

1. Minutes of the City Council Meeting, December 7, 2009.
2. CONTINUE PUBLIC HEARING: Scheduled for December 21, to a date convenient to City Council in January 2010, on the Application for Special Permit from Donald Conn, on behalf of Jam Enterprises LLC, for a drive-thru window at a drive-in Sonic Restaurant on Boston Post Rd., Map 89, Lot 77 (Order No. 09-1002361A).
3. Communication from the Mayor re: request for an Executive Session for the purpose of discussing strategy with respect to collective bargaining.
4. Communication from the Mayor re: brief update on the Westerly Wastewater Treatment Plant upgrades.
5. Communication from the Mayor re: designation of a City liaison to the Ethics Commission.
6. Communication from the Mayor re: budget transfer requests as follows:
 - Transfer in the amount of \$24,000.00 moving funds from account number 14001403-50745 (Motor Equipment Repairman) to account number 14001406-54810 (Repair/Maintenance Supplies).
 - Transfer in the amount of \$1,700.00 moving funds from account number 14001403-51430 (Longevity) to account number 14001406-54810 (Repair/Maintenance Supplies).
 - Transfer in the amount of \$900.00 moving funds from account number 14001403-51440 (Educational Incentive) to account number 14001406-54810 (Repair/Maintenance Supplies).
 - Transfer in the amount of \$1,900.00 moving funds from account number 14001403-51920 (Sick Leave Buy Back) to account number 14001406-54810 (Repair/Maintenance Supplies).
 - Transfer in the amount of \$3,500.00 moving funds from account number 14001301-50690 (Foreman) to number 14001406-54810 (Repair/Maintenance Supplies).
 - Transfer in the amount of \$1,000.00 moving funds from account number 14001303-51440 (Educational Incentive) to account number 14001406-54810 (Repair/Maintenance Supplies).
7. Communication from the Mayor re: budget transfer request in the amount of \$5,000.00 to move funds from Undesignated to the City Clerk's Advertising account due to an increased demand for advertisements.
8. Communication from the Mayor re: budget transfer requests in the amount of \$640.00 which moves funds from Fringes to Longevity and \$590.00 which moves funds from Fringes to Longevity associated with longevity payments.
9. Communication from the Mayor re: budget transfer request in the amount of \$722.70 which moves funds from Sewer Service Longevity to West Plant Sick Leave Buy Back associated with an employee who became eligible during this fiscal year.
10. Communication from the Mayor re: budget transfer request in the amount of \$23,080.00 which moves funds from Fringes to two Sick Leave Buy Back accounts associated with the retirement of two employees.
11. Communication from the Mayor re: budget transfer request in the amount of \$3,000.00 which moves funds from Water Service Fund-Longevity to Water Service Fund-Sick Leave Buy Back associated with the retirement of an employee.
12. Notice from the City Clerk re: Special State Election Call.
13. Minutes, Planning Board, November 23, 2009.

14. CLAIMS:

Mike Saliga, 69 White Pond Rd., Hudson, pothole or other road defect
 Joseph Tunnera, 209 Blanchette Dr., pothole or other road defect
 Christopher Nordstrom, 182 Blanchette Dr., pothole or other road defect
 Caroline McDonald, 10 Stone Hill Rd., pothole or other road defect
 Sharon Judd, 112 Liberty St., other property damage
 Sandra DeOliveira, 60 Mosher Ln., pothole or other road defect
 Robert Bickford, 46 Maurice Dr., other property damage
 Chris O'Brien, 29 Slocumb Ln., residential mailbox claim (2b)

REPORTS OF COMMITTEES:

15. ORDERED: That the City of Marlborough make a determination of its ability to plow all sidewalks in which it is an owner of any building or lot of land bordering on any street, lane, court, square or public place within the City where there is a sidewalk within 12 hours after snow ceases to fall in the daytime, and before 12:00 noon, if it ceases to fall in the nighttime, in strict accordance with the provisions on City Ordinances prior to enforcement against any private resident for failure to perform such snow and ice removal.Submitted by Councilors Schafer, Levy and Pope

UNFINISHED BUSINESS:

From Finance Committee

16. **Order No. 09-1002372 – Transfers for Fire Department Overtime.** The Finance Committee reviewed the Mayor's letter dated November 18, 2009 requesting the following transfers for fire department overtime:

- \$30,000.00 from Undesignated to Gross Overtime
- \$9,215.69 from Firefighter to Gross Overtime
- \$699.60 from Fire Lieutenant to Gross Overtime

Recommendation of the Finance Committee is to approve the following two transfers 4-1 (Councilor Landers opposed).

- \$9,215.69 from Firefighter to Gross Overtime
- \$699.60 from Fire Lieutenant to Gross Overtime

17. **Order No. 09-1002374 – Transfer \$1620.00 from DPW Junior Civil Engineer to Sick Leave Buy Back:** The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$1620.00 from DPW Junior Civil Engineers to Sick Leave Buy Back. **Recommendation of the Finance Committee is to approve 5-0.**

18. **Order No. 09-1002375 – Transfer \$5,000.00 from Undesignated Funds to High School Library:** The Finance Committee reviewed the Mayor’s letter dated November 19, 2009 requesting the transfer of \$5,000.00 from Undesignated Funds to the High School Library account. **Recommendation of the Finance Committee is to approve 5-0.**
19. **Order No. 09-1002376 – Transfer \$600.00 from Undesignated Funds to City Collector Advertising:** The Finance Committee reviewed the Mayor’s letter dated November 19, 2009 requesting the transfer of \$600.00 from Undesignated Funds to the City Collector Advertising account. **Recommendation of the Finance Committee is to approve 5-0.**
20. **Order No. 09-1002377 – Transfer \$1,000,000.00 from Undesignated Funds to Other Post Employment Benefits (OPEB) Stabilization account:** The Finance Committee reviewed the Mayor’s letter dated November 19, 2009 requesting the transfer of \$1,000,000.00 from Undesignated Funds to the OPEB Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**
21. **Order No. 08-1002035 – Establish the Other Post Employment Benefits (OPEB) Trust Fund:** **Recommendation of the Finance Committee is to approve 5 – 0 to recommend to the full City Council to continue this order into the 2010-2011 City Council Session.**
22. **Order No. 08-1002058 – Personnel Director Salary:** **Recommendation of the Finance Committee is to table 5-0.**

From Urban Affairs Committee

23. **Order No. 08/09-10001821 – Request from Old Marlborough Inc. to make a presentation on a “Public Art Program” for the Downtown/Central Business Area.** **Recommendation of the Urban Affairs Committee is to recommend to the full City Council to continue this order into the 2010-2011 City Council Session.**

From Public Services Committee

24. **Order No.09-1002362 -** Communication from Linda Fossile, Crystal Ridge Community Trust requesting Street Acceptance for Danjou Drive.
 - By letter dated November 30, 2009, the Planning Board voted to send a favorable recommendation regarding the acceptance of Crystal Ridge, Danjou Drive.**Recommendation of the Public Services Committee is to approve 3-0, subject to receipt of acceptance documents in legal form on the December 7, 2009 agenda.**
25. **Order No.09-100-2348:** Communication from Steve Garofalo requesting Street Acceptance for Blake Circle.

- By letter dated November 16, 2009, the Planning Board voted to send a favorable recommendation to the City Council to accept the subdivision known as Acre Bridge Estates, Blake Circle.

Recommendation of the Public Services Committee is to approve 3-0, subject to receipt of acceptance documents in legal form on the December 7, 2009 agenda.

26. **Order No. 09100-2360** - Application for Junk Dealer's License by Gerald Dumais, d/b/a Dumais and Sons at 67 Mechanic Street

- Police Chief Leonard is without objection to the issuance of a Junk Dealer License for Gerald Dumais as requested.

Recommendation of the Public Services Committee is to approve 3-0.

27. **Order No.09-100-2349** - Application for Junk Dealer's License by Sylvia Jahns at 461 South Street. The Building Inspector has recommended that the license be subject to the following four (4) conditions:

1. No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;
2. No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;
3. There shall be no outdoor storage of merchandise, wares, inventory or items for sale;
4. All signage shall comply with the City of Marlborough Sign Ordinance without variance.

Recommendation from Chief of Police:

- The Chief of Police is without objection to the opening of a thrift store by Sylvia Jahns, provided she meets any/all zoning and parking requirements.

Recommendation of the Public Services Committee is to approve 3-0 with following conditions as requested by Building Inspector Reid:

1. **No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;**
2. **No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;**
3. **There shall be no outdoor storage of merchandise, wares, inventory or items for sale;**
4. **All signage shall comply with the City of Marlborough Sign Ordinance without variance.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

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

December 7, 2009

Regular meeting of the City Council held on Monday, December 7, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juairé, Clancy and Landers. Absent: Seymour. Meeting adjourned at 10:10 p.m.

ORDERED: That the minutes of the City Council Meeting November 23, 2009, **FILE**; adopted.

ORDERED: Now being the time set for the **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 2009. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing adjourned at 9:07 p.m.; adopted.

Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Schafer, Juairé, Clancy, & Landers.

Absent: Seymour

The City Clerk read a statement by Councilor Seymour regarding the tax classification hearing as he was not present.

ORDERED: That the following transfer of \$1,200,000.00 (one million, two hundred thousand dollars) from Undesignated Funds to reduce the FY2010 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$1,200,000.00
Undesignated Fund

TO:

To Reduce Tax Levy \$1,200,000.00

ORDERED: That the following transfer of \$215,468.00 from Sale of Graves, Aquifer Protection, Traffic Enforcement, Sale of Land and Sale of Real Estate to reduce the FY2010 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 27000-33020 \$16,225.00
Sale of Graves

Acct. # 61000-31200 \$186,252.00
Aquifer Protection

Acct. # 27000-33080 \$580.00
Traffic Enforcement

Acct. # 27000-33040 \$9,725.00
Sale of Land

1
2

Acct. # 27000-33060	\$2,686.00
Sale of Land	
TO:	
To Reduce Tax Levy	\$215,468.00

ORDERED: That the following percentage of FY2010 tax levy, **APPROVED**; adopted.

Residential	51.1549
C.I.P.	48.8451

Yea: 10 – Nay: 0

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

Absent: Seymour

ORDERED: That the residential tax exemption for owner-occupied, residential properties for Fiscal Year 2010 be and is herewith three percent (3%), **APPROVED**; adopted.

ORDERED: That the transfer request in the amount of \$39,850.24 which moves funds from Undesignated Fund to Open Space per City's annual payment agreement with Ward Mountain LLC, **APPROVED**; adopted.

FROM:

Acct. # 83600-11520	\$39,850.24
Open Space Stabilization	

TO:

Acct. # 19300006-58170	\$39,850.24
Open Space	

ORDERED: That the transfer request in the amount of \$12,000.00 which moves funds from Custodian to Gross Overtime relevant to costs associated with coverage for an employee who is out on worker's compensation, **APPROVED**; adopted.

FROM:

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

TO:

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

ORDERED: That the reappointment of Tony Trodella as Chief Assessor for a term of five years effective February 1, 2010, refer to **PERSONNEL COMMITTEE AND TO SUSPEND THE RULES TO CARRY REAPPOINTMENT OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That the reappointment of Debra Puleo as City Collector effective February 1, 2010, refer to **PERSONNEL COMMITTEE AND TO SUSPEND THE RULES TO CARRY REAPPOINTMENT OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That the 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, refer to **PERSONNEL COMMITTEE AND TO SUSPEND THE RULES TO CARRY REAPPOINTMENT OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That item #9, communication from City Solicitor, Donald Rider, re: Acceptance of Blake Circle as a Public Way, **MOVED TO REPORTS OF COMMITTEE**; adopted.

13

ORDERED: That item #10, communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Order of Acceptance/Danjou Drive and Associated Easements, **MOVED TO REPORTS OF COMMITTEE**; adopted.

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, refer to **PUBLIC SERVICES COMMITTEE AND TO SUSPEND THE RULES TO CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

Boivin Drive – Davis Estates Subdivision, off Farm Road

ORDERED: The 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., **APPROVED**; adopted.

ORDERED: That the 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., **APPROVED**; adopted.

ORDERED: That the communication from Attorney Valeriani, on behalf of Verizon Wireless, re: request to extend time limitations to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., to March 31, 2010 at 5:00 PM, **APPROVED**; adopted.

ORDERED: That the 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, **APPROVED**; adopted.

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, **APPROVED**; adopted.

ORDERED: That the 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, **APPROVED**; adopted.

ORDERED: That the minutes, Planning Board, November 9, 2009, **FILE**; adopted.

ORDERED: That the minutes, Traffic Commission, October 27, 2009, **FILE**; adopted.

Reports of Committees:

Councilor Ferro reported the following out of the Operations and Oversight Committee:

Order No. 08/09-1001923A – Communication from DPW Commissioner, Ronald LaFreniere, regarding response to the City’s solid waste and recycles disposal program. Recommendation of the Operations and Oversight Committee is to Suspend the Rules to carry item over to the 2010 legislative year. Councilor Schafer opposed.

Order No. 09-1002351 – Review effectiveness and cost savings in connection with the reorganization of the Legal Department. Recommendation of the Operations and Oversight Committee is to Suspend the Rules to carry item over to the 2010 legislative year. Councilor Schafer opposed.

14

Councilor Ossing reported the following out of Finance Committee:

Order No. 09-1002372 – Transfers for Fire Department Overtime. The Finance Committee reviewed the Mayor's letter dated November 18, 2009 requesting the following transfers for fire department overtime:

- \$30,000.00 from Undesignated to Gross Overtime
- \$9,215.69 from Firefighter to Gross Overtime
- \$699.60 from Fire Lieutenant to Gross Overtime

Recommendation of the Finance Committee is to approve the following two transfers 4-1 (Councilor Landers opposed).

- \$9,215.69 from Firefighter to Gross Overtime
- \$699.60 from Fire Lieutenant to Gross Overtime

Order No. 09-1002374 – Transfer \$1620.00 from DPW Junior Civil Engineer to Sick Leave Buy Back: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$1620.00 from DPW Junior Civil Engineers to Sick Leave Buy Back. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002375 – Transfer \$5,000.00 from Undesignated Funds to High School Library: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$5,000.00 from Undesignated Funds to the High School Library account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002376 – Transfer \$600.00 from Undesignated Funds to City Collector Advertising: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$600.00 from Undesignated Funds to the City Collector Advertising account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002377 – Transfer \$1,000,000.00 from Undesignated Funds to Other Post Employment Benefits (OPEB) Stabilization account: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$1,000,000.00 from Undesignated Funds to the OPEB Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 08-1002035 – Establish the Other Post Employment Benefits (OPEB) Trust Fund: **Recommendation of the Finance Committee is to approve 5 – 0 to recommend to the full City Council to continue this order into the 2010-2011 City Council Session.**

Order No. 08-1002058 – Personnel Director Salary: **Recommendation of the Finance Committee is to table 5-0.**

Councilor Pope reported the following out of the Urban Affairs Committee:

Order No. 08/09-10001821 – Request from Old Marlborough Inc. to make a presentation on a “Public Art Program” for the Downtown/Central Business Area. Recommendation of the Urban Affairs Committee is to recommend to the full City Council to continue this order into the 2010-2011 City Council Session.

Councilor Juare reported the following out of the Public Services Committee:

Order No.09-1002362 - Communication from Linda Fossile, Crystal Ridge Community Trust requesting Street Acceptance for Danjou Drive.

- By letter dated November 30, 2009, the Planning Board voted to send a favorable recommendation regarding the acceptance of Crystal Ridge, Danjou Drive.

Recommendation of the Public Services Committee is to approve 3-0, subject to receipt of acceptance documents in legal form on the December 7, 2009 agenda.

Order No.09-100-2348: Communication from Steve Garofalo requesting Street Acceptance for Blake Circle.

- By letter dated November 16, 2009, the Planning Board voted to send a favorable recommendation to the City Council to accept the subdivision known as Acre Bridge Estates, Blake Circle.

Recommendation of the Public Services Committee is to approve 3-0, subject to receipt of acceptance documents in legal form on the December 7, 2009 agenda.

Order No. 09100-2360 - Application for Junk Dealer’s License by Gerald Dumais, d/b/a Dumais and Sons at 67 Mechanic Street

- Police Chief Leonard is without objection to the issuance of a Junk Dealer License for Gerald Dumais as requested.

Recommendation of the Public Services Committee is to approve 3-0.

Order No.09-100-2349 - Application for Junk Dealer’s License by Sylvia Jahns at 461 South Street.

The Building Inspector has recommended that the license be subject to the following four (4) conditions:

1. No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;
2. No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;
3. There shall be no outdoor storage of merchandise, wares, inventory or items for sale;
4. All signage shall comply with the City of Marlborough Sign Ordinance without variance.

Recommendation from Chief of Police:

- The Chief of Police is without objection to the opening of a thrift store by Sylvia Jahns, provided she meets any/all zoning and parking requirements.

16

Recommendation of the Public Services Committee is to approve 3-0 with following conditions as requested by Building Inspector Reid:

- 1. No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;**
- 2. No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;**
- 3. There shall be no outdoor storage of merchandise, wares, inventory or items for sale;**
- 4. All signage shall comply with the City of Marlborough Sign Ordinance without variance.**

Suspension of the Rules requested – granted

ORDERED: That the communication from DPW Commissioner, Ronald LaFreniere, regarding response to the City’s solid waste and recycles disposal program, **CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR;** adopted.
Councilor Schafer opposed.

Suspension of the Rules requested – granted

ORDERED: That the Operations and Oversight Committee review effectiveness and cost savings in connection with the reorganization of the Legal Department, be and is herewith **CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR;** adopted.
Councilor Schafer opposed.

Suspension of the Rules requested – granted

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, **APPROVED;** 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	

Suspension of the Rules requested – granted

ORDERED: That the budget transfer request in the amount of \$38,000.00 from Undesignated Fund to Rep/Maint. Supplies be reduced to **\$5,000** for the purpose of repairing older fleet vehicles, **APPROVED;** adopted.

FROM:

Acct. # 10000-35900	\$5,000.00
Undesignated Fund	

TO:

Acct. # 14001406-54810
Rep/Main Supplies-Vehicles

\$5,000.00

Suspension of the Rules requested-granted to allow the Mayor to speak.

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, **DOES NOT CARRY**; adopted.

ORDERED: That the budget transfer request in the amount of \$100,000.00 from Undesignated Fund to Water Meters accounts which will fund approximately one year's worth of replacement meters and hand-held meter readers, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900
Undesignated Fund

\$100,000.00

TO:

Acct. # 61090006-55740
Water Meters

\$100,000.00

ORDERED: That the following budget transfer requests in the amount of \$30,000.00 from Water MWRA to Water Plant, \$9,500.00 from Foreman to Contract Services and \$19,911.40 from Equipment Operator to a different Equipment Operator account to supplement funding in said accounts, **APPROVED**; adopted.

FROM:

Acct. # 61090006-52320
Water MWRA

\$30,000.00

TO:

Acct. # 61090006-52322
Water-Plant

\$30,000.00

FROM:

Acct. # 14001301-50690
Foreman

\$9,500.00

TO:

Acct. # 14001304-53140
Contract Services

\$9,500.00

FROM:

Acct. # 14001503-50740
Equipment Operator

\$19,911.40

TO:

Acct. # 14001303-50740
Equipment Operator

\$19,911.40

ORDERED; That the two budget transfer requests in the amount of \$15,000.00 from Water Meter Reader to Overtime-Water accounts and \$5,500.00 from Equipment Operator-Water to Overtime-Water accounts for the purpose of funding anticipated shortfalls and to meet additional demands placed on the account following an employee's retirement, **APPROVED**; adopted.

FROM:

Acct. # 61090001-50460
Water Meter Reader

\$15,000.00

IN CITY COUNCIL

8

DECEMBER 7, 2009

18

TO:

Acct. # 61090003-51310

\$15,000.00

Overtime (Water)

FROM:

Acct. # 61090001-50740

\$5,500.00

Equipment Operator (Water)

TO:

Acct. # 61090003-51310

\$5,500.00

Overtime (Water)

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:10 p.m.

2



IN CITY COUNCIL

NOVEMBER 23, 2009

Marlborough, Mass.

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, to be and is herewith **HELD ON DECEMBER 21, 2009 AND TO BE CONTINUED IN JANUARY 2010.**

ADOPTED

ORDER NO. 09-1002361A



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 3,
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

DEC 17 2009

December 17, 2009

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

RE: Request for Executive Session

Honorable President Vigeant and Councilors:

I hereby request the opportunity to meet with you in executive session during your scheduled Council meeting of December 21, 2009. I am requesting this meeting for the purpose of discussing strategy with respect to collective bargaining, as an open meeting may have a detrimental effect on the bargaining position of the City of Marlborough.

I have enclosed a proposed Council order reflecting this request, which is in conformance with the terms and conditions set forth in Mass. Gen. Laws c. 39, § 23B(3).

Thank you for your attention to this matter. As always, please feel free to contact me with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

ORDERED:

It is moved, in conformance with the provisions of § 23B(3) of Chapter 39 of the General Laws of the Commonwealth, that the Marlborough City Council conduct an executive session for the purpose of discussing strategy with respect to collective bargaining and/or litigation, as an open meeting may have a detrimental effect on the collective bargaining and/or litigating position of the City of Marlborough. It is further moved and stated that the Marlborough City Council will reconvene in open session after the executive session.



DEC

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 4
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 17, 2009

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

RE: Westerly Plant Update

Honorable President Vigeant and Councilors:

Given that our regularly scheduled meeting was cancelled on December 7th, I am writing to give you a brief update on the Westerly Wastewater Treatment Plant upgrades.

There have been three significant developments since we last met in early November:

- First, we received our permit modification for the increased flow from the plant. This is a significant milestone and one that we have been working on for over two years. This will give us the increase in capacity allowing for expansion in the Westerly portion of the City.
- Second, we have received the Notice to Award from DEP on December 14th. This will allow us to formally enter into a contract with the construction company. We are in the process of finalizing the contract and all contracts will be executed shortly.
- Third, we received today, December 17th, a copy of an appeal filed by the Organization for the Assabet River ("OAR"). We are just beginning the review process and will be working with our attorney and consultants to analyze the appeal as well as developing a strategy going forward. Given the timing of this developing issue, I do not have any further information.

I look forward to our next update in January when we can further expand on these issues. As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor



DEC 17 2009

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 17, 2009

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

RE: Mandatory State Ethics Education and Training Requirements for All Public Employees

Honorable President Vigeant and Councilors:

As you know, on July 1, 2009, Governor Patrick signed into law Chapter 28 of the Acts of 2009, An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying (the "New Law"). The New Law's changes to the conflict of interest law took effect on September 29, 2009.

The New Law mandates that, on or before January 27, 2010, the City Council must designate a senior level employee as the City's liaison to the Ethics Commission and must notify the Commission in writing of that designation. After careful consideration, I propose that the Council designate the City Solicitor as the City's liaison.

Further, I respectfully ask that you consider voting on this matter this evening rather than have the matter referred to a committee, or alternatively, that you suspend the rules and carry over this matter to the next legislative session.

Thank you for your attention to this matter. As always, please feel free to contact me with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough

Office of the Mayor

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

Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 17, 2009

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

RE: DPW Transfer Requests – Repair/Maintenance Supplies

Honorable President Vigeant and Councilors:

Attached herewith, please find six transfer requests from the Department of Public Works. The transfers will provide necessary funding in the Repair/Maintenance Supply Account.

- Transfer in the amount of \$24,000.00 moving funds from account number 14001403-50745 (Motor Equipment Repairman) to account number 14001406-54810 (Repair/Maintenance Supplies).
- Transfer in the amount of \$1,700.00 moving funds from account number 14001403-51430 (Longevity) to account number 14001406-54810 (Repair/Maintenance Supplies).
- Transfer in the amount of \$900.00 moving funds from account number 14001403-51440 (Educational Incentive) to account number 14001406-54810 (Repair/Maintenance Supplies).
- Transfer in the amount of \$1,900.00 moving funds from account number 14001403-51920 (Sick Leave Buy Back) to account number 14001406-54810 (Repair/Maintenance Supplies).
- Transfer in the amount of \$3,500.00 moving funds from account number 14001301-50690 (Foreman) to number 14001406-54810 (Repair/Maintenance Supplies).
- Transfer in the amount of \$1,000.00 moving funds from account number 14001303-51440 (Educational Incentive) to account number 14001406-54810 (Repair/Maintenance Supplies).

For your review, I have attached the year-to-date expenditures within the Repair/Maintenance Supply Account. This account is nearly depleted. Since the Finance Committee has previously reviewed this matter, I respectfully request that council approve these critical transfers this evening.

62

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

Sincerely,

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

Nancy E. Stevens
Mayor

Enclosures

33

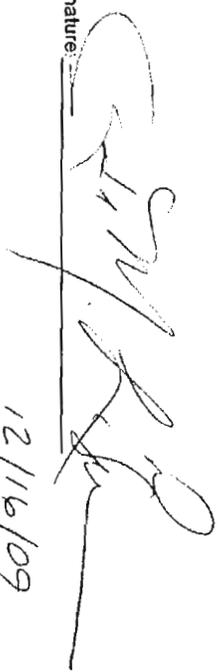
CITY OF MARLBOROUGH
BUDGET TRANSFERS

DEPT: DEPARTMENT OF PUBLIC WORKS FISCAL YEAR: 2010

FROM ACCOUNT: TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$100,612	\$24,000.00	14001403	50745	Motor Equipment Repairman	\$24,000.00	14001406	54810	Rep./Maint. Supplies	\$31
	Reason:	Money available due to retirement and WC case							
\$1,732	\$1,700.00	14001403	51430	Longevity	\$1,700.00	14001406	54810	Rep./Maint. Supplies	\$31
	Reason:	Money available due to retirement							
\$900	\$900.00	14001403	51440	Educational Incentive	\$900.00	14001406	54810	Rep./Maint. Supplies	\$31
	Reason:	Money available due to retirement							
\$4,897	\$1,900.00	14001403	51920	Sick Leave Buy Back	\$1,900.00	14001406	54810	Rep./Maint. Supplies	\$31
	Reason:	Money available due to retirement							
\$150,824	\$3,500.00	14001301	50690	Foreman	\$3,500.00	14001406	54810	Rep./Maint. Supplies	\$31
		Money available due to retirement							
\$1,800	\$1,000.00	14001303	51440	Educational Incentive	\$1,000.00	14001406	54810	Rep./Maint. Supplies	\$31
		Money available due to retirement/promotion							

Department Head signature:


12/16/09

VEHICLE MAINTENANCE
OUTSIDE OF SNOW & ICE REPAIR
(JULY 1, 2009 THROUGH DECEMBER 16, 2009)

GENERAL EXPENDITURE DESCRIPTION	COST
Shop Consumables (e.g. chemicals, degreasers, rags, truck soap etc.)	\$ 4,715.41
General Vehicle Repair Parts (e.g. filters, belts, hoses brakes etc.)	\$ 9,326.58
Heavy Trucks and/or Outside Repairs (e.g. starters, radiators, brakes, alternators etc.)	\$ 5,844.51
Truck Equipment Parts (e.g. Parts for hydraulics, dump bodies, etc.)	\$ 4,350.38
State Inspections Stickers (e.g. all vehicles)	\$ 1,129.01
Miscellaneous hardware (e.g. nuts, bolts, electrical connectors etc.)	\$ 2,503.33
Specialty Tools (e.g. shop tools, drills, parts for lathe, diagnostic tool update etc.)	\$ 1,635.58
Specialized Equipment Parts (e.g. sweepers, mowers, original engine manufacturer , safety equip. etc.)	\$ 11,589.96
Batteries	\$ 1,404.25
Welding Supplies (e.g. gases, welding wires, steel etc.)	\$ 1,519.63
Miscellaneous Other/Encumbrance/Unpaid invoices	\$ 3,981.36
	<hr/>
	\$ 48,000.00



City of Marlborough
Office of the Mayor

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Nancy E. Stevens
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Katherine M. Kimber
EXECUTIVE SECRETARY

December 17, 2009

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

RE: Advertising Transfer Request

Honorable President Vigeant and Councilors:

Attached herewith, please find a transfer request in the amount of \$5,000.00 from account number 10000-35900 (Undesignated Fund) to account number 11610004-53150 (Advertising). As detailed in the enclosed letter from City Clerk Lisa Thomas, the transfer is necessary due to an increase demand for advertisements.

Since the costs associated with numerous advertisements exceed available funds, I respectfully request that you approve this transfer request this evening. City Clerk Thomas feels that this request will cover any remaining advertisements through June 30, 2010.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosures



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

72
**Lisa M. Thomas
City Clerk**

December 15, 2009

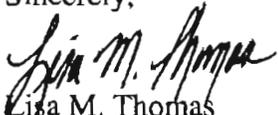
Mayor Nancy E. Stevens
President Arthur G. Vigeant
140 Main St.
Marlborough, MA 01752

Dear Mayor and Council President:

Please be advised that on November 9, 2009 City Council approved a transfer of \$1,500.00 to move funds from Undesignated to the Advertising account in the City Clerk's budget. Subsequent to that request, a Mailbox Claim, three Stormwater, a Narcotic Detox, and Tree Warden Ordinances were approved in which I must advertise before and after passage. Two of the Stormwater "before and after" passage costs are the most expensive totaling \$2,340.00. Although I have not yet been billed for "after" passage of these ordinances, I estimated the two large Stormwater Ordinances based upon the "before" passage cost.

I obviously forecasted appropriate costs for Elections and Tax Classification hearings. I respectfully request an additional \$5,000.00 for the advertising budget. Again, I am not requesting a transfer as there is no line item from which I can deduct. I feel comfortable that this will cover any remaining advertisements through June 30, 2010. Please see att'd bill which illustrates recent transactions that are outstanding which total \$1619.75. **Please keep in mind this bill does not include the "after" passage costs and I would kindly request approval as soon as possible.** Thank you in advance for your attention to this matter.

Sincerely,


Lisa M. Thomas
City Clerk



1. Tear payment stub off bottom of Page 1.
2. Please write account number on check or fill out credit card information on back of stub.
3. Enclose payment stub (and check) in the return envelope provided.
4. Send payments to:

COMMUNITY NEWSPAPER CO
 PO BOX 848908
 BOSTON MA 02284-8908

ADVERTISING DISPLAY INVOICE

ACCOUNT NAME: MARLBOR CITY CLERK
 ACCOUNT NO.: 704339
 BILL DATE: 11/29/2009
 BILLING PERIOD: 10/26/2009 - 11/29/2009 *13*

690

Page 2 of

DATE	COMMENT/PO#/AUTH	DESCRIPTION	PRODUCT CODE	REFERENCE NO.	BILLED UNITS	TIMES RUN	GROSS AMOUNT	DISCOUNTED AMOUNT	INSC. CHARGE	NET AMOUNT
10/14	BIENNIAL ELECTION	BIENNIAL MUNICIPAL ELECTION LE RAM IN MM		CN12084818	26L	1	49.50			49.50
10/18	08-1002289B	SEX OFFENDERS LEGAL NOTICE CIT RAM IN MM		CN12087911	147L	1	137.50			137.50
10/18	08-1002273B	CLERK'S FEES LEGAL NOTICE CITY RAM IN MM		CN12087921	31L	1	30.28			30.28
11/9	MAILBOX CLAIM ORDINA	RESIDENTIAL MAILBOX LEGAL NOT RAM IN MM		CN12108878	72L	1	88.00			88.00
11/12	TREE WARDEN	TREE WARDEN LEGAL NOTICE CITY RAM IN MM		CN12112852	87L	1	83.28			83.28
11/12	STORMWATER MANAGEMEN	STORMWATER MANAGEMENT LEGAL NO RAM IN MM		CN12112857	218L	1	584.00			584.00
11/12	STORM DRAIN SYSTEM	MUNICIPAL STORM DRAIN SYSTEM L RAM IN MM		CN12112888	208L	1	574.78			574.78
11/12	ENFORCEMENT	ENFORCEMENT LEGAL NOTICE CITY RAM IN MM		CN12112882	28L	1	27.50			27.50
11/18	PRIMARY ELECTION	SPECIAL STATE PRIMARY ELECTION RAM IN MM		CN12114458	29L	1	55.00			55.00
11/24	2010 TAX LEVY HEARIN	PUBLIC HEARING 2010 TAX LEVY RAM IN MM		CN12121802	22L	1	22.00			22.00

74

TRANSFER REQUEST

AVAILABLE BALANCE	AMOUNT	FROM ACCOUNT	ORG C OBJECT	ACCOUNT DESCRIP	AMOUNT	TO ACCOUNT	ORG CODE	OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
\$ 2,579,650.00	\$ 5,000.00	10000	35900	Undesignated Fund	\$ 5,000.00	11610004	53150	City Clerk	Advertising	\$ 1,035.02

\$ 5,000.00

Reason See Attached request from Mayor



City of Marlborough
Office of the Mayor

140 Main Street
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Nancy E. Stevens
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 17, 2009

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

RE: Transfer Request – Longevity

Honorable President Vigeant and Councilors:

Attached herewith, please find a transfer request in the total amount of \$1,230.00 moving funds from account number 1199006-51500 (Fringes) to the following accounts:

- Transfer in the amount of \$640.00 from Fringes into account number 16100003-51430 (Longevity).
- Transfer in the amount of \$590.00 from Fringes into account number 1512003-51430 (Longevity).

This transfer request is necessary to fund benefits associated with employee longevity payments. Please see Comptroller Tom Abel's attached letter.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure



82

CITY OF MARLBOROUGH
OFFICE OF THE COMPTROLLER/TREASURER
140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
VOICE (508) 460-3731 FACSIMILE (508) 481-5180 TDD (508) 460-3610

To: Mayor Nancy E. Stevens
From: Thomas J. Abel, Comptroller/Treasurer
Date: December 17, 2009
Subject: Longevity/Sick Leave Buy Back Payments

During the budget process for FY 10, it was decided not to approve a cost of living increase or salary step increase for employees. This decision led to the conclusion that no salary line item should show an increase. However, some employees in fiscal year 2010 have qualified for sick leave buy back, longevity pay or increases in longevity pay. This has led to some department heads projecting deficits if these benefits are paid. I have attached a request to transfer funds for two such cases and would like your and the City Council's approval to pay these employees.

We are now reviewing all sick leave buy back funding to determine if we have potential payroll issues associated with the payment of these benefits.

83

TRANSFER REQUEST

		FROM ACCOUNT		TO ACCOUNT		
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP
General Government						
\$ 177,831.70	\$ 1,230.00	11990006	51500 Fringes	\$ 640.00	16100003	51430 Longevity
				\$ 590.00	15120003	51430 Longevity
				\$ 1,230.00		
					Library and Health Departments	
						\$ -
						-

Reason: To fund benefits associated with employee longevity payments.



DEC 17 2009

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 91
MAYOR

Krista J. Holmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 17, 2009

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

RE: SLBB Transfer

Honorable President Vigeant and Councilors:

Attached herewith is a transfer request from the Department of Public Works.

Transfer in the amount of \$722.70 moving funds from account number 60080003-51430 (Sewer Service Longevity) to account number 60085003-51920 (West Plant Sick Leave Buy Back).

This transfer request funds benefits associated with an employee who became eligible during this fiscal year. Funds are available for an internal transfer due to an employee retirement.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

92

CITY OF MARLBOROUGH
BUDGET TRANSFERS

DEPT: DEPARTMENT OF PUBLIC WORKS

FISCAL YEAR: 2010

FROM ACCOUNT:

TO ACCOUNT:

Available
Balance

Amount

Org Code Object

Account Description:

Amount

Org Code Object

Account Description:

Available
Balance

\$1,777

\$722.70

60080003

51430

Sewer Serv. - Longevity

\$722.70

60085003

51920

West Plant - SLBB

\$5,013

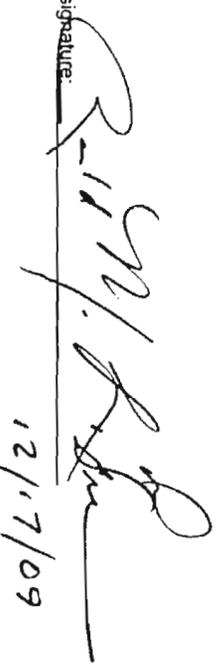
Reason:

Surplus due to retirement

Reason:

Employee now eligible for benefit

Department Head signature:


12/17/09



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
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Nancy E. Stevens
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EXECUTIVE SECRETARY

December 17, 2009

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

RE: SLBB Transfers

Honorable President Vigeant and Councilors:

Attached herewith is a transfer request from the Department of Public Works.

Transfer in the amount of \$23,080.00 moving funds from account number 1199006-51500 (Fringes) to the following Sick Leave Buy Back account numbers:

\$999.26 into account number 60080003-51920 (Sick Leave Buy Back).

\$22,081.49 into account number 61090003-51920 (Sick Leave Buy Back).

This transfer request is necessary to fund benefits associated with the retirement of two employees. These funds were previously budgeted in the fringe account for this purpose.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

102

TRANSFER REQUEST

FROM ACCOUNT				TO ACCOUNT			
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT ACCOUNT DESCRIP	AMOUNT AVAIL
General Government							
\$ 177,831.70	\$ 23,080.75	11990006	51500 Fringes	\$ 999.26	60080003	51920 Sick Leave BB	\$ 2,346.00
				\$ 22,081.49	61090003	51920 Sick Leave BB	\$ 2,195.51
				\$ 23,080.75			

Reason: To fund benefits associated with employees retirement.



City of Marlborough
Office of the Mayor

140 Main Street
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Nancy E. Stevens //
MAYOR

Krista J. Habmi
EXECUTIVE AIDE

Katherine M. Kimber
EXECUTIVE SECRETARY

December 17, 2009

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

RE: SLBB Transfer

Honorable President Vigeant and Councilors:

Attached herewith is a transfer request from the Department of Public Works.

Transfer in the amount of \$3,000.00 moving funds from account number 61090003-51430 (Water Service Fund- Longevity) to account number 61090003-51920 (Water Service Fund – Sick Leave Buy Back).

This transfer request is necessary to fund benefits associated with the retirement of an employee. This transfer can be funded intra-departmentally utilizing funds available due to another employee's retirement.

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

Sincerely,

Nancy E. Stevens
Mayor

Enclosure

112

12/17/2009

CITY OF MARLBOROUGH
BUDGET TRANSFERS

DEPT: DEPARTMENT OF PUBLIC WORKS

FISCAL YEAR: 2010

FROM ACCOUNT:

TO ACCOUNT:

Available
Balance

Amount

Org Code

Object

Account Description:

Amount

Org Code

Object

Account Description:

Available
Balance

\$4,946

\$3,000.00

61090003

51430

Water Serv. - Longevity

\$3,000.00

61090003

51920

Water Serv. - SLBB

\$2,196

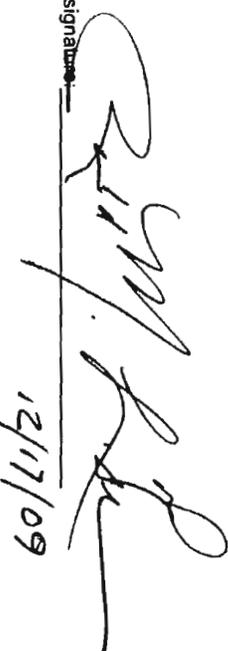
Reason:

Surplus due to retirement

Reason:

Employee now eligible for benefit

Department Head signature: _____


12/17/09



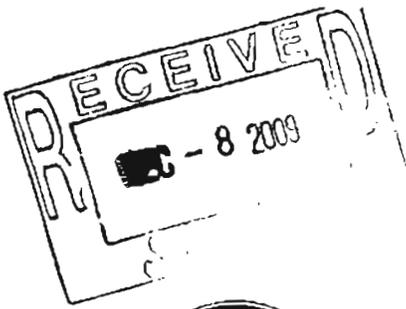
CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

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 ELECTION** will be held in the polling locations as noted below on **JANUARY 19, 2010** 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., cafeteria |
| WARD FOUR: Prec. 1 and 2 | Boys & Girls Club, 169 Pleasant St. |
| WARD FIVE: Prec. 1 | Senior Center, 250 Main St. |
| WARD FIVE: Prec. 2 | Masonic Hall, 8 Newton St., corner of Main/Newton Sts., rear |
| WARD SIX: Prec. 1 and 2 | Marlborough Middle (Intermediate) School, 25 Union St. library |
| WARD SEVEN: Prec. 1 and 2 | Hildreth School Gymnasium, 85 Sawin St. |



*City of Marlborough
Commonwealth of Massachusetts*

131



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 23, 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 23, 2009 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Steven Kerrigan, Clyde Johnson, Robert Hanson and Sean Fay. Also present: Assistant City Engineer Richard Baldelli.

MINUTES

Meeting Minutes November 9, 2009

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

To accept and file the Meeting Minutes of November 9, 2009 with amendments.

CHAIRS BUSINESS

***South Street Proposed Rezoning
Correspondence from City Council***

A copy of the correspondence from Attorney Bergeron requesting withdrawal of his application to rezone certain properties along South Street.

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

To accept and file the request without prejudice.

Correspondence from the City Planner

Ms. Nancy Savoie, the City Planner, sent correspondence to the Urban Affairs Committee and to the Planning Board. She stated that she and the Building Commissioner, Stephen Reid, agreed that the change in zoning would bring the existing land use in line with proper zoning, that the properties do abut residential area and is highly visible. They are suggesting that the City Council should consider bulk and dimensional requirements of the CA zone and they should also look into increasing lot size, set backs, landscaping, screening and frontage to improve the overall visual quality of the CA zone.

132

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

To accept and file correspondence.

APPROVAL NOT REQUIRED PLAN

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Baldelli informed the Board that the Engineering Department is reviewing the plans for the Forest Grove Subdivision and is expected to make a recommendation for approval in an upcoming meeting.

Blackhorse Farms (Slocumb Lane)
Cider Mill Estates (Goodwin Drive)
West Ridge Estates (Dufrense Drive)
Correspondence from City Solicitor

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

To table the discussion.

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

To remove the discussion off the table.

Blackhorse Farms

The City Solicitor, Donald Rider, was asked by the Planning Board at a previous meeting regarding their authority under the subdivision control law to rescind the approved released lots for Blackhorse Farms and Cider Mill Estates.

Mr. Rider stated that the release of lots for Black Horse Farms was made prior to September 2004, when the developers engineer requested a bond amount request. A request was granted by the Planning Board and a Certificate of Performance was granted to the developer releasing all lots in the subdivision. He stated that the developer's reported use of portion of Black Horse Farms as a rock-crushing operation has not yet been shown to have an adverse impact upon the developer's performance of "the construction of the ways and the installation of municipal services".

Mr. Rider stated the Planning Board, after a lot release or "Certificate of Performance Guarantee" only has authority over the installation of municipal services and construction of ways. Citing two other towns that have rescinded lots after approval, Kingston and Sandwich, the action taken did not further the projects.

He is also suggesting that in the future the Planning Board may want to only partially release lots as needed. He believes that by holding some of the lots, they have more leverage when it comes to the timeframe of the Covenant. He also stated that it would be more sensible to insert a condition onto future covenants if the developer's failure to comply with Anti-Blight ordinance will result in automatic rescission of approval of lots not yet released.

Cider Mill Estates

In a similar letter to the Planning Board, Mr. Rider stated that with the release of lots from the covenant dates back to March 2006 and with a signed Certificate of Performance from the Planning Board releasing all lots. He also stated that the portions of the subdivision are being used as a place stockpile material and construction of an earthen berm is truly not desirable but nevertheless is not considered to be a part of the Planning Board's jurisdiction.

Mr. Fay stated that Mr. Rider did not answer the exact questions that were posed to him. It was Mr. Fay's understanding that the board referred these questions to Mr. Rider: first, whether there was a statutory or other prohibition that would preclude the board to rescind lot releases, and second, whether there was any specific statutory authority for rescinding lot releases. Mr. Fay thought that the board needed additional clarification. Mr. Fay also suggested that the board simultaneously request for Ms. Wilderman and Building Commissioner, Stephen Reid, address the board so that the record is clear as exactly how the developer has violated the terms of the covenant and applicable rules and regulations. Mr. Fay also stated that this issue is part of the larger issue of what exactly is the authority of the Board once lots have been released from the covenant and questioned why the Board would receive notice of enforcement activities if the board lacked any jurisdiction.

Mr. Kerrigan stated that Mr. Fay's logic was agreeable.

Mr. Baldelli stated that Mr. Rider was in tune to what the Engineering Department had previous stated. The matter of the stockpiling and rock crushing has very little to do with the Planning Board, and belongs with the Site Plan Committee, Engineering or the Building Department.

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

To accept and file correspondence; to ask the City Solicitor the following questions: whether there was a statutory or other prohibition that would preclude the board from rescinding lot releases, and second, whether there was any specific statutory authority for rescinding lot releases.

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

To ask the City Code Enforcement Officer, The Building Commissioner and the City Planner to attend the second meeting in January to discuss this matter further.

Country Club Estates (Stow Road)

Attorney Bergeron

Toll Brothers, LLC, is seeking ways to advance their subdivision acceptance. The subdivision was approved in December of 1993 and the developers were anticipating at the time the road widening of Stow Road. After several discussions with the Engineering Department, the City is not planning to widen Stow Road. The Developers and Attorney Bergeron have created a way to secure portions of the lots along Stow Road with enough land to maintain the present paved surface together with at least a 5 foot buffer to be conveyed to the City, if and when the road is widen. They have secured a copy of all deeds present for parcels 3,50,34,26,27, 30 and 33 in the information packet with the road layouts that were drawn by Mr. Robert Buckley of Beals and Thomas. Mr. Bergeron stated that the current bond is close to \$246,000.00 and at this time he is looking for just the conscious of the Board before he requests any action prior going to the City Council for approval.

Mr. Bergeron is proposing that if the City Council approves he will take the following actions:

- City Solicitor will review all deeds
- ANRs will be drawn and submitted for review by the Planning Board

All Board members agreed that this was one way to obtain a closure to the subdivision.

Crystal Ridge Estates (Danjou Drive)
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. Johnson it was duly voted:

To send a favorable recommendation to the City Council to accept the subdivision known as "Crystal Ridge Estates, Danjou Drive".

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 December 7, 2009.

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

To accept and file correspondence; to postpone action as requested to December 21, 2009; to ask the Fire Chief for a written status.

Mauro Farm (Cook Lane)
Request for Extension

Mr. Kerrigan read the disclosure letter from Mayor Stevens regarding Mr. Fay's participation.

Martin Loiselle of Capital Properties is asking for an extension of the Subdivision Approval. He stated with the downturn of the economy, the company was unable to start the project on schedule. They are seeking an extension of the Covenant Approval.

Mr. Kerrigan asked if he prepared a subdivision status report, if the taxes were currant and the anti-blight report. Mr. Loiselle has not prepared any of the reports.

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

To GRANT and extension to December 23, 2009; to have the proponent seek a tax report, anti-blight report and prepare a subdivision status report.

PENDING SUBDIVISION PLANS: Updates and Discussion

Marlborough Elms (289 & 401 Elm Street)

No further update at this time.

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

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

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

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

To adjourn at 8:28 p.m.

A TRUE COPY

ATTEST:



Acting Clerk

Steven Kerrigan, Clerk

