

REGULAR MEETING
FEBRUARY 23, 2009

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

1. Minutes, City Council Meeting, February 9, 2009.
2. Communication from the Mayor re: Permanent Appointment of a Personnel Director.
3. Communication from the Mayor re: two grants awarded to the Marlborough Fire Department from the Commonwealth of Massachusetts Executive Office of Public Safety and Security in the amounts of \$5,464.62 and \$10,992.00.
4. Communication from the Mayor re: response to Order No. 09-1002131 pertinent to investigating green-building laws that meet industry-accepted standards and alternate power sources.
5. Communication from the Mayor re: Sepracor TIF Agreement Changes. Order No. 09-1001985A
6. Communication from John Ghiloni, Public Facilities Director, re: renewal of lease of former Bigelow School.
7. Communication from John G. Crowe Associates, Inc., on behalf of Boston Scientific Corp., re: extension of time for Sewer Connection Permit.
8. Application of Bernard Novitch, d/b/a Collector's Paradise, for Junk Dealer's license.
9. Minutes, Planning Board, January 12 & 26, 2009.
10. Minutes, Conservation Commission, December 18, 2008, January 8 & January 22, 2009.
11. CLAIMS:
 - A. Paula Turgeon, 669 Pleasant St., residential mailbox claim
 - B. Deborah Hudson, 165 Highland St., other property damage

REPORTS OF COMMITTEES:

From Finance Committee

12. **Order No. 09-1002102 – Pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, with the approval of the Mayor, approves expenditures in excess of available appropriation for snow and ice removal for Fiscal Year 2009. Recommendation of the Finance Committee is to approve 4-0. Chairman Ossing was absent.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

Lisa M. Thomas

140 Main St.

Marlborough, MA 01752

(508) 460-3775 FAX (508) 460-3723

FEBRUARY 9, 2009

Regular meeting of the City Council held on Monday February 9, 2009 at 8:06 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 8:40 p.m.

ORDERED: Minutes, City Council Meeting, January 26, 2009, **FILE**; adopted.

ORDERED: That the Minutes of the Joint Convention January 26, 2009, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, MARCH 9, 2009** as date for a **PUBLIC HEARING** on Application for a Special Permit from MetroPCS Massachusetts LLC to install a telecommunications facility onto an existing water tank located at 115 Onamog St., **REFER TO WIRELESS COMMUNICATION COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the budget transfer request in the amount of \$109,000.00 which moves \$95,000.00 from Police Officers to OT Regular, \$9,500.00 from Police Officers to Public Safety Dispatchers and \$4,500.00 from Police Officers to Holiday Pay accounts for anticipated Police overtime deficits for the remainder of the fiscal year, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12100001-50420 Police Officers	\$95,000.00
Acct. # 12100001-50420 Police Officers	\$9,500.00
Acct. # 12100001-50420 Police Officers	\$4,500.00

TO:

Acct. # 12100003-51310 Overtime-Regular	\$95,000.00
Acct. # 12100003-51213 Public Safety Dispatchers	\$9,500.00
Acct. # 12100003-51490 Holiday Pay	\$4,500.00

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ORDERED: That the budget transfer request in the amount of \$41,427.05 which moves the funds from Fringes to the following accounts: Assessor Sick Leave Buy Back (\$833.95), Fire Sick Leave Buy Back (\$20,609.75) and DPW Forestry Sick Leave Buy Back (\$19,983.35), **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500	\$41,427.05
Fringes	

TO:

Acct. # 11410003-51920	\$833.95
Assessor Sick Leave Buy Back	
Acct. # 12200003-51920	\$20,609.75
Fire Sick Leave Buy Back	
Acct. # 14001503-51920	\$19,983.35
DPW Forestry Sick Leave Buy Back	

Councilor Juairé abstained

ORDERED: That the budget transfer request in the amount of \$12,000.00 which moves funds from Custodian to Gross Overtime as a result of snow removal and work performed while an employee is out on worker's compensation, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11920003-50560	\$12,000.00
Custodian	

TO:

Acct. # 11920003-51300	\$12,000.00
Gross Overtime	

ORDERED: That the budget transfer request in the amount of \$20,000.00 which moves funds from Firefighter to Additional Gross Overtime to cover an anticipated deficit based on figures for the last 22 pay periods of FY08, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12200001-50450	\$20,000.00
Firefighter	

TO:

Acct. # 12200003-51300	\$20,000.00
Additional Gross Overtime	

ORDERED: That the budget transfer request in the amount of \$93,500.00 which moves funds from and to various DPW accounts which represent actual and anticipated overtime deficits for the remainder of FY09, refer to **FINANCE COMMITTEE**; adopted.

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CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Public Works

FISCAL YEAR: FY 09

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$49,516.00</u>	<u>\$28,000</u>	<u>91090001</u>	<u>50460</u>	<u>Meter Reader</u>	<u>\$28,000.00</u>	<u>61090003</u>	<u>51310</u>	<u>Overtime</u>	<u>\$20,233.66</u>
	Reason:	<u>Funds available from W. C. injury.</u>						<u>Anticipate need to cover normal overtime needs to cover underfunding.</u>	
<u>\$253,113.27</u>	<u>\$15,000</u>	<u>61090001</u>	<u>50740</u>	<u>Equip. Operator</u>	<u>\$15,000</u>	<u>61090003</u>	<u>51310</u>	<u>Overtime</u>	<u>\$20,233.66</u>
	Reason:	<u>Funds available from W. C. injury.</u>						<u>Anticipate need to cover normal overtime needs to cover underfunding.</u>	
<u>\$49,516.00</u>	<u>\$5,500</u>	<u>91090001</u>	<u>50460</u>	<u>Meter Reader</u>	<u>\$5,500</u>	<u>60081003</u>	<u>51310</u>	<u>Overtime</u>	<u>\$4,958.82</u>
	Reason:	<u>Funds available from W. C. injury.</u>						<u>Power outages and storms have placed heavy demand on account.</u>	
<u>\$9,851.13</u>	<u>\$2,500</u>	<u>60085006</u>	<u>54340</u>	<u>Maintenance Machinery</u>	<u>\$2,500.00</u>	<u>60085003</u>	<u>51310</u>	<u>Overtime</u>	<u>\$6,585.65</u>
	Reason:	<u>Anticipate adequate funds for rest of year.</u>						<u>Power outages and storms have placed heavy demand on account.</u>	

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CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Public Works

FISCAL YEAR: FY 09

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$304,522.00	\$3,000	14001503	50740	Equipment Operators	\$3,000.00	14001303	51310	OT-Reg	\$4,618.42
				Reason: <u>Money available due to vacant postions</u>				Reason: <u>Projected need to cover overtime for remainder Fy 09.</u>	
\$304,522.00	\$22,800	14001503	50740	Equipment Operators	\$22,800	14001303	51470	Interim Foreman	(\$4,803.11)
				Reason: <u>Money available due to vacant postions</u>				Reason: <u>Estimation based on one foreman promoted as acting division supervisor until 5-Feb-09 and Foreman on medical leave for hip replacement.</u>	
\$304,522.00	\$700	14001503	50740	Equipment Operators	\$700	14001403	51470	Interim Foreman	\$574.60
				Reason: <u>Money available due to vacant postions</u>				Reason: <u>Anticipated time off by foreman (contractual)</u>	
\$304,522.00	\$9,000	14001503	50740	Equipment Operators	\$9,000	1400503	51310	OT-Reg	\$4,081.51
				Reason: <u>Money available due to vacant postions</u>				Reason: <u>Projected need to cover overtime for remainder Fy 09.</u>	
\$304,522.00	\$7,000	14001503	50740	Equipment Operators	\$7,000	14001503	51470	Interim Foreman	\$6,202.59
				Reason: <u>Money available due to vacant postions</u>				Reason: <u>Estimation based on Cemeteries Division Foreman and Parks Foreman undergoing surgery (3 weeks & 8 weeks recovery time respectively) (contractual)</u>	

Suspension of Rules requested – granted to allow the City Solicitor to speak. He clarified that to his recollection; the statute provides sixty days for the temporary appointment.

ORDERED: That the appointment of Karen Kisty for the position of Personnel Director for a term of three years expiring from the date of confirmation, refer **BACK TO THE MAYOR TO READVERTISE AND REQUEST THE MAYOR TO SUBMIT AN ORDER, IF FEASIBLE AND IN COMPLIANCE WITH THE CITY SOLICITOR'S OPINION, WHICH WOULD REQUEST A 30 DAY TEMPORARY APPOINTMENT OF A PERSONNEL DIRECTOR AFTER EXPIRATION OF THE SIXTY DAYS**; adopted.

ORDERED: That the reappointment of Mark Leonard as Police Chief for a four year term expiring on March 1, 2013, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the appointment of Cynthia Panagore Griffin and Krista Holmi to the Design Selection Board for terms expiring March 4, 2011 and March 4, 2010 respectively, **FILE**; adopted.

ORDERED: That the reappointment of Tom Evangelous to the Parks and Recreation Committee for a term expiring on March 5, 2014, refer to **PERSONNEL COMMITTEE**; adopted.

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ORDERED: Be it ordained by the City Council of the City of Marlborough that the previously unnamed recreation area at the Hildreth School shall be named after Jeduthan Alexander, a resident of Marlborough who was killed in action during the War of Independence at the Battle of Bunker Hill on June 17, 1775, that it shall henceforth be known as the Jeduthan Alexander Recreation Complex, refer to **VERTERAN'S AFFAIRS COMMITTEE**; adopted.

ORDERED: That the five options to amend the district agreement regarding the nomination and election of the regional district school committee candidates in a biennial state election, refer to the **MAYOR AND LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the re-codified Code of the City Marlborough, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

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

CHAPTER 66
REGISTRATION AND MAINTENANCE OF ABANDONED AND/OR
FORECLOSING RESIDENTIAL PROPERTIES

Sec. 66-1. Purpose; Enforcement Authority.

A. It is the purpose and intent of this Chapter to protect and preserve public safety and security, and the quiet enjoyment of occupants, abutters and neighborhoods, by: (i) requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosing residential properties with the City of Marlborough; and (ii) regulating the maintenance and security of abandoned and/or foreclosing residential properties to help prevent blighted and unsecure residences.

B. The Building Commissioner of the City of Marlborough has enforcement authority as to this Chapter, pursuant to MGL c. 143, § 3, the State Building Code, and the City's Zoning Ordinance.

Sec. 66-2. Definitions.

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

"Abandoned" means vacant.

"City" means the City of Marlborough.

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

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

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

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

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

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

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

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

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

- (i) has legal or equitable title to any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park); or
- (ii) has care, charge or control of any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park), in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- (iii) is a mortgagee in possession of any such any dwelling, dwelling unit, mobile home unit, building or parcel of land, vacant or otherwise, including a mobile home park; or
- (iv) is an officer or trustee of the association of unit owners of a condominium;
- (v) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities and has initiated the foreclosure process; or
- (vi) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (vii) is a person who operates a rooming house.

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

“Residential Property” means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes. “Vacant” means any residential building or structure not currently legally occupied.

Sec. 66-3. Registration.

A. All owners of abandoned and/or foreclosing residential properties shall register such properties with the Commissioner on forms provided by the Commissioner.

1. Each registration must state the individual owner’s or agent’s name, phone number and mailing address located within the Commonwealth of Massachusetts as required by MGL c. 59, § 57D, MGL c. 156D, § 5.02, and 950 CMR 113.20; the mailing address may not be a post office box.
2. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned. If the property shows evidence of abandonment, the property is abandoned for purposes of this Chapter 66.

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Each registration must designate a local individual or local property management company responsible for the maintenance and the security of the property. This designation must state the individual or company's name, direct phone number, and local mailing address; the mailing address may not be a post office box.

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

Sec. 66-4. Maintenance and Security Requirements.

- A. Properties subject to this Chapter must be maintained in accordance with the State Sanitary Code, the State Building Code, and local regulations concerning external and/or visible maintenance including but not limited to the City of Marlborough's so-called Anti-Blight Ordinance, codified at Chapter 64 of the City Code. The local owner or local property management company must inspect and maintain the property on a monthly basis for so long as the property is abandoned or shows evidence of abandonment. The name and the 24-hour contact phone number of the local owner or local property management company responsible for the maintenance must be posted on the front of the property so as to be clearly visible by the Commissioner or his/her designee from the street.
- B. In accordance with state law, including but not limited to MGL c. 143, §§ 6-10 and 780 CMR 121.0, abandoned property must be made safe and must be secured so as not to be accessible to unauthorized persons.

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C. Compliance with this Section 66-4 does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions, and/or homeowners' association rules and regulations.

Sec. 66-5. Inspections.

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

Sec. 66-6. Violations and Penalties.

A. A failure to initially register with the Commissioner pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00.

B. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00 for each violation, and a like fine for each day's continuation of such violation.

C. A failure to maintain and/or to secure the property pursuant to Section 66-4 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00 for each week during which the property is not maintained and/or not secured in compliance with Section 66-4.

D. The penalties provided in this Section 66-6 shall not be construed to restrict the City from pursuing other legal remedies available to the City.

Sec. 66-7. Appeals.

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

Sec. 66-8. Applicability.

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

Sec. 66-9. Regulatory Authority.

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

Sec. 66-10. Severability.

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

Sec. 66-11. Notice.

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

Sec. 66-12. Effective Date.

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

ORDERED: That the City of Marlborough's Yearly Operational Plan for the year 2009 for control of roadside vegetation within the City's rights-of-way, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, MARCH 9, 2009** as date for a **PUBLIC HEARING** on the petition by Petition from National Grid to install one new pole on Florence St. #14-50, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the minutes, Community Development Authority, December 22, 2008, **FILE**; adopted.

ORDERED: That the minutes, MetroWest Regional Transit Authority, December 8, 2008, **FILE**; adopted.

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

- A. Joseph Pakus, 17 Red Spring Rd., vehicle damage
- B. Anthony Kalustian, 400 Simpson Rd., vehicle damage
- C. Donna Barthe, 99 Summer Hill Rd., Madison, CT., vehicle damage

Reports of Committees:

Councilor Ferro reported the following out of the Finance Committee:

Order No. 09-1002102 – Pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, with the approval of the Mayor, approves expenditures in excess of available appropriation for snow and ice removal for Fiscal Year 2009. Recommendation of the Finance Committee is to approve 4-0. Chairman Ossing was absent.

ORDERED: That the City investigate green-building laws that meet industry-accepted standards and alternative power sources, such as wind power. Further ordered that this matter be referred to the Building Inspector and Legislative & Legal Affairs Committee to review green-building laws existing in the Commonwealth and how Marlborough could benefit from such new local standards, refer to **LEGISLATIVE AND LEGAL AFFAIRS AND BUILDING INSPECTOR**; adopted.

ORDERED: That the appointment of William Brewin to Library Board of Trustees for a term which expires the 1st Monday in February 2012, **APPROVED**; adopted.

ORDERED: That the reappointment of John Peltier and Kevin Boyle as Fence Viewers for terms of one year expiring on the 1st Monday of February 2010, **APPROVED**; adopted.

ORDERED: That the reappointments of Lawrence Roy and Michelle Higgins to the Conservation Commission for terms to expire March 5, 2012, **APPROVED**; adopted.

Councilor Clancy abstained

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:40 p.m.



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Karen A. Kosty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

February 19, 2009

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

RE: Permanent Appointment of Personnel Director
Order No. 09-1002118

Honorable President Vigeant and Councilors:

At its meeting on February 9, 2009, the City Council voted to refer the appointment I made to the position of Personnel Director back to me with a request to re-advertise the position and that I also submit an order permitting the City Council to make a 30-day appointment to this position subject to the opinion of the City Solicitor.

It is the Solicitor's opinion that your vote to refer back and re-advertise had the legal effect of constituting a rejection of my appointment. As a result, statutorily, I then had only one month – 28 days – from February 9 to conduct all re-advertising, all interviews, and all else that would go into a second recruitment effort for the position of Personnel Director. The Council's February 9 vote thus presents the obvious logistical problem of squeezing a second recruitment effort into only 28 days from February 9. In addition, that month represents the exact opposite of the wishes expressed by some Councilors at the February 9 meeting that *more time* rather than less would be better suited for a second recruitment effort.

Given that the Administration's first recruitment effort consumed 75 days (from first job posting on November 21, 2008 through appointment on February 4, 2009), the 28-day period triggered by the Council's vote means that the second recruitment effort will have been shortened by 47 days compared with the first. Due to the compressed recruitment timetable, I have been advised by the Solicitor that I may permissibly make another 60-day appointment under MGL c. 41, § 61A, after the present temporary appointment has expired on March 9, 2009.

Based on my review of the Council meeting on February 9th, it appears the basis for referring the appointment back to me was, in part, due to concerns centering on the process we followed to advertise the position. It was speculated during the meeting that the advertisement took place for a period of one week between the Christmas and New Year's holidays, and I certainly would

have understood those concerns had that been true. Below, please find the timeline of events associated with the advertisement of this position:

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- 11/07/08 Sue Ellis provides Letter of Resignation to Mayor
- 11/21/08 Job posted on City's Website –
Posting was not removed until February 6, 2009
- 11/21/08 Job posting hand-delivered to all departments including
City Council Office
- 11/23/08 Boston Globe
 - Sunday newspaper of November 23, 2008
(Sunday prior to Thanksgiving weekend)
 - www.boston.com for 28 days
 - www.monster.com for 28 days
- 11/24/08 MMA Online –
 - Beacon online for 30 days
(Notified December Beacon deadline had past.)
- 01/02/09 Deadline for applications

In accordance with the recommendation of the City Solicitor, in order for me to proceed with re-advertising the position of Personnel Director, it will be necessary for the City Council to rescind its vote of February 9, 2009 which referred the appointment I made on February 4, 2009 back to me. Rescinding your vote will allow me to withdraw the appointment, and I will then be in a position to re-advertise. It is also my intent to make another 60-day appointment to this position as noted above, while the re-advertisement process unfolds.

It is indeed unfortunate that the timeline and other components of the advertising process associated with this position were not accurately related to the Council for its consideration at the meeting on February 9th. I am hopeful now that you have a record of the events as they actually happened, the concerns related to the advertising process expressed at your February 9th meeting have been addressed.

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

Sincerely,



Nancy E. Stevens
Mayor

attachments



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 31
MAYOR

Karen L. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

February 10, 2009

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

Honorable President Vigeant and Councilors:

The Marlborough Fire Department has recently been awarded two grants through the Commonwealth of Massachusetts Executive Office of Public Safety and Security.

The SFY 2009 S.A.F.E. grant in the amount of \$5,464.62, provides funding for student awareness of fire education programs as detailed in the supporting documentation.

The SFY 2009 Firefighting Equipment Grant in the amount of \$10,992.00 has been awarded for the purchase of firefighting equipment as detailed in the supporting documentation.

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

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

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

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

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Nancy E. Stevens
MAYOR

Karen A. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

February 17, 2009

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

Honorable President Vigeant and Councilors:

This letter is written in response to Council Order No. 09-1002131: That the City investigate green-building laws that meet industry-accepted standards and alternate power sources, such as wind power. I am excited to bring you up to date on progress made since November of 2006, when Marlborough began its investigation into green practices for the City.

In November of 2006, Marlborough conducted a city-wide Energy and Environmental Inventory for the city. This effort, spearheaded by Jennifer Boudrie, identified energy consumption sources throughout the city as well as the amount of greenhouse gas emissions produced by the city as a whole through all sectors- municipal, business and residential, as well as the transportation sector. This report identified high energy usage within the city and pointed to areas where energy savings efforts could be focused.

On November 15, 2007, I, along with 911 mayors throughout the country, signed the U.S. Mayors Climate Protection Agreement which pledges to move the city forward in reducing greenhouse gas emissions and make the city a “greener place to live.” To begin the effort, we established the Marlborough Energy and Environment Taskforce (M.E.E.T.) to develop an action plan to establish goals and actions to create a more sustainable future. The attached plan is the product of this taskforce and was compiled by Jennifer Boudrie and Priscilla Ryder.

The 13 member M.E.E.T. included members from all sectors of the community and Council was invited to participate. Efforts began in January of 2008, and the committee met monthly for six months. A draft report was created in June of 2008 and the final report attached was presented to me in January of 2009.

The plan is a comprehensive outline of five key areas where green practices will significantly impact the goals established within the Mayors Climate Protection Agreement. These five areas include the following:

- 1: Energy Usage
- 2: Water Usage
- 3: Transportation
- 4: Land Use, Buildings and Vegetation Management
- 5: Waste Management

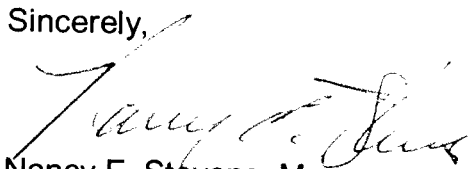
Key achievements to date include the addition of two hybrid vehicles to the city's fleet, the installation of energy efficient traffic lights, retrofitting city buildings with energy efficient lighting and upgrading pumps at the wastewater treatment facilities. Each of these energy-saving measures generated considerable savings as well as reductions in greenhouse gas emissions.

Our approach to sustainability cannot be limited, however, to municipal advances. Community partners must also play a significant role. In the private business sector, Shaws and Rohm and Haas have installed solar arrays, office buildings have upgraded their Heating Ventilating and Air conditioning Units (HVAC) and retrofitted lighting with the aid of National Grid energy efficiency rebate programs. Hillside School has constructed a building to LEED (Leadership in Energy and Environmental Design) standards. Additionally, contributions of residents cannot be overlooked in this process. Green Marlborough is educating residents on ways to reduce energy costs in their homes and through lifestyle practices. Everyone in the community can make a contribution to our Sustainability Plan and we encourage a wide participation in our efforts.

Marlborough's Sustainability Plan will make the city eligible for a portion of the soon available \$10M in grant monies established through the passage of the Green Communities Act of 2008. We will pursue grant opportunities to further each of the five impact areas and we hope to use grant funds to hire an Energy Program Manager to help move this plan forward. In the meantime, Priscilla Ryder and John Ghiloni will serve as the city's primary contacts.

During the month of March, we expect to roll-out an implementation plan based on the attached document. We welcome Council participation during this important campaign. I am truly excited about the opportunity to leverage the work of the past two years as we launch the next phase of our plan making Marlborough a greener place to live.

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

Sincerely,

 Nancy E. Stevens, Mayor

attachments



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City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Karen A. Kistly
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

February 19, 2009

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

RE: Sepracor TIF Agreement

Honorable President Vigeant and Councilors:

The recently approved Sepracor TIF agreement and related documents have been submitted to the state's Economic Assistance Coordinating Council (EACC) for its initial review. Upon review of the documents, several necessary changes to the original documents were identified. The City Council needs to amend the TIF agreement in order to advance the agreement and certified project for EACC approval. Since the EACC cannot approve agreements that provide for tax exemptions that take effect earlier than the fiscal year following EACC's approval, the enclosed TIF agreement has been revised so that all the references to calendar years and to fiscal years have had one (1) year added to them, including the beginning and ending years of the agreement.

Accordingly, these revisions include:

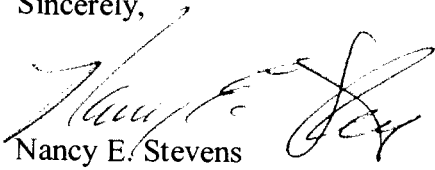
- The term of the TIF agreement will remain 14 years, and will commence on the first day of FY 2010 (versus 2009) and run through FY 2023 (versus 2022).
- The Base Valuation Year for the TIF agreement is amended to be FY 2009 (versus 2008).
- The Base Valuation will be adjusted annually by an adjustment factor as defined in the version of 760 CMR 22.00 in effect as of January 31, 2009 (versus 2008).
- The Building Scheduled Exemption Percentages and the Cumulative Minimum Total Permanent New Full-Time Job Requirements schedules reference Fiscal Years 2010 through 2023 (versus 2009 through 2022).
- Sepracor shall submit annual reports on job creation, job retention, and new investment to the Mayor for the fiscal year beginning July 1, 2009 (versus 2008) and the first report shall be submitted by the end of September 2010 (versus 2009).

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I have enclosed the amended TIF agreement showing the needed date changes. In addition, I am enclosing a letter from Sepracor detailing their current level of permanent full-time jobs.

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

Sincerely,



Nancy E. Stevens
Mayor

Enclosures

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**TAX INCREMENT FINANCING AGREEMENT
BY AND BETWEEN
THE CITY OF MARLBOROUGH AND
SEPRACOR INC.**

This TAX INCREMENT FINANCING AGREEMENT (the "TIF Agreement") is entered into this [] day of [] 2008~~9~~, by and between the City of Marlborough (the "City"), a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, having a principal place of business at Marlborough City Hall, 140 Main Street, Marlborough, MA 01752, acting through its city council (the "City Council") which designates and delegates the mayor of the City or one of her designees (the "Mayor") to execute this TIF Agreement in accordance with Massachusetts General Laws ("MGL") Chapter 40, Section 59; and Sepracor Inc., a Delaware corporation having a principal place of business at 84 Waterford Drive, Marlborough, MA 01752 ("Sepracor"). The effective date of this Agreement shall be [] [], 2008, the date of approval from the Commonwealth of Massachusetts Economic Assistance Coordinating Council (the "EACC").

WHEREAS, Sepracor is a developer and marketer of pharmaceutical products, and plans to increase the office space and building capacity of its principal place of business at the address above; and

WHEREAS, Sepracor's proposed project (the "Project") will involve the construction of a free standing, four story building ("Building 2"), of approximately 143,000 square feet, and a second building ("Building 3") of approximately 72,000 square feet, which will be connected to the south end of Sepracor's existing office building ("Building 1"), located on the Property (as that term is defined below); and

WHEREAS, Building 1 is located on and Buildings 2 and 3 will be constructed on the parcels described in a Quitclaim Deed recorded in the Middlesex County (South District) Registry of Deeds ("the Registry") in Book 36959, page 491 and also described and shown as the City's Assessor Parcel ID Nos. 0063-0001, 0063-0006-0001 and 0063-0006-0002 (such parcels and the improvements thereto are collectively defined as the "Property"); and

WHEREAS, Sepracor is seeking a Tax Increment Financing Exemption for the Property and Project from the City, in accordance with Section 3A, Chapter 23A; Section 59, Chapter 40; and Clause Fifty-first of Section 5, Chapter 59; of the MGL; and

WHEREAS the City strongly supports increased economic development as a means to expand the commercial and industrial tax base, provide additional employment opportunities for residents of the Framingham-Marlborough Regional Economic Target Area, as the term "Economic Target Area" is used in Chapter 23A, Section 3D of the MGL (the "ETA"), and contribute to a healthy, balanced economy and stronger tax base; and

WHEREAS the Property is located within the boundaries of the ETA and is proposed for designation as an Economic Opportunity Area (the "EOA"), as the term "Economic Opportunity Area" is used in Section 3E, Chapter 23A of MGL, by the EACC; and

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WHEREAS the Project proposed by Sepracor furthers the economic development goals established for the ETA and meets the criteria for designation by the EACC as a "Certified Plan", as that term is defined in 760 CMR 22.05.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties do mutually agree as follows:

A. THE CITY'S OBLIGATIONS

1. The City Council, by vote at a City Council meeting duly called and held on [] [], 2008~~9~~, has approved the provisions of this TIF Agreement pursuant to the resolutions attached hereto as Exhibit A. The City hereby authorizes the Mayor to execute this TIF Agreement on the City's behalf, and to monitor and enforce compliance by Sepracor with the terms of this TIF Agreement. The Mayor is authorized to act for and on behalf of the City in proceedings relating to the approval of this Agreement by the EACC.
2. The term of this TIF Agreement is up to fourteen (14) years and will commence on the first day of fiscal year 2009~~10~~ and will end as of the last day of the fiscal year determined in accordance with Section 3 of Paragraph A of the TIF Agreement.
3. A Tax Increment Financing Exemption (the "Exemption") is hereby granted to Sepracor by the City. This Exemption shall be coterminous with the term of this TIF Agreement.

The formula for calculating the Exemption for the Project and Property will be as prescribed by Section 3E, Chapter 23A; Section 59, Chapter 40; and Clause Fifty-first of Section 5, Chapter 59 of the MGL and as further prescribed by the Code of Massachusetts Regulations (the "CMR") Title 760, Section 22.00. The Exemption formula will apply to the incremental difference in the assessed valuation of the Property, calculated as the difference between the Adjusted Base Valuation (as defined below) in the Base Year (as defined below), and the assessed valuation of the Property for each of the next fourteen (14) fiscal years during the term of the TIF Agreement.

The "Base Valuation" is the assessed value of the Property for the Base Year. The "Base Year" is the fiscal year immediately preceding the fiscal year in which the Property becomes eligible for the Exemption. The City and Sepracor hereby agree that the Base Year for the TIF Agreement is fiscal year 2008~~9~~.

The Base Valuation will be adjusted annually by an adjustment factor as defined in the version of 760 CMR 22.00 in effect as of January 31, 2008~~9~~ (the "Adjusted Base Valuation"). This Adjusted Base Valuation will remain fully taxable (*i.e.*, the Exemption shall not apply to or be calculated with respect to the Adjusted Base Valuation and no portion of the Adjusted Base Valuation shall be eligible for exemption from property taxation under Chapter 59 of the MGL) throughout the term of the TIF Agreement.

The increased value, or "increment," created by the Project (including all improvements to the Property throughout the term of the TIF Agreement), is the amount eligible for the Exemption from property taxation under Chapter 59 of the MGL (calculated and applied as provided in this Section 3 of Paragraph A). Pursuant to 760 CMR 22.00, the increment is equal to the amount by which the Property's assessed value for each fiscal year during the term of the TIF Agreement exceeds the Adjusted Base Valuation. All Exemptions will be enacted upon realization of an increase in the assessed value of the Property that results from new investment specific to this Project throughout the term of the TIF Agreement.

Specifically, this TIF Agreement calls for the Exemption from property taxation under Chapter 59 of the MGL for the Project and the Property based on the following schedule:

<u>Fiscal Year</u>	<u>Building 2 Scheduled Exemption Percentage</u>	<u>Building 3 Scheduled Exemption Percentage</u>
2009 <u>10</u>	100%	100%
2010 <u>1</u>	70%	100%
2011 <u>2</u>	60%	100%
2012 <u>3</u>	50%	100%
2013 <u>4</u>	40%	100%
2014 <u>5</u>	30%	100%
2015 <u>6</u>	20%	60%
2016 <u>7</u>	20%	50%
2017 <u>8</u>	20%	40%
2018 <u>9</u>	10%	30%
2019 <u>20</u>	0%	20%
2020 <u>1</u>	0%	10%
2021 <u>2</u>	0%	10%
2022 <u>3</u>	0%	10%

4. The City represents to Sepracor and the EACC that it has complied with all substantive and procedural requirements in executing the TIF Agreement and it is a legal, valid and binding document in accordance with the laws of the Commonwealth of Massachusetts.

B. SEPRACOR'S OBLIGATIONS

1. The City is granting the Exemption for the Property and the Project in consideration of Sepracor's commitment to:

- a. Maintain its current level of 613 jobs in the City and create 250 new permanent full-time jobs over the term of this TIF Agreement (which includes employees located at Building 1 as well as all employees located at other existing Sepracor offices in the City as of the date of this TIF Agreement), and pay all municipal permit fees required in connection with the improvements associated with the Project;
- b. Invest a minimum of \$30 million in the construction of Building 2 on the Property and related improvement costs, and make on-going personal property expenditures of \$4 million;
- c. Invest a minimum of \$17 million in the construction of Building 3;
- d. Timely pay all of its taxes owed to the City over the term of this TIF Agreement; and
- e. Specifically as to new jobs, create and, over the term of the TIF Agreement, maintain new jobs at the Property according to the following schedule:

<u>Fiscal Year</u>	<u>Building 2 Cumulative Minimum Total Permanent New Full-Time Job Requirements</u>	<u>Building 3 Cumulative Minimum Total Permanent New Full-Time Job Requirements</u>
200910	25	0
20101	50	0
20112	75	0
20123	100	0
20134	125	0
20145	125	25
20156	125	50
20167	125	75
20178	125	100
20189	125	125
201920	125	125
20201	125	125
20212	125	125
20223	125	125

For purposes of determining Cumulative Minimum Total Permanent New Full-

Time Job Requirements as set forth in the table above: (i) newly created positions that are filled and then subsequently become open during a particular fiscal year, which Sepracor reasonably believes will be filled within three (3) months of becoming open (and in fact are filled within such three month period), shall continue to be counted as a new job during the term of the TIF Agreement; (ii) in determining whether the Cumulative Minimum Total Permanent New Full-Time Job Requirements have been met for a given fiscal year, the total number of new jobs created from the effective date of the TIF Agreement through the end of such fiscal year shall be aggregated such that if the total number of new jobs created through such period meets or exceeds the Cumulative Minimum Total Permanent New Full-Time Job Requirements for such fiscal year, then Sepracor shall be deemed to have met the Cumulative Minimum Total Permanent New Full-Time Job Requirements for such fiscal year; and (iii) the Building 3 Cumulative Minimum Total Permanent New Full-Time Job Requirements shall apply only upon the application of the Building 3 Scheduled Exemption Percentages as set forth and applied in accordance with Section 3 of Paragraph A.

During the duration of this TIF Agreement, Sepracor will work with the City and local employment agencies to achieve the job creation objectives set forth above and Sepracor agrees to make commercially reasonable efforts to ensure that the newly created jobs at the Property are made available to residents of the ETA. Notwithstanding anything herein to the contrary, Sepracor may freely transfer new and existing employees among Buildings 1, 2, 3 or any other existing Sepracor office location in the City as of the date of this TIF Agreement in its sole discretion, although Sepracor acknowledges and agrees that each new job shall be counted only once for purposes of Determining Minimum New Job Requirements.

2. Sepracor agrees to submit annual reports on job creation, job retention and new investment to the Mayor by the end of September of each year with respect to the immediately preceding fiscal year during which the TIF Agreement is in effect. Reports shall be submitted for the fiscal year beginning on July 1, 2008~~9~~, and for every fiscal year thereafter falling within the term of the TIF Agreement. The first report, therefore, shall be submitted by the end of September 2009~~10~~. The annual report shall include:
 - a. employment levels at the Property at the beginning and end of the reporting period;
 - b. the specific number of ETA and Marlborough residents employed at the Property at the beginning and at the end of the reporting period;
 - c. Sepracor's financial contribution to the City (including property taxes, motor vehicle excise taxes, and water and sewer fees) for the fiscal year; and
 - d. a description of any private investment, including but not limited to donations and perpetual maintenance of land for recreational purposes,

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made by Sepracor for the benefit of the community during the reporting period.

During the term of this TIF Agreement, Sepracor will also provide the City with any information related to the Property and/or the Project which the parties mutually agree should be provided.

- 3. The Scheduled Exemption Percentages set forth in the table in Section 3 of Paragraph A will automatically be adjusted downward in any particular year that Sepracor does not meet the Cumulative Minimum Total Permanent New Full-Time Job Requirements described above. This Scheduled Exemption Percentage will be changed for the fiscal year beginning after the job requirement date, utilizing the following formulas:

$$\frac{\text{Actual Total New Positions in the Given Year}}{\text{Cumulative Minimum Total Permanent New Full-Time Job}} \times \text{Scheduled Exemption Percentage} = \text{actual Exemption Percentage.}$$

For example, if the actual total new job level for Building 2 at the end of fiscal year 2010~~1~~ is 45, then the Exemption Percentage for Building 2 in fiscal year 2011~~2~~ will be $(45/50) \times 60\%$ or 54%.

The Exemption Percentage for later years will revert back to the original schedules set forth in the table in Section 3 of Paragraph A if Sepracor restores the job level based on the Cumulative Minimum Total Permanent New Full-Time Job Requirements for that later year. If Sepracor meets or exceeds its Cumulative Minimum Total Permanent New Full-Time Job Requirements, the Exemption Percentage will not change.

Sepracor will be in default of its obligations under the TIF Agreement if Sepracor fails to meet or comply with any of the requirements of Sections 1 or 2 above or Section 4 below of Paragraph B, and such failure continues or remains uncured for sixty (60) days (or such longer time as the City may deem appropriate under the circumstances) after the date of written notice, provided by the City to Sepracor, explaining in reasonable detail the grounds for or nature of such failure. Upon the City's determination that any default by Sepracor has continued or remained uncured for such period after the date of such written notice, the City may take such action as it deems appropriate to enforce Sepracor's obligations under the TIF Agreement, including but not limited to a request that EACC decertify the Property and/or Project for eligibility for the Exemption; any such request would be in addition to the automatic downward adjustment of the Scheduled Exemption Percentages described in Section 3 of Paragraph B above. Upon any such decertification, the City shall have the right, upon written notice to Sepracor, to terminate the Exemption benefits described in Section 3 of Paragraph A above, commencing as of the fiscal year in which Sepracor is in default or, if such benefits have already been received by Sepracor for the fiscal year in which Sepracor is in default, commencing as of the fiscal year immediately following that fiscal year. Any notice required hereunder shall be sent, via certified mail,

return receipt requested, or delivered in hand, to Sepracor at the address of its principal office referred to above. Said notice shall be effective upon receipt.

- 4. Sepracor shall give the City two (2) months' written notice prior to any proposed disposition of the Property or any portion thereof by Sepracor, which identifies the prospective new owner; said notice may include information about such prospective new owner which is not otherwise subject to a confidentiality agreement; and said notice shall be given to: Mayor's Office, City Hall, 140 Main Street, Marlborough, MA 01752. The City shall not, except as required by law, disclose any information provided by Sepracor regarding any proposed disposition of the Property or any portion thereof by Sepracor.

C. OTHER CONSIDERATIONS

- 1. This TIF Agreement shall be binding upon all parties to it, shall be binding upon Sepracor and its successors and assigns, and shall be binding upon subsequent owners of the Property so long as the Project has not been decertified by EACC.

[Signature Page to Follow]

5/10

WITNESSETH the execution and delivery of the TIF Agreement by the City of Marlborough and Sepracor Inc. as an instrument under seal as of the date first written above.

SEPRACOR INC.

CITY OF MARLBOROUGH

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date of Signature

Date of Signature

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Exhibit A
(City Council Resolution)

RESOLUTION:

WHEREAS, the City Council of the City of Marlborough strongly supports increased economic development to provide additional jobs for qualified residents of the City and the Marlborough-Framingham Regional Economic Target Area (“ETA”), to expand commercial and industrial activity within the City, and to promote and develop a healthy economy and stronger tax base; and

WHEREAS, the City of Marlborough is a part of the regional ETA; and

WHEREAS, the City Council of the City of Marlborough supports and endorses the economic development goals for the Economic Target Area; and

WHEREAS, the City Council of the City of Marlborough desires a beneficial economic use creating jobs for local residents and increasing light industrial activity for Map 63, Parcels 1 and 6 (Lots 1 and 2) on the Marlborough Assessors Map; and

WHEREAS, the City Council of the City of Marlborough desires that the area be designated as the 84/158 Waterford Drive Economic Opportunity Area; and

WHEREAS, the City Council of the City of Marlborough finds that the proposed 84/158 Waterford Drive Economic Opportunity Area meets the criteria for economic goals by creating jobs; and

WHEREAS, the City Council of the City of Marlborough finds that the proposed 84/158 Waterford Drive Economic Opportunity Area meets the local criteria set forth in the Economic Target Area application; and

WHEREAS, the City Council of the City of Marlborough further supports and endorses the economic development goals contained in the Economic Opportunity Area application; and

WHEREAS, the City Council intends to use tax increment financing or special tax assessment economic development tools created by the Massachusetts Economic Development Incentive Program based on the ability of the City of Marlborough, in accordance with needs and community benefits of a specific project, that are reasonably proportional to the economic development incentives from State and local government and the resulting economic development benefits;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Marlborough that the following activities which are necessary to pursue an application for an Economic Opportunity Area designation in the City of Marlborough be authorized:

1. The City Council of the City of Marlborough hereby authorizes the submission of the 84/158 Waterford Drive Economic Opportunity Area application (attached hereto as Exhibit 1) to the Massachusetts Economic Assistance Coordinating Council;
2. The 84/158 Waterford Drive Economic Opportunity Area is defined to be Map 63, Parcels 1 and 6 (Lots 1 and 2) on the Marlborough Assessors Map;
3. The City Council of the City of Marlborough hereby requests that the Massachusetts Economic Development Incentive Board approve Sepracor Inc.’s application for a “Certified Project;” and
4. The City Council of the City of Marlborough agrees to authorize the use of tax increment financing (attached hereto as Exhibit 2) for the Sepracor Inc. Certified Project located within said Economic Opportunity Area.

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SEPRACOR

Improving Health Through Innovation™

ROBERT F. SCUMACI
Executive Vice President and Chief Financial Officer

84 Waterford Drive
Marlborough, MA 01752-7010

Direct: 508-357-7337
Fax: 508-357-7494
bob.scumaci@sepracor.com
www.sepracor.com

February 18, 2009

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

Dear Mayor Stevens:

Thank you for all you've done to assist Sepracor in getting our TIF and moving it forward. In light of our recent disappointing layoff, let me refer you to Sepracor's press release issued on January 28, 2009:

"Overall reduction in Sepracor workforce of approximately 20% or approximately 530 positions: approximately 180 corporate positions and approximately 350 field-based positions."

These numbers bear further explanation relative to the TIF. As it mentions, the three hundred fifty (350) positions stated in the excerpt refer to field-based sales positions. Thirty (30) of the one hundred eighty (180) positions, while categorized as corporate, are in fact field-based but not sales positions. Of the remaining one hundred fifty (150) employees working in Marlborough, fifty one (51) are contract or temporary positions that will be eliminated. As such, ninety nine (99) are full-time positions that have been reduced from our full time employee count, which currently stands at six hundred eighteen (618).

Sepracor remains committed to our TIF agreement and to the City of Marlborough and wish to move forward with the Regional and State approval. I hope this explanation is sufficiently clear to you. If not, please feel free to contact me for further clarification.

Sincerely,

Robert F. Scumaci,
Executive Vice President and Chief Financial Officer

Bryan Iwata
Executive Director, Facilities

Enclosure:

cc: City Council President Arthur Vigeant
Tom Wellen (Marlborough 2010)
Rich Ranieri, Executive Vice President, Human Resources and Administration

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City of Marlborough
Public Facilities Department

John L. Ghiloni, Director
Andrew J. White,
Assistant Director
85 Sawin Street
Marlborough, MA 01752
Phone: (508) 460-3521
Fax: (508) 46-3565

February 18, 2009

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

Re: Renewal of Lease of former Bigelow School

Dear President Vigeant and Members,

Pursuant to City Council Order № 08-1001774B, the lease authorized by this order, the approval of the Marlborough School Committee and the terms and conditions of said lease, I am requesting your approval to renew the lease of the former Bigelow School, 57 Orchard Street to the Assabet Valley Collaborative for a period of one year from July 1, 2009 to June 30, 2010.

The agenda of the School Committee for February 10, 2009 is attached at Item 7B and it was a favorable vote. I have also attached a copy of the renewal.

You approved the initial lease on June 23, 2008. The terms of the lease also allow for renewal of four (4) additional one (1) year terms at the sole discretion of the City of Marlborough. Your approval of this renewal will be sincerely appreciated

Sincerely yours,

John Ghiloni
Director

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PUBLIC NOTICE

MARLBOROUGH SCHOOL COMMITTEE MEETING

TUESDAY, FEBRUARY 10, 2009- 7:30 PM

District Education Center

School Committee Room A

17 Washington Street, Marlborough, Massachusetts 01752


AGENDA

**CALL TO ORDER
PLEDGE OF ALLEGIANCE**

1. **Presentation**
FY10 Budget Preview
2. **Communications**
3. **Superintendent's Report**
The Green Project Grades 4-5
4. **Acceptance of Minutes**
 - A. Minutes of 1/27/09 Meeting
 - B. Minutes of Joint Convention 1/26/09
5. **Public Participation**
6. **Reports of School Committee Sub-Committees**
7. **Action Items/Reports**
 - A. Transfers
 - B. Bigelow School Lease
 - C. Extended Sabbatical
 - D. Acceptance of Donations
8. **Members' Forum**
9. **Executive Session**

Adjournment

Respectfully submitted,



Michelle Bodin-Hettinger, Secretary
Marlborough School Committee

**SCHOOL COMMITTEE
AGENDA ITEM SUMMARY**

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Agenda Item # 7B
For School Committee Meeting
of February 10, 2009

SUBJECT:

Bigelow School

Listing of Attachments:

None

BACKGROUND:

The School Committee voted to lease the Bigelow School to Assabet Valley Collaborative on June 10, 2008 for a term of one year. The terms of the lease also allow for renewal of four additional one- year periods at the sole discretion of the City of Marlborough. This is the first request for the renewal of the lease.

STATUS:

The Assabet Valley Collaborative has requested to lease the building for one additional year from July 1, 2009 to June 30, 2010.

RECOMMENDATION:

That the School Committee approve the renewal of the lease to Assabet Valley Collaborative for an additional year beginning on July 1, 2009 and ending on June 30, 2010 at the current rate of \$10.00 per square foot.

Approved by Director of Public Facilities: _____

Recommended by the Superintendent: _____

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ORDERED:

Pursuant to City Council Order № 08-1001774B, the approval of the School Committee which is attached hereto and incorporated herein, and the terms and conditions of the lease to the Assabet Valley Collaborative of the former Bigelow School, 57 Orchard Street, said lease is hereby renewed for a one-year lease from (July 1, 2009 to June 30, 2010) in the amount of \$149,500.00(\$10.00 per square foot), be and is herewith APPROVED.

ADOPTED
In City Council
Order № 09-
Adopted

Approved by Mayor\
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:

JOHN G. CROWE ASSOCIATES, INC.

Landscape Architecture
Civil Engineering
385 Concord Avenue, Suite 1
Phone: (617) 484-7109

Environmental Approvals
Environmental Planning
Belmont, MA 02478-3096
FAX: (617) 484-1508

6 2009

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February 6, 2009

Marlborough City Council
c/o Ms. Lisa M. Thomas, City Clerk
Marlborough City Hall
140 Main Street
Marlborough, MA 01752
Tel: (508) 460-3775; Fax: (508) 624-6504

RE: Sewer Connection Permit
Boston Scientific Corporation
55 Fairbanks Boulevard (now Boston Scientific Way)
Marlborough, MA

Ladies and Gentlemen:

On behalf of our client, Boston Scientific Corporation, we respectfully request that the City Council approve an extension of time to June 1, 2010 (to coincide with the expiration of the State sewer connection permit) for the sewer connection permit for the above referenced property. The application was for a new connection to the existing sewer system for the construction of two new buildings (known as M4 and M5) on the property located at 55 Fairbanks Boulevard (now Boston Scientific Way) in Marlborough. The total expected sewage flow from the buildings is 37,500 GPD.

On June 30, 2004 an Application for a Sewer Connection Permit (with accompanying plans and specifications) was filed with the Marlborough City Council. The permit was approved by the City Council on September 13, 2004 and the application was endorsed by the Marlborough Department of Public Works on October 20, 2004. The Application was then filed with the Commonwealth of Massachusetts Department of Environmental Protection as required by 314 CMR 7.00 et. seq. The Commonwealth of Massachusetts Department of Environmental Protection approved the sewer connection permit (#W045553) on June 1, 2005.

The original Marlborough City Council approval of the sewer connection permit contained an 18 month time restriction on the construction of the connection. On February 10, 2006 our firm, on behalf of Boston Scientific Corporation requested that the time limit for the construction of the connection of the sewer connection be extended. On March 27, 2006 the City Council extended the permit time limit for an additional 18 months. The City Council approval of the sewer connection permit therefore requires that the sewer connection be constructed by September 13, 2007.

Marlborough City Council
RE: Sewer Connection Permit, Boston Scientific Corporation
55 Fairbanks Boulevard (now Boston Scientific Way), Marlborough, MA
February 6, 2009, Page 2 of 2

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On July 20, 2007 our firm requested that the time limit for the construction of the connection of the sewer connection be extended. On September 10, 2007 the City Council extended the permit time limit again for an additional 18 months. The current City Council approval of the sewer connection permit therefore requires that the sewer connection be constructed by March 10, 2009 unless an additional extension of time is granted.

Since purchasing the property in 2004, Boston Scientific Corporation has performed renovation and fit-up work on the existing buildings and has moved various functional groups onto the property. This process is ongoing. Recent corporate events within Boston Scientific and the overall economy will require additional planning for future expansions. Boston Scientific considers the expansion capability of the site extremely important to its future plans and this capability was one of the features that attracted Boston Scientific to the site. Therefore, we respectfully request that the City Council extend the approval of the sewer connection permit to June 1, 2010 (to coincide with the expiration of the State sewer connection permit for the property).

Our firm and our client would be pleased to meet with the City Council at your convenience to review the requested extension and discuss the details of the project. Please advise us of the date and time you wish us to meet with you.

If you have any questions regarding this matter or should you require any additional information, please do not hesitate to call.

Very truly yours,

JOHN G. CROWE ASSOCIATES, INC.



William A. Jones

cc: Mr. Ronald M. LaFreniere, P.E., Commissioner of Public Works
Mr. Doran Crouse, Marlborough Department of Public Works
Mr. Roy Barker, Boston Scientific Corporation

✓ Boston Scientific
cpw



IN CITY COUNCIL

SEPTEMBER 13, 2004

Marlborough, Mass.

ORDERED:

That the application of Boston Scientific, 55 Fairbanks Blvd for a Sewer Connection Permit be and is herewith APPROVED with the following conditions:

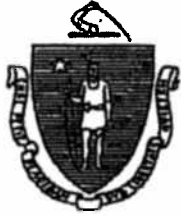
- 1) Permit is for 37,500 gallons per day,
- 2) Permit shall lapse if connection is not made within 18 (eighteen) months after date of final approval,
- 3) If total volume is not needed, surplus will be returned to the City.

ADOPTED
In City Council
Order No. 04-100564A
Adopted September 13, 2004

Approved by Mayor
Dennis C. Hunt
Date: September 22, 2004

A TRUE COPY
ATTEST:

Jo-Ann Reynolds
City Clerk



COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Central Regional Office, 627 Main Street, Worcester, MA 01608

7.4

MITT ROMNEY
 Governor

KERRY HEALEY
 Lieutenant Governor

ELLEN ROY HERZFELDER
 Secretary

ROBERT W. GOLLEDGE, Jr.
 Commissioner

RECEIVED
 JUN - 6 2005
 JOHN G. CROWE ASSOC.

Robert W. MacIntyre
 Boston Scientific Place
 Natick, MA 01760-1537

RE: MARLBOROUGH-BRPWP14-W045553
 314 CMR 7.00 – Connection with Pump Station
 Boston Scientific – Final Permit

Dear Mr. MacIntyre:

The Department has completed its review of your application for a sewer connection with pump station to service 500,000 square feet of office and research complex (M4 and M5) off Fairbanks Boulevard in Marlborough. The complex will generate up to 37,500 gpd of wastewater to be discharged through an existing sewer on lot 3 to the municipal sewer system tributary to the City's Easterly WWTF. The public notice was published on January 11, 2005 and a response to the comments was received on May 23, 2005. No comments objecting to the issuance or terms of the permit were received by the Department during the public comment period.

After due public notice, the Department hereby issues the attached final sewer extension permit #W045553. In accordance with 314 CMR 2.08, the permit becomes effective upon issuance. The private ownership requirement has been included as a special condition.

Parties aggrieved by the issuance of this permit are hereby advised of their right to request an Adjudicatory Hearing under the provision of Chapter 30A of the Massachusetts General laws and 314 CMR 1.00 "Rules for the Conduct of Adjudicatory Hearing Proceedings." Unless the person requesting the adjudicatory hearing requests and is granted a stay of the conditions and terms of the permit, the permit shall remain fully effective. If you have any questions you may contact Margo Webber at (508) 767-2738.

Very truly yours,

Robert A. Kimball, P.E.
 Environmental Engineer V
 Bureau of Resource Protection

June 1, 2005
 Date

MARLBOROUGH-W045553-Final Permit

Page 2

MwW045553fp

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Enc.

Cc:

Dana Samuelson, DEP-CERO

Doran Crouse
Marlborough DPW
135 Neil Street
Marlborough, MA 01752

William Jones
John Crowe Associates
385 Concord Ave, Suite 1
Belmont, MA 02478



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Pollution Control
Sewer Connections/Extensions

BRP WP 13, 14, 17, 18, 55

**Application for Permit for Sewer System Extension
or Connection**

DEP Use Only:

W045553
Permit Number

Marlborough
Town

7/6

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



The original of the transmittal form and this application, signed by the appropriate municipal official, should be submitted along with one copy to the appropriate Regional Office. The signature of the design engineer or other agent will be accepted only if accompanied by a letter of authorization. A copy of the transmittal form and fee (if applicable) should be submitted to the Boston Office.

If connection is to be made to the MWRA sewerage system, indicate "MWRA" in item 11.

If the project includes sewers, pumping stations, force mains, or siphons, construction plans must be submitted with the application.

If additional space is required to properly answer any questions, please attach additional sheets and refer to the attachments in the space provided.

A. Applicant Information

1. Name and Address of Applicant:

Boston Scientific Corporation, c/o Mr. Robert W. MacIntyre, Director, Corporate Facilities

Name

One Boston Scientific Place

Street address

Natick, MA

City/Town

01760-1537

Zip Code

508-650-8000

Telephone Number (include area code and extension)

E-mail address (optional)

2. Name of Sewer System Owner:

City of Marlborough Massachusetts

Name

City of Marlborough Easterly Wastewater Treatment Facility

Municipality or Sewer District

City of Marlborough Department of Public Works

Department

B. Project Information

1. Type of Project: Sewer Extension Sewer Connection

2. Number of Residences to be served:

N/A

3. Number of Bedrooms:

N/A



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Pollution Control
Sewer Connections/Extensions

DEP Use Only:

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BRP WP 13, 14, 17, 18, 55

**Application for Permit for Sewer System Extension
or Connection**

W045553
Permit Number

Marlborough
Town

B. Project Information (Continued)

7. Location, Length, Size and Capacity of Pumping Stations to be Connected to the existing system:

- a. On the 55 Fairbanks Boulevard site 122' north of Bldg. M4 & 207' northeast of Bldg. M5
Pump Station Location
- | | | |
|---|---|---|
| <u>Two (2) independent pumps</u>
Number of Pumps | <u>Twenty (20) Horsepower - 6"</u>
Pump Size | <u>320GPM @ 82.5 FT. TDH</u>
Pump Capacity |
|---|---|---|
- b. _____
Pump Station Location
- | | | |
|-----------------|-----------|---------------|
| _____ | _____ | _____ |
| Number of Pumps | Pump Size | Pump Capacity |

8. General Description of Sewers and Pump Stations within the existing sewer system which will transport the flow from the proposed sewer extension of connection to the receiving Wastewater Treatment Facility:

The sanitary sewer from the two proposed Buildings on the 55 Fairbanks Boulevard site will be collected by new gravity sewers and conveyed to a new on-site pump station (with duplex pumps, standby storage and emergency power). The forcemain from the pump station will convey the sewage uphill on site, across Fairbanks Boulevard and across Lot 3 to a new gravity sewer connection at the top of the hill. The new gravity sewer connection will flow on Lot 3 and connect to an existing 8" gravity sewer line. This existing sewer line flows southerly, easterly, southerly, southeasterly and southerly as 8" and 10" pipe across other properties in the Addition Hill Office Park to the existing City of Marlborough sewer which is tributary to the City of Marlborough Easterly Wastewater Treatment Facility.

9. Receiving Wastewater Treatment Facility:

Name	<u>City of Marlborough Easterly Wastewater Treatment Facility</u>
Average Daily Flow	<u>3.2 MGD</u> Million gallons per day
Design Flow	<u>5.5 MGD</u> Million gallons per day

10. Does the discharge contain any industrial waste? Yes No

If yes, list any pollutants which you know or have reason to believe are discharged or may be discharged. For every pollutant you list, please indicate its approximate concentration in the discharge and any analytical data in your possession which will support your statement. Additional wastewater analysis may be required as part of this application.

Pollutant	Concentration	Analytical Data
<u>None in any Significant Amount</u>	_____	_____
_____	_____	_____
_____	_____	_____



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Water Pollution Control
 Sewer Connections/Extensions

DEP Use Only:

W045553
 Permit Number

Marlborough
 Town

7.9

BRP WP 13, 14, 17, 18, 55

**Application for Permit for Sewer System Extension
 or Connection**

B. Project Information (Continued)

11. Does the discharge contain any industrial waste containing substances or materials which could harm the sewers, wastewater treatment process, or equipment; have an adverse effect on the receiving water; or could otherwise endanger life, limb, public property, or constitute a nuisance?

Yes No

12. Do the wastewaters receive any pretreatment prior to discharge?

Yes No

13. List, in descending order of significance, the four (4) digit standard industrial classification (SIC) Codes which best describe the facility producing the discharge in terms of the principal products for services provided. Also, specify each classification in words.

SIC Code	Specify
3841 - Surgical and Medical Instruments and Apparatus	
A.	
B.	
C.	
D.	

14. Is the Proposed Discharge Consistent with Existing Sewer Use Regulations?

Yes No

15. Is there a site of historic or archeological significance, as defined in regulations of the Massachusetts Historical Commission, 950 CMR 71.00, which is in the area affected by the proposed extension or connection?

Yes No

16. Does this project require a filing under 301 CMR 11.00, the Massachusetts Environmental Policy Act?

Yes No

If yes, has a Filing been made?

Yes No



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Water Pollution Control
 Sewer Connections/Extensions

BRP WP 13, 14, 17, 18, 55

**Application for Permit for Sewer System Extension
 or Connection**

DEP Use Only:

W045553
 Permit Number

Marlborough
 Town

B. Project Information (Continued)

17. Name and Address of Mass. Registered Professional Engineer Designing Proposed System:

Donald E. Martinage, P.E., P.L.S., c/o Martinage Engineering Associates, Inc.
 Name

131 Main Street, 3RD Floor
 Street

Reading
 City/Town

(781) 944-4808
 Telephone Number

01867
 Zip Code

20330
 Mass. P.E. Number

C. Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment of knowing violations."

(I will be responsible for publication of public notice of the applicable permit proceedings identified under 314 CMR 2.06(1)(a) through (d).)

Mr. Robert W. MacIntyre
 Printed Name of Applicant

Director, Corporate Facilities
 Title

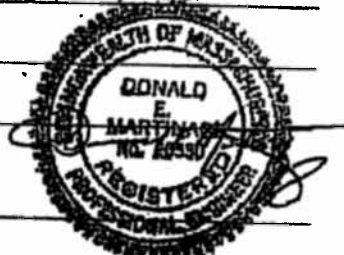
Robert W. MacIntyre
 Signature of Applicant

2/24/05
 Date Signed

Donald E. Martinage, P.E., P.L.S.
 Name of Preparer

President
 Title

(781) 944-4808
 Phone Number



D. General Conditions

1. General Conditions

a. All discharge authorized herein shall be consistent with the terms and conditions of this permit and the approved plans and specifications. The discharge of any wastewater at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in Section 42 of the State Act.

b. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(1) Violation of any terms or conditions of the permit;



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Pollution Control
Sewer Connections/Extensions

BRP WP 13, 14, 17, 18, 55

**Application for Permit for Sewer System Extension
or Connection**

DEP Use Only:

711
W045553
Permit Number

Marlborough
Town

D. General Conditions (Continued)

- (2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and
 - (3) A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. In the event of any change in control or ownership of facilities from which the authorized discharges originate, the permittee shall notify the succeeding owner or operator of the existence of this permit by letter, a copy of which shall be forwarded to the Director. Succeeding owners or operators shall be bound by all the conditions of this permit, unless and until a new or modified permit is obtained.
 - d. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges; nor does it authorize or relieve the permittee of any liability for any injury to private property or any invasion of personal rights; nor any infringement of Federal, State, or local laws or regulations; nor does it waive the necessity of obtaining any local assent required by law for the discharge authorized herein.
 - e. The provisions of this permit are severable, and the invalidity of any condition or subdivision thereof shall not make void any other condition or subdivision thereof.
 - f. All information and data provided by an applicant or a permittee identifying the nature and frequency of a discharge shall be available to the public without restriction. All other information (other than effluent data) which may be submitted by an applicant in connection with a permit application shall also be available to the public unless the applicant or permittee is able to demonstrate that the disclosure of such information or particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets in accordance with the provisions of M.G.L. c.21, s.27(7). Where the applicant or permittee is able to so demonstrate, the Director shall treat the information or the particular part (other than effluent data) as confidential and not release it to any unauthorized person. Such information may be divulged to other officers, employees, or authorized representatives of the Commonwealth or the United States Government concerned with the protection of public water or water supplies.
 - g. Transfer of Permits
 - (1) Any sewer system extension or connection permit authorizing an industrial discharge to a sewer system is only valid for the person to whom it is issued, unless transferred pursuant to 314 CMR 7.13. Such permits shall be automatically transferred to a new permittee if:
 - A. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date; and
 - B. The notice includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them.
 - (2) Any sewer system extension or connection permit not subject to 314 CMR 7.13(1) automatically transfers to a subsequent owner, operator, or occupant.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Pollution Control
Sewer Connections/Extensions

BRP WP 13, 14, 17, 18, 55

**Application for Permit for Sewer System Extension
or Connection**

DEP Use Only:

7/12
W045553

Permit Number

Marlborough

Town

D. General Conditions (continued)

2. Special Conditions

The pump station will be privately
operated and maintained by the permittee.

E. Approval Recommended

Signature and Title of appropriate Municipal Official:

Mr. Doran Crouse

Printed Name of Official

Assistant Commissioner of Public Works

Title

Doran Crouse

Signature

508 624-6910 x7103

Phone Number

10/20/04

Date Signed

DEP Use Only

6-1-05

Date Issued

6-1-05

Effective Date of Permit

Robert A. Kimball

Regional Sewer Permits Coordinator



IN CITY COUNCIL

7/13

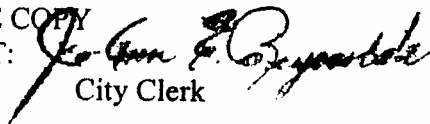
Marlborough, Mass., MARCH 27, 2006 20

ORDERED:

That the request of John G. Crowe Associates, Inc., for an extension of time for the sewer connection permit for Boston Scientific Corporation, 55 Fairbanks Boulevard, be and is herewith APPROVED for a period of eighteen months, subject to other conditions previously adopted, as recommended by the Public Services Committee.

ADOPTED
In City Council
Order No. 06100-1093A
Adopted March 27, 2006

Approved by Mayor
Nancy E. Stevens
Date: April 3, 2006

A TRUE COPY
ATTEST: 
City Clerk

7/14



IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 10, 2007

ORDERED:

That the communication from Boston Scientific Corporation requesting extension of time for Sewer Connection Permit, 55 Boston Scientific Way – Mayor to provide sewer extension impact on TIF, be and is herewith **APPROVED**.

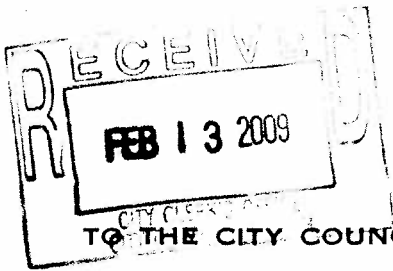
ADOPTED
In City Council
Order No 06-1001093B
X 04-100564

Approved by Mayor
Nancy E. Stevens
Date: September 14, 2007

A TRUE COPY

ATTEST:

City Clerk



\$ 25.00 pd.

8

MARLBOROUGH, MASS., I-13 48 2009

TO THE CITY COUNCIL:

The undersigned BERNARD NOVITCH DBA COLLECTORS PARADISE respectfully requests that he be granted a JUNK DEALERS LIC. 771 BOSTON POST RD. EAST MARLBORO, MA 01752 SELLING COINS, JEWELRY, TOYS NEW AND OLD, ANTIQUES,

P. O. Address BERNARD NOVITCH, 249 PLEASANT ST. MARLBORO MA. 01752 508-485-3891



COLLECTORS PARADISE 771 BOSTON POST ROAD, EAST MARLBOROUGH, MA 01752 PH: 508-485-9800 HOURS: TUESDAY - FRIDAY 11AM - 8PM SATURDAY - SUNDAY 12PM - 5PM (CLOSED MONDAY)

IN CITY COUNCIL

19

Clerk.

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

City of Marlborough
Commonwealth of Massachusetts



PLANNING BOARD

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

PLANNING BOARD MINUTES
January 12, 2009
7:00 PM

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

The Planning Board for the City of Marlborough met on Monday, January 12, 2009 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Philip Hodge, Clyde Johnson and Sean Fay. Also present: Assistant City Engineer Richard Baldelli.

ELECTION OF OFFICERS

ELECTION OF PLANNING BOARD OFFICERS 2009

The gavel was turned over to Clyde Johnson to serve as Chairman Pro Tem for the election process.

Barbara Fenby was unanimously re-elected as Chair for the year of 2009.

Steve Kerrigan was unanimously re-elected as Clerk for the year of 2009.

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

To appoint Barbara L. Fenby as Chairperson and Steve Kerrigan as Clerk for a term to expire on December 31, 2009.

Mr. Johnson returned the gavel was returned to Chairperson Fenby.

MINUTES

Meeting Minutes November 24, 2008

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

To accept and file the meeting minutes of November 24, 2008.

Meeting Minutes December 15, 2008

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

To accept and file the meeting minutes of December 15, 2008.

CHAIR'S BUSINESS

Commonwealth of Massachusetts
National Register of Historic Places
Dennison Mfg. Co Paper Box Factory

The Planning Board received correspondence from The Commonwealth of Massachusetts informing that the Dennison Mfg. Co Paper Box Factory has been accepted by the National Park Service, Department of the Interior, for its listing in the National Register of Historic Places.

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

To accept and file correspondence; and to send a letter congratulating the current owners of the building on this accolade.

Meeting Notice

The Planning Board has not received the City Councils meeting schedule as of this meeting.

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

To send correspondence to the City Clerk notifying her that the next Planning Board meeting will be on January 26, 2009.

APPROVAL NOT REQUIRED PLAN

299 Maple Street
Submittal

Peter Bemis of Engineering Design Concepts, submitted an ANR plan for 299 Maple Street. He stated that this ANR plan is a result of a lot combination to create one contiguous lot combining parcel A with Assessors Map 93-35 and Assessors Map 95-36 with 50 feet of frontage on Maple Street. All parcels will be combined with an 81X plan if the ANR is approved.

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

To accept and refer the proposed plan to the City Engineer for his review and recommendation at the next meeting on Monday, January 26, 2009.

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Baldelli reported to the Board that Mr. Freeman, developer of Berlin Farms subdivision, has not reduced or cleaned up the blight in his subdivision. Mr. Baldelli stated that there were still construction trucks still being stored on site. The Planning Board asked Mrs. Lizotte if she knew the status of the fines sent to the developer by the Code Enforcement Office. Mrs. Lizotte stated she knew they were sent a ticket and did not know if the developer has paid the fine. They asked Mrs. Lizotte to contact the Code Enforcement Office for a status, if no fine has been paid or if the blight has not been removed, to ask Mr. Freeman and his legal representative to please attend the next meeting to discuss the blight.

PENDING SUBDIVISION PLANS: Updates and Discussion

*O'Leary's Landing
Correspondence from City Engineer*

The City Engineer has reviewed the request to release the maintenance bond for O'Leary's Landing. With all fees including recording costs and verification from all departments that all associated fees have been paid, the City Engineer has recommended to release the remaining bond from \$35,000.00 to \$0.00.

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

To accept and file correspondence, to reduce the bond from \$35,000.00 to \$0.00 and to change the subdivision status to completed.

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

At the last meeting on December 15, 2008, the Planning Board collectively agreed for Mr. Fay to prepare language to add to the sign ordinance. The additional language is to penalize the sign contractor for violating the sign ordinance. The language is as follows:

§163-12 ADMINISTRATION AND PENALTIES

New Proposed Paragraph E:

E. PENALTIES FOR SIGN CONTRACTOR

If the Building Inspector determines that a sign contractor has erected a sign in violation of §163-3 hereof, the Building Inspector may, in his or her discretion, and in addition to the remedies provided for in §163-12, Paragraph D above, take the following actions:

1. For the first violation of §163-3 committed by a sign contractor, the Building Inspector may levy a fine in an amount not exceeding three times the then applicable permit fee for installing a permitted sign.
2. For the second and all subsequent violations of §163-3 committed by a sign contractor, the Building Inspector may levy a fine in an amount not exceeding ten (10%) percent of the total amount paid to said sign contractor by a sign owner, or for which a sign owner is contractually obligated to pay, for the design, purchase and installation of the non-permitted sign. Said fine shall be paid by the sign company that installed the non-permitted sign within thirty (30) days of when the Building Inspector provides notice of the fine.
3. Deny any application for a sign permit bearing the signature of a sign contractor that has received notice of a fine assessed pursuant to sub-paragraphs 1 or 2 above that remains unpaid as of the date a sign application is duly filed.

All fines shall be payable to the City of Marlborough, through the City Clerk's office. The Building Inspector may, as an alternative to initiating criminal proceedings, treat violations of this chapter in a non-criminal manner pursuant to the provision of M.G.L. Ch. 40, §21D.

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

To send proposed language to the City Solicitor for his opinion.

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

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

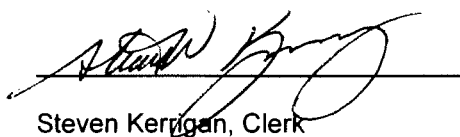
To accept all of the items listed under communications and/or correspondence.

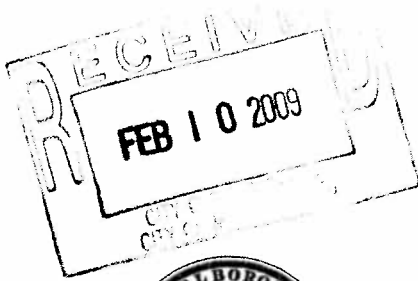
On a motion by Mr. Johnson, seconded by Mr. Kerrigan, it was duly voted:

To adjourn at 7:38 p.m.

A TRUE COPY

ATTEST:


Steven Kerrigan, Clerk



City of Marlborough
Commonwealth of Massachusetts



PLANNING BOARD

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

PLANNING BOARD MINUTES
January 26, 2009
7:00 PM

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

The Planning Board for the City of Marlborough met on Monday, January 26, 2009 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Philip Hodge, Edward Coveney and Sean Fay. Also present: City Engineer Thomas Cullen.

MINUTES

Meeting Minutes January 12, 2009

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

To table the meeting minutes of January 12, 2009.

CHAIR'S BUSINESS

2009 Meeting Schedule

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

To accept the meeting schedule and to post the schedule with the City Clerk.

APPROVAL NOT REQUIRED PLAN

299 Maple Street
Approval & Engineering Correspondence

The City Engineer sent correspondence recommending the Planning Board Approve the ANR plan known as 299 Maple Street. He also noted that any plan for merits (i.e. frontage and lot area(s)); the proponent must apply with all rules and regulations set forth of the building and zoning ordinances.

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

To accept and endorse a plan of land believed to be Approval Not Required of JEMS of New England, Inc. of 1 Dix Street, Worcester, MA 01609. Name of Engineer: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, MA 01772. Deed of property recorded in South Middlesex Registry of Deeds book 615, page 84. Location and description of property: located at 299 Maple Street property shown on Assessors map 93, parcels 36 and 37.

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

The City Engineer stated that there were no major changes. His office is reviewing several as-builts and subdivisions.

Berlin Farms

Correspondence from Code Enforcement Officer

Ms. Wilderman, the City's Code Enforcement Officer, sent correspondence stating that her department has issued a \$200 fine for blight and that fine has not been paid by the developer. That fine has been sent to the Marlborough District Court for a "Show Cause Hearing". If the site is not brought into compliance or tickets are not paid, she will move forward with the complaint to criminal court.

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

To accept and file the correspondence.

Blight Issues

At the last Planning Board Meeting, Mr. Baldelli, the Assistant City Engineer, relayed to the Planning Board that the blight issues are still ongoing. The Planning Board sent correspondence to Mr. Charles Freeman, the developer, and Mr. Christopher Yates, the legal council for Mr. Freeman asking them to both attend to tonight's meeting.

Mr. Cullen, the City Engineer, stated that he was the one to start the investigation into the blight issues back in early December after noticing abnormal storage of commercial vehicles and trash throughout the road layout. At that time the Board has asked Ms. Wilderman, the Code Enforcement Officer, to start the fine process. Mr. Freedman has received a warning and then he received a fine after the December 15, 2008 meeting when the subdivision was still in disarray.

Mr. Freedman took pictures from this past Friday showing a stellar subdivision and asked the Planning Board if they saw the blight. Mr. Cullen had his office take pictures from this afternoon and the pictures were showing an overflowing trash container and several snow plows within the road layout.

The Board Chair had to remind Mr. Freedman to be a little more respectful with his interactions with the Board.

Mr. Yates asked the Board to define Blight. Several Board members agreed that after seeing the subdivision for themselves that they all have witnessed the blight in the subdivision. Mr. Yates then provided pictures of other job sites that had construction vehicles; unfortunately the site he chose was not a subdivision (Toll Brothers/Fitchburg Street).

Mr. Yates also asked why the road was not being plowed by the City and that the developer has to plow the subdivision. Mr. Cullen stated that it was more of an liability for the City to plow when the subdivision has disruptions in the road layout and it is the City's right not to plow a private street.

Ms. Fenby stated that maybe it was best if the City Engineer and the Code Enforcement Officer meet Mr. Freedman at the subdivision to discuss this further and to come to an amicable agreement that would satisfy all the parties.

Correspondence from Christopher Yates

Mr. Yates hand delivered a request to the Planning Board for all documentation relating to test holes dug at the subdivision prior to the October 24, 2005 definitive subdivision approval. He stated that in his records search at both the Planning Board's files and the City Engineer's files he cannot obtain this information.

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

To accept and file correspondence; and to have the Planning Board Secretary research the files.

Eager Court

Correspondence from Assistant City Solicitor

The Assistant City Solicitor is sending the proposed order of acceptance to the City Council. All copies of the deed, municipal easement and acceptance plans are included with the order.

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

To accept and file correspondence.

PENDING SUBDIVISION PLANS: Updates and Discussion

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

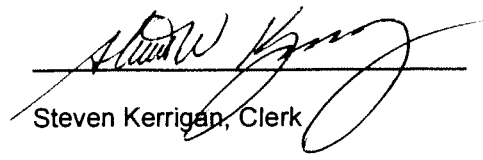
The Secretary provided a new current subdivision status list. The members all commented it was a great starting point; however more research should be done before it's completed.

COMMUNICATIONS/CORRESPONDENCE

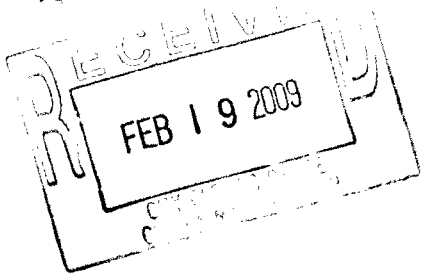
On a motion by Mr. Coveney, seconded by Mr. Kerrigan, it was duly voted:

To adjourn at 8:02 p.m.

ATTEST:


Steven Kerrigan, Clerk

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**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

**MINUTES
December 18, 2008**

Memorial Hall, 3rd Floor, City Hall

Members Present: Edward Clancy-Chairman, David Williams, Lawrence Roy, John Skarin, Michele Higgins, and Priscilla Ryder-Conservation Officer;

Absent: Allan White and Dennis Demers,

Public Hearings

Request for Determination of Applicability

MassHighway – Proposes roadway maintenance operations along the route I-495 corridor through the City of Marlborough

William (Bill) Clougherty of Mass Highway Dept. and Kristen Kent of VHB were present. Ms. Kent explained that they are requesting a Negative Determination for propose roadway maintenance operations along the Route I-495 corridor through the City of Marlborough.

The wetlands along this section have been identified and are shown on the plan. Erosion controls shall be installed along these sensitive locations to prevent siltation. Clearing will occur 30 ft. off the roadway to create clearance for safety and visibility. The area will be cleared and grubbed and seeded. The Commission asked why so far, Mr. Clougherty stated that it is mandated by Federal Highway Safety guidelines.

After much discussion, the Commission granted a Negative Determination with the following conditions:

1. Before construction begins, the staging area shall be identified and inspected by the Conservation Officer to ensure it is not near wetlands,
2. Erosion controls are to be inspected prior to construction,
3. When the project is completed all catch basins are to be cleaned.

The Commission unanimously voted 5-0 to issue a Negative Determination of Applicability with the above conditions.

Notice of Intent (Continuation of Public Hearing)

177 Maple St. – 175 Maple St. L.L.C.

At the applicants request this item was continued to the January 8, 2009 meeting.

Notice of Intent (Continuation of Public Hearing)

355 Boston Post Rd. – Kevin Labadini

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Charles Budnick of Cabco Consultants and Kevin Labadini, the owner were present. Mr. Budnick presented a revised landscaping plan based on comments made at the last meeting. Tom Cullen, City Engineer had also provided an e-mail indicating that he is satisfied with the changes made to the plan.

There being no further discussion, the Commission closed the hearing and reviewed the draft Order of Conditions. The Commission unanimously voted 5-0 to issue the draft Order of Conditions as drafted and amended and that the emergency response plan would be attached to the Order of Conditions.

Notice of Intent (Continuation of Public Hearing)

785 Boston Post Rd. –PRTR, Inc. c/o Waste Management of Mass., Inc. and Donald Wright.

Bill Goodman of Brown and Coldwell, Bob Magnusson of Waste Management Inc. and Donald Wright were all present.

Bob Magnusson explained that they had a new plan with some revised drainage design showing what exists on the site. He explained that they had taken some samples last Wednesday and the results would be forthcoming in writing shortly. They are testing the water per their new NPDES permit parameters as well as those parameters set out by the City's Board of Health. They took samples in three locations: 1- the outfall pipe, 2- the catchbasin behind the Post Road Auto building, and 3- the catchbasin below the transfer pad – showing the worst case off of the pavement.

The results were that there were some VOC's COD, BOD and TSS and some heavy metals detected on the site. Only (Chemical Oxygen Demand) COD and metals exceeded acceptable levels.

Commission member, Ms. Higgins showed some pictures she had taken of the silty water leaving the site. There was much discussion about:

- procedures to be taken before a permanent solution is taken
- discussion about current monitoring protocol and what have been done in the past when only observation was done and not much reaction to changing conditions

It was determined that the short term measures to be taken would be: 1. sweep daily with a vacuum system, 2. add silt bags to all catch basins, 3. pump out all stormceptors and catchbasin before any rain event, 4. add a berm within Post Rd. Auto to help direct water to catch basins, 5. add layers of saw dust at transfer station building entrance to absorb runoff, and 6. camera the line to see what seepage of groundwater into the system is occurring and at what rate.

Some discussion was made about a trench drainage system at the end of the transfer station building ramp. WMI will look into this. Doran Crouse of the

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sewer department has indicated that this material could not be discharged into the sewer without pretreatment.

Ms. Higgins and the rest of the Commission members stressed the seriousness of this discharge situation and the need for Waste Management Inc. to only allow clean water to leave the site. Further violations may result in closing down the operation until a solution can be found. Ongoing monitoring is required.

After further discussion, the Commission continued the hearing to their January 8th meeting in order to receive the information noted above.

Certificates of Compliance

- DEP 212-1041 Ken's Foods, Inc. – 150 Cedar Hill St. water treatment system

Extension Permit

- DEP 212-806 Sepracor – Robin Hill St. (Continuation) - Bill Bergeron was present and noted that the Sepracor permit expired on December 16, 2008 and he is seeking a 3 yr. extension permit. The first building is completed, the second building is almost done and the third building in Phase III is still pending. The Extension Permit would allow the 2nd building to be finished and the third building to remain permitted. As requested by Ms. Ryder, he has looked at Phase III to determine whether it meets the new stormwater regulations. Mr. Bergeron noted that he has reviewed the design in relation to the changes in the regulations and noted that some minor modifications to the fore bay of the detention basin would get them into compliance.

Because the project is well underway, the Commission unanimously voted 5-0 to issue a 2 year Extension Permit with provisions that prior to construction of Phase III, the stormwater plans must be modified to address the new stormwater standards and be reviewed and approved by the Commission.

Discussion/Other Business

- DEP 212-1040 247 Maple St. - Kennedy's Automotive and Contractor Center - This work has begun and the detention basin is in place, but the site is still out of sequence. Ms. Ryder will keep an eye on it.
- Fafard – DiCenzo Blvd. – during heavy rain event, several houses were flooded due to the detention basin adaptation made by Fafard to control muddy runoff from the Target site and failure for the pump system to be turned on early. Ms. Ryder will keep the Commission posted on any adjustments to the basin needed. She will be meeting with Fafards crew and the City Engineer.
- DEP 212-1020 340, 342 and 358 Berlin Rd. – the Church - during heavy rain event, the parking lot washed out again sending much silt and stone onto the neighboring property. They will be doing repair work on this in the next few days.

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- Clinton St. /Royal Crest – water line break and repair needed. An Emergency Certificate will be issued for this work once it is reviewed and inspected by the Conservation Officer

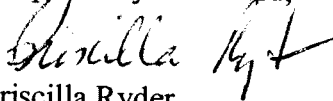
Correspondence

The following items were reviewed. The Commission voted to accept and place on file:

- Letter from Peter Bemis, Engineering Design Consultants, Inc., dated Dec. 8, 2008 RE: Monthly Field Inspection Report 1 – DEP 212-1040, 247 Maple St.
- Letter from DEP Site Walk - Bluefin Properties, LLC – 246 Maple St. RE: Request for Departmental Action Site Meeting Notice – Dec. 30, 2008 at 10:30 am.

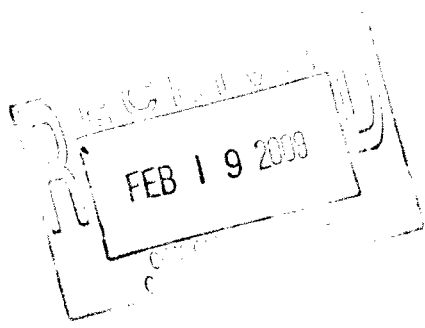
Adjournment - There being no further business, the meeting was adjourned at 9:53 PM.

Respectfully submitted,



Priscilla Ryder
Conservation Officer

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**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

**MINUTES
January 8, 2009**

Memorial Hall, 3rd Floor, City Hall

Members Present: Edward Clancy-Chairman, David Williams, Allan White, Lawrence Roy, John Skarin, Dennis Demers, Michele Higgins, and Priscilla Ryder-Conservation Officer

Absent: none

Public Hearings

Notice of Intent

121 Shawmut Ave. – Larry and Sandra Beane

Peter Bemis of Engineering Design Consultants, Inc. was present as were Mr. Beane and Attorney Rowe. Mr. Bemis presented the plan, identified the wetland area and described the house that is to be built on this lot. All work is well outside the 20' buffer zone and all areas to be disturbed are now existing lawn.

After some discussion on construction methods etc. the Commission asked that the foundation drain be shown on the plan; that 20 foot wetland buffer zone markers be required, that the trees to be saved are protected during construction, and the shed is to be removed.

There being no further questions, the Commission closed the hearing and asked that a draft Order of Conditions be ready for review at the January 22, 2009 meeting.

Notice of Intent (Continuation of Public Hearing)

177 Maple St. – 175 Maple St. L.L.C.

At the applicants request the hearing was continued to allow for comments to be received from the City Engineer.

Notice of Intent (Continuation of Public Hearing)

785 Boston Post Rd. – PRTR, Inc. c/o Waste Management of Mass., Inc. and Donald Wright.

Bob Magnuson of Waste Management Inc., Donald Wright of Post Road Auto, Bill Goodman P.E. and Mark Allenwood, Wastewater engineer, of Brown and Caldwell of Middleborough MA the design engineers and Mark Thrum of Seamark Inc. were all present. Mr. Magnuson explained that they have been working on the short term treatment system which is up and running.

This includes pre-treatment through a split pipe and a polymer system. Water is being pumped from the oil water separator tank as described in the Dec. 23, 2008

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This includes pre-treatment through a split pipe and a polymer system. Water is being pumped from the oil water separator tank as described in the Dec. 23, 2008 letter from Mr. Magnuson to the Conservation Commission. The system still needs some adjustments. On Monday the split pipe will be lengthened to 60'. The exit to the oil water separator tank will be blocked to control any water leaving the site before it is treated. The system is being monitored daily and adjustments made as needed. In addition to the treatment, all the catch basins and stormceptors have been pumped nine times since the middle of December with a vacuum truck.

Mark Thrum described the split pipe system and polymer program. He noted that he will be adding jute and baffles to the downstream area below the outlet pipe to catch any remaining sediments that might come through. Commission member, Ms. Higgins noted that the water has changed to a rusty color over the course of their treatment for a few days. Mr. Thrum noted that he is looking into the source and whether the polymer is dropping out the iron instead of binding it. He will submit an article to the Commission by e-mail on this. Mr. Thrum will be on board to advise Mr. Magnuson and his crew regarding proper polymer use.

Mr. Allenwood explained the test results that were distributed. Samples were taken during the Dec. 10th rain event and showed high levels of Ethanol (although they think this was the result of the bucket not the outfall water quality). Iron was high and Chemical Oxygen Demand (COD) was at 269 mg/l and the bench mark should be 120 mg/l. He suggested one more round of testing to verify the results. However, after much discussion with the Commission, it was determined that two more testing rounds should be done during wet weather and one test round during base flow conditions to establish the base flow.

The Commission then discussed the long term solution to this water quality problem. Bill Goodman explained that they are proposing a vegetated swale around the outside of the pavement to collect and treat that water before it is picked up on the pavement. They will re-arrange the catch basins at the Post Road Auto (PRA) yard to redirect all runoff to catch basins and control all runoff more carefully.

After much discussion about the basin design and trench drainage needed at the door opening to the Transfer Station building pad at WMI, the Commission asked that the following information be submitted for the next meeting:

1. Operation and Maintenance Plan for both PRA and WMI sites;
2. Profile of swales and basins needed;
3. Confirmation that the BMP (best management procedure) chosen is appropriate for the contaminate type and levels coming from both sites. (i.e. the high COD levels will not kill off plants in a retention basin?) and;

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4. Information about the holding tank to be constructed to capture the liquid captured by the trench drain is to be provided as well.

After further discussion, the Commission agreed to continue the hearing to the January 22, 2009 meeting to review the above noted information.

Certificates of Compliance

- DEP 212-1041 Ken's Foods, Inc. – 150 Cedar Hill St. water treatment system (Continuation) The Commission reviewed the as-built plans and voted unanimously 7-0 to issue a full Certificate of Compliance with ongoing conditions as required.

Extension Permit

- DEP 212-978 Congress Parcel – request for a 3 yr. extension on the Order of Resource Area Delineation. Matt Varrel from VHB was present and explained that the ORAD is about to expire. He walked the site with Ms. Ryder on Dec. 19th with some snow cover. Several flags were moved and are reflected on the revised plan presented at the meeting. Ms. Ryder confirmed that the wetland line is now accurate and had no issues. The Commission voted unanimously to extend the ORAD for a period of 3 years. Mr. Varrel said he expected that the applicant would be submitting a Notice of Intent to construct housing complex sometime soon if they receive approval from the City Council.

Discussion/Other Business

- Enforcement action – Emergency Certificate– Fafard Real Estate Inc. Settlers Lane, Dicenso Blvd. flooding. Don Seaberg was present representing Fafard RE Inc. and the engineering arm Benchmark Engineering. He presented a plan showing how the flooding over the Christmas holiday week occurred and the solution proposed by him and approved by the City Engineer and Conservation Officer. They will adjust the detention basin in order to have better control of muddy runoff from the Target site, and eliminate the water back up that occurred in 11 homes on Settlers lane. He reviewed the sequencing plan shown on the plans provided. Ms. Higgins suggested that some type of emergency alarm system be installed to alert Fafards crew if the water level rises to a certain height. It appears that it was human failure to turn on the pumps which was part of the cause for flooding, and therefore, some type of backup system seems prudent. After some discussion the Commission voted unanimously 7-0 to issue the Emergency Certificate to allow for the modification work to be done in the detention basin off Dicenso Blvd. (Between Home Depot and Settlers Lane).

Correspondence

The following correspondence was reviewed and the Commission voted to accept and place on file:

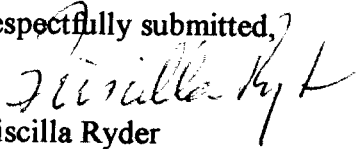
- Letter from DEP-Site Walk - Bluefin Properties, LLC – 246 Maple St. – RE: Request for Departmental Action Site Meeting Notice – Re-scheduled date Jan. 6th (Tuesday) 10:30 a.m.

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- Report from Aquatic Control Technology, Inc. dated Dec. 17, 2008 RE: 2008 Year End Report on the Aquatic Management Program at Ft. Meadow Reservoir- Marlborough, MA

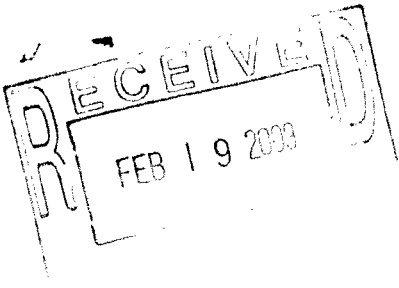
Adjournment -There being no further business, the meeting was adjourned at 9:20 PM.

Respectfully submitted,



Priscilla Ryder
Conservation Officer

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**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

MINUTES

January 22, 2009

Memorial Hall, 3rd Floor, City Hall

Members Present: Edward Clancy-Chairman, David Williams, Allan White, Lawrence Roy, John Skarin, and Priscilla Ryder-Conservation Officer;

Absent: Michele Higgins and Dennis Demers

Public Hearings

Notice of Intent

City of Marlborough - Dept. of Public Works- Stevens St. Reconstruction

Tim Collins, Assistant Civil Engineer for the City was present and presented the plans on behalf of the Department of Public Works for the reconstruction of Stevens St. from approximately Oakcrest St. to Barrett Rd. He noted that the abutters had not been notified nor DEP. The Commission agreed that the hearing would be continued, but asked Mr. Collins to make his presentation since he was present and he would repeat it again at the Feb. 5th meeting.

Mr. Collins explained that there are two locations along this stretch of roadway where streams cross under the roadway. These areas will be protected with erosion controls. All catchbasins will be protected with silt sacs. The work will be done in the summer when school is out. In one area near the pond, the stream will be sandbagged and pumped into the pond during the replacement of the drain pipe. The Commission asked where stockpiled material would be placed. Mr. Collins explained that it is the responsibility of the contractor to find a location but, it is likely it will be Memorial Beach. Mr. Collins also noted that the owner of #489 Stevens St. had requested that the channel be cleaned as he does experience flooding periodically and also asked that the pipes under his driveway be checked and replaced if needed. The Commission said this could be permitted in the Order. There will be some repair done to the existing sidewalk near LaFreniere Way. If additional repairs are needed along the sidewalk near the wetlands, the Commission noted this could be done under this permit.

After some discussion on the sub drain system to be installed and the catch basin placement, the Commission continued the hearing to the next meeting on February 5, 2009.

Notice of Intent (Continuation of Public Hearing)

177 Maple St. – 175 Maple St. L.L.C.

At the applicant's request, this item was continued to the February 5, 2009 meeting in order to allow the project engineer to address the City Engineer's comments.

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Notice of Intent (Continuation of Public Hearing)

785 Boston Post Rd. – PRTR Inc. c/o Waste Management of Mass., Inc. & Donald Wright.

At the applicant's request, this item was continued to the February 5, 2009 meeting. The applicant had noted by a phone call that they didn't have all the data needed, but should have it for the next meeting.

Draft Order of Conditions

- DEP 212-1061 121 Shawmut Ave. - The Commission reviewed the draft Order of Conditions and voted 5-0 to issue the Order as drafted and amended.

Discussion

- DEP 212-1050 Superseding Order of Resource Area Delineation, Pleasant St./Fitchburg St., Map 29, Parcel 2 & 2A, Steven Steen/251 Realty Corp. - The Commission reviewed this decision and voted to accept and place on file.
- The Desert Conservation Land - Ms. Ryder explained that she has submitted a letter of support to SVT for a grant application to create an updated management plan for the Desert Conservation Land/Memorial Forest land. This plan will include a more detailed inventory of plants and animals on this property.
- DEP 212-996 246 Maple St. - Ms. Ryder indicated that work is again beginning on this property. They will be doing some pavement patching and expansion work now, and will be finishing up the water quality basins and the remaining work in the Order of Conditions in the Spring.
- DEP new proposed stormwater regulations 314CMR 21.00 were discussed which requires all projects with 5 acres or more of impervious surface to report annually to the State on their stormwater management plans. Ms. Ryder will keep the Commission posted as to when these regulations are promulgated.

Correspondence/Other Business

- DEP 212-711 Commonwealth of Mass. Division of Administrative Law Appeals, In the Matter of Temple Emanuel, "Order" dated Jan. 7, 2009. The Commission voted to accept and place on file.

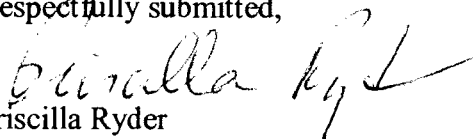
Meetings:

- Next Conservation Commission meetings – February 5th and February 19th, 2009 (Thursdays)

Adjournment

There being no further business, the meeting was adjourned at 8:10 PM.

Respectfully submitted,


Priscilla Ryder
Conservation Officer