUGH, MA
PREPARED FOR
FITZPATRICK FAMILY INVESTMENT TRUST

HANCOCK
Survey Associates, Inc.
315 ELM STREET, MARLBOROUGH, MA 01752
VOICE (508) 460-1111, FAX (508) 460-1121



DATE:
9/17/09

JOB
NO.
14630

10/10

ORDERED:

That the acquisition from Stephen M. Fitzpatrick, Trustee of Fitzpatrick Family Investment Trust, of the Utility Easement recited in the said Trust's easement deed to the City of Marlborough executed on October 1, 2009 and recorded at the Middlesex South District Registry of Deeds at Book 53650, Page 534, as attached hereto, be and hereby is approved; and

That the acquisition from Stephen M. Fitzpatrick, Trustee of Fitzpatrick Family Investment Trust, of the Sidewalk Easement (Area A and Area B) recited in the said Trust's easement deed to the City of Marlborough executed on October 1, 2009 and recorded at the Middlesex South District Registry of Deeds at Book 53650, Page 537, as attached hereto, be and hereby is approved.

ADOPTED

In City Council
Order No 09-

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



OCT 22 2009

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

October 21, 2009

Arthur Vigeant
President
Marlborough City Council

RE: Order of Taking by Eminent Domain of land at the corner of Maple Street and Valley Street with revised Plan

Dear President Vigeant and Members:

Enclosed herewith please find an Order of Taking by Eminent Domain of Land at the corner of Maple Street and Valley Street as more fully described in this letter and in the body of the proposed Order. With the exception of the reference to the plan and the attached plan itself, the proposed Order is the same as Order No. 09-1002299A.

The reason for this request is that the Land Court would not accept for recording the plan referenced in Order No. 09-1002299A because it combines a subdivision of land and a taking in one plan. That plan had been prepared by GLM Engineering, Inc. on behalf of its client, 175 Maple Street Land Owner LLC ("Land Owner LLC"), for the Design Pak project. GLM Engineering, Inc. drafted the attached revised plan, showing a taking only, after it learned that the Land Court would not record its original plan. As a result, the City Council must vote to supersede Order No. 09-1002299A and approve the attached Order of Taking referencing the revised plan.

The purpose of this taking remains the same – to provide the City with the fee interest in a portion of land located at the intersection of Maple Street and Valley Street. Also as before, no appropriation is necessary because Land Owner LLC waived an appraisal and damages for the taking (see attached Waiver of Appraisal and Compensation of Damages). Further, Land Owner LLC paid for both the original and revised plans.

Lastly, since the attached proposed Order would replace Order No. 09-1002299A, the Legal Department advises the City Council to vote, by a single motion, to supersede Order No. 09-1002299A, to substitute the attached proposed Order, and to approve the attached proposed Order.

I am available to answer any specific questions concerning the above.

Sincerely,

Cynthia M. Panagore Griffin

Enclosure

Cc: Tom Cullen, City Engineer

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ORDERED:

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that a certain portion of land located on the northerly corner of Maple Street and Valley Street as more particularly described herein be taken for the purpose of maintaining public safety improvements, including the use and maintenance of this area for highway purposes, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the fee simple interest and any other rights and interests in the following described land, including all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN

A certain portion of land located on the northerly corner of Maple Street and Valley Street in Marlborough, Middlesex County, Massachusetts and being shown as Parcel "A" on a plan entitled, "Taking Plan For City of Marlborough, Mass. (Middlesex County); Scale 1"=40'; Date: September 16, 2009; Prepared For: City of Marlborough, Prepared By: GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA." said Plan to be recorded with the Middlesex South District Registry of Deeds together with an attested copy of this Order. Meaning and intending to take and taking by Eminent Domain the fee simple interest, shown as Parcel "A" as described in the aforementioned plan, which is a portion of the land as described in the deed recorded

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with the Middlesex South District Registry of Deeds in Book 48218, Page 138 and also recorded with the Middlesex South District Registry of Deeds in Certificate Number 237805 at Book 1327, Page 2.

OWNERS: L-A 175 Maple Street Land Owner LLC
900 Chapel Street
New Haven, Connecticut

The land consisting of Parcel "A" as referred to in the description above is also shown on the City of Marlborough Assessors Map as a portion of Parcel 132 on Map 82. The total land area being taken consists of 459 ± square feet or 0.01 ± acres.

AWARDS

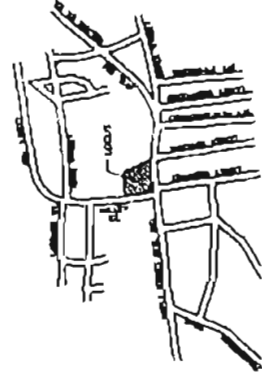
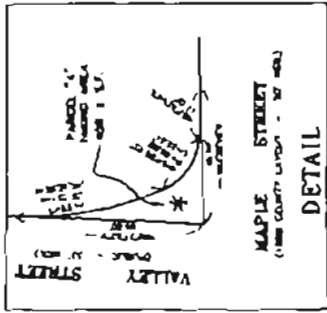
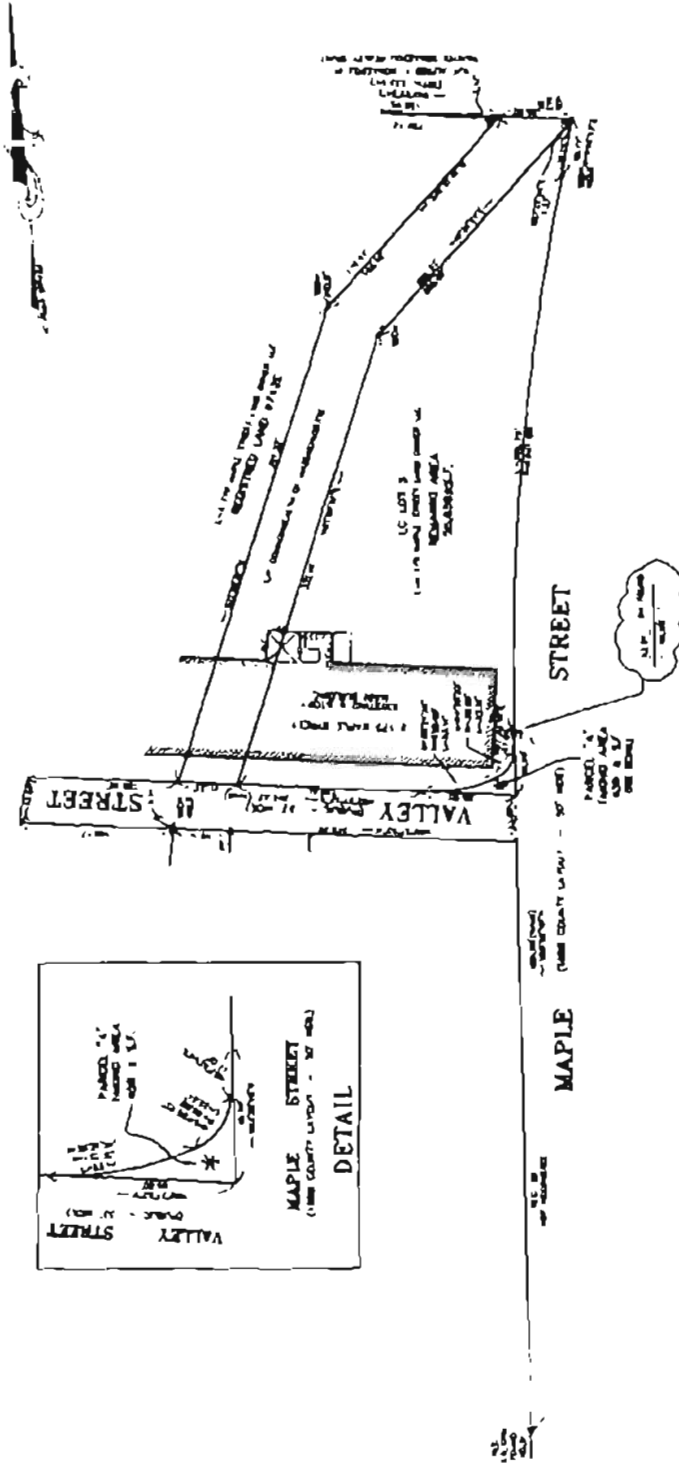
The City Council hereby makes the following awards for damages for the owner or owners of record:

<u>OWNER</u>	<u>MARLBOROUGH ASSESSORS MAP/PARCEL</u>	<u>AREA</u>	<u>AWARD</u>
L-A 175 Maple Street Land Owner, LLC	Portion of Map 82, Parcel 132	459 ±SF or 0.01 ± acres	\$0.00

ADOPTED
In City Council
Order No. 09-
Adopted

Approved By Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



LOCUS MAP (N.T.S.)

TAKING PLAN
FOR
CITY OF MARLBOROUGH, MASS.
(MIDDLESEX COUNTY)

SCALE: 1"=40' SEPTEMBER 16, 2009

PREPARED FOR:

CITY OF MARLBOROUGH

PREPARED BY:

GLM ENGINEERING CONSULTANTS, INC.
18 EXCHANGE ST., HOLLISTON, MA.
(508) 429-1100 FAX (508) 429-7160

JOB #11600LC11600LC-3

28.437

GENERAL NOTES:
1. THE CITY ENGINEER HAS REVIEWED THE TAKING PLAN AND HAS ISSUED HIS APPROVAL FOR THE TAKING PLAN.
2. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE TAKING PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
3. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TAKING PLAN AS SUBMITTED AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.



NOTES:
1. THE CITY ENGINEER HAS REVIEWED THE TAKING PLAN AND HAS ISSUED HIS APPROVAL FOR THE TAKING PLAN.
2. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE TAKING PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
3. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TAKING PLAN AS SUBMITTED AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

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WAIVER OF APPRAISAL AND COMPENSATION OF DAMAGES

Owner of Record Of Land: L-A 175 Maple Street Land Owner, LLC, being a Delaware limited liability company

Address: Cira Center, 2929 Arch Street, Philadelphia, PA and 900 Chapel Street, New Haven, CT

Owner of Record of Building: 175 Maple Street Building Owner, LLC, being a Massachusetts limited liability company

Address: 175 Maple Street, Marlborough, MA

Project: Public Safety Improvements In The Public Right Of Way At The Northerly Corner of Maple Street And Valley Street, Marlborough, MA


In Fee: LC Lot 9 Consisting Of 459 ± SF Or 0.01 ± Acres As Shown On Plan of Taking Entitled "Taking Plan, Subdivision Of Land Court Plan No. 8742C, Marlborough, Massachusetts (Middlesex County), Scale 1"=40', November 10, 2008, Prepared For L-A 175 Maple Street Land Owner, LLC, 900 Chapel Street, New Haven, Connecticut, Prepared By: GLM Engineering Consultants, Inc., 19 Exchange St., Holliston, MA. "

Pursuant to paragraph 30 of the attached Special Permit granted by the City Council of the City of Marlborough to L-A 175 Maple St. [Street] Land Owner, LLC and 175 Maple Street Building Owner for the construction of residential units at the former Design Pak building located at 175 Maple Street, Marlborough, MA, and pursuant to M.G.L. c. 79, s. 7A, the Owner of Record, L-A 175 Maple St. Land Owner, LLC, hereby waives an appraisal and damages for a taking by eminent domain in fee by the City of Marlborough, for the purposes of the above described Project, of the parcel identified herein and in the attached Taking Plan, dated November 10, 2008.

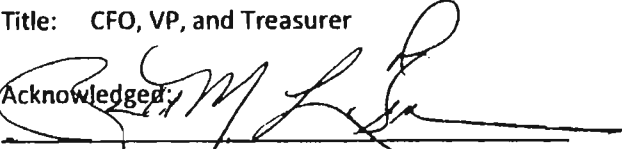
The conveyance of this parcel will be accomplished by Order of Taking and recorded at the Middlesex South Registry of Deeds.

I/we waive my/our right(s) to an appraisal and compensation of damages.

**L-A 175 Maple Street Land Owner, LLC,
a Delaware limited liability company**

By: 
Name: R. Eric Enrich
Title: CFO, VP, and Treasurer

Date: April 22, 2009

Acknowledged: 
Ronald LaFreniere, Commissioner
Department of Public Works
City of Marlborough

4/28/09
Date

COMMONWEALTH OF PENNSYLVANIA

Philadelphia County, ss.

On this 22nd day of April, 2009, before me, the undersigned notary public, personally appeared R. Eric Emrich, proved to me through satisfactory evidence of identification, being (check whichever applies):

driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose, as the duly authorized CFO, VP, and Treasurer of L-A 175 MAPLE STREET LAND OWNER LLC, a Delaware limited liability company.

Catherine Fox

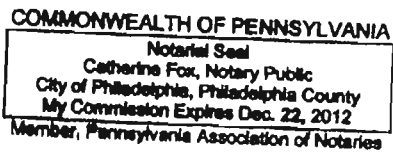
Notary Public

My commission expires: 12/22/2012

Print Notary Public's Name: CATHERINE FOX

Qualified in the Commonwealth of Pennsylvania

[Notary Seal]



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CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **BIENNIAL MUNICIPAL ELECTION** will be held in the polling locations as noted below on **NOVEMBER 3, 2009** as follows: Mayor, Four Councilors At-Large, Ward Councilors and Three School Committee members.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

- | | |
|---------------------------|--|
| WARD ONE: Prec. 1 and 2 | Francis J. Kane School, 520 Farm Rd. |
| WARD TWO: Prec. 1 and 2 | Francis J. Kane School, 520 Farm Rd. |
| WARD THREE: Prec. 1 | Masonic Hall, 8 Newton St., corner of Main/Newton Sts., rear |
| WARD THREE: Prec. 2 | Raymond J. Richer School, 80 Foley Rd., cafeteria |
| WARD FOUR: Prec. 1 and 2 | Boys & Girls Club, 169 Pleasant St. |
| WARD FIVE: Prec. 1 | Senior Center, 250 Main St. |
| WARD FIVE: Prec. 2 | Masonic Hall, 8 Newton St., corner of Main/Newton Sts., rear |
| WARD SIX: Prec. 1 and 2 | Marlborough Middle (Intermediate) School, 25 Union St. Library |
| WARD SEVEN: Prec. 1 and 2 | Hildreth School Gymnasium, 85 Sawin St. |

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

09- ORDER #1002161

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

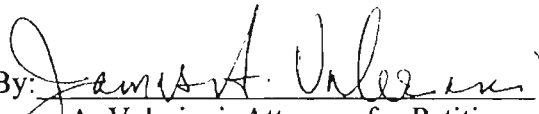
-REFER TO

PUBLIC HEARING: May 11, 2009

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

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 5:00 p.m. on December 22, 2009.

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

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

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SMC Realty Trust
P.O. Box 551
Marlboro, MA 01752
508-864-5076 (cell)
508-303-8348 (office & fax)

October 15, 2009

To: City of Marlboro - City Council President
City Hall
140 Main Street
Marlboro, MA 01752

From: Steve Garofalo, Trustee SMC Realty Trust

Subject: Acre Bridge Estates – Request for Road Acceptance – Blake Circle

Dear City Council President,

The City of Marlborough Planning Board has accepted Blake Circle Marlboro and I am now asking the City of Marlboro City Council to accept Blake Circle, Marlboro, MA.

All necessary paperwork has been submitted to the City of Marlborough Engineering Department.

Please complete the approval process for accepting the roadway, Blake Circle, and reduce the bond to zero.

I would like to take this opportunity to thank you for your interest and support in Acre Bridge Estates subdivision.

Sincerely,

A handwritten signature in black ink that reads "Stephen J. Garofalo". The signature is written in a cursive style with a long horizontal flourish at the end.

Stephen J. Garofalo, Trustee
SMC Realty Trust



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CITY OF MARLBOROUGH
Department of Public Works
Engineering Division
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 160-3610

October 2, 2009

Marlborough Planning Board
140 Main Street – City Hall
Marlborough, MA 01752

Attn: Ms. Barbara L. Fenby

Re: *Acre Bridge Estates;*
Developer's Request Road Acceptance

Dear Ms. Fenby:

Pursuant to the directive of the Planning Board and the developer's request for roadway and easement acceptance, dated July 27, 2009, Marlborough's Engineering Division has reviewed the following documents (original and revised) provided by the developer for the subject subdivision. We are now in a position to provide a favorable recommendation to the Planning Board regarding the above referenced subdivision.

Please note that the following summarizes said documents in which Engineering has reviewed and approved:

- **As-Built Plan and Profile of Acre Bridge Estates**, dated September 18, 2008 with the latest revision date of August 17, 2009. Note that the plans were prepared by Inland Survey, Inc. / Zanca Land Surveyor of Stow, MA;
- **Street Acceptance Plan and Easements of Blake Circle**, dated September 8, 2008 with the latest revision date of July 16, 2009. Note that the plan was prepared by Inland Survey, Inc. / Zanca Land Surveyor of Stow, MA;
- **The latest Legal Descriptions.**

The status of the above referenced subdivision has been reviewed by the Engineering Division and it has been determined that the work in same has been completed in accordance with the Planning Board's Rules and Regulations. The street has remained in satisfactory condition for the one year maintenance period which ended August 1, 2009, and all acceptable plans (original mylars) have been submitted to this office

October 2, 2009

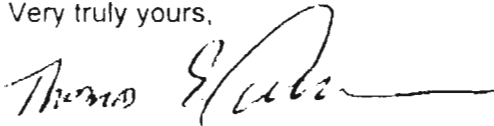
143

Given the above, I am hereby recommending that the bond securing the same in the amount of \$31,000.00 remain in place until such time as the Acceptance Plan and Municipal Easements have been recorded at the Middlesex Registry of Deeds South District, Cambridge, MA.

It is also recommended that the developer take the necessary steps with the Marlborough City Council to have Blake Circle and appurtenant easements accepted by the city as shown on the plan prepared by Inland Survey Inc. DBA / Zanca Land Surveying, Susan E. Sullivan, P.L.S. 16 Gleasondale Road, Suite 1-2, Stow MA, 01775. Sheet 1 of 1 entitled "Street Acceptance Plan and Easements of Blake Circle Marlborough, MA", dated September 8, 2009 with the latest revision date of July 16, 2009; Scale 1"=20'.

Should you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,



Thomas E. Cullen, Jr., P.E.
City Engineer

X-C Barbara L. Fenby, Marlborough Planning Board
Ronald M. LaFreniere, P.E., Commissioner DPW
Marlborough Legal Department
Inland Survey, Inc.
Subdivision File

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**InLand Survey, Inc. DBA
ZANCA LAND SURVEYING**



16 Gleasondale Road, Suite 1-2
Stow, Massachusetts 01775
Phone 978-461-2355 ° Fax 978-461-2357
InLandSurvey@aol.com

**Legal Description
Municipal Drain Easement**

Beginning at a granite bound with drill hole at Lot D and running N18°-16'-10"E a distance of 30.00' to a granite bound with drill hole;
Thence running S71°-43'-50"E a distance of 112.30' to a granite bound with drill hole;
Thence running S03°-08'-55"E a distance of 26.35' to a granite bound with drill hole;
Thence running S56°-58'-48"E a distance of 32.13' to a granite bound with drill hole on the northerly side of Farm Road;
Thence running S33°-01'-12"W a distance of 34.25' to a stone bound with drill hole;
Thence running by a curve to the right having a radius of 55.54' a length of 43.95' to a granite bound with drill hole;
Thence running N02°-23'-38"W a distance of 74.63' to a granite bound with drill hole;
Thence running N71°-43'-50"W a distance of 91.92' to the point of beginning.

Said drain easement contains 6,167± Sq.Ft. and is shown on a plan entitled: Street Acceptance Plan and Easements of Blake Circle in Marlborough, MA, Scale: 1" = 20', September 8, 2008, revised July 16, 2009, Plan by InLand Survey, Inc. DBA Zanca Land Surveying, 16 Gleasondale Road, Stow, MA

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**InLand Survey, Inc. DBA
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16 Gleasondale Road, Suite 1-2
Stow, Massachusetts 01775
Phone 978-461-2355 ~ Fax 978-461-2357
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**Legal Description
Municipal Flowage Easement**

Beginning at a granite bound with drill hole running N33°-06'-18"E a distance of 88.15' to a granite bound with drill hole;
Thence running N79°-12'-36"E a distance of 13.06' to a granite bound with drill hole;
Thence running S57°-08'-04"E a distance of 38.29' to a granite bound with drill hole;
Thence running S39°-44'-50"E a distance of 30.31' to a granite bound with drill hole;
Thence running S55°-01'-10"E a distance of 17.72' to a granite bound with drill hole on the northerly side of Farm Road;
Thence running by the northerly side of Farm Road by a curve to the left having a radius of 1051.93' a length of 35.99' to a stone bound with drill hole;
Thence running still by the northerly side of Farm Road S33°-01'-12"W a distance of 60.83' to a granite bound with drill hole;
Thence running N56°-58'-48"W a distance of 32.13' to a granite bound with drill hole;
Thence running N03°-08'-55"W a distance of 26.35' to a granite bound with drill hole;
Thence running N71°-43'-50"W a distance of 47.80' to the point of beginning.

Said municipal flowage rights contains 8,789± Sq.Ft. and is shown on a plan entitled: Street Acceptance Plan and Easements of Blake Circle in Marlborough, MA, Scale: 1" = 20', September 8, 2008, revised July 16, 2009, Plan by InLand Survey, Inc. DBA Zanca Land Surveying, 16 Gleasondale Road, Stow, MA

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**InLand Survey, Inc. DBA
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Stow, Massachusetts 01775
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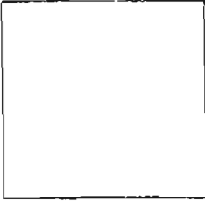
Legal Description

Road Easement *(cc) w/109*

Beginning at a granite bound with drill hole on the northeast side of Cook Lane at Blake Circle thence running by the northeast side of Cook Lane by a curve to the right having a radius of 880.00' a length of 102.98' to a spike set in sidewalk;
Thence running by a curve to the left having a radius of 25.00' a length of 40.73' to a granite bound with drill hole;
Thence running N18°-16'-10"E a distance of 123.49' to a spike set in bit drive;
Thence by a curve to the right having a radius of 175.00' a length of 55.67' to a granite bound with drill hole;
Thence running N36°-29'-45"E a distance of 235.00' to a granite bound with drill hole;
Thence running by a curve to the right having a radius of 50.00' a length of 221.13' to a granite bound with drill hole;
Thence running by a curve to the left having a radius of 20.00' a length of 25.62' to a granite bound with drill hole;
Thence running S36°-29'-45"W a distance of 167.92' to a granite bound with drill hole;
Thence running by a curve to the left having a radius of 125.00' a length of 39.76' to a spike in bit drive;
Thence running S18°-16'-10"W a distance of 123.49' to a granite bound with drill hole;
Thence running by a curve to the left having a radius of 25.00' a length of 40.73' to the point of beginning.

Said Blake Circle contains 27,870± Sq.Ft. and is shown on a plan entitled: Street Acceptance Plan and Easements of Blake Circle in Marlborough, MA, Scale: 1" = 20', September 8, 2008 and revised July 16, 2009, Plan by InLand Survey, Inc. DBA Zanca Land Surveying, 16 Gleasondale Road, Stow, MA

FOR INFORMATION ONLY



NOTES

- 1. THE PLAN IS FOR INFORMATION ONLY.
- 2. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
- 3. ALL DISTANCES ARE TO BE MEASURED AS SHOWN.
- 4. ALL DISTANCES ARE TO BE MEASURED AS SHOWN.
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LEGEND

- 1. ALL DISTANCES ARE TO BE MEASURED AS SHOWN.
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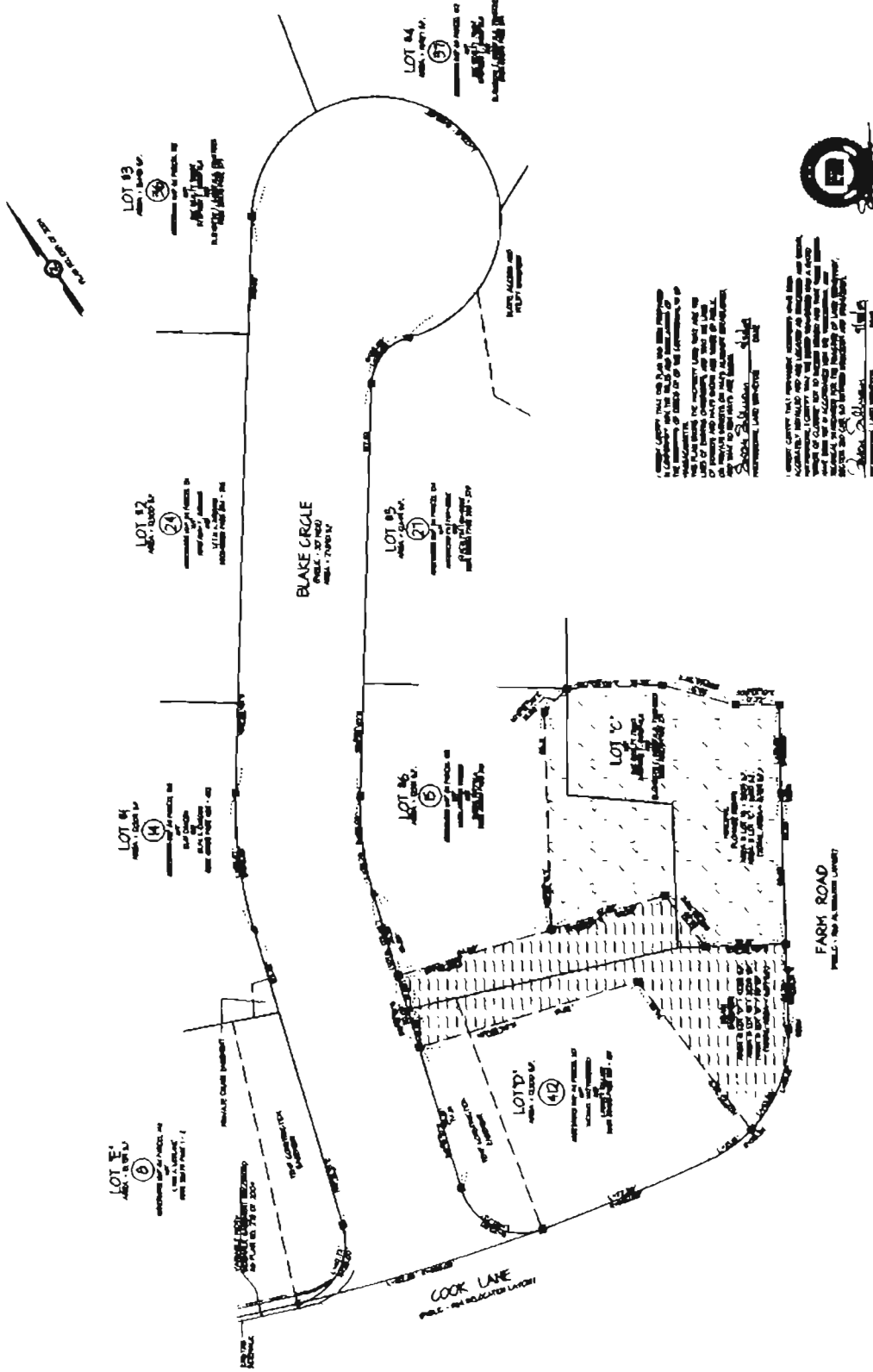
**STREET ACCEPTANCE PLAN
AND EASEMENTS**

OF
BLAKE CIRCLE
HARRISBOROUGH, MA



PLANNING BOARD

B. 3117



THE PLANNING BOARD HAS REVIEWED THE PLAN AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE ZONING REGULATIONS OF THE TOWN OF HARRISBOROUGH, MASSACHUSETTS. THE BOARD HAS NO OBJECTION TO THE PLAN AND HAS RECOMMENDED IT FOR APPROVAL. THE BOARD'S ACTION IS SUBJECT TO THE APPROVAL OF THE TOWN BOARD AND THE STATE DEPARTMENT OF TRANSPORTATION.

Submitted: _____
 Planning Board Member

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14/1

City of Marlborough
Commonwealth of Massachusetts



October 8, 2009

Stephen Garofalo
SMC Realty Trust
PO BOX 551
Marlborough, MA 01752

PLANNING BOARD

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

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

RE: Acre Bridge Estates
Subdivision Acceptance

Dear Garofalo,

At its most recent meeting on Monday, 05, 2009, the Planning Board took the following action:

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

To accept and file the letter from City Engineer Thomas Cullen, and endorse his recommendation that the subdivision known as "Acre Bridge Estates, As-built plot plan dated September 18, 2008 with revised date of August 17, 2009 drawn by Inland Survey / Zanca Land Surveyor" has remained in satisfactory condition for the year long maintenance period. The remaining bond will stay in place until certification of the recordings

It will be your responsibility to contact the City Council to have the street acceptance.

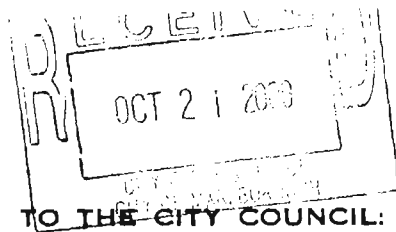
Sincerely,

Barbara L. Fenby/af

Barbara L. Fenby, Chairperson

/cal

cc: City Engineer
City Clerk
file



325.00 pd
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MARLBOROUGH, MASS., 19

TO THE CITY COUNCIL:

The undersigned Sylvia Johns
respectfully requests that he be granted a

Junk Dealers license
461 South st.
Marlborough, ma. 01752

P. O. Address 774-258-2382

IN CITY COUNCIL

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Referred to Committee on Public Safety.

..... Clerk.

REPORT ON THE ABOVE PETITION

IN CITY COUNCIL

..... 19

The Committee on Public Safety, to whom the above petition was referred, having considered the same, report in favor of granting the same.

..... } Committee

IN CITY COUNCIL

..... 19

Accepted and report of committee adopted.

Attest: Clerk.

Issued