

1. Minutes of the City Council Meeting, November 23, 2009.
2. PUBLIC HEARING: with Board of Assessors to establish the percentages of tax levy for each property classification for FY2010.
3. Communication from the Mayor re: Finalization by the Commonwealth of the City's FY2010 tax levy.
4. Communication from the Mayor re: budget transfer request in the amount of \$39,850.24 which moves funds from Open Space Stabilization to Open Space account for annual payment to Ward Mountain LLC, Order No. 07/08-1001422B.
5. Communication from the Mayor re: budget transfer request in the amount of \$12,000.00 which moves funds from Custodian to Gross OT relevant to costs associated with coverage for an employee who is out on worker's compensation.
6. Communication from the Mayor re: reappointment of Tony Trodella as Chief Assessor for a term of five years effective February 1, 2010.
7. Communication from the Mayor re: reappointment of Debra Puleo as City Collector effective February 1, 2010.
8. Communication from the Mayor re: reappointment of Cynthia Panagore Griffin as Assistant City Solicitor for term of three years from date of confirmation as her current term expires on January 7, 2010.
9. Communication from City Solicitor, Donald Rider, re: Acceptance of Blake Circle as a Public Way.
10. Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Order of Acceptance/Danjou Drive and Associated Easements.
11. Communication from DPW Commissioner Ron LaFreniere re: Plowing of Private Ways for Boivin Drive-Davis Estates, off Farm Rd.
12. Communication from Attorney Flood, on behalf of Cherag Patel, requesting to withdraw without prejudice Special Permit application to construct a 104 room hotel at 257 Simarano Dr., Order No. 09-1002259D.
13. Communication from Attorney Hoyt, on behalf of Clear Wireless LLC, requesting to withdraw without prejudice Special Permit application to modify a wireless communications facility located at 115/109 Onamog St., Order No. 09-1002291A.
14. Communication from Attorney Valeriani, on behalf of Verizon Wireless, re: request to extend time limitations to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., to March 31, 2010 at 5:00 PM, Order No. 09-1002161D.
15. Communication from Attorney Hoyt, on behalf of Clear Wireless LLC, re: request to extend time limitations to modify a wireless communications facility at 2 Mount Royal Ave. to March 31, 2010 at 5:00 PM, Order No. 09-1002329A.
16. Communication from Attorney Hoyt, on behalf of Clear Wireless LLC, re: request to extend time limitations to modify a wireless communications facility at 157 Union St. to March 31, 2010 at 5:00 PM, Order No. 09-1002290A.
17. Communication from Attorney Hoyt, on behalf of Clear Wireless LLC, re: request to extend time limitations to modify a wireless communications facility at 460 Boston Post Rd. East. to March 31, 2010 at 5:00 PM, Order No. 09-1002330A.
18. Minutes, Planning Board, November 9, 2009.
19. Minutes, Traffic Commission, October 27, 2009.

REPORTS OF COMMITTEES:

20. ORDERED: That the City Council and Mayor hold an Executive Session on December 7, 2009 for an update on the investigation of the DPW incident of December 2008.Submitted by Councilor Vigeant

UNFINISHED BUSINESS:

From Finance Committee

21. **Order No. 09-1002345 – Transfer \$100,000.00 from Undesignated Funds to Water Meters Account.** The Finance Committee reviewed the Mayor’s letter dated October 22, 2009 requesting the transfer of \$100,000.00 from Stabilization Account to purchase water meters. The Mayor submitted an additional letter dated November 12, 2009 requesting that the transfer to purchase water meters be funded through the Undesignated Funds and not the Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**
22. **Order No. 09-1002336 – Four DPW Transfers:** The Finance Committee reviewed the Mayor’s letter dated October 1, 2009 requesting the following DPW transfers:
- \$5,000.00 from Water Chief Pumping Station to Water Interim Forman. The Finance Committee voted 4-1 (Delano opposed) to approve the transfer.
 - \$30,000.00 from Water MWRA to Water Plant. The Finance Committee voted 5-0 to approve the transfer.
 - \$9,500.00 from Streets Foreman to Streets Contract Services. The Finance Committee voted 5-0 to approve the transfer.
 - \$19,911.40 from Forestry Equipment Operators to Streets Equipment Operators. The Finance Committee voted 5-0 to approve the transfer.
- Recommendation of the Finance Committee is to Suspend the Rules for the \$5,000.00 transfer only. The \$5,000.00 transfer was approved at the November 23, 2009 City Council meeting.**
23. **Order No. 09-1002344 – Two DPW Transfers:** The Finance Committee reviewed the Mayor’s letter dated October 22, 2009 requesting the following DPW transfers:
- \$15,000.00 from Water Meter Reader to Water Overtime.
 - \$5500.00 from Water Equipment Operator to Water Overtime
- Recommendation of the Finance Committee is to approve 5-0.**



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
November 23, 2009

Regular meeting of the City Council held on Monday, November 23, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juair, Seymour, Clancy and Landers. Meeting adjourned at 8:50 p.m.

ORDERED: That the minutes of the City Council Meeting November 9, 2009, **FILE**; adopted.

ORDERED: That the Council President recognized Boy's Scout Troop 41, **FILE**; adopted.

ORDERED: That the budget transfer request in the amount of \$24,340.00 from Undesignated Fund of which \$8,840.00 be transferred to Constables at Polls & \$15,500.00 to Pollworkers for the purpose of covering anticipated deficits relative to upcoming Special Elections, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$24,340.00
Undesignated Fund

TO:

Acct. # 11620003-51460 \$8,840.00
Constables at Polls

Acct. # 11620006-53871 \$15,500.00
Pollworkers

ORDERED: That the budget transfer requests in the amount of \$30,000.00 from Undesignated Fund to Gross Overtime, \$9,215.69 from Firefighter to Gross Overtime and \$699.60 from Fire Lieutenant to Gross Overtime for the purpose of funding OT for the Fire Department for the rest of this fiscal year, refer to **FINANCE COMMITTEE**, adopted.

FROM:

Acct. # 10000-35900 \$30,000.00
Undesignated Funds

TO:

Acct. # 12200003-51300 \$30,000.00
Gross OT

FROM:

Acct. # 12200001-50450 \$9,125.69
Firefighter

TO:

Acct. # 12200003-51300 \$9,125.69
Gross OT

FROM:

Acct. # 12200001-50810

\$699.60

Fire Lieutenant

TO:

Acct. # 12200003-51300

\$699.60

Gross OT

ORDERED: That the budget transfer request in the amount of \$38,000.00 from Undesignated Fund to Rep/Maint. Supplies for the purpose of repairing older fleet vehicles, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900

\$38,000.00

Undesignated Fund

TO:

Acct. # 14001406-54810

\$38,000.00

Rep/Main Supplies-Vehicles

ORDERED: That the budget transfer request in the amount of \$1,620.00 from Engr.-Jr. Civil Engr. to Sick Leave Buy Back due to an employee's resignation, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 14001101-50710

\$1,620.00

Engineer-Junior Civil Engineer

TO:

Acct. # 14001103-51920

\$1,620.00

Sick Leave Buy Back

ORDERED: That the budget transfer request in the amount of \$5,000.00 from Undesignated Fund to High School Library for monies received from condition 12B of Special Permit, Valvoline-214 Boston Post Rd. East, Order No. 05-100872C, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900

\$5,000.00

Undesignated Fund

TO:

Acct. # 19300006-55975

\$5,000.00

High School Library

ORDERED: That budget transfer request in the amount of \$600.00 from Undesignated Fund to Advertising for the purpose of advertising delinquent taxes, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900

\$600.00

Undesignated Fund

TO:

Acct. # 11440004-53150

\$600.00

Advertising

ORDERED: That the Communication from the Mayor regarding Marlborough's Other Post Employment Benefits (OPEB), refer to **FINANCE COMMITTEE**; adopted.

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ORDERED: That Agenda #9, Communication from the City Solicitor regarding Disposition of a Portion of Municipal Land and Acquisition of a Portion of Private Land on Bolton St., be moved to Reports of Committees; **APPROVED**; adopted.

ORDERED: That the following notification from the City Clerk re: Special State Primary Election Call, **FILE**; adopted.

CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **SPECIAL STATE PRIMARY ELECTION** will be held in the polling locations as noted below on **DECEMBER 8, 2009** as follows: Senator in Congress.

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

POLLING LOCATIONS ARE AS FOLLOWS:

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

ORDERED: That the Communication from the Planning Board re: Proposed Narcotic Detoxification and/or Maintenance Facilities, Chapter 40A of the Zoning Ordinance, Order No. 09-1002277E, **FILE**; adopted.

ORDERED: That the Rezoning request from Attorney Bergeron, be **WITHDRAWN WITHOUT PREJUDICE** on behalf of 400 South St., LLC, 424 South St., LLC and 428 South St., LLC for rezoning of Map 93, Parcels 18A, 19, 20, 22, 23, 32, 101 and 103 from Industrial to Commercial and Automotive, **APPROVED**; adopted.

COUNCILOR FERRO MADE A MOTION TO APPROVE WITH PREJUDICE – DOES NOT CARRY

Councilor Ferro requested to be recorded in opposition.

ORDERED: That the Communication from Donald Conn, on behalf of Jam Enterprises, LLC, to continue Public Hearing scheduled for December 21, 2009 to a date convenient to City Council in January 2010, Order No. 09-1002361, **HELD ON DECEMBER 21, 2009 AND TO BE CONTINUED IN JANUARY 2010, APPROVED**; adopted.

ORDERED: That the Agreement to Extend Time Limitations on the Application for Special Permit from Cherag Patel to construct a 104 room hotel at 257 Siminaro Dr., as it is in an Industrial zone to December 31, 2009 at 5:00 PM, **APPROVED**; adopted.

Councilor Ossing abstained

- ORDERED: That the minutes, Planning Board, October 26, 2009, **FILE**; adopted.
 ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
 A. German Hovakimian, 7 Raymond Place, pothole or other road defect

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Order No. 09-1002345 – Transfer \$100,000.00 from Undesignated Funds to Water Meters Account. The Finance Committee reviewed the Mayor's letter dated October 22, 2009 requesting the transfer of \$100,000.00 from Stabilization Account to purchase water meters. The Mayor submitted an additional letter dated November 12, 2009 requesting that the transfer to purchase water meters be funded through the Undesignated Funds and not the Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002336 – Four DPW Transfers: The Finance Committee reviewed the Mayor's letter dated October 1, 2009 requesting the following DPW transfers:

- \$5,000.00 from Water Chief Pumping Station to Water Interim Forman. The Finance Committee voted 4-1 (Delano opposed) to approve the transfer.
- \$30,000.00 from Water MWRA to Water Plant. The Finance Committee voted 5-0 to approve the transfer.
- \$9,500.00 from Streets Foreman to Streets Contract Services. The Finance Committee voted 5-0 to approve the transfer.
- \$19,911.40 from Forestry Equipment Operators to Streets Equipment Operators. The Finance Committee voted 5-0 to approve the transfer.

Recommendation of the Finance Committee is to Suspend the Rules for the \$5,000.00 transfer only.

Order No. 09-1002344 – Two DPW Transfers: The Finance Committee reviewed the Mayor's letter dated October 22, 2009 requesting the following DPW transfers:

- \$15,000.00 from Water Meter Reader to Water Overtime.
- \$5500.00 from Water Equipment Operator to Water Overtime

Recommendation of the Finance Committee is to approve 5-0.

Suspension of the Rules requested – granted

ORDERED: That the budget transfer request in the amount of \$1,500.00 from the Undesignated Fund to Advertising accounts as the City Clerk's advertising budget was depleted due to an increased demand for ordinance and traffic ads, **APPROVED**; adopted.

FROM:

Acct. # 100-35900	\$1,500.00
Undesignated Funds	

TO:

Acct. # 11610004-53150	\$1,500.00
Advertising	

Suspension of the Rules requested – granted

ORDERED: That the following budget transfer request in the amount of \$5,000.00 from Chief PS Operator to Interim Foreman to supplement funding in said accounts, **APPROVED**; adopted.

FROM:

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

TO:

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

Councilor Delano requested to be recorded in opposition

Suspension of the Rules requested – granted

ORDERED: That the budget transfer request in the amount of \$2,600.00 from Foreman to Interim Foreman accounts to meet anticipated costs for the remainder of FY10 and \$3,600.00 from Foreman to Interim Foreman accounts to provide coverage associated with an employee's unanticipated and extended medical leave, **APPROVED**; adopted.

FROM:

Acct. # 140001301-50690 \$2,600.00
Foreman

TO:

Acct. # 14001303-51470 \$2,600.00
Interim Foreman

FROM:

Acct. # 140001301-50690 \$3,600.00
Foreman

TO:

Acct. # 14001503-51470 \$3,600.00
Interim Foreman

Yea: 8 -Nay: 3

Yea: Ferro, Juairé, Seymour, Clancy, Landers, Ossing, Vigeant & Levy

Nay: Delano, Schafer, Pope

Councilor Delano requested to be recorded in opposition.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING A NEW CHAPTER 271, ENTITLED "STORMWATER MANAGEMENT," AS FOLLOWS:

CHAPTER 271. STORMWATER MANAGEMENT**A. Purpose**

1. This ordinance complies with the requirements of Phase II of the National Pollutant Discharge Elimination System (NPDES) stormwater program promulgated on December 8, 1999 (and as may be subsequently amended) under the Federal Clean Water Act (CWA). Under the Phase II stormwater program, the U.S. Environmental Protection Agency (EPA) requires regulated

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municipalities to reduce the discharge of pollutants in stormwater to the maximum extent practicable and to adopt ordinances to address the control of sources of pollutants entering the municipal storm drain system.

2. Regulation of discharges to the municipal storm drain system is necessary for the protection of Marlborough's water bodies, drinking water and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.
3. This ordinance establishes stormwater management standards for the temporary and final conditions that result from development and redevelopment projects. Those standards seek to minimize adverse impacts offsite and downstream which would be born by abutters, citizens and the general public. The harmful impacts of increased and contaminated stormwater runoff associated with developed land uses and the impacts of soil erosion and sedimentation include without limitation:
 - a. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - b. contamination of drinking water supplies;
 - c. alteration or destruction of aquatic and wildlife habitat;
 - d. flooding;
 - e. erosion of stream channels; and
 - f. overloading or clogging of municipal catch basins and storm drainage systems.

B. Objectives

1. Protect groundwater and surface water to prevent degradation of drinking water supply and waterways;
2. Require practices that minimize soil erosion and sedimentation and that control the volume and rate of stormwater runoff resulting from land-disturbing activities;
3. Maintain the natural hydrologic characteristics of the land to the maximum extent practicable as determined by the City Engineer, in order both to reduce flooding, stream bank erosion, siltation, non-point source pollution and property damage, as well as to maintain the integrity of stream channels and aquatic habitats;
4. Promote the infiltration and the recharge of groundwater;

5. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
6. Require practices to control waste at a construction site, such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste, that may cause adverse impacts to water quality;
7. Prevent pollutants from entering the Marlborough municipal storm drainage system and to minimize discharge of pollutants from that drainage system;
8. Ensure adequate long-term operation and maintenance of structural stormwater best management practices so that stormwater structures work as designed;
9. Comply with state and federal statutes and regulations relating to stormwater discharges;
10. Establish Marlborough's legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement; and
11. Encourage the use of environmentally sensitive design and low impact development techniques.

C. Definitions

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

CLEARING: Any activity that removes the vegetative surface cover.

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

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

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

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Commonwealth of Massachusetts Department of Environmental Protection, as amended from time to time, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131, § 40 and Massachusetts Clean Waters Act MGL c. 21, §§ 23-56. The

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Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

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

Volume 3: Documenting Compliance with the Massachusetts Stormwater Management Standards.

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

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

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

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

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

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

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

D. Authority

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

E. Applicability

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

1. All subdivisions as defined in the Massachusetts Subdivision Control Law (MGL c. 41, §§ 81K – 81GG) requiring approval of a definitive subdivision plan;
2. “Minor Residential Projects” and “Nonresidential and Major Residential Projects,” as defined in the Building and Site Development Ordinance (Chapter 270, Article II § 270-2), when a construction activity results in a land disturbing activity that will disturb equal to or greater than 5,000 ft² of land that drains to the Marlborough municipal storm drain system, onto an adjacent property, into a municipal/private street, or into a wetland/stream;
3. Land-disturbing activity a) which is equal to or greater than 5,000 ft² occurring, at least in part, within the City of Marlborough, b) which in the sole opinion of the City Engineer has caused or will cause stormwater-related problems within the City, and c) which does not otherwise require a permit or approval from the City.

F. Exemptions

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL c. 40A, § 3;
2. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
3. Repair or replacement of an existing roof of a single-family dwelling;
4. The construction of any fence that will not alter existing terrain or drainage patterns;
5. Construction and/or maintenance of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;

6. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the City Engineer; and
7. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this ordinance. (This exemption does not apply to amendments or extensions of approved projects that have not started construction. In these cases, the applicant may need to re-design the project to comply with these requirements.)

G. Coordination with Other City Permits

1. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, statute, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.
2. No order of conditions from the Marlborough Conservation Commission, building permit, special permit, variance or finding shall constitute compliance with this ordinance. For a project or activity to which this ordinance is applicable, no work may commence until the developer submits to the City Engineer the required documentation of compliance, the City Engineer issues a Stormwater Management Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved plans and Stormwater Management Permit.
3. If a project or activity to which this ordinance is applicable falls within the specific jurisdiction of the Planning Board for definitive subdivision review and/or the specific jurisdiction of the Site Plan Review Committee, then the Stormwater Management Permit review and approval process may, but need not, occur in conjunction with the definitive subdivision plan review process and/or the Site Plan Review Committee approval process. The application submission requirements, public notices, and fee requirements of the above processes shall govern. Notwithstanding these requirements, such projects or activities are subject to the provisions of this ordinance. Documentation of compliance with this ordinance, as described in Section J herein, shall accompany each application for definitive subdivision approval by the Planning Board and for approval by the Site Plan Review Committee.

Applicants under this ordinance should refer to the Subdivision Regulations (Chapter A676, Article III, § A676-10) for definitive plan application and submission requirements, and to Site Plan Review and Approval (Chapter 270, Article II § 270-2) for site plan application and submission requirements.

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

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

H. Administration

1. Stormwater Authority. The City Engineer is hereby designated as the Stormwater Authority. The City Engineer, or his/her agent, shall administer, implement and enforce this ordinance. The City Engineer may delegate in writing another City department, commission or board to act as his/her authorized agent for site inspections and enforcement of this ordinance.
2. Stormwater Regulations. The City Engineer may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, procedures and administration of this ordinance after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the City Engineer may promulgate rules and regulations to effectuate the purposes of this ordinance. Failure of the City Engineer to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this ordinance.
3. Stormwater Management Handbooks. The City Engineer will utilize the Massachusetts Stormwater Management Policy and Massachusetts Stormwater Handbooks Volumes 1, 2 and 3, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this ordinance. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically made more stringent in this ordinance and the rules and regulations promulgated hereunder, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Handbooks' design and sizing criteria shall be presumed by the City Engineer to be protective of Massachusetts water quality standards.

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4. Actions by the Stormwater Authority. The City Engineer may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of the rules and regulations promulgated as part of this ordinance: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
5. Appeal of Action by the Stormwater Authority. An action by the City Engineer, acting in his or her capacity as the Stormwater Authority, shall be final. Further relief of an action by the City Engineer made under this ordinance shall be reviewable in the Superior Court in a complaint filed within 60 days thereof, in accordance with MGL c. 249, § 4.

I. Stormwater Standards and Design Guidance

All projects shall meet the Massachusetts Stormwater Management Standards to the maximum extent practicable as determined by the City Engineer, as detailed in the Massachusetts Stormwater Handbook, as amended from time to time. Additional guidance on applying the Massachusetts Stormwater Management Standards to applicable projects is contained in the City of Marlborough rules and regulations for stormwater.

J. Permit Procedures and Documentation of Compliance

1. Permit procedures and requirements, including permit submittals, right-of-entry, and the public hearing process, shall be defined and included as part of the rules and regulations promulgated under Section H.2 of this ordinance.
2. All projects shall document compliance with the Stormwater Standards and Design Guidance criteria contained in this ordinance in accordance with the

Massachusetts Stormwater Handbook, as amended from time to time. Submittal requirements are further specified in the City of Marlborough rules and regulations for stormwater.

K. Enforcement

1. The City Engineer or his/her authorized agent shall enforce this ordinance and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the City Engineer.
2. As an alternative to criminal prosecution or civil action, the City Engineer may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D and Chapter 315-2 of the Marlborough City Code. To the extent permitted by state law, or if authorized by the owner or other party in control

of the property, the City Engineer's agents, officers, and designees may enter upon privately owned property for the purpose of performing their duties under this ordinance and may make or cause to be made such examinations, surveys or sampling as the City Engineer deems reasonably necessary to determine compliance with a permit issued under this ordinance. Enforcement shall be further defined and included as part of the rules and regulations promulgated under Section H.2 of this ordinance.

L. Severability

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

M. Effective Date

This ordinance shall become effective immediately upon passage, **APPROVED;** adopted.

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

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING A NEW CHAPTER 511, ENTITLED "DETECTION AND ELIMINATION OF ILLICIT DISCHARGE TO MUNICIPAL STORM DRAIN SYSTEM," AS FOLLOWS:

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

A. Purpose

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

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3. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the City of Marlborough's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

B. Objectives

The objectives of this ordinance are:

1. to prevent pollutants from entering the City of Marlborough's municipal storm drain system;
2. to prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement.

C. Definitions

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

1. **ENFORCEMENT AUTHORITY:** The City Engineer shall be authorized to enforce this ordinance.
2. **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), as amended.
3. **DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth.
4. **GROUNDWATER:** Water beneath the surface of the ground.
5. **ILLICIT CONNECTION:** A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this ordinance.

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6. **ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section H herein.
7. **MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Marlborough.
8. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.
9. **NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.
10. **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
11. **POLLUTANT:** Any element or property of sewage, and any residential, municipal, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any storm drainage system or waters of the Commonwealth. Pollutants shall include, without limitation:
 - a. paints, varnishes, and solvents;
 - b. oil and other automotive fluids;
 - c. non-hazardous liquid and solid wastes and yard wastes;
 - d. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 - e. pesticides, herbicides, and fertilizers;
 - f. toxic or hazardous material or waste; sewage, fecal coliform, and pathogens;
 - g. dissolved and particulate metals;
 - h. animal wastes;

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- i. rock, sand, salt, soils;
- j. construction wastes and residues; and
- k. noxious or offensive matter of any kind.

12. POLLUTION: A stormwater condition caused by or involving a pollutant.

13. PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

14. STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

15. SURFACE WATER DISCHARGE PERMIT: A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

16. TOXIC OR HAZARDOUS MATERIAL OR WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

17. WATERCOURSE: A natural or man-made channel through which water flows, or a stream of water, including a river, brook or underground stream.

18. WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

19. WASTEWATER: A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present, which is contributed to or permitted to enter the publicly-owned treatment works.

D. Authority

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

E. Applicability

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

F. Responsibility for Administration

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

G. Prohibited Activities

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

H. Exemptions

1. Discharge or flow resulting from fire fighting activities.
2. The following non-stormwater discharges are exempt from the prohibitions of this ordinance, provided that, in the opinion of the City Engineer, the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - a. Waterline flushing;
 - b. Flow from potable water sources;
 - c. Springs;

- d. Natural flow from riparian habitats and wetlands;
- e. Diverted stream flow;
- f. Rising groundwater;
- g. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- h. Water from exterior foundation drains, footing drains, crawl space pumps, or air conditioning condensation;
- i. Discharge from landscape irrigation or lawn watering;
- j. Water from individual residential car washing;
- k. Discharge from de-chlorinated swimming pool water (less than 1.0 ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- l. Discharge from street sweeping;
- m. Dye testing, provided verbal notification is given to the City Engineer prior to the time of the test;
- n. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- o. Discharge for which advanced written approval is received from the City Engineer as necessary to protect public health, safety, welfare or the environment.

I. Emergency Suspension of Storm Drainage System Access

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

J. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, that person shall immediately take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the City Engineer. In the event of a release of non-hazardous material, the reporting person shall notify the City Engineer no later than the next business day. The reporting person shall provide to the City Engineer written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years following the date of discharge.

K. Enforcement

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

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

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Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the City of Marlborough, including administrative costs. Within thirty (30) days of receipt of the notification of the costs incurred by the City, the violator or property owner may file with the City Engineer a written protest objecting to the amount or basis of those costs. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the City Engineer affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the thirty-first day on which the costs first become due.

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

L. *Severability*

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

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M. Effective Date

This ordinance shall become effective immediately upon passage, **APPROVED**; adopted. **First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.**

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 315, ENTITLED "ENFORCEMENT," AS FOLLOWS:

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

31. Stormwater Management (City Code, Chapter 271); and
32. Detection and Elimination of Illicit Discharge to Municipal Storm Drain System (City Code, Chapter 511), **APPROVED**; adopted. **First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.**

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY DELETING §7-33 OF CHAPTER 7 IN ITS ENTIRETY, AND INSERTING IN ITS PLACE THE FOLLOWING:

§7-33. Tree Warden.

- A. Pursuant to the provisions of M.G.L. c. 41, §106, there shall be a "Tree Warden," who shall be appointed for a term of three (3) years by the Mayor subject to confirmation by the City Council.
- B. The Tree Warden shall be the officer charged with the care of public shade trees with all of the powers and duties conferred and imposed on tree wardens under M.G.L. c. 41, §106 and M.G.L. c. 87, as provided under M.G.L. c. 87, §13, and with all of the powers and duties of the superintendent of shade tree management and pest control as provided under M.G.L. c. 132, §13. The Tree Warden shall report directly to the Commissioner of the Department of Public Works.
- C. The Tree Warden shall be qualified to carry out the powers and duties of the position by experience and training in arboriculture and licensed in the use of pesticides and herbicides in accordance with M.G.L. c. 41, §106 and M.G.L. c. 132, §13.
- D. Any person requiring the services of the Tree Warden shall pay for such services at an hourly rate equal to the hourly rate of the general foreman of the Forestry, Parks & Cemetery Division of the Department of Public Works. Such compensation shall be paid directly to the Tree Warden. If the Tree Warden is also a City employee, such employee shall receive his or her regular compensation from the City when he or she

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provides services as Tree Warden during his or her regular working hours, regardless of whether such services are provided for the City or for a person or entity other than the City, and any compensation ordinarily due to the Tree Warden for services under this paragraph shall instead be paid to the City.

- E. The Tree Warden must obtain prior written authorization to perform services on City-owned property from the City department with care, custody, and control of the particular City property, **APPROVED**; adopted.

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

ORDERED; That the City Council of the City of Marlborough, having transferred to itself the care, custody, management, and control of a certain parcel of land described in Order No. 07/08/09-1001680A-2, being a portion of municipal property previously taken by the City as described in an order of taking of land dated October 5, 1959, recorded with the South Middlesex County Registry of Deeds, Book 9481, Page 554, and an order of taking dated May 30, 1973, recorded with the South Middlesex County Registry of Deeds, Book 12450, Page 529 and as further identified and described on a plan of land dated October 18, 2009 (the "Property") to be recorded in the South Middlesex County Registry of Deeds, for the purpose of disposition by sale, hereby declares, pursuant to M.G.L. c. 30B, § 16(a), that the Property is available for disposition by sale, and that said sale is subject to the following restrictions and terms:

- 1) As the Property has no independent frontage, preference is given to the sole abutter, Lakeview/Bolton St. Realty LLC of 640 Bolton Street, Marlborough, MA (the "Buyer"), to enhance its own parcel's utility by a compatible use of the Property in conformance with the City's zoning requirements, to protect the interests of the residents of Blaiswood Avenue, and to augment tax revenue to the City.
- 2) Because the Property is located within a limited industrial zone adjacent to the Assabet Valley Rail Trail and a residential zone, and because the City has identified the Property as potential open space, the City will consider accepting a parcel as full or partial consideration from the Buyer for the purchase of the Property that would replace the Property as potential open space land, further the recreational value of existing and future public amenities, and provide a buffer to protect the interests of the residents of Blaiswood Avenue from development within the limited industrial zone.
- 3) Any acceptance and acquisition of land by the City as partial or full consideration for the Property shall be subject to the procedures set forth in M.G.L. c. 30B, § 16. The Buyer shall provide title insurance to the City for any parcel that the City accepts as full or partial consideration for the Property.

Further, pursuant to M.G.L. c. 30B, § 16, the City, by and through the City Council, has determined that an approximately 2.48 acre parcel of land which abuts the Property, being a portion of Assessors' map 17, parcel 10, has unique qualities and a unique location including that it would replace the Property as potential open space, it would further the recreational value of the nearby Assabet

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Valley Rail Trail and future public recreational amenities, it has scenic views of Fort Meadow Reservoir, it provides potential wildlife habitat, and it would provide a buffer to the residents of Blaiswood Avenue from development of the Property in conformance with zoning requirements for the limited industrial zone, such that advertising for the acquisition of land to fulfill the City's needs will not benefit the interests of the City.

- 4) All taxes or fees owed to the City by the Buyer shall be current. The Buyer will be required to submit a Certification of Tax Compliance pursuant to M.G.L. c. 62C, § 49A.
- 5) The Buyer will be required, pursuant to M.G.L. c. 44, § 63A, to make a pro forma payment of taxes from the date of the deed transferring title from the City to the Buyer to June 30, 2010 (the end of the current fiscal year). Such tax shall be computed by applying the tax rate for such fiscal year to the sale price.
- 6) In addition to the payment of land identified in paragraph 3 above as consideration for the Property, the Buyer shall also pay all costs of the conveyance, including but not limited to the cost the City's independent peer review of the Buyer's appraisal, the City's costs for preparing a plan of land, and the fees for recording at the South Middlesex County Registry of Deeds. No costs of the conveyance will be paid by the City.
- 7) The Property is sold by the City "AS IS" with no warranties or representations as to condition, the marketability of its title, or whether it is subject to any solid waste materials or environmental conditions which may or may not be in compliance with any applicable laws, policies or regulations, including without limitation the Massachusetts Oil and Hazardous Material Release Prevention Response Act (M.G.L. c. 21E), the Comprehensive Response Compensation and Liability Act (42 U.S.C. § 9601 et. seq.), other federal, state and local laws or regulations, and any judicial or administrative decree, permits, or decisions. The Buyer, its successors and assigns agrees to indemnify, protect, defend and hold harmless the City against any and all losses, costs, damages, liabilities, expenses, actions, and demands (including reasonable attorneys' and experts' fees and other expenses) whatsoever of every name and nature both in law and in equity, suffered or incurred by the Buyer, including consequential damages and suits by third parties, arising out of any and all costs associated with all clean-up, disposal, removal, replacement, soil, solid waste and environmental remediation work or other actions related in any manner to said solid waste or environmental conditions, whether past, present or future, relating to the Property, and/or relating to any other land assertedly affected by solid waste or contamination from the Property; and arising out of any and all diminution in value, whether past, present or future, pertaining to the Property, and/or any other land assertedly affected by solid waste or contamination from the Property, as a result of or in connection with solid waste and environmental matters at or relating to the Property. The conditions set forth in this paragraph shall be run with the Property.

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8. The Property is sold subject to easements shown on a plan of land dated October 18, 2009 to be recorded in the South Middlesex County Registry of Deeds, including a permanent drainage easement which shall be reserved by the City and a grading easement which shall be granted by the City to the Buyer.

And, further, that the City Council sets the minimum price to be paid in the form of land described in paragraph 3 above as \$25,000, and the costs of conveyance as identified in paragraph 6 above to be paid in the form of cash, and thus authorizes the Mayor by two-thirds vote pursuant to M.G.L. c. 40, s. 15, to execute a deed of the Property to the sole abutter, Lakeview/Bolton St. Realty LLC of 640 Bolton Street, Marlborough, MA, subject to the above restrictions and terms, **APPROVED**; adopted.

ORDERED: The City Council authorizes the Mayor by simple majority vote under M.G.L. c. 40, s. 3, to accept a deed back from Lakeview/Bolton Street Realty LLC of 640 Bolton Street, Marlborough, MA for the approximately 2.48 acre parcel of land which abuts the Property, being a portion of Assessor's map 17, parcel 10, such that the City shall thereupon hold the fee simple interest in such parcel, **APPROVED**; adopted.

ORDERED: That the Appointment of Beverly Sleeper to the position of Chief Procurement Officer for a three-year term expiring November 20, 2012, **APPROVED**; adopted.
Councilors Vigeant and Pope requested to be recorded in opposition.

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

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

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

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

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

650-31 NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES

- A. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and provisions of the Rehabilitation Act and the Americans with Disabilities Act, the City of Marlborough Zoning Ordinance will not prohibit the location of a facility for narcotic detoxification or narcotic maintenance within the City of Marlborough, but will instead regulate such facilities. A Narcotic Detoxification and/or Maintenance Facility should provide medical support, security, drug testing with oversight by a physician, and standards that meet or exceed state regulations under 105 CMR 164 for licensure of substance abuse treatment programs. Facilities should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these facilities are located in such a way as to not pose a direct threat to the health or safety of either the participants in the rehabilitation treatment or the public at large, the provisions of this section will apply to all such facilities.
- B. Where a Special Permit is required for a Narcotic Detoxification and/or Maintenance Facility, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:
1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment;
 6. Potential fiscal impact, including impact on City services, tax base, and employment; and
 7. The ability for the facility to:
 - a. meet a demonstrated need;
 - b. provide a secure indoor waiting area for clients;
 - c. provide an adequate pick-up/drop-off area;

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- d. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
- e. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the facility, and its impact on neighboring uses.

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

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

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

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:50 p.m.

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Public Hearing – 2010 Tax Levy

LEGAL NOTICE
CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

Notice is given that the City Council of the City of Marlborough will hold a **Joint Tax Classification Public Hearing** with the Board of Assessors on **Monday, December 7, 2009** at 8:00 p.m. in Council Chambers, 2nd Floor, City Hall, 140 Main Street, Marlborough, MA to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2010. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law.

Per Order of: City Council President, Arthur G. Vigeant

Please publish in the MWDN on Tuesday November 24, 2009.

Please bill:

**Marlborough City Clerk, 140 Main Street, Main Floor, City Hall,
Marlborough, MA 01752 – please send tear sheets.**



City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 3, 2009

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

Honorable President Vigeant and Councilors:

To provide for the finalization by the Commonwealth of the City's FY 2010 tax levy, I am submitting the following recommendations from the Board of Assessors for your approval:

- A three percent (3%) residential tax exemption for owner-occupied homes (Submitted by Mayor)
- Residential property FY 10 levy of 51.1549%
- Commercial/Industrial/Personal property FY10 levy of 48.8451%

To provide for a reduction in the FY2010 tax levy, I am submitting the following budget transfer requests:

- Transfer in the amount of \$272,817.00 moving funds from Account No. 10000-35900 (Undesignated Fund).
- The second submittal transfers \$16,225.00 from Account No. 27000-33020 (Sale of Graves), \$186,252.00 from Account No. 61000-31200 (Aquifer Protection), \$580.00 from Account No. 27000-33080 (Traffic Enforcement), \$9,725.00 from Account No. 27000-33040 (Sale of Land) and \$2,686.00 from Account No. 27000-33060 (Sale of Real Estate).

The above transfers will maintain the FY 2010 tax levy at the FY 2009 level.

Chief Assessor Tony Trodella, Comptroller Tom Abel and I will be present at the December 7th meeting to respond to any Council inquiries. Your prompt review and vote will provide the necessary timeframe for preparation of the City's tax re-cap sheet to the Department of Revenue for final certification.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosures

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TRANSFER REQUEST

Office of the Mayor

FROM ACCOUNT				TO ACCOUNT			
AVAILABLE BALANCE	AMOUNT	ORG CO OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 3,779,650.00	\$ 272,817.00	10000	35900 Undesignated Fund	\$ 272,817.00	To Reduce FY 10 Tax Levy		

Reason: Free Cash used to reduce FY 10 tax levy

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TRANSFER REQUEST

Office of the Mayor

FROM ACCOUNT				TO ACCOUNT			
AVAILABLE BALANCE	AMOUNT	ORG C OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 16,225.00	\$ 16,225.00	27000	33020 Sale Of Graves	\$ 16,225.00	To Reduce FY 10 Tax Levy		
\$ 1,158,763.26	\$ 186,252.00	61000	31200 Aquifer Protection	\$ 186,252.00	To Reduce FY 10 Tax Levy		
\$ 580.00	\$ 580.00	27000	33080 Traffic Enforcement	\$ 580.00	To Reduce FY 10 Tax Levy		
\$ 9,725.00	\$ 9,725.00	27000	33040 Sale of Land	\$ 9,725.00	To Reduce FY 10 Tax Levy		
\$ 2,686.00	\$ 2,686.00	27000	33060 Sale Of R/E	\$ 2,686.00	To Reduce FY 10 Tax Levy		
Total				\$ 215,468.00			

Reason: Other funds used to reduce FY 10 tax levy



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City of Marlborough
Office of the Assessors
140 Main Street
Marlborough, Massachusetts 01752
TDD (508) 460-3610
Phone: (508) 460-3779

December 7, 2009

To: City Council

From: Tony Trodella

Re: Final Classification Documents

Councilors:

Please find attached the final Classification documents.

I have incorporated all of the changes that I had sent you on amendment pages.

It will be easier for you to follow my presentation without having to refer to multiple, loose pages.

Respectfully:

Anthony R. Trodella
Chairman- Board of Assessors

35

CITY OF MARLBOROUGH

CLASSIFICATION HEARING

Allocation of Local Tax Levy

Fiscal 2010

December 7, 2009

MARLBOROUGH BOARD OF ASSESSORS

**Anthony R. Trodella
Anthony C. Arruda Jr.
Daniel C. Brogie**

36

Information

One of the City Council's responsibilities is to annually determine the percentage of the local tax levy to be borne by each class of property. This responsibility and procedure are described in chapter 40, Section 56 of the Massachusetts General Laws.

The Council's decision is based on technical data and recommendations provided by the Board of Assessors. Examples included herein assume adoption by the City Council of the classification as presented by the Board of Assessors.

State law and the regulations of the state Department of Revenue define certain parameters for the City Council's decision. Those parameters are complex, and form the basis of the Board of Assessors' report to the Mayor and the Council.

Beyond those parameters, the Council's decision has policy ramifications that can only be weighed by the elected officials of our community.

It must be understood that the rates and percentages are made final only after the Department of Revenue reviews and certifies our submission on the recap sheet. 2010 new growth and values have been approved by the Dept of Revenue.

Definitions

The following are definitions of terms frequently used in the discussion of the tax rate.

Levy: The levy is the actual amount to be raised by taxes. The levy amount is determined by the budget. The total amount of the approved budget less all revenues from other sources is the amount of the levy.

Levy Ceiling: The levy ceiling is 2.5 percent of the full value of the city. This is sometimes referred to as the "Chapter 797 levy"; in reference to the state law that defines it.

Levy Limit: Also referred to as the "allowable levy", this is calculated by adding 2.5 percent of the previous fiscal year's levy limit plus the new growth revenue of the present fiscal year to the last year's levy limit. To exceed the levy limit requires an override of Proposition 2½.

Excess Levy Capacity: The excess levy capacity is the difference between the levy and the levy limit.

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The following chart is an illustration of these terms as applied to fiscal 2010.

FISCAL 2010 LEVY LIMIT	
FY 09 LEVY LIMIT	\$94,575,164
2.5% of FY09 Levy Limit	\$2,364,379
FY 2010 Growth	\$2,004,319
FY2010 Levy Limit	\$98,943,862
FY2010 Levy	\$81,935,336*
Excess Levy Capacity	\$17,008,526

***THIS INCLUDES OFFSETTING THE TAX LEVY WITH \$272,817 FROM FREE CASH.**

The task before the City Council is to vote on the **PERCENTAGE OF LEVY** to be borne by the different classes of properties, as prescribed by Chapter 40, Section 56 of the Massachusetts General Laws. While the vote technically is not to set a tax rate or rates, the rates fall out as merely a mathematical calculation based on those percentages. We have provided information on what the tax rate would be for the recommended classification. The Department of Revenue actually sets the rate by certifying all the information submitted to them on the Re-cap sheet.

Although it is never used in any of the calculations, it is interesting to note that the "hypothetical" average single family home is assessed at \$314,953 for FY2010. This is down from \$343,030 for FY2009

Dividing the total value of all single-family homes by the number of single-family properties derives this value. This is a decrease of approximately 8% from fiscal 2009. Individual assessments will increase or decrease at varying levels. **NOT NECESSARILY AT -8%**

It is important to recognize that this decrease is never uniform across all types of residential properties. There will be variations based on market activity within these property types. As an example, small condominiums and 2-8 unit dwellings decreased at a greater rate than larger homes due to the fact that the foreclosure rate for these properties and sales of bank owned properties in 2008 was greater than the foreclosure activity experienced by detached more expensive homes.

These varying assessment levels also result in increases or decreases in actual tax bills that vary accordingly.

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RECOMMENDATIONS

The key elements that were considered and are included in the criteria that lead to the recommendation being made by the Board of Assessors are as follows:

1. The recommendation by the Mayor of a 3% Residential exemption in the amount of \$8,272 for owner-occupied, residential properties. Dividing the value of all residential properties by the number of residential properties and taking 3% of that value derives this amount. THIS IS LOWER THAN THE 5% EXEMPTION FOR FY09.

This Residential Exemption does not influence the Residential/CIP shift at all but results in an inequitable percentage of taxes saved between assessment levels of owner occupied residential homes.

The effect is that the higher valued homes subsidize the taxes paid by the lower valued homes.

It is to be noted that this year the difference is minimal.

Marlborough is one of 13 communities that offer a residential exemption.

The Board of Assessors continues to recommend a gradual reduction in the Residential Exemption to 0. However, with the current foreclosure situation and financial stress on all taxpayers, we agree with the exemption at this time.

2. A reduction of the split in the CIP factor to 1.48 for the Residential/CIP tax structure so that the City of Marlborough will continue to spread the cost of running the City as equitably as possible between both residential and commercial/industrial tax payers.
3. Due to our financial conditions and assessment levels this year, the shift can be adjusted. The Board feels that this will continue to send an important signal that Marlborough is a competitive place to do business and wants to encourage both residential and non-residential growth.

This will have a resulting positive impact of meeting the stated goals of the City to lower the split when financially feasible and at the same time lower the percentage of the levy paid by the residential tax payer.

4. Supporting the Mayor's recommendation to apply \$272,817 of "free cash" to the tax levy.

It is important to note that although the CIP properties account for 33.0034% of the total assessed values in the City, they pay 48.8451% of the tax levy.

Based on these parameters being in place as part of the total package, the Board of Assessors recommends that residential properties bear 51.1549% and the Industrial/Commercial/Personal property bear 48.8451% of the TAX LEVY. This results in a decrease in the percentage of the levy paid by the residential tax payers over last year's percentages and results in the desired effect of benefiting the residential population while still allowing the CIP taxpayer to be competitive.

It must be noted that this year's MEASURE and LIST concentrated on the remaining single family homes and condominiums in the first cycle as required by the Dept. of Revenue. The collection of this data will continue which will result in an accurate evaluation of those properties. This will lead to more accurate assessments for all properties so as to benefit the residential and commercial/industrial taxpayer and measure a continuing proper level of new growth.

The TIF properties, we have in the city continued to add new growth for Commercial and Industrial properties.

The chart below summarizes the Board's specific recommendations and their impact on the tax rate.

IT IS TO BE NOTED THAT THE FINAL TAX RATE WILL BE SET BY THE DEPARTMENT OF REVENUE WHEN THE RE-CAP FINANCIAL AND VALUATION INFORMATION IS APPROVED.

Class	Assessed Value	Total Levy	Levy Percent	Tax Rate per Thousand
Residential	3,159,637,559	41,913,951	51.1549	13.57 (+6.4%)
CIP	1,556,481,263	40,021,385	48.8451	25.71(+8.4%)
Total	4,716,118,822	81,935,336	100	

CIP LEVY % SEPARATION

COMMERCIAL % = 27.8105
INDUSTRIAL % = 14.1652
PERSONAL % = 6.8694

By way of example, please note that under this recommendation the tax bill on the HYPOTHETICAL, AVERAGE SINGLE FAMILY HOME would be \$4161, a decrease of -\$15.00 (-.004%).

3/10

IMPLICATIONS ON A RETAIL STRIP STORE

FY 09 RATE=\$23.72/\$1000
FY2009 ASSESSMENT=\$2,064,100
Fy2010 ASSESSMENT = \$1,973,100
DIFFERENCE = -\$91,000(-4%)

TAX BILL = \$50,728
DOLLAR CHANGE = +1768(+4%)

THIS EXAMPLE IS REFLECTIVE OF A LOWERING OF ASSESSED VALUES ON THIS PROPERTY AS COMPARED TO FY 2009 LEVELS.

If there was no rate shift the tax rate would be \$17.37 per \$1000 of value. This would translate into an average single family tax bill of \$5,231 (+\$1136 difference)

ONCE AGAIN, PLEASE NOTE THAT INDIVIDUAL BILLS WILL VARY DUE TO CHANGES IN ASSESSMENT LEVELS AND THESE EXAMPLES DO NOT CLAIM UNIFORMITY AMONGST ALL TAX BILLS.



City of Marlborough
Office of the Mayor

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Nancy E. Stevens
MAYOR 4

Kathy J. Holmi
EXECUTIVE AIDE 1

Katherine M. Kimber
EXECUTIVE SECRETARY

December 3, 2009

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

RE: Ward Mountain LLC

Honorable President Vigeant and Councilors:

Per the City's agreement with Ward Mountain LLC, the annual payment of \$39,850.24 for the property is due. To complete this transaction, \$39,850.24 must be transferred from Acct. No. 83600-11520 (Open Space Stabilization) to Acct. No. 19300006-58170 (Open Space).

I respectfully request your approval of this routine transfer in order that payment can be made as soon as possible.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

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TRANSFER REQUEST

FROM ACCOUNT				TO ACCOUNT			
AVAILABLE BALANCE	AMOUNT	ORG C/ OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
		Undesignated Fund			Capital Outlay		
\$ 786,135.00	\$ 39,850.24	83600	11520 Open Space Stabilization	\$ 39,850.24	19300006	58170 Open Space Acquisition	\$ -

Reason: To Fund Annual Land Purchase Payment for Mt. Ward



City of Marlborough
Office of the Mayor

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Nancy E. Stevens
MAYOR

Kristen J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 1, 2009

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

RE: Public Facilities Transfer Request

Honorable President Vigeant and Councilors:

Attached herewith please find a transfer request in the amount of \$12,000.00 moving funds from account number 11920003-50560 (Custodian) to account number 11920003-51300 (Gross Overtime). The transfer of funds is necessary due to costs associated with coverage for an employee who is out on workers' compensation.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

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CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Property and Building Maintenance DATE: 1-Dec-09

FY: 2010

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
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FROM ACCOUNT:

TO ACCOUNT:

<u>\$78,696</u>	<u>\$12,000.00</u>	<u>11920003</u>	<u>50560</u>	<u>Custodian</u>	<u>\$12,000.00</u>	<u>11920003</u>	<u>51300</u>	<u>Gross Overtime</u>	<u>\$2,010</u>
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Reason: Employee out on workers comp

Reason:

Reason:

Reason:

Reason:

Reason:

Dept Head signature: *[Signature]*

Mayor signature: _____



City of Marlborough
Office of the Mayor

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Marlborough, Massachusetts 01752
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Nancy E. Stevens
MAYOR

Kristin F. Holton
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 1, 2009

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

RE: Chief Assessor Reappointment

Honorable President Vigeant and Councilors:

I am submitting for your approval the reappointment of Tony Trodella for a term of five years as Chief Assessor effective February 1, 2010.

We are nearing the end of the 2008/ 2009 legislative session. Should Council not act on the appointment confirmation during this legislative session, I respectfully request that this matter be carried over for consideration in the 2010/2011 legislative session.

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

Sincerely,

Nancy E. Stevens
Mayor



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Office of the Mayor

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Nancy E. Stevens
MAYOR

Kristin J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 1, 2009

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

RE: City Collector Reappointment

Honorable President Vigeant and Councilors:

I am submitting for your approval the reappointment of Deborah A. Puleo as City Collector effective February 1, 2010. Your prompt approval is respectfully requested as Ms. Puleo's bond status will be jeopardized should her current appointment be allowed to lapse or continue on a temporary basis past the bond renewal date of February 2, 2010.

We are nearing the end of the 2008/ 2009 legislative session. Should Council not act on the appointment confirmation during this legislative session, I request that this matter be carried over for consideration in the 2010/2011 legislative session.

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

Sincerely,

Nancy E. Stevens
Mayor



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Office of the Mayor

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Nancy E. Stevens
MAYOR

Krista J. Holmi
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Katherine M. Kimber
EXECUTIVE SECRETARY

December 1, 2009

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

RE: Reappointment of Assistant City Solicitor

Honorable President Vigeant and Councilors:

I am submitting for your approval the reappointment of Cynthia Panagore Griffin to the position of Assistant City Solicitor for a term of three years from the date of confirmation. Ms. Panagore Griffin's current term expires on January 7, 2010.

We are nearing the end of the 2008/ 2009 legislative session. Should Council not act on the appointment confirmation during this legislative session, I respectfully request that this matter be carried over for consideration in the 2010/2011 legislative session.

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

Sincerely,

Nancy E. Stevens
Mayor

9,



City of Marlborough
Legal Department

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

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

December 3, 2009

Arthur Vigeant
President
Marlborough City Council

RE: Acceptance of Blake Circle as a Public Way
Order No. 09100-2348

Dear President Vigeant and Members:

Pursuant to the meeting of the Public Services Committee held on November 30, 2009, I am enclosing for your review and approval a proposed order to accept Blake Circle as a public way. The order, in turn, refers to an acceptance plan of the roadway and associated municipal easements, as well as to the deed from the realty trust that has been developing the subdivision (Acre Bridge Estates). Both the plan and the deed are also enclosed. The Planning Board and the City Engineer have recommended acceptance.

Thank you for your attention to this matter.

Very truly yours

Donald V. Rider, Jr.
City Solicitor

Enclosures

cc: Daniel J. Burger, Esquire

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ORDERED:

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that BLAKE CIRCLE be accepted as a public way

From BLAKE CIRCLE To Terminus

and the appurtenant easements be accepted as municipal easements as shown on a plan thereof and as hereinafter described:

DESCRIPTION

Plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775, recorded with the Middlesex South District Registry of Deeds as Plan _____ of 20__, and attached hereto;

Title to the roadway known as BLAKE CIRCLE, and title to the municipal drainage easement denoted as "Drain Easement" as shown on said plan as well as to the flowage easement denoted as "Municipal Flowage Rights" as shown on said plan, has been granted to the City of Marlborough in a quitclaim deed from SMC Realty Trust, u/d/t dated March 27, 1992, by Stephen J. Garofalo and Elizabeth T. Garofalo, as Trustees of said Trust, said deed to be recorded herewith at the Middlesex County (Southern District) Registry of Deeds.

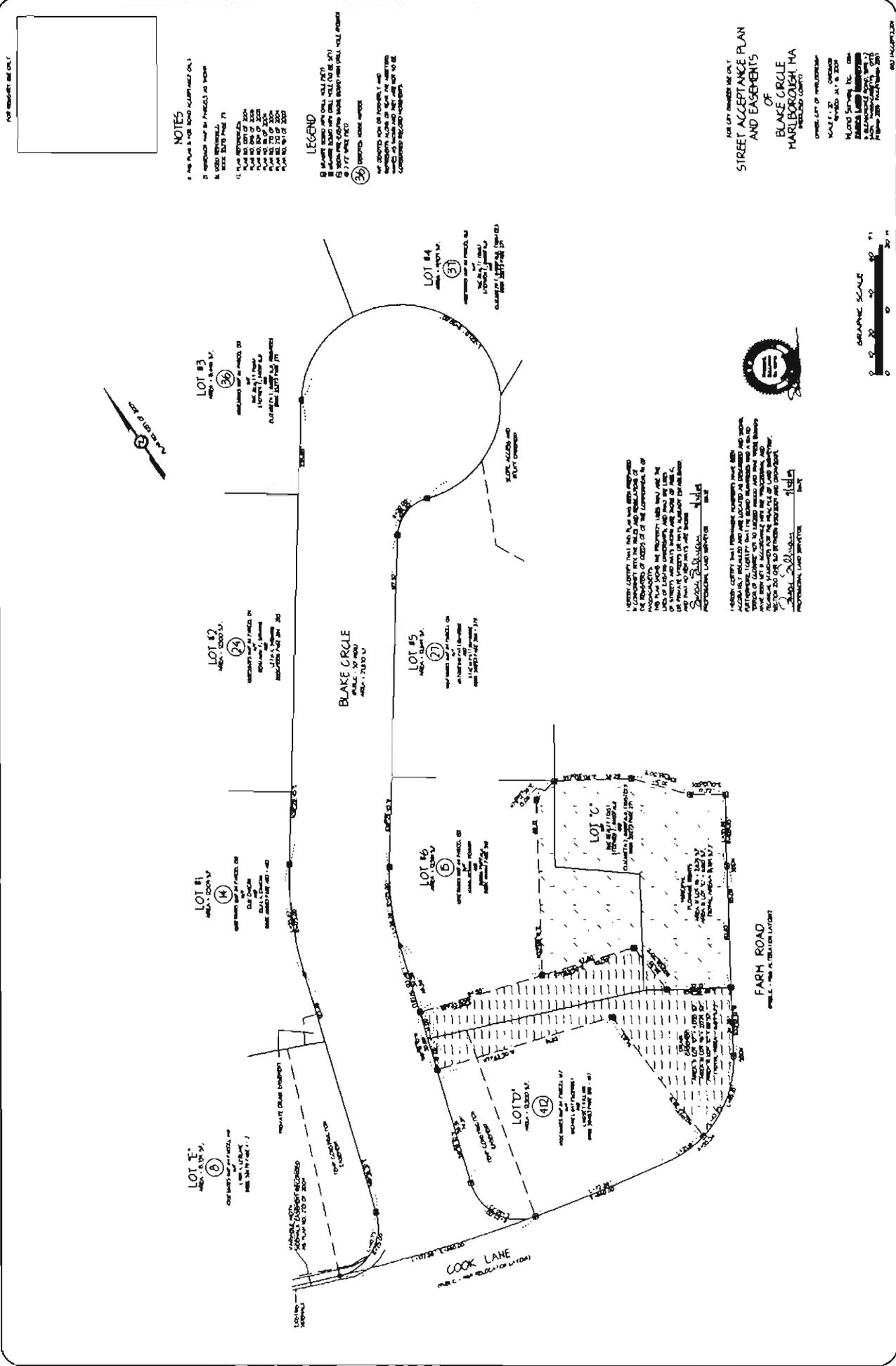
IT IS THEREFORE ORDERED THAT:

BLAKE CIRCLE be accepted as a public way and its appurtenant easements be accepted as municipal easements in the City of Marlborough.

ADOPTED
In City Council
Order No. 09-2348
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:



NOTES

1. THIS PLAN IS FOR THE PROPOSED ACCEPTANCE ONLY.
2. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
3. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
4. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
5. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
6. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
7. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
8. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
9. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.
10. THE PROPOSED LOTS ARE SHOWN AS PER THE RECORD MAP.

LEGEND

- 1. SHOWN AS PER THE RECORD MAP.
- 2. SHOWN AS PER THE RECORD MAP.
- 3. SHOWN AS PER THE RECORD MAP.
- 4. SHOWN AS PER THE RECORD MAP.
- 5. SHOWN AS PER THE RECORD MAP.
- 6. SHOWN AS PER THE RECORD MAP.
- 7. SHOWN AS PER THE RECORD MAP.
- 8. SHOWN AS PER THE RECORD MAP.
- 9. SHOWN AS PER THE RECORD MAP.
- 10. SHOWN AS PER THE RECORD MAP.

STREET ACCEPTANCE PLAN AND EASEMENTS

OF
BLAKE CIRCLE
 MARLBOROUGH, MA
 WINDHAM COUNTY

DATE: 11/11/2024
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]



MAP # 3117

QUITCLAIM DEED

SMC Realty Trust, u/d/t dated March 27, 1992, and recorded with the Middlesex County (Southern District) Registry of Deeds in Book 21891, Page 587, by Stephen J. Garofalo and Elizabeth T. Garofalo, as Trustees,

In consideration of less than one hundred (\$100.00) dollars

Grants to the City of Marlborough, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts and having its usual place of business at 140 Main Street, Marlborough, Massachusetts

With Quitclaim Covenants

The parcel of land in said Marlborough, Middlesex County, Massachusetts, known as Blake Circle, together with an appurtenant municipal drainage easement and an appurtenant municipal flowage easement, all as described in the legal description attached hereto as "Exhibit A." Said Blake Circle and appurtenant easements are as shown on a plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775, recorded with the Middlesex County (Southern District) Registry of Deeds as Plan _____ of 20__.

Said appurtenant municipal drainage easement shall include the right to install, maintain, repair and reconstruct municipal utilities in the area denoted as "Drain Easement" as shown on the above-referenced plan.

Said appurtenant municipal flowage easement shall include the right to install, maintain, repair and reconstruct municipal utilities in the area denoted as "Municipal Flowage Rights" as shown on the above-referenced plan.

For Grantor's title, see deed dated April 12, 2002 and recorded on April 16, 2002 with the Middlesex County (Southern District) Registry of Deeds in Book 35273, Page 271.

The undersigned do hereby certify as follows: a) They are the duly authorized Trustees of the above-referenced Trust, and the above-referenced Trust allows reliance on the facts stated in this certification; b) They have full power and authority and further are duly authorized by the terms of said Trust, and have been directed by all beneficiaries to execute and deliver, on behalf of the Trust,

this Quitclaim Deed to the City of Marlborough; c) The above-referenced Trust is in full force and effect and has not been altered, amended, revoked, or terminated, and no beneficiary is a minor or corporation; and d) There are no amendments, appointments, or resignations to this Trust.

SMC REALTY TRUST

By: _____
Stephen J. Garofalo, Trustee

By: _____
Elizabeth T. Garofalo, Trustee

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On _____, 20__, before me, the undersigned notary public, personally appeared Stephen J. Garofalo and Elizabeth T. Garofalo, as Trustees of SMC Realty Trust, and proved to me through satisfactory evidence of identification, which was _____, that they are the person whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
Printed Name: _____
My Commission Expires: _____

EXHIBIT A

BLAKE CIRCLE

Legal Description

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

Said Blake Circle contains 27,870± sq. ft. and is denoted as "Blake Circle (Public – 50' Wide)" as shown on a plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775.

MUNICIPAL DRAINAGE EASEMENT

Legal Description

Beginning at a granite bound with drill hole at Lot D and running N18°-16'-10"E a distance of 30.00' to a granite bound with drill hole;
 Thence running S71°-43'-50"E a distance of 112.30' to a granite bound with drill hole;
 Thence running S03°-08'-55"E a distance of 26.35' to a granite bound with drill hole;
 Thence running S56°-58'-48"E a distance of 32.13' to a granite bound with drill hole on the northerly side of Farm Road;

Thence running S33°-01'-12"W a distance of 34.25' to a stone bound with drill hole;
 Thence running by a curve to the right having a radius of 55.54' a length of 43.95' to a granite bound with drill hole;
 Thence running N02°-23'-38"W a distance of 74.63' to a granite bound with drill hole;
 Thence running N71°-43'-50"W a distance of 91.92' to the point of beginning.

Said municipal drainage easement contains 6,167± sq. ft. and is denoted as "Drain Easement" as shown on a plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775.

MUNICIPAL FLOWAGE EASEMENT

Legal Description

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

Said municipal flowage easement contains 8,789± sq. ft. and is denoted as "Municipal Flowage Rights" as shown on a plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775.



City of Marlborough
Legal Department

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TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR. 10,
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

DENISE M. LINDBERG
PARALEGAL

December 3, 2009

Arthur Vigeant, President and Members
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Order of Acceptance / Danjou Drive and Associated Easements
Order No. 09-1002362

Dear President and Members,

Please find a proposed order of acceptance for the above-referenced street and municipal easements in the Crystal Ridge subdivision. Copies of the acceptance plan and the deed, which includes a description of the easements, are attached for your review and approval.

Said order is in proper form for your consideration as requested by the Public Services Committee at their November 30, 2009 meeting. The City Engineer and the Planning Board have reviewed and approved the submittals.

Very truly yours,

Cynthia Panagore Griffin
Assistant City Solicitor

Enclosures

cc: Michael Norris, Esq.
Planning Board
Tom Cullen, City Engineer

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ORDERED:

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that DANJOU DRIVE be accepted as a public way

From DANJOU DRIVE To Terminus

and the associated easements be accepted as municipal easements as shown on plans thereof and as hereinafter described:

DESCRIPTION

Plan entitled "PLAN OF ACCEPTANCE OF DANJOU DRIVE AND EASEMENTS IN MARLBOROUGH, MASSACHUSETTS, ROBERT J. PARENTE, P.L.S., 15 HICKORY ROAD, SOUTHBOROUGH, MA 01772, DATE: OCT. 14, 2004, LATEST REV. DATE: OCT. 14, 2009, SCALE: 1" = 40'," RECORDED HERewith IN THE MIDDLESEX SOUTH REGISTRY OF DEEDS PLAN BOOK ____ AS PLAN ____ OF _____;

Title to the roadway known as DANJOU DRIVE and title to all of the easements, including sewer, flowage, drainage, sidewalk, and sight easements, as shown on said plan has been granted to the City of Marlborough in a Quitclaim Deed from Niel Fossile and Geraldine Fossile, Trustees of Crystal Ridge Realty Trust, P.O. Box 676, Marlborough, MA, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

DANJOU DRIVE be accepted as a public way and its associated easements be accepted as municipal easements in the City of Marlborough.

ADOPTED
In City Council
Order No. 09-
Adopted

Approved by Mayor
Nancy E. Stevens
Date:

A TRUE COPY
ATTEST:

zoning classification
 RESIDENCE A-7
 APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED
 MARLBOROUGH PLANNING BOARD

TRACKER _____ DATE _____

EVERY ENTRY SHALL BE CONFORMED WITH THE
 RULES AND REGULATIONS OF THE RECORDERS OF DEEDS
 IN RECORRING THIS PLAN.

Robert J. Parente
 PROF. LAND SURVEYOR ROBERT J. PARENTE DATE 10/11/09

EVERY ENTRY THAT THE MONUMENTS HAVE BEEN
 SET AS SHOWN ON THIS PLAN.

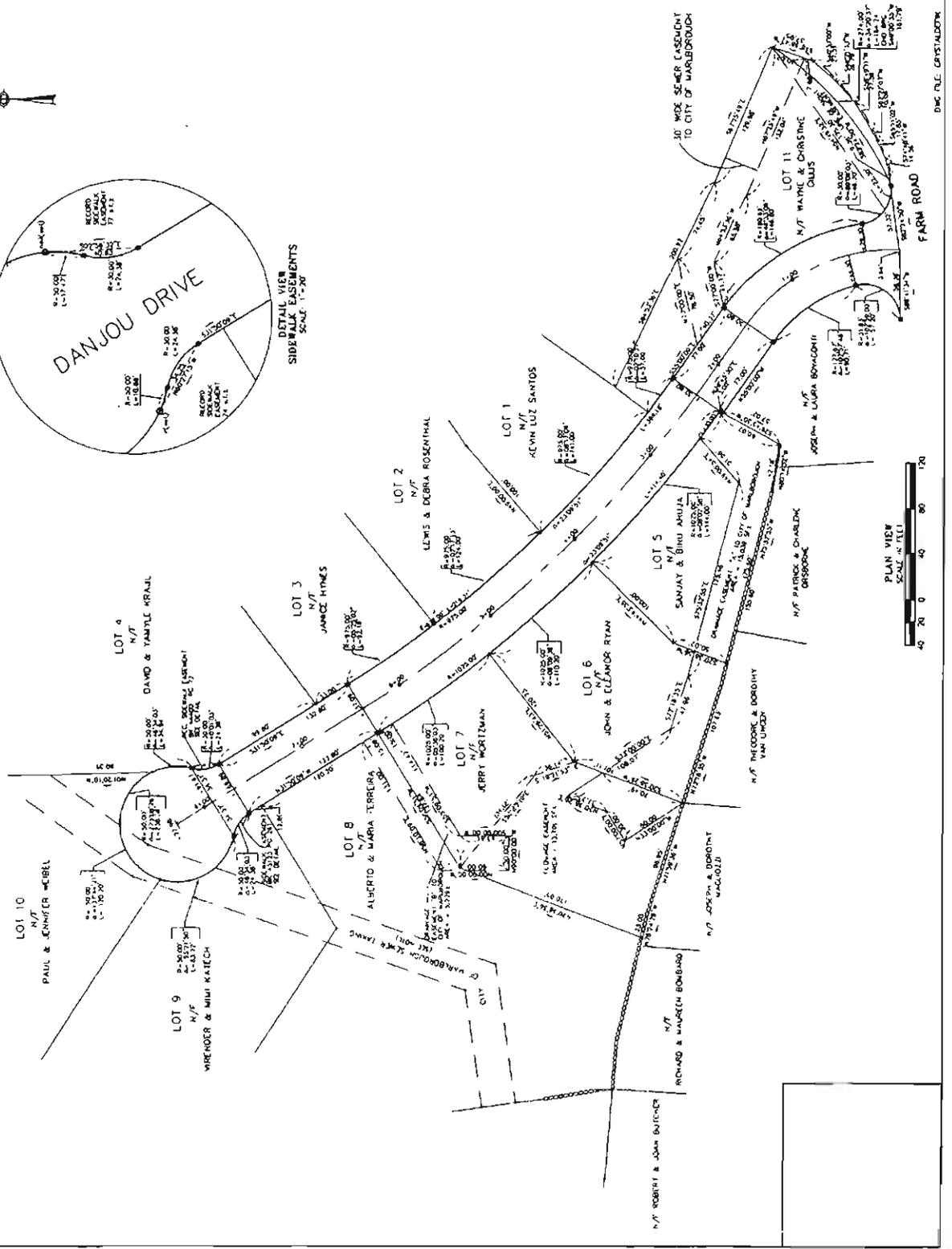
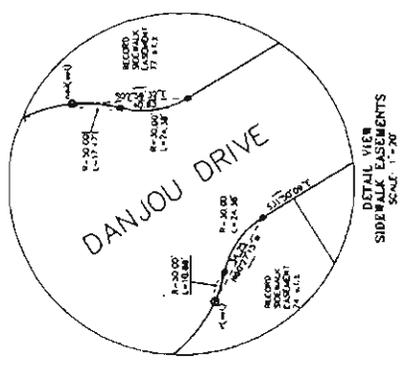
Robert J. Parente
 PROF. LAND SURVEYOR ROBERT J. PARENTE DATE 10/11/09



PLAN OF ACCEPTANCE OF
 DANJOU DRIVE AND EASEMENTS
 IN
 MARLBOROUGH, MASSACHUSETTS

ROBERT J. PARENTE, P.L.S.
 15 WOODLY ROAD, MARLBOROUGH, MA 01772
 DATE: OCT. 11, 2009
 REV. 1: JUNE 18, 2009
 REV. 2: OCT. 11, 2009
 SCALE: 1"=40'

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Quitclaim Deed

We, Niel Fossile and Geraldine Fossile, Trustees of Crystal Ridge Realty Trust u/d/t dated November 13, 1995, recorded with the Middlesex South Registry of Deeds in Book 25881 Page 141

of Marlborough, Middlesex County, Massachusetts

for consideration paid and in full consideration of ONE DOLLAR (\$1.00) and 00/100

hereby grant, sell, transfer and deliver unto the **City of Marlborough**, a municipal corporation having a principal address of City Hall, 140 Main Street, Marlborough, MA,

with Quitclaim covenants, all right, title and interest of Grantor in and to the fee in that certain subdivision roadway, known as Danjou Drive, together with perpetual easements including sidewalk easement(s), sight easement(s), sewer easement(s), drainage easement(s), flowage easement(s), and all water and drain pipes, manholes, conduits and all appurtenances thereto, that are now or hereafter constructed or installed in, through or under the land herein shown on "Plan of Acceptance of Danjou Drive and Easements in Marlborough, Massachusetts, Robert J. Parente, P.L.S., 15 Hickory Road, Southborough, MA 01772, Date: Oct 14, 2004, Latest Rev. Date: October 14, 2009, Scale: 1" = 40'," recorded herewith in the Middlesex South Registry of Deeds Plan Book ____ as Plan ____ of _____ bounded and described as follows:

Said area of Danjou Drive contains 48,007 square feet as shown on said plan.

Beginning at the southwesterly corner of Danjou Drive at a stone bound with a drill hole on the northerly sideline of Farm Road at land of Joseph & Laura Bovaconti and at a point of curvature,

thence running by land of Bovaconti and a curve to the left having a radius of 31.83 feet and a length of 57.20 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Bovaconti and a curve to the left having a radius of 127.67 feet and a length of 90.71 feet to a stone bound with a drill hole,

thence running by land of Bovaconti N55-00-00W 77.00 feet to a point at land of Sanjay & Bina Ahuja,

thence running by land of Ahuja N28-45-30E 3.00 feet to a stone bound with a drill hole at a point of curvature,

thence running by Ahuja, land of John & Eleanor Ryan and land of Jerry Wortzman and a curve to the right having a radius of 1,025.00 feet and a length of 414.40 feet to a stone bound with a drill hole at land of Alberto & Maria Ferreira,

thence running by land of Ferreira and land of Virender & Mimi Katech N31-50-09W 132.80 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Katech and a curve to the left having a radius of 30.00 feet and a length of 24.38 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Katech, land of Paul & Jennifer Weibel and land of David & Yamyle Krajil and a curve to the right having a radius of 50.00 feet and a length of 238.36 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Krajil and a curve to the left having a radius of 30.00 feet and a length of 24.38 to a stone bound with a drill hole,

thence running by land of Krajil and land of Janice Hynes S31-50-09E 132.80 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Hynes, land of Lewis & Debra Rosenthal, land of Kevin Luz Santos and land of Wayne & Christine Gillis and a curve to the left having a radius of 975.00 feet and a length of 394.18 feet to a stone bound with a drill hole,

thence running by land of Gillis and a curve to the right having a radius of 180.69 feet and length of 146.80 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Gillis and a curve to the left having a radius of 30.00 feet and a length of 46.70 feet to a stone bound with a drill hole at a point on the northerly sideline of Farm Road,

thence running by the northerly sideline of Farm Road S82-24-50W 57.32 feet to a point,

thence running by the northerly sideline of Farm Road S88-41-34W 58.36 feet to a stone bound with a drill hole at the point and place of beginning.

Together with the following easements:

Drainage Easement "A"

Beginning at the southeasterly corner of the easement at a stone bound with a drill hole on the westerly sideline of Danjou Drive,

thence running by Danjou Drive S28-45-30W 60.02 feet to a point at land of Joseph & Laura Bovaconti,

thence running by land of Bovaconti and land of Patrick & Charlene Orsborne and the wall N80-14-52W 42.18 feet to a point,

thence running by land of Orsborne and land of Theodore & Dorothy Van Lingen and the wall N75-32-55W 175.60 feet to a point,

thence running by land of Van Lingen and the wall N72-18-35W 107.63 feet to a point at land of Jerry Wortzman,

thence running by land of Wortzman N33-00-00W 60.00 feet to a point,

thence running by land of Wortzman N57-00-00E 30.00 feet to a point,

thence running by land of Wortzman N20-38-26E 37.25 feet to a point,

thence running by land of Wortzman and land of John & Eleanor Ryan S33-00-00E 108.07 feet to a point,

thence running by land of Ryan S72-18-35E 47.96 feet to a point,

thence running by land of Ryan and land of Sanjay & Binu Ahuja S75-32-55E 175.46 feet to a point,

thence running by land of Ahuja N49-00-54E 51.56 feet to a point of curvature on the westerly sideline of Danjou Drive,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 1,025.00 feet and a length of 30.00 feet to a stone bound with a drill hole at the point and place of beginning.

Drainage Easement "B"

Beginning at the southeasterly corner of the easement at a point on the westerly sideline of Danjou Drive and at land of Jerry Wortzman,

thence running by land of Wortzman S58-09-51W 114.42 feet to a point,

thence running by land of Wortzman S00-00-00W 43.31 feet to a point,

thence running by land of Wortzman N90-00-00W 30.00 feet to a point,

thence running by land of Wortzman and land of Alberto & Maria Ferreira N00-00-00W 60.00 feet to a point,

thence running by land of Ferreira N58-10-09E 131.00 feet to a point on the westerly sideline of Danjou Drive,

thence running by the westerly sideline of Danjou Drive S31-50-09E 15.00 feet to a stone bound with a drill hole at a point of curvature,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 1,025.00 feet and a length of 15.00 feet to the point and place of beginning.

Sidewalk Easement (Lot 9)

Beginning at the southerly end of the easement at a stone bound with a drill hole on the westerly sideline of Danjou Drive and at land of Virender & Mimi Katech,

thence running by land of Katech N60-27-15W 34.25 feet to an iron rod at a point of curvature on the westerly sideline of Danjou Drive,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 50.00 feet and a length of 10.88 feet to a stone bound with a drill at a point of curvature,

thence running by the westerly sideline of Danjou Drive and a curve to the right having a radius of 30.00 feet and a length of 24.38 feet to a stone bound with a drill hole at the point and place of beginning.

Sidewalk Easement (Lot 4)

Beginning at the southerly end of the easement at a stone bound with a drill hole at a point of curvature on the westerly sideline of Danjou Drive;

thence running by the westerly sideline of Danjou Drive and a curve to the right having a radius of 30.00 feet and a length of 24.38 feet to a stone bound with a drill hole at a point of curvature,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 50.00 feet and a length of 17.47 feet to an iron rod at land of David & Yamyle Krajil,

thence running by land of Krajil S02-56-32E 40.83 feet to a stone bound with a drill hole at the point and place of beginning.

Sewer Easement (Lot 11)

Beginning at the southwesterly corner of the easement at a point on the northerly sideline of Farm Road and at land of Wayne and Christine Gillis,

thence running by land of Gillis N67-25-49W 132.04 feet to a point,

thence running by land of Gillis N64-53-36W 65.38 feet to a point,

thence running by land of Gillis S77-00-00W 41.17 feet to a stone bound with a drill hole at a point on the easterly sideline of Danjou Drive,

10g

thence running by the easterly sideline of Danjou Drive N55-00-00W 40.37 feet to a point at land of Wayne & Christine Gillis,

thence running by land of Gillis N77-00-00E 78.50 feet to a point at land of Paul J. Banacos,

thence running by land of Banacos S64-53-36E 74.45 feet to a point,

thence running by land of Banacos S67-25-49E 129.98 feet to a point on the northerly sideline of Farm Road,

thence running by the northerly sideline of Farm Road S18-38-47W 30.07 feet to the point and place of beginning.

Line of Sight Easement (Lot 11)

Beginning at the southwesterly end of the easement at a point on the easterly sideline of Danjou Drive and at land of Wayne & Christine Gillis,

thence running by land of Gillis N54-49-52E 175.30 feet to a point at land of Paul J. Banacos on the northerly sideline of Farm Road,

thence running by a curve to the right having a radius of 274.00 feet and a length of 164.24 feet to a stone bound with a drill hole at a point of curvature on the easterly sideline of Danjou Drive,

thence running by the easterly sideline of Danjou Drive and a curve to the right having a radius of 30.00 feet and a length of 22.30 feet to the point and place of beginning.

Flowage Easement (Lot 7)

Beginning at the southwesterly corner of the easement and land owned by Jerry Wortzman at a point on the wall and at land of Alberto & Maria Ferreira,

thence running by land of Ferreira N20-38-36E 170.05 feet to a point,

thence running by other land of Jerry Wortzman S50-23-10E 104.12 feet to a point,

thence running by other land of Wortzman S19-21-53E 36.14 feet to a point at land of John & Eleanor Ryan,

thence running by land of Ryan S20-38-26W 101.11 feet to a point on the wall at land of Joseph & Dorothy Magliozzi,

thence running by the wall and land of Magliozzi N71-59-36W 98.95 feet to a point,

thence running by the wall and land of Magliozzo N76-24-28W 23.00 feet to the point and place of beginning.

Together with all of the right to construct, inspect, repair, renew, replace, operate, and forever maintain sidewalks, curbs, water mains, storm drains, and sanitary sewers, with any manholes, pipes, conduits and other appurtenances thereto, and to do all acts incidental thereto in, through and over said land.

Being a portion of the premises conveyed to the Grantor in that certain Deed dated December 8, 1995, recorded with the Middlesex South Registry of Deeds in Book 25881, Page 146.

The undersigned hereby certifies as follows:

- 1. That said Declaration of Trust and Schedule of Beneficial Interest remains in full force and effect and has not been modified or amended;
- 2. That we are the duly named and appointed Trustees of said Trust;
- 3. None of the Beneficiaries of the Trust are minors;
- 4. That the Trustees have been directed and authorized by the Beneficiaries to execute and deliver this Deed.

WITNESS our hands and seal this ____ day of _____, _____.

CRYSTAL RIDGE REALTY TRUST

By: _____
Niel Fossile, Trustee

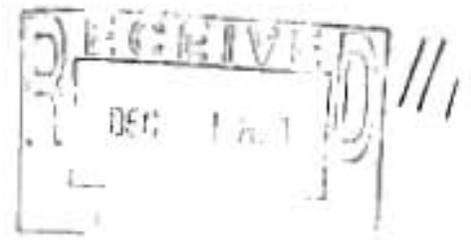
By: _____
Geraldine Fossile, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of _____, _____, before me, the undersigned notary public, personally appeared Niel Fossile and Geraldine Fossile, proved to me through satisfactory evidence of identification, being a driver's license, to be the persons whose names are signed on the preceding or attached documents, and acknowledged to me that they signed it voluntarily for its stated purpose as Trustees of the Crystal Ridge Realty Trust.

Notary Public:
My Commission Expires:



CITY OF MARLBOROUGH
Department of Public Works
Office of the Commissioner
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 460-3610

November 6, 2009

President and Members
Marlborough City Council
City Hall
140 Main Street
Marlborough, MA 01752

**RE: CHAPTER 40 SECTION 6-C
PLOWING OF PRIVATE WAYS**

Dear President and Members,

Below please find one private way being submitted for your approval under the above-Massachusetts General Law. The private way is:

Boivin Drive- Davis Estates, off Farm Road

I have attached herewith a draft council order which, if approved, would permit the removal of snow and ice from this private way. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Ronald M. LaFreniere, P.E.
Commissioner of Public Works

cc: Mayor Nancy E. Stevens
Donald Rider, City Solicitor
Thomas P. Temple, Assistant Commissioner- Operations
Thomas F. Cullen, Jr., City Engineer
Kenneth Calder, General Foreman Street Div.



11/2

CITY OF MARLBOROUGH
Department of Public Works
Engineering Division
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 • TDD (508) 460-3610

November 6, 2009

Marlborough Planning Board
Attn.: Ms. Barbara Fenby
140 Main Street—City Hall
Marlborough, Ma 01752

**Re: Davis Estates Subdivision; Boivin Drive;
Request to plow**

Dear Ms. Fenby:

Pursuant to the developer's request, received on October 28, 2009, the Engineering Division has reviewed the conditions within the referenced subdivision, and finds the site conditions acceptable for the City of Marlborough's Department of Public Works (DPW) to conduct snow and ice removal. We have forwarded the necessary information to the DPW's Street Division so that Boivin Drive will be placed on the list for snow removal operations.

By way of this letter, we have notified the Commissioner of Public Works that Boivin Drive meets all of our requirements for snow removal and should be placed on the list of streets for plowing that will be submitted to the City Council pursuant to M.G.L. Chapter 40, Section 6-C. A copy of the draft council order and Commissioner LaFreniere's letter submitting same is also attached.

If you have any questions please do not hesitate to contact me.

Very truly yours,

Richard H. Baldelli
Assistant City Engineer

cc Ronald M. LaFreniere, Commissioner
Robert Valchuis
Thomas P. Temple, Assistant Commissioner -Operations

IN CITY COUNCIL

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Marlborough, Mass _____, 2009

ORDERED:

That the Department of Public Works be authorized to plow and remove snow from the following way, in accordance with the provisions of Massachusetts General Law Chapter 40, Section 6-C, provided, that said way be of such construction and condition that, in the opinion of the Commissioner of Public Works, said plowing can be safely and conveniently accomplished.

Boivin Drive – Davis Estates Subdivision, off Farm Road

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LAW OFFICES OF
FLOOD & FAVATA
14 WINTHROP STREET
MARLBOROUGH, MASSACHUSETTS 01752

TEL: (508) 624-4700 FAX: (508) 624-7497
www.floodlaw.net

CHRISTOPHER M. FLOOD
LORI A. FAVATA

November 24, 2009

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

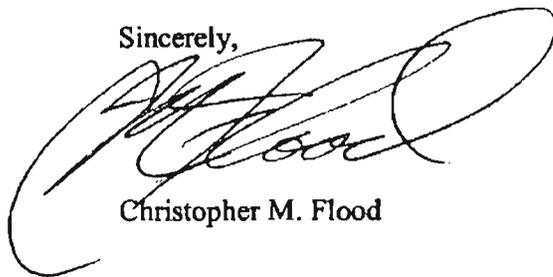
**Re: Proposed Hotel, 257 Simarano Drive, Marlborough, MA
City Council Order No. 09-100-2259**

Dear President Vigeant,

This letter is to request your assent to withdraw the Special Permit Application of Cherag Patel by the City Council of Marlborough *without prejudice*.

Thank you for your cooperation.

Sincerely,



Christopher M. Flood

cc: Lisa Thomas, City Clerk
12/7

13
Prince Lobel Glovsky & Tye LLP
100 Cambridge Street, Suite 2200
Boston, Massachusetts 02114
617 456 8000 main 617 456 8100 fax
PrinceLobel.com

▶ PRINCE LOBEL

December 3, 2009

City of Marlborough
City Council
VIA email

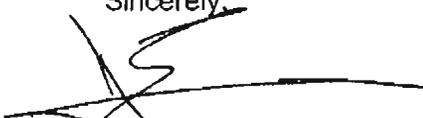
Re: Special Permit Application of Clear Wireless LLC for 115 Onamog Street

Dear City Council:

The Applicant respectfully requests that the above application for Special Permit be withdrawn without prejudice. Such withdrawal will allow the Applicant to properly address the design and other issues that have arisen during the application process.

Thank you for your consideration,

Sincerely,



James Hoyt
Attorney for the Applicant

James E. Hoyt, Esq.
Direct Dial: (617) 456-8099
jhoyt@princelobel.com

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

09- ORDER #1002161

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

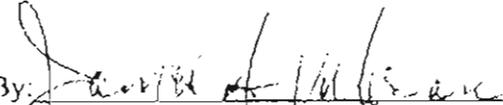
-REFER TO

PUBLIC HEARING: May 11, 2009

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

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 5:00 p.m. on March 31, 2010.

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

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

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

Date: 12/3/09
Order No. # 23294

Application for Special Permit from Clear Wireless LLC
Applicant's Name

for Special Permit
Purpose

at 2 Mount Royal Ave
Location

REFER TO Wireless Communications
Committee

PUBLIC HEARING: _____
Date of Public Hearing

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

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 5 p.m. on March 31, 2010

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

By: [Signature]
James Hoyt

Acting on behalf of, and at the direction of,
Petitioner:
Clear Wireless LLC

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

Date: 12/3/09
Order No. # 2290A

Application for Special Permit from Clear Wireless LLC
Applicant's Name

for Special Permit
Purpose

at 157 Union Street
Location

REFER TO Wireless Communications
Committee

PUBLIC HEARING: _____
Date of Public Hearing

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

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 5 p.m. on March 31, 2010.

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

By: James Hoyt

Acting on behalf of, and at the direction of,
Petitioner:
Clear Wireless LLC

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

Date: 12/3/09
Order No. # 2330A

Application for Special Permit from Clear Wireless LLC
Applicant's Name

for Special Permit
Purpose

at 460 Boston Post Road
Location

REFER TO Wireless Communications
Committee

PUBLIC HEARING: _____
Date of Public Hearing

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

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 5 p.m. on March 31, 2010.

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

By: [Signature]
James Hoyt

Acting on behalf of, and at the direction of,
Petitioner:
Clear Wireless LLC

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
November 9, 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, November 9, 2009 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Steven Kerrigan, Phil Hodge, Edward Coveney, Robert Hanson and Sean Fay. Also present: Assistant City Engineer Richard Baldelli.

MINUTES

Meeting Minutes October 26, 2009

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

To accept and file the Meeting Minutes of October 26, 2009.

CHAIRS BUSINESS

Narcotic Detoxification

The Planning Board discussed the proposed Narcotic Detoxification and/or Maintenance Facilities to Chapter 40A of the Zoning Ordinance.

On motion of Phil Hodge, seconded by Kerrigan, with Mr. Fay abstaining, it was voted to provide the City Council with a negative recommendation.

Mr. Fay stated that his reason for abstaining was that although the ordinance needs some fine tuning, he could not support a blanket unfavorable recommendation. Mr. Fay also requested that the Board provide specific comments to the City Council instead of only an up or down vote. The consensus of a majority of the Board was that although the City had a legitimate interest in controlling where narcotic detoxification could be located in an effort to protect residential neighborhoods and other sensitive areas, that the Board could not support all of the language of the ordinance in its current form.

The Board members made the following recommendations:

1. That the City Council should consider permitting a narcotic detoxification center at the hospital.

2. That the City Council should consider permitting a narcotic detoxification center in zones that permit medical office buildings subject to applicable buffer zones.
3. That the City Council consider reducing the buffer zone from 2,000 feet, and compare the maps of buffer zones of 1,000, 750 and 500 feet.
4. That the City Council remove or clarify the competition language in the current draft of the ordinance.
5. The traffic study requirements should not be imposed in such a way that the study requirement becomes prohibitively expensive for applicants.
6. That the City Council modify the current language of the ordinance to make the ordinance neutral as to whether a narcotic detoxification center could be permitted in the City, instead of making the ordinance overly restrictive in an effort to reduce the possibility of future litigation. This recommendation is made in recognition that a for-profit narcotic detoxification center could only be opened within the City by special permit, providing the City Council with an additional opportunity to protect neighborhoods and sensitive areas/uses.

APPROVAL NOT REQUIRED PLAN

Bolton Street & Hudson Street

Mr. Baldelli presented the ANR plan to the Planning Board. In correspondence from the City Engineer, Mr. Cullen stated that the City is the proponent requesting the subdivision of the following Map 30, Parcels 4,4B, 4C and 4D. Parcel B is descriptive only and not intended to be a buildable lot. Mr. Cullen noted the following:

- City Council Order No. 07/08/09-1001680A-1 indicated that the Commissioner Ronald LaFreniere declared a parcel of land on Bolton Street to be surplus.
- City Council Order No. 07/08/09-1001680A-2 indicates that the City Council transfers the care, custody, management and control of approximately 3.09 acres defined as "Parcel B" from the DPW to the City Council for another specific municipal purpose, namely to make that parcel available for sale.
- City Council Order No. 07/08/09A-3 indicated that the City Council requests the Legal Department and/or DPW to cause Parcel B as previously defined be indentified on a descriptive plan, including any easements the City must retain, for recording as a deed of conveyance, and further request the Legal Department and/or DPW to obtain an appraisal of Parcel B as required by MGL.

Cynthia Panagore-Griffin, the Assistant City Solicitor, stated that the owners of the medical building asked the City of Marlborough if they were willing to sell a portion of the landfill to them so that their land would comply with the frontage requirement for the current zoning. Ms. Panagore-Griffin stated that the balance of the current landfill land may be possible recreation fields in the future.

Mr. Fay asked about the paper streets. Mrs. Panagore-Griffin stated that those paper streets date back to 1940 and would be too narrow to be considered streets today.

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

To accept and endorse a plan of land believed to be Approval Not Required of City of Marlborough. of 135 Neil Street, Marlborough, MA 01752. Name of Engineer: Engineering Thomas Dipersio of Thomas Land Survey, 265 Washington Street, Hudson, MA 01749. Deed of property recorded in South Middlesex Registry of Deeds book 9481, page 554. Location and description of property: located on Bolton Street on Assessors Map 30, Parcels 4, 4B, 4C and 4D.

PUBLIC HEARING**TABLED FROM OCTOBER 26****Proposed Zoning Change****400 South Street LLC, Map: 93 Parcels 18A, 19, 20, 22, 23, 32, 101 & 103****7:30**

The Planning Board of the City of Marlborough held a public hearing on Monday, October 26, 2009, at 7:30p.m. in Memorial Hall, 3rd Floor, City Hall, 140 Main Street, Marlborough on the consideration to changing proposed change to the Zoning Map by petitioners 424 South Street and 428 South Street, LLC. Members present: Chairperson Barbara L. Fenby, Clerk Steven Kerrigan, Philip Hodge, Edward Coveney, Robert Hanson and Sean Fay. Also present: City Engineer Thomas Cullen.

Mr. Kerrigan read the advertisement into record.

Notice is hereby given that the Planning Board of the City of Marlborough will hold a public hearing on **Monday, October 26, 2009, at 7:15 P.M.** in the Memorial Hall, 3rd floor, City Hall, 140 Main Street, Marlborough, Massachusetts on the petition of 400 South Street LLC, 424 South Street LLC and 428 South Street LLC, all hereinafter referred to as "Petitioners", which said Petitioners each own land which is subject to this proposal, to amend the Zoning Map of the City of Marlborough, said map being referred to in the Marlborough Zoning Ordinance, Chapter 650 Section 650-8 of the Marlborough City Code, by rezoning certain parcels of land on South Street, shown on the Marlborough Assessors Maps as Map 93 Parcels 18A, 19, 20, 22, 23, 32, 101 and 103, removing said parcels from an Industrial (I) District and including them in a Commercial & Automotive (CA) District.

Attorney Bergeron brought in the Assessor's Map 93 to show the correct parcel. After further review, Map 93, on the GIS Zoning map shows parcel 21 being the whole parcel. Parcel 21, according to the Assessor's Map is a little parcel behind the brook and it is shown as a dotted line, which the City of Marlborough owns. Mr. Bergeron stated once again the reasons for asking for the change to the Zone. The Owners of the parcels do currently do work on commercial trucks and vehicles and the zone would be better suited as Commercial Automotive.

Mr. Marilyn Gaudette
21 Mill Street Central

Ms. Gaudette asked for Mr. Bergeron to identify all the parcels on the map.

Mr. Hodge asked if the neighbors, Fossile Construction, were aware of this zone change since they seemed surprised at the last meeting. Mr. Bergeron stated that he did send their attorney a letter of the proposed zone change but no correspondence returned. Mr. Bergeron also stated that according to Chapter 40 of the MGL, he was not required to send notices to the abutters. Mrs. Lizotte stated abutter notices that were sent out for the Planning Board.

The Public Hearing Closed at 7:30 pm.

Mr. Kerrigan asked if Mr. Reid, Zoning Officer, or Ms. Savoie, City Planner, had any opinion on this matter. Mrs. Lizotte could not comment for either party.

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

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To ask for written comments by Mr. Reid, Ms. Savoie, and Fossile Construction for their input on the Proposed Zoning Change.

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

There were no new updates at this time.

***Acre Bridge Estates
Correspondence from City Council***

The City Council referred the acceptance of the subdivision to the Planning Board.

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

To send a favorable recommendation to the City Council to accept the subdivision known as "Acre Bridge Estates".

***Blackhorse Farms (Slocumb Lane)
Cider Mill Estates (Goodwin Drive)
West Ridge Estates (Dufrense Drive)***

At the last meeting, the Planning Board asked Mr. Rider to research the possibility of rescinding the released lots in the subdivisions. He stated that he was having a disconnect when he reviewed all the facts and the work that was being done was part of the building process, not under the jurisdiction of the Planning Board. He also stated that maybe Ms. Wilderman was able to provide more information on why she thinks the Planning Board's jurisdiction would have the right to rescind the subdivision when the work on the berm is considered part of the Site Plan Review or the Building Department Review.

Mr. Fay also asked about the impact of the expired covenants. It is his understanding that if the Lots are rescinded the City would have to complete the streets. Mr. Baldelli informed the Board that there is not enough bond monies to complete the work needed.

Mr. Fay asked the City Solicitor about two cases that he found from Town of Kingston and the Town of Sandwich, where the Planning Board successfully rescinded the subdivision lots. Mr. Rider stated that he was not able to ask the Planner of Sandwich and the Planner for Kingston was too new as the City Planner to know the history of the rescission of lots.

The Planning Board is asking for Ms. Wilderman and Mr. Rider to attend the next meeting to discuss the subdivision.

***Crystal Ridge Estates (Danjou Drive)
Correspondence from Crystal Ridge Realty Trust***

The Developer copied the Planning Board in their correspondence to the City Council requesting the subdivision acceptance.

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

To accept and file correspondence.

***Davis Estates (Bouvin Drive)
Request for Bond Reduction***

At the last meeting, the Planning Board referred the request for a bond reduction to the City Engineer. Mr. Baldelli provided the following information:

- Initial Bond = \$810,000 (October 24, 2005)
- Bond Reduction = \$367,000 (March 12, 2008)
- Bond Reduction = \$328,000.00 (May 27, 2008)

Mr. Baldelli stated that based on the review by the Engineering Division, the Planning Board should consider reducing the bond from \$328,000 to \$187,000. He also noted that the subdivision construction is on schedule and that the developer has been responsive to the concerns of the Engineering Department.

Mr. Fay questioned Mr. Baldelli on the wording of the letter. In past letters, the Engineering Department used "recommend" and this letter they used "consider". This did not mean that Engineering did not oppose the bond reduction. Mr. Baldelli stated he and Mr. Cullen discussed the changing of the words to consider and not recommend. He will report back to Mr. Cullen regarding the dispute.

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

To accept and file correspondence; reduce the bond from \$328,000.00 to \$187,000.00.

Request to Plow Correspondence

Mr. Baldelli stated that at the Developer's request they have reviewed the subdivision site conditions for snow and ice removal and finds the subdivision acceptable for snow removal. The City of Marlborough's Department of Public Works has notified the Commissioner of Public Works that the subdivision meets all the requirements for snow and ice removal and should be placed on the list for plowing. The letter to the City Council from DPW Commissioner is included with the correspondence.

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

To accept and file correspondence.

***Forest Trail (Mosher Lane)
Correspondence from Attorney Burger***

Mr. Burger stated that he and his clients are still in discussion with Fire Chief Adams suggestion over the gate at the trail entrance with the Knox lock system. He is asking for a postponement of any action until the November 23, 2009.

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

To accept and file correspondence and to postponing action as requested; to ask the Fire Chief for a written status.

PENDING SUBDIVISION PLANS: Updates and Discussion

Marlborough Elms (289 & 401 Elm Street)

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

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To send correspondence to the Engineer for a status update on the revised plans.

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

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

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

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

To adjourn at 8:23 p.m.

A TRUE COPY

ATTEST:



Steven Kerrigan, Clerk



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

Traffic Commission

The Regular Meeting of the Traffic Commission was held on Tuesday, October 27, 2009 at 10:05 a.m. in City Council Committee Room, City Hall. Members present: Chairman Police Chief Mark Leonard, Vice Chairman – DPW Commissioner Ronald LaFreniere, Fire Chief David Adams, City Planner Nancy Savoie. Also present: City Engineer Thomas Cullen, Timothy Collins, Engineering Division, City Councilor Edward Clancy (2nd half of meeting) and local resident Jim Joubert. Minutes taken by: Karen Lambert, MPD Records Clerk.

1- Minutes

The minutes of the Traffic Commission meeting of Tuesday, September 29, 2009.

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

2-New Business

2a. Communication from Mark Kall, re: Bigelow St. stop signs. (Includes Old Business 3f.) Communication from Jim Joubert, re: Same)

The Traffic Commission received a letter from Mr. Kall stating his objection to the possible removal of stop signs on Bigelow Street. Since Mr. Joubert was in attendance the Bigelow Street stop signs were discussed first. Tim Collins advised that the counts have started. One intersection has been completed; there are three more to go. The construction season is now coming to an end and he will have more time to finish the counts. Chief Leonard informed Mr. Joubert that we are also in the process of pulling together accident data and prior counts etc. and that Councilor Juaire is aware of the situation. The Traffic Commission knows that there are people who feel strongly on both sides of this issue and it is not something that will be resolved quickly. The Chief stated that the bottom line is the safety aspect. Mr. Joubert mentioned that the stop signs were initially put up for a 90 day trial period to deal with traffic control. He can understand the justification for safety issues and MUTCD requirements but not for traffic control. Chief Leonard advised that other options were brought up at the time, i.e. no left turns, barriers etc.) and that the stop signs appeared to be the least restrictive alternative. If they were to come down would something else have to be put into place? It was also brought

up that the skating rink (New England Sports Center) causes a lot of traffic. There is no easy solution and all aspects need to be weighed. It was reiterated that the Commission is in the initial review stages – all information needs to be gathered first.

MOTION was made, seconded, duly VOTED to TABLE until traffic counts have been completed by Engineering.

2b. Communication from Councilor Pope, re: traffic/parking concerns on Laviolette St. and Broad St.

Councilor Pope sent an e-mail addressing several issues concerning the residents of Academy Knoll.

1) Residents of condos on Lakeside Ave. are exiting through the back of the parking lot and speeding down Laviolette Street.

It was discussed that this may be more of a Site Plan issue than a Traffic Commission issue. These are the condos across from Hunt's Mobile. The main driveway is on Lakeside Ave., however, with the light and heavy traffic it is hard to exit. Many residents probably do use the back exit onto Laviolette to Broad Street.

MOTION was made, seconded, duly VOTED to PLACE this item on the next Site Plan Agenda as more investigation is necessary.

2) Is it possible to get 2 Handicap Parking Spaces on Laviolette St?

Chief Leonard advised that this issue was addressed previously. The Commission was concerned about the condition of the sidewalk in this location. They felt that there were areas on the Academy Knoll property that would be better suited for additional handicap spaces. Also, Laviolette is an extremely narrow road. It does not appear to be the safest place for handicapped parking. The issue was initially returned to Academy Knoll for their input.

MOTION was made, seconded, duly VOTED to REFER to Chief Leonard to discuss this issue with Councilor Pope.

3) It is possible to get a no parking zone in front of Academy Knoll (on Broad Street) all the way to West Main St.?

Chief Leonard and Engineering agreed that there are currently no parking restrictions on Broad Street. The Chief also said that he was not aware of any site issues in this location. Ron LaFreniere advised that the only previous request (from Councilor Vigeant) was to repaint the curbing at the intersection of Laviolette St. Ron LaFreniere suggested that Engineering look at the site and see if they can make any specific recommendations to improve the situation.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to do a site distance check at the intersection and to REFER to MPD to keep an eye on the Laviolette piece.

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3-Old Business

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

Barbara McGann spoke to the Department of Public Works regarding the painting of the crosswalk and turn lanes on Forest Street. Tom Cullen advised that the painting was taken care of yesterday. It was also noted that the new crossing guard is now working at this location. Councilor Clancy commented on all the work being done in front of the school. He asked if they ever considered an additional driveway. Chief Leonard advised that they did come before the Site Plan and made several modifications, i.e. cleared trees and brush etc. in an attempt to clear the site line. The bottom line is that the site was meant to be an office building and is now being utilized as a school. The site seems to be operating in the best manner that it can at this point. Councilor Clancy asked if a fire truck could get through at dismissal time. Fire Chief Adams explained that he did send a truck up there to check on this. There is one tight spot but they are still able to get through. He reiterated that the Fire Department was involved with the new dismissal process and that there is now great improvement upon what they had. It is not the best scenario but it does work.

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

Councilor Clancy indicated that he has spoken to several residents of Crestwood, Applewood and Johanson Drive. They all have concerns about speeding in this area. Kids from the High School are using this route and traveling very fast. He also commented on the increased speed on Stevens Street and the need for more enforcement. Chief Leonard advised that traffic counts are still on the agenda but have not yet been completed. The City is also using new Pedestrian Crossing Signs which cost \$275 each. They have been placed on Stevens Street. Councilor Clancy also mentioned a problem with vehicles being parked on the sidewalk (down on the older section of Stevens – by Upland Road) causing kids to have to go out into the roadway and go around. He has asked for specific addresses from those making complaints so that this issue can be addressed.

MOTION was made, seconded, duly VOTED to TABLE for now as traffic counts have not been completed.

3g. Advance pedestrian crossing signage, South St. near Charles St.

Tim Collins advised that the sign has been replaced or is about to be replaced.

Additional Agenda Items from Neil Street Resident at last meeting.

Tim Collins advised that a “Dead End” sign was put up on the corner of Lambert Street and Neil Street. He also noted that he tested the light at Howe Street and it allows a pedestrian to cross at 4 feet per second. This meets MUTCD requirements.

3h. Traffic Commission rules and regulations update.

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Chief Leonard has not yet met with Mayor Stevens on this issue. A meeting was scheduled but cancelled.

MOTION was made, seconded, duly VOTED:

To TABLE until Chief Leonard is able to meet with Mayor Stevens.

3i. Vegetation Issue on Concord and Hemenway Street

Engineering brought up this issue. There is a large section of tall vegetation on the bend of Concord Road which was blocking the sign for Hemenway Street Extension. Drivers were missing the turn for Hemenway because there was no clear view of the road or street sign. They would then turn around in Resident's driveway. Engineering showed photos from all approaches and moved the sign for Hemenway Street Extension to the opposite side of the street. The street sign is now clearly visible; however, the vegetation is still a problem. The City tried to get the homeowner to sign a release which would allow them to cut down the vegetation and replant new vegetation in a more suitable location on the property. The Homeowner does not want to sign the release because he does not want the vegetation cut down. His original request regarding the street sign is what brought up the vegetation issue. Ron LaFreniere asked about possible "Advance Warning Signs" alerting drivers to a street coming up on the left. The bushes (vegetation) are too close to the road. They are actually in the City Layout and are now encroaching onto a public way. It is our job to make sure that the roadways are safe with clear visibility.

MOTION was made, seconded, duly VOTED to REFER this issue to Ron LaFreniere to discuss the options with the Homeowner.

3a. Long term oversized vehicle ordinance.

MOTION was made, seconded, duly VOTED:

To TABLE.

3b. Municipal off street parking regulation.

MOTION was made, seconded, duly VOTED:

To TABLE.

3c. High School parking regulations.

MOTION was made, seconded, duly VOTED:

To TABLE

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

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