

REGULAR MEETING
AUGUST 18, 2008

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

1. Minutes, City Council Meeting, July 14, 2008.
2. PUBLIC HEARING: On the Application to amend Special Permit from Attorney Bergeron, on behalf of Toll MA Land Limited Partnership, to construct 80 units on less than 14 acres and to revise current permit conditions accordingly.
3. PUBLIC HEARING: On the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 445 Simarano Dr.
4. PUBLIC HEARING: On the Petition from Attorney Gadbois, on behalf of Lewis Clark, Jr., to amend the Zoning Ordinance so that the Retirement Community Overlay Districts be abolished and that Retirement Communities can be an allowable use in all districts with a Special Permit in accordance with a new Section 200-22 of the Zoning Ordinance.
5. Communication from the Mayor re: budget transfer request in the amount of \$91,355.88 which moves funds from Public Safety Stabilization to Police Officer Salary to continue to meet payroll charges for two recently added police officers.
6. Communication from the Mayor re: revision to the Council on Aging's recently received FY09 formula grant in the increased amount totaling \$38,255.00.
7. Communication from the Mayor re: grant money awarded to the Marlborough Fire Department in the amount of \$5,800.00 through the Commonwealth of Massachusetts Executive Office of Public Safety.
8. Communication from the Mayor re: Fairmont Hill Revolving Fund Account and Outlay Account to provide for replacement of sidewalks along Liberty Street and guardrail and retaining wall along Ward Park at the estimated cost of \$257,000.00.
9. Communication from the Mayor re: revised estimated cost for the drainage project in the Glenbrook neighborhood in the amount of \$162,000.00.
10. Communication from the Mayor re: adoption of Section 4, Chapter 73 of the Acts of 1986 which allows for the doubling of all exceptions offered in the City to qualified residents as provided by Massachusetts law.
11. Communication from the Mayor re: reappointment of Lawrence Wenzell to the Arts Lottery Council for a term of two years expiring on May 1, 2010.
12. Communication from the City Clerk re: 2008 State Primary Election Call.
13. Communication from John Ghiloni, Public Facilities Director, and Lisa Thomas, City Clerk, re: possible alternate polling locations for Ward 4 in response to Council Order 08-1001884.
14. Communication from the Planning Board recommending approval of a change in the Zoning Ordinance for the New Car Dealership Overlay District, Order No. #08-1001833.
15. Communication from Andrew Candiello on behalf of MetroPCS Massachusetts LLC re: agreement to extend time limitations for 75 Donald Lynch Blvd., (#08-1001858) to September 30, 2008 at 5:00 PM.
16. Communication from Attorney Bergeron on behalf of Boston Post 355 LLC, re: request to extend time limitations to construct and operate a car wash at 355 Boston Post Rd. West, (#08-1001806-1 & #08-1001876) to September 30, 2008 at 5:00 PM.
17. Application for a Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunications Facility onto the existing water tank located at 97 Arnold St. Ext.
18. Application for Taxi & Livery License, Cleonice Goncalves, 19 Ruth Drive.
19. Communication from Nobel Construction Co. re: request to accept Joseph North Road as a public way.
20. Communication from Michael Meagher, Esq, on behalf of Gulbankian's Mobile Home Park, re: remaining building and occupancy permits for the manufactured housing community of Broadmeadow Rd.
21. Communication from Keegan Werlin LLP, on behalf of NSTAR Gas Co. re: Notice of Filing and Public Hearing for review and approval of its Load Forecast and Supply Plan for the five-year period 2008/2009 through 2012/2013.
22. Minutes, Planning Board, June 23, 2008.
23. Minutes, MetroWest Regional Transit Authority, June 23, 2008.

24. CLAIMS:

- A. Anthony Vellante, 236 Bridge Rd., vehicle damage
- B. Lori Ebb, 11 Carver Hill Rd., vehicle damage
- C. Marianne Haroian, 218 South St., Auburn, vehicle damage
- D. Edwin Tiru, 9 Springhill Ave., property damage
- E. James Dowling, 52 Country Club Blvd., #1301, vehicle damage

REPORTS OF COMMITTEES:

25. ORDERED: That Donald and Levon Gulbankian as officers in Gulbankian's Mobile Home Village, Inc. appear before the Urban Affairs Committee to review the status of City Council Special Permit #89/2851C, the subsequent agreement for judgment that modified that special permit, together with a written status report on the status of each condition contained in the special permit, with specific attention to the requirement for providing 6 affordable housing units.Submitted by Councilors Pope and Ferro

UNFINISHED BUSINESS:

From Operations and Oversight Committee

26. **Order No. 08-1001787A – Claims for property damage filed with the City Clerk in connection with snowplowing operations** - Councilor Pope requested a report from the DPW Commissioner as to whether the claims are pertinent to plow operators who are repeat offenders. Councilor Schafer requested a report from the DPW Commissioner as to whether the plow operators are outside contractors or DPW employees. The City Solicitor submitted the following draft ordinance for review:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING TO SECTION 3-13 OF CHAPTER 3 OF ARTICLE II THE FOLLOWING NEW PARAGRAPHS:

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

Notwithstanding the immediately preceding paragraph, any written claim presented to the City of Marlborough alleging that a residential mailbox has been damaged by the operation of a snow plow shall be granted upon written confirmation provided by the Department of Public Works to the Legal Department that City of Marlborough snow plow operations were in effect during the date when, and on

the street where, the claimed mailbox damage occurred; provided, however, that such claim must be accompanied both by an auto-dated photograph(s) of the damaged mailbox as well as by a paid receipt showing the actual cost of the mailbox's repair or replacement; and provided, further, the maximum amount of reimbursement shall be set at Seventy-Five and 00/100 (\$75.00) Dollars, except that in the absence of such photograph(s) and/or such paid receipt, the maximum amount of reimbursement shall be set at Thirty and 00/100 (\$30.00) Dollars. This paragraph shall be applicable to only those mailbox claims received by the City of Marlborough on or after November 1, 2008.

Ordinance was properly advertised. Recommendation of the Operations and Oversight Committee is to recommend approval of the ordinance as submitted by the City Solicitor 3-0.

From Urban Affairs Committee

27. **Order No. 08-1001377D - Request to extend time in which to complete Condition #21 of Special Permit granted for residential conversion of 175 Maple Street – City Council voted on June 9, 2008 to extend the deadline for 45 days and to refer to the Urban Affairs Committee for review. Motion made and seconded to recommend approval of a 120-day extension of the affordable housing condition that requires Petitioner to construct ten (10) affordable units off site with a condition that the Petitioner submit a written report to the City Council for its August 18, 2008 meeting (agenda deadline for submission to City Clerk is August 14, 2008) to include a progress report and the location of the affordable units. The new expiration date is October 6, 2008. Recommendation of the Urban Affairs Committee is to approve a 5-0.**
28. **Order No. 08-1001835 – Request to amend Zoning Ordinance Article V1, Section 200-30 entitled "Limited Development Subdivision". Planning Board recommended approval at its June 9, 2008 meeting. Recommendation of the Urban Affairs Committee is to approve a 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**

JULY 14, 2008

Regular meeting of the City Council held on Monday JULY 14, at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Juairé, Seymour, Clancy and Landers. Councilor Schafer was absent. Meeting adjourned at 8:47 p.m.

ORDERED: Minutes, City Council Meeting, June 23, 2008, **FILE**; adopted as amended.

Suspension of the Rules requested – granted to allow the Mayor to speak regarding the slideshow presentation that the Metropolitan Area Planning Council will be presenting.

ORDERED: That PowerPoint slideshow presentation by the Metropolitan Area Planning Council to remain eligible for FEMA Disaster Mitigation Grants by adopting a Pre-Disaster Mitigation Plan, **FILE**; adopted.

ORDERED: That the following budget transfer request in the amount of \$7,100.61 which would move funds from Fringes to Certification which will provide for the recently approved stipend for the City Assessor as a result of additional educational certifications related to his position, **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500 \$7,100.61
Fringes

TO:

Acct. # 11410001-50177 \$7,100.61
Certification

ORDERED: That the reconsideration of a salary increase of firefighter Tricia Richard, is **NOT APPROVED**; adopted.

(Councilor Juairé abstained)

ORDERED: **ORDER FOR THE APPROPRIATION OF MONEY**

That the City Council of the City of Marlborough hereby appropriates the sum of \$3,100.00 from the Belleview Avenue Sewer Account, number 30542306-55951, for the purposes of awarding damages for the acquisition of a permanent municipal utility easement by Eminent Domain in a certain strip of land located at the end of Belleview Avenue consisting of approximately 818 ± square feet, now or formerly owned by Richard C. DiMatteo and Jacqueline T. Di Matteo, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: EMINENT DOMAIN ORDER OF TAKING

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience, public welfare, and necessity require that the land described herein be taken for a permanent municipal utility easement for the purposes of construction and maintenance of general municipal utilities, including water, sewer, and drain lines; and

WHEREAS, this land is necessary for the protection of the health, welfare and safety of the residents of Marlborough; and

WHEREAS, the City Council of the City of Marlborough has determined that the taking of a permanent municipal utility easement by Eminent Domain in, on, under, over, across and through the herein described land is necessary and reasonable to carry out the aforementioned purpose; and

WHEREAS, all preliminary requirements have been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough by virtue of the authority and the power conferred by the City Charter and by virtue of the applicable provisions of the Massachusetts General Laws, Chapter 79, and by virtue of every other power and authority thereto enabling, and in the exercise of power and authority conferred by said laws, does hereby take by Eminent Domain a permanent municipal utility easement, including all parcels of land, buildings, trees, and other vegetation thereon, in the following land:

DESCRIPTION OF LAND TAKEN

A strip of land now or formerly of Richard C. DiMatteo, Jr. and Jacqueline T. DiMatteo in Marlborough, Middlesex County, Massachusetts, situated at the end of Belleview Avenue, as shown on the plan entitled "Plan of Taking For Permanent Municipal Utility Easement In Marlborough, Massachusetts, Prepared by: City of Marlborough Department of Public Works, Engineering Division, Scale: 1" = 20', Date: January 18, 2008" and to be recorded at the Middlesex South District County Registry of Deeds together with an attested copy of this Order.

Meaning and intending to take and taking by Eminent Domain a permanent municipal utility easement in land shown as Parcel A as described in the aforementioned plan. For title, see Quitclaim Deed to current owners, Richard C. DiMatteo, Jr. & Jacqueline T. DiMatteo, dated July 7, 2003 and recorded at Middlesex South Registry of Deeds on October 1, 2003 in Book 41087, Page 439. The land consisting of Parcel A as referred to in the description above is also shown on the City of Marlborough Assessors Map as Parcel 93 on Map 43. The total land area being taken for a permanent municipal utility easement consists of approximately 818 ± SF, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2009, authorize the establishment of a revolving fund to be utilized by the Mayor. It is further ordered that:

(a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and

(b) that expenditures from said fund shall be limited to public safety training; and

(c) that the Mayor shall be the only officer authorized to approve expenditures from the same; and

(d) no more than forty-five thousand dollars shall be expended during Fiscal Year 2009, unless otherwise authorized by the City Council and Mayor; and

(e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and

(f) no provisions of this order shall be changed unless approved by the Mayor and City Council, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the City has been awarded \$16,014.00 by its liability insurance carrier, MIIA for attending loss control trainings and for implementing key risk management procedures during July 1, 2007 to June 30, 2008 policy period, **FILE**; adopted.

ORDERED: The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Road, Chelmsford, MA 01824, as provided in the Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is METROPCS MASSACHUSETTS, LLC, which has a business address of 285 Billerica Road, Chelmsford, MA 01824 (hereinafter "Applicant").
2. Through its Application for a Special Permit, the Applicant seeks permission to allow co-location of six (6) panel antennas in three (3) flues onto an existing rooftop as well as the placement of the associated cabinets (hereinafter "Proposed WCD Project"), substantially as depicted on a set of plans entitled "BOS0484A Countryside Apartments Marlborough, 450 Boston Post Rd" by Chappell Engineering Associates, LLC and dated 2/13/08 as submitted, as submitted with the Special Permit Application (hereinafter "Plans").
3. The location of the Proposed WCD Project is 450 Boston Post Road East. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 73, Block 31. The owner of record for the site is Trinity Countryside Limited Partnership.
4. The Applicant is a lessee of the Owner for purposes of this Special Permit Application.
5. The Site is zoned B (Business). Wireless communication devices are allowed by grant of Special Permit in B (Business) Zoning Districts.
6. The Special Permit is being sought pursuant to Article VI, Section 200-25 and Article VIII, Section 200-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the City Planner certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCD Project on May 12, 2008, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCD Project meets all the applicable Special Permit criteria of Article VI, Section 200-25 and Article VIII, Section 200-59.

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11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCD Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Applicant's Special Permit application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, applicable to the proposed Wireless Communications Device.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCD Project and the Proposed WCD Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this Approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its proposed WCD Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant its Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**
 - 1) The Proposed WCD Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended during the application/hearing process, and in compliance with the Conditions of the Grant of Special Permit as well as with the conditions set forth in Chapter 200-25F of the Marlborough Zoning Ordinance.
 - 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCD Project.
 - 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.

- 5) Applicant shall minimize the visual impacts of the Proposed WCD Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application for Special Permit.
- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCD referenced in this Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCD Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCD Project only in cases of power outages to the Proposed WCD Project and for purposes of routine testing and maintenance. The temporary generator shall be affixed to the roof in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 134 of the City Code.
- 8) No operation of this WCD shall commence until the Applicant has received written approval from the Building Inspector that all the above conditions have been satisfied.
- 9) Applicant shall be subject to site plan review if applicable.
- 10) In accordance with the provisions of Mass. Gen. Laws c.40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.

Yea: 9 – Nay: 0

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

(Councilor Seymour abstained)

Councilor Schafer absent

ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Ming Wang for conversion of former State Armory building into 12 residential condominium units in a Business B/Residence C zoned lot at 358-364 Lincoln St., until 5:00 PM on October 28, 2008, **APPROVED**; adopted.

(Councilor Seymour abstained)

Councilors Vigeant, Ferro and Levy requested to be recorded in opposition.

ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Attorney Bergeron on behalf of Gary White, Trustee of 566 and 574 Lincoln St. Realty Trust, to extend deadline for action on Special Permit to construct 19 new townhouse condominium units on Lincoln St., Map 80, parcels 47, 48 & 51, to October 28, 2008, **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, AUGUST 18, 2008** as the date for a **PUBLIC HEARING** on the application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 445 Simarano Dr., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the communication from the Office of the Governor re: 2009 version of Commonwealth Capital, **FILE**; adopted.

ORDERED: That the Minutes, Community Development Authority, January 31, 2008, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, June 9, 2008, **FILE**; adopted.

ORDERED: That the Minutes, MetroWest Regional Transit Authority, June 2, 2008, **FILE**; adopted.

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

- A. Michael Dolan, 14 Country Lane, property damage
- B. Stella Luberto, 215 Broad St., vehicle damage

Reports of Committees:

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

Order No. 08-1001787 – Claims for property damage filed with the City Clerk in connection with snowplowing operations. Councilor Pope requested report from the DPW commissioner as to whether the claims are pertinent to plow operators who are repeat offenders. Councilor Schafer requested a report from the DPW Commissioner as to whether the plow operators are outside contractors or DPW employees. The Committee reviewed the communication from the Solicitor with recommendations for changes to the City Ordinance in regards to payment of legal claims for property damage, specifically mailboxes. The Committee discussed the draft ordinance submitted by Solicitor Rider. The Solicitor showed the practicality of the proposed ordinance in regard to the ability to replace damaged mailboxes at the monetary levels suggested in the ordinance by presenting exhibits including a mailbox and post purchased for under \$30.00 at a local retail home center. **Recommendation of the Operations and Oversight Committee is to approve 3-0 the Ordinance as submitted by the City Solicitor.**

Motion to Suspend the Rules requested – granted to have the City Clerk advertise the Ordinance as submitted by the City Solicitor.

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

Order No. 08-1001835A – Amend Zoning Ordinance of the City of Marlborough, by further amending Chapter 200, Article VI, Section 200-30 entitled "Limited Development Subdivisions". Planning Board recommended approval on June 12, 2008. Recommendation of the Urban Affairs Committee is to approve 5-0.

Order No. 08-1001377D - Request to extend time in which to complete condition #21 of Special Permit granted for residential conversion of 175 Maple Street – City Council voted on June 9, 2008 to extend the deadline for 45 days. Motion made and seconded to recommend approval of a 120-day extension of the affordable housing condition that requires Petitioner to construct ten (10) affordable units off site with a condition that the Petitioner submit a written report to the City Council for its August 18, 2008 meeting (agenda deadline for submission to City Clerk is August 14, 2008) to include a progress report and the location of the affordable units. The new expiration date is October 6, 2008. Recommendation of the Urban Affairs Committee is to approve 5-0.

Councilor Pope did not submit a written report of the Armory Special Permit application due to Attorney Milgram's decision NOT TO WITHDRAW as requested at the June 24, 2008 Urban Affairs Committee meeting and his subsequent placement of the 90-day request for extension of time in which to act on the Monday, July 14, 2008 agenda.

ORDERED: That the City Council meeting recessed at 8:37 p.m. and reconvened at 8:40 p.m., **APPROVED**; adopted.

ORDERED: That a petition to the General Court, accompanied by a bill for a special act relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article II, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

SECTION 1. Chapter 275 of the acts of 1922 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. Except as otherwise provided herein, and notwithstanding section 60 of chapter 43 of the General Laws pertaining to the appointment, removal and confirmation of the city solicitor, the city of Marlborough shall conduct its city government under the form provided in sections 56 to 63 inclusive of said chapter 43 of the General Laws, known as Plan B, and said sections 56 to 63 inclusive and sections 1 to 45 inclusive of said chapter 43, shall, except as otherwise provided herein and except to the extent that section 60 of said chapter 43 pertains to the appointment, removal and confirmation of the city solicitor, apply to the said city government to the same extent as if said plan was accepted by the said city in the manner provided in said chapter 43. The city solicitor of the city of Marlborough shall have the term of 5 years beginning on the effective date of this act. Upon the expiration of the first 5 year term, the mayor of the city of Marlborough may reappoint the individual then holding the office of city solicitor, and such reappointment shall be subject to confirmation by the city council of said city. In the event that, upon the expiration of the first 5 year term, the individual then holding the office of the city solicitor is not reappointed by the mayor, or if

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reappointed, not confirmed by the city council, the mayor may appoint another individual subject to confirmation by the council.

SECTION 2. This act shall take effect upon its passage, **TABLED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:47 p.m.



IN CITY COUNCIL

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Marlborough, Mass., JUNE 23, 2008

ORDERED:

That there being no objection thereto set **MONDAY, AUGUST 18, 2008** as date for a **PUBLIC HEARING** on the Application to amend Special Permit from Attorney Bergeron, on behalf of Toll MA Land Limited Partnership, to construct 80 units on less than 14 acres and to revise current permit conditions accordingly., be and is herewith **REFER TO URBAN AFFAIRS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 08-1001938
X 03-10022

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IN CITY COUNCIL

Marlborough, Mass., JULY 14, 2008

ORDERED:

That there being no objection thereto set **MONDAY, AUGUST 18, 2008** as the date for a **PUBLIC HEARING** on the application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 445 Simarano Dr., be and is herewith refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 08-1001952



IN CITY COUNCIL

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Marlborough, Mass., JUNE 23, 2008

ORDERED:

JUNE 23, 2008

That there being no objection thereto set **MONDAY, AUGUST 18, 2008** as date for a **PUBLIC HEARING** on the Petition from Attorney Gadbois, on behalf of Lewis Clark, Jr., to amend the Zoning Ordinance so that the Retirement Community Overlay Districts be abolished and that Retirement Communities can be an allowable use in all districts with a Special Permit in accordance with a new Section 200-22 of the Zoning Ordinance., be and is herewith **REFER TO URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE.**

ADOPTED

ORDER NO. 08-1001939



City of Marlborough
Office of the Mayor

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

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Nancy E. Stevens
MAYOR

Karen A. Kirby
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

July 28, 2008

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

Honorable President Vigeant and Councilors:

Attached please find a transfer request in the amount of \$91,355.88 moving funds from Account No. 83600-32701 (Public Safety Stabilization) to Account No. 12100001-50420 (Police Officer – salary). Encumbered Fairfield mitigation funds will soon be depleted; this transfer is necessary to continue to meet payroll charges for the 2 recently added police officers.

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

Sincerely,

Nancy E. Stevens
Mayor

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DATE: 18-Jul-08

FY: 2009

DEPT:

FROM ACCOUNT:		TO ACCOUNT:			Available Balance
Amount	Org Code	Object	Account Description:	Amount	
\$91,355.88	83600	32701	Stab. - Pub. Safety	\$91,355.88	\$2,346,728.52
Reason:	Encumbered Fairfield Mitigation funds for police salaries is about to run out. I need to transfer from the stabilization account to the police officer line account to continue paying officer's salaries from these mitigation funds.				
Reason:					
Reason:					
Reason:					
Reason:					
Reason:					
Reason:					
Reason:					

Dept Head signature: *Paul A. Lopez*

Mayor signature: *Mary E. Jones* *her*



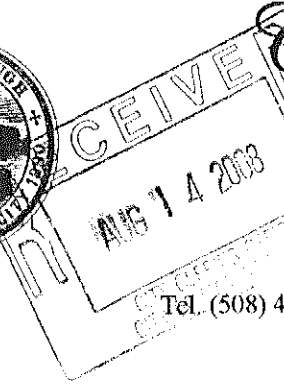
City of Marlborough
Office of the Mayor

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

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Nancy E. Stevens
MAYOR

Karen H. Nisky
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY



August 13, 2008

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

Honorable President Vigeant and Councilors:

As an addendum to my submittal dated June 17, 2008, Item #8 on Council meeting agenda for June 23rd, I am forwarding for your approval the attached revision to the Council on Aging's recently received FY09 formula grant. The original grant amount of \$35,523 has been increased to \$38,255 the result of a per elder allotment increase.

Massachusetts General Laws, Chapter 44 Section 53A stipulates that grant funding be strictly applied to purposes outlined in the grant application and only with the approval of the mayor and city council. I would respectfully request your approval of the funding difference of \$2,732 for the Council on Aging which will be slated for purchase of computer equipment.

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

Sincerely,

Nancy E. Stevens
Mayor

62

CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD

DEPARTMENT: Council on Aging DATE: 12-Aug-08

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Amy Loveless, Exec. Director

NAME OF GRANT: FY09 Formula Grant Increase

Per senior per state approval

GRANTOR: state of Massachusetts

GRANT AMOUNT: \$2,732.00

GRANT PERIOD: FY09

SCOPE OF GRANT/ Supplement support to the Council on Aging

ITEMS FUNDED Computers for staff

IS A POSITION BEING CREATED: NO

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY FUNDS REQUIRED? NO

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO BE USED:

ANY OTHER EXPOSURE TO CITY? NO

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: URGENT

DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT

63



City of Marlborough

Council on Aging and Senior Center

250 Main Street
Marlborough, MA 01752
Tele (508) 485-6492 Fax (508) 460-3726

August 12, 2008

To Mayor Nancy E. Stevens,

I am submitting an increase to the Marlborough Council on Aging Formula Grant for FY09 from the state of Massachusetts. The Council on Aging of Marlborough has been appropriated an increase of \$2,732.00 for the fiscal year FY09 as a supplement to our city budget due to an increase per elder approved by the state. **Attachment B, submitted to and approved by the Executive Office of Elder Affairs, is included to represent the line item increased (equipment) for the City Council's review.** Thank you for your consideration in this matter.

Sincerely,

Amy Loveless
Executive Director
Marlborough Council on Aging

Cost Category	(or \$3500 available minimum)	
Staff/Volunteer Transport.	\$500.00	Rate determined locally.
Client Transportation		
Rent/Mortgage		Secure & retain contracts/agreements.
Utilities		
Renovation/Construction (include estimates)		Secure/retain quotes, estimates. Note completion date.
Repairs and Maintenance	\$1,000.00	
Equipment/Furnishings	\$2,732.00	3 computers/staff/city contract
Supplies--Office	\$750.00	
Facility Maintenance		Cite representative items, costs.
Printing/Copy (non-newsletter)	\$3,603.00	Cartridges for high volume printer
Postage		
Dues	\$750.00	MCOA annual dues
Newsletter Printing	\$3,600.00	Elder Affairs to be recognized as supporting this activity.
Conference/Education Training (Board/Staff)	\$1,500.00	
Volunteer Recognition	\$1,000.00	(Note training offered/available.) (Maximum allowed recognition is \$15/yr with Formula \$)
Contractors/Other	\$8,000.00	Fitness Instructors
Subtotal (P 2)	\$23,435.00	12-Aug-08
Subtotal (P 1)	\$14,820.00	
TOTAL (Pg 1 & Pg 2)	\$38,255.00	



RECEIVED
AUG 13 2008

City of Marlborough
Office of the Mayor

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

Nancy E. Stevens
MAYOR

Karen H. Kistly
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

July 29, 2008

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

Honorable President Vigeant and Councilors:

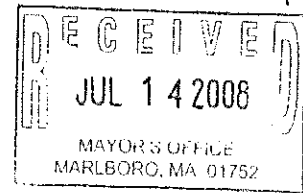
The Marlborough Fire Department has recently been awarded \$5,800 in grant money through the Commonwealth of Massachusetts Executive Office of Public Safety. This SFY 2008 Student Awareness of Fire Education Grant will be used for the purchase of a variety of educational materials as well as for programs including lectures, school visits, open houses.

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

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

Sincerely

Nancy E. Stevens
Mayor



City of Marlborough

FIRE DEPARTMENT

215 Maple Street, Marlborough, Massachusetts 01752
Business (508) 460-6986 Facsimile (508) 460-3795

July 11, 2008

The Honorable Nancy E. Stevens, Mayor
City of Marlborough
140 Main Street
Marlborough, MA 01752

Dear Mayor Stevens,

Attached please find documentation in support of a grant in the amount of \$5,800.00 which has been awarded to the Fire Department through The Commonwealth of Massachusetts Executive Office of Public Safety.

The SFY 2008 Firefighting Equipment Grant has been approved for funding and granted to the Marlborough Fire Department in order to provide student awareness of fire education programs as outlined in the application.

In accordance with Massachusetts General Laws, Chapter 44 Section 53A this grant was applied for and accepted by the Fire Department but in order for it to be expended for the purposes of the grant, the Mayor must recommend and the City Council must vote to approve the expenditure.

I would ask that this information be placed on the next council agenda, August 18, 2008 and that you recommend and ask the City Council to approve the expenditure of these funds for the purposes of the grant by the Fire Department.

Thank You,

David Adams
Fire Chief

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CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD

DEPARTMENT: Fire DATE: July 11, 2008

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: David Adams, Fire Chief

NAME OF GRANT: SFY 2008 Student Awareness of Fire Education Grant

GRANTOR: Commonwealth of Massachusetts

GRANT AMOUNT: \$5,800.00

GRANT PERIOD: 12 months (plus 2 months accounts payable period)

SCOPE OF GRANT/
ITEMS FUNDED Student Awareness of Fire Safety Programs
Educational materials for various fire safety programs, lectures,
school visits, open house, seasonal safety awareness programs.

IS A POSITION BEING
CREATED: No

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY
FUNDS REQUIRED? No

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO
BE USED:

ANY OTHER EXPOSURE TO CITY?
No

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: No

DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT



City of Marlborough

Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Karen A. Kitty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

August 7, 2008

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

Honorable President Vigeant and Councilors:

Over the course of the past several years, we have been slowly building a reserve of funds through the Fairmount Hill Revolving Account and the Capital Outlay Account to provide for replacement of sidewalks along Liberty Street and the associated guardrail and retaining wall along Ward Park. In anticipation of completing these projects, bids were recently solicited. The total estimate per these bids puts the cost of the project at \$257,000. Please see proposed breakdown below:

Total estimated project cost:	\$257,000
Existing funding from Capital Outlay Account:	60,000
Proposed funding from Fairmount Hill Revolving Account:	121,200
Additional funding required:	75,800

At the request of the ward councilor, we would still like to advance this project in this fiscal year and, in order to do so, the deadline for contract execution would be September 18, 2008. Attached is a project timeline prepared by the City Engineer, Tom Cullen.

In order to meet the September 18th deadline, two votes must be taken:

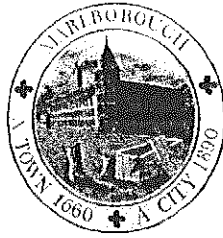
- 1) Authorization for use of Fairmount Hill Revolving Account funds in excess of \$100,000
- 2) A transfer from Stabilization to cover the remaining shortfall of \$75,800

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

Sincerely,

Nancy E. Stevens
Mayor

82



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

TO: Mayor Nancy E. Stevens

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

DATE: August 8, 2008

SUBJECT: Retaining Wall on Liberty Street and Appurtenant Work and
Other Work on Various Streets; Contract No. ED 2009-01;
Contractual Construction Duration

Pursuant to the requirements of the above referenced "contract", the work under said contract will be substantially completed no later than **60 calendar days** following the receipt by the Contractor of a Notice to Proceed from the City.

cc: Ronald M. LaFreniere, P.E., Commissioner
Richard Baldelli, Assistant City Engineer and Project Manager

TRANSFER REQUEST

FROM ACCOUNT		TO ACCOUNT	
AVAILABLE BALANCE	AMOUNT	AMOUNT	AMOUNT
			AVAIL
\$ 6,472,797.57	\$ 75,000.00	\$ 75,000.00	\$ -
	836000	19300006	
	11515 Stabilization	58514 DPW PROJECTS	

Reason: Funds to be used for Liberty Street Sidewalk/Ward Park guardrail construction.

83



City of Marlborough

Office of the Mayor

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

Nancy E. Stevens
MAYOR

Karen A. Kosty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

August 8, 2008

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

Honorable President Vigeant and Councilors:

Two years ago, \$40,000 was earmarked for a drainage project in the Glenbrook neighborhood that was aimed at improving the entrance characteristics of the inlet control structure where Millham Brook enters the closed drainage system for the development. Working through the permit and design issues, this project has increased in scope to something much larger than had originally been anticipated with associated revised estimates of \$162,000 for completion in FY09. A summer 2009 completion is anticipated.

We have tried unsuccessfully for the past two years to obtain grant funding and now feel we have exhausted all possibilities for same. Through discussions with the ward councilor, we believe additional funding is required.

As you may recall, all outstanding funds associated with old capital bonds have been applied to current capital projects; therefore, this previous funding option is not available. For your review and determination, I offer two alternate funding sources – the first would be to approve the attached budget transfer which garners the required funds from Stabilization; the second would be to approve a new bond request for which paperwork has also been prepared and attached.

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

Sincerely,

Nancy E. Stevens
Mayor

TRANSFER REQUEST

FROM ACCOUNT		TO ACCOUNT	
AVAILABLE BALANCE	AMOUNT	AMOUNT	AMOUNT AVAIL
\$ 6,397,797.57	\$ 130,000.00	\$ 130,000.00	\$ -
	ORG CODE 836000	ORG CODE 19300006	
	OBJECT ACCOUNT 11515 Stabilization	OBJECT ACCOUNT 58315 Drainage	
	DESCRIP	DESCRIP	

Reason: Funds to be used for drainage associated with the Glenbrook construction project.

92

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CITY OF MARLBOROUGH

IN CITY COUNCIL

Marlborough, MA August 18, 2008

ORDERED:

That the sum of \$130,000 (one hundred thirty thousand) dollars be and is hereby appropriated for drain construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$ 130,000.

Pursuant to the provisions of Chapter 44, Section 7 (1) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from its date of issue.



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

101
Nancy E. Stevens
MAYOR

Karen H. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

August 7, 2008

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

Honorable President Vigeant and Councilors:

With the City Council's approval of the FY09 operating budget, I am recommending the adoption of Section 4, Chapter 73 of the Acts of 1986 which allows for the doubling of all exemptions offered in the City to qualified residents (i.e. Elderly, Blind, Disabled Vets) as provided by Massachusetts law. The City would absorb any associated costs through the overlay account.

I would remind the Council that this proposal must be approved for adoption each year prior to values being certified in the fall.

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

Sincerely,

Nancy E. Stevens
Mayor



102

City of Marlborough

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

August 6, 2008

Mayor Nancy Stevens
City of Marlborough

Mayor Stevens:

As you recall, the City Council adopted Section 4 of Chapter 73 of the acts of 1986. This action allowed the doubling of all the exemptions offered in the City. (Elderly, Blind, Disabled Vets etc)

As adopted, the mayor must recommend and the council must vote this adoption each year.

This is done so that the fiscal health of the City can be reviewed to ascertain the ability of the city to absorb the extra cost through the overlay account.

None of this extra money is reimbursed by the State.

I am requesting that you decide what your wishes are and make the recommendation to the council to adopt it once again for fy2009 if appropriate.

Let me know if you need more information on this matter.

It must be adopted before our values are certified in the fall.

Respectfully:

Anthony R. Trodella, Chairman- Board of Assessors.



City of Marlborough

Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel: (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Karen H. Kist
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

August 8, 2008

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

Honorable President Vigeant and Councilors:

I am submitting the name of Lawrence Wenzell for reappointment to the Arts Lottery Council for a two year term to expire on May 1, 2010. Mr. Wenzell has been an active member of this group for many years and his continued participation will prove a valuable contribution.

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

Sincerely,

Nancy E. Stevens
Mayor

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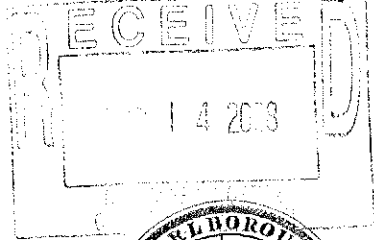
CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **STATE PRIMARY ELECTION** will be held in the polling locations as noted below on **SEPTEMBER 16, 2008** as follows: Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court and Register of Probate.

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, |
| 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, 208 Main St (corner of Main/Newton Sts), |
| 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 |



13



City of Marlborough Public Facilities

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

August 14, 2008

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

Re: Order # 08-1001884

Dear President Vigeant and Members:

This letter is in response to Council Order #08-1001884, the issue of establishing an alternative polling location for Ward 4.

We have researched various locations and determined that the only building that the city controls that would possibly be suitable for polling would be Bigelow School at 57 Orchard Street. This building is also not located within Ward 4.

Another option that has been discussed would be to combine the various ward polling places into one polling location. Buildings that could possibly be used would be the High School fieldhouse, Middle School gymnasium, Fire Station 1, or City Hall. All these locations have positive and negative factors.

Please let us know how to proceed.

Sincerely,

John L. Ghiloni,
Director

Lisa Thomas,
City Clerk

City of Marlborough
Commonwealth of Massachusetts

RECEIVED
JUL 17 2008
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH



PLANNING BOARD

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

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

July 17, 2008

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

RE: Proposed Zoning Ordinance Change
200-31 New Car Dealership Overlay District
Council Order #08-1001833

Dear Mr. Vigeant:

At its meeting on Monday, July 14, 2008, the Planning Board took the following action:

On a motion made by Mr. Johnson, seconded by Mr. Kerrigan, with Mr. Hodge and Mr. Hanson opposing, it was duly voted:

To recommend to the City Council a favorable recommendation to the City Council to approve the change in the Zoning Ordinance for the New Car Dealership Overlay District.

Sincerely,

Barbara L. Fenby
Chairperson
Marlborough Planning Board

CC: City Clerk
City Engineer
file



CITY OF MARLBOROUGH
Office of the City Council
140 Main Street
Marlborough, Massachusetts 01752
(508) 460-3711 TDD (508) 460-3610

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

May 12, 2008 – ORDER # 08-100-1858

Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a telecommunication facility onto the existing telecommunications tower located at 75 Donald Lynch Boulevard

-REFER TO WIRELESS COMMUNICATIONS COMMITTEE
PUBLIC HEARING: JUNE 9, 2008

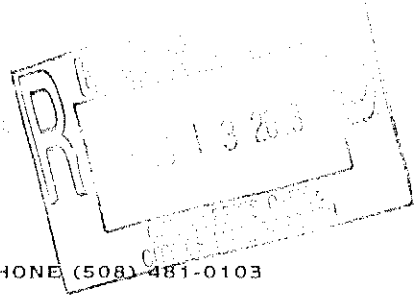
The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority. A copy 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 Tuesday, September 30, 2008.

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: *Andrew Candiello*
Andrew Candiello
Acting on behalf of, and at the direction of,
Petitioner:
MetroPCS Massachusetts LLC

16



ARTHUR P. BERGERON
Attorney-at-Law
27 PROSPECT STREET
MARLBORO, MASSACHUSETTS 01752

PHONE (508) 481-0103

FAX (508) 485-8506

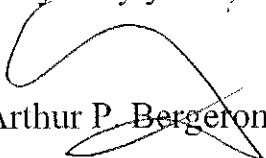
Aug. 11, 2008

Councilor Arthur Vigeant, President
Marlborough City Council
City Hall, Marlborough, MA 01752

Re: request for extension of decision deadline regarding special permit decisions, Orders #08-1001806-1A and 08-1001876A

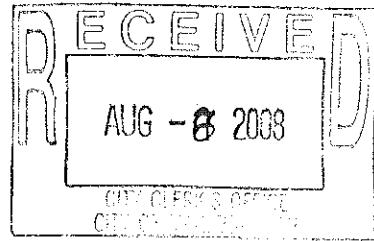
Dear Councilor Vigeant:

My client, Boston Post 355 LLC, pursuant to Mass. General Laws Chapter 40A sec. 11, hereby requests that the deadline for decision regarding its requests for two special permits specified above, which both relate to my clients' request for authorization to operate a carwash, be extended to Tuesday, Sept. 30, 2008, at 5:00 PM.

Very truly yours,

Arthur P. Bergeron



TOWER RESOURCE MANAGEMENT, INC.



July 29, 2008

VIA HAND DELIVERY

Marlborough City Hall
140 Main St.
Marlborough, MA 01752

RE: MetroPCS – Application for Special Permit
Site Location: 97 Arnold St EXT, Marlborough, MA

Dear Members of the Board:

Enclosed please find an application for Special Permit, submitted on behalf of MetroPCS Massachusetts, LLC for the proposed installation of a Telecommunications Facility onto the existing water tank located at 97 Arnold St EXT, Marlborough, MA.

MetroPCS Massachusetts, LLC was the successful bidder in an RFP which was released by the City of Marlborough for the leasing of space on the water tank for the purpose of installing wireless communications equipment.

Enclosed please find the following:

- Special Permit Application with Associated Filing Checks
- Special Permit-Summary Impact Statement
- Summary of Proposal
- Certified Abutters List
- Certification by Planning Department (To be Completed)
- Application Delivery Checklist (To Be Completed)
- RFP Award Letter
- Antenna Specifications Sheet
- Ground Equipment Specification Sheet
- MetroPCS FCC License
- Radio Frequency Affidavit
- Radio Frequency Coverage Maps, both existing and proposed.
- Zoning Drawings

Please feel free to contact me with any questions or if any additional materials are required.

Thank you for your consideration.



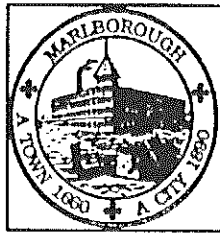
TOWER RESOURCE MANAGEMENT, INC.

1/2

Applicant: MetroPCS Massachusetts, LLC
285 Billerica Rd,
Third Floor
Chelmsford, MA 01824

Submitted By: Andy Candiello, Agent to MetroPCS
Tower Resource Management
30 Lyman St, Suite 12
Westborough, MA 01581
Cell: 978-855-3644

\$100.00
plus Advertising
18



CITY OF MARLBOROUGH
TAXI AND/OR LIVERY SERVICE LICENSE APPLICATION

1. TYPE OF LICENSE: TAXI LIVERY

2. APPLICANT'S (LICENSEE) INFORMATION:

A. NAME: Cleanice Goncalves

B. ADDRESS: 19 Ruth Drive

Marlboro, Ma

C. BUSINESS NAME: Marlboro City Taxi

D. BUSINESS ADDRESS: 19 Ruth Drive - Marlboro - MA

E. TELEPHONE NUMBERS: 508-485-1432

3. NUMBER OF VEHICLES: 3

APPLICANT'S SIGNATURE Cleanice Goncalves

CITY OF MARLBOROUGH
TAXI/LIVERY LICENSE

is hereby granted a Taxi/Livery License as approved by the City Council of the City of Marlborough on _____. In accordance with the Code of the City of Marlborough, Chapter 178, this License shall expire two (2) years from the date of issue. Application for renewal of said License shall be made to the City Council through the Office of the City Clerk.

EXPIRATION DATE: _____

A TRUE COPY
ATTEST:
City Clerk

19.

O'NEIL & BLOOM, LLP

COUNSELORS AT LAW

10 MECHANIC STREET, SUITE 150
WORCESTER, MASSACHUSETTS 01608-2419
TELEPHONE: 508-755-5655
FAX 508-755-9655

DONALD J. O'NEIL

MARK W. BLOOM

ONEIL@ONEILBLOOM.COM

BLOOM@ONEILBLOOM.COM

July 24, 2008

Lisa Thomas, Clerk
City of Marlborough
140 Main Street
Marlborough, MA 01752

Re: Road Acceptance
Joseph North Road

Dear Ms. Thomas:

I am writing on behalf of my client, The Nobel Construction Co., Inc., to request the City to accept Joseph North Road as a public way and that this matter be taken up at the City Counsels next regularly scheduled meeting on August 18, 2008. If you require anything further to add this item to the Council's agenda please let me know.

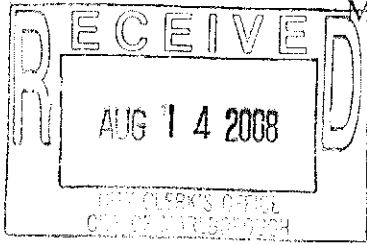
Very truly yours,



Donald J. O'Neil

Cc: The Nobel Construction Co., Inc.

20,



Michael J. Meagher, Esq.
85 East India Row
Boston, MA 02110

July 31, 2008

Mr. Karen Boule
City Council
City of Marlborough
City Hall
140 Main Street
Marlborough, MA 01752

Re: *Gulbankian's Mobile Home Park*

Dear Ms. Boule:

Thank you for your recent email. I represent Gulbankian's Mobile Home Park. I am contacting you at the request of the Marlborough Building Inspector (see attached letter). Mr. Reid has requested that we consult with the City Council before he will issue the few remaining building and occupancy permits for my clients' manufactured housing community on Broadmeadow Road.

You will see in the attached letter that Mr. Reid refers to a 1989 Agreement with the City of Marlborough in which the Gulbankians agreed to designate six (6) units as affordable units as defined in the Marlborough City Code (which at the time of the agreement incorporated by reference the DHCD definition of "affordable housing"). Mr. Reid states in his letter that "the following language binds you to accomplish an obligation that to date you have failed to achieve." However, Mr. Reid fails to acknowledge a later decision in which the Superior Court directly found that my clients did not violate the obligation he refers to in his letter. Instead, the court found that the cited provision was completely unenforceable as the agreement required my clients to satisfy the DHCD definition of affordable housing, which is legally not possible since the DHCD considers no manufactured housing community units to be "affordable housing."

For several years since the court decision we have been requesting occupancy permits for the remaining unpermitted units. Earlier this year my clients were given the impression that the situation had been resolved and that all remaining building and occupancy permits would now be issued. Based on those discussions, my clients agreed to install a new home to be occupied by an elderly woman, who then sold her home. Since the Building Inspector now will not issue the required permits until we have consulted with the City Council, this elderly woman has been forced to seek temporary housing.

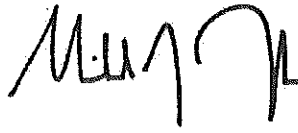
202

Ms. Karen Boule
July 31, 2008
Page 2

Because the Superior Court has already held that my client is in complete compliance with the earlier Agreement for Judgment, there is no need to modify that agreement. I am sure that everyone (except perhaps the DHCD) acknowledges that manufactured housing communities provide affordable housing to many people who could not otherwise own a home. The cost of manufactured housing is significantly less than other housing alternatives, such as single family residences on subdivided lots, condominiums or apartment buildings. We are certainly willing to meet with the City Council to discuss this issue in person if necessary and, hopefully, finally resolve the outstanding issues in this case. Given the issues involved we would like to do this right away.

Thanks for your consideration.

Very truly yours,



Michael J. Meagher

cc: Gulbankian's Mobile Home Park

MJM:ck

City of Marlborough

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Stephen F. Reid - Commissioner
Inspectional Services
140 Main Street
Marlborough, MA 01752
Phone: (508) 460-3725
Fax: (508) 460-3736
sreid@marlborough-ma.gov

July 10, 2008

Mr. Donald Gulbankian
Gulbankian Mobile Home Village, Inc
280 Broadmeadow Road
Marlborough, MA 01752

Dear Mr. Gulbankian;

After my discussion with you and Levon yesterday concerning your special permit granted in 1987 and subsequent revision and Agreement for Judgment in 1989, (Superior Court case No 89-7140 attached), I again draw your attention to section D.2 - CONDITIONS FOR PHASE III.

In that condition, the following language binds you to accomplish an obligation that to date you have failed to achieve. That section reads:

That six (6) units shall be designated as affordable units as defined in the Code of the City of Marlborough, Chapter 200, Section 4, paragraph B, and the remaining nineteen (19) shall be for sale at market rates. The affordable units shall be placed on the mobile home park, so as to scatter the affordable units. The affordable units shall be of the same general exterior appearance as the other units in the park and the outside amenities provided by the park owner shall be identical to the other units developed in Phase III. A record of ownership of the affordable units shall be supplied annually to the Director of the Housing Division of the City of Marlborough Community Development Authority.


You both contend that the condition as written cannot be achieved because there is no ability to create a deed restriction and affordability rider on portable structures. The State office of DHCD confirms that fact as well. Nevertheless, **the condition and obligation as written by the court still survives.**

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With this information in mind, the CDA is not the proper body to go to seek a remedy. The correct procedure is to request a meeting with the City Council Urban Affairs Committee (successor to the Affordable Housing Committee) for the purpose of discussing the problem and to renegotiate the condition for the mutual benefit of your Mobile Home Park and the City of Marlborough.

I am copying the Committee on this letter and hope that you will contact Karen Boule (508-460-3711) in the City Council office to find out the procedure for appearance before them. You can act in a timely manner to initiate the meeting or failing to do that, the Committee can ask for your presence.

Sincerely,


Stephen F. Reid

Building Commissioner

205



DAVID GRANVILLE TOONE
ATTORNEY AT LAW
186 Main Street
Marlboro, MA 01752

(508) 485-1551

May 10, 1991

Ronald LaFreniere
City Engineer
Dept. of Public Works
Neil Street
Marlborough, MA 01752

Reference: Gulbankian vs. McGorty et al, Sup. Ct. #89-7140

Dear Ron:

As you are aware, the above-referenced matter has been settled. Your assistance to the City's cause is much appreciated. I enclose a copy of the Agreement.

At your earliest convenience, pursuant to the terms of the settlement, you are to notify the Gulbankians that the \$25,000. is due. They are to then immediately forward a check to the City in said amount.

Please copy me on your letter to the Gulbankians.

Thank you very much.

Very truly yours,

DAVID G. TOONE, ESQ.

DGT/kb

enclosure

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COMMONWEALTH OF MASSACHUSETTS


MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
NO. 89-7140

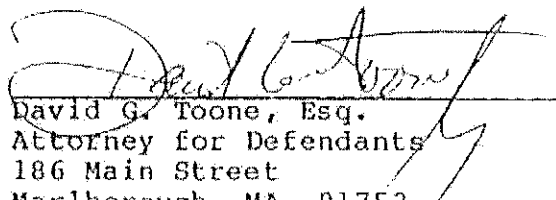
GULBANKIAN MOBILE HOME VILLAGE, INC.)
Plaintiff)
vs.)
J. MICHAEL MCGORTY, ET ALS)
Defendant)

AGREEMENT FOR JUDGMENT

It is hereby agreed that judgment may be entered in this action for the Plaintiff, Gulbankian Mobile Home Village, Inc., against J. Michael McGorty et als., defendants herein in accordance with the form of judgment attached hereto as Exhibit "A" without costs.



Joseph J. Conholly, Esq.
Attorney for Plaintiff
74 Main Street
Marlborough, MA 01752
(508) 485-4488



David G. Toone, Esq.
Attorney for Defendants
186 Main Street
Marlborough, MA 01752
(508) 485-1551

207

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
NO. 89-7140

GULBANKIAN MOBILE HOME VILLAGE, INC.)
Plaintiff)
vs.)
J. MICHAEL MCGORTY, ET ALS)
Defendant)

JUDGMENT

The City of Marlborough special permit dated October 2, 1989 and issued in favor of Gulbankian Mobile Home Village, Inc., is hereby amended by striking therefrom paragraphs C & D entitled respectively Conditions for Phase II and Conditions for Phase III and substituting therefore the following:

C. CONDITIONS FOR PHASE II

A special permit is hereby granted for Phase II subject to the following conditions:

1. That Phase II shall be limited to thirty (30) units as depicted on the plan entitled "Existing Condition Plan for Gulbankian Trailer Park."
2. That all Mobile Homes/Trailers located in the petitioner's park be marked with a number clearly visible from the park roads. That signs shall be placed so as to give clear directions to all the numbered sections of the extended park. These requirements shall meet the reasonable specifications of the Police Chief.
3. That the Applicant shall participate and cooperate with the City of Marlborough and the Commonwealth's Department of Environmental Management (DEM) to develop a parking area and gate for Callahan State Park as follows:
 - a) The applicant shall cooperate with the City and DEM in the detailed design, and implementation of the facilities listed hereafter, for the purpose of assuring improved public access in a safe and convenient manner to Callahan State Park.
 - b) The applicant shall construct, at his expense, a gravel parking area to accommodate twenty-five (25) cars and one (1) bus, for use by patrons of Callahan State Park. The parking lot shall be built to the specifications of the City based on future discussions with DEM, and shall be located within Callahan State park at a site to be defined by the City and DEM.

- c) The applicant shall construct, at his expense, a gate, required by the City and State DEM, across Broadmeadow Road for the purpose of controlling access to the State Park and to the parking lot within said Park. The gate shall be installed at the beginning of the gravel section of roadway, near the street light. The gate shall be built to the specification of the City, and the City or State shall maintain said gate. The gate shall be closed and opened by the applicant or his agent, except as may otherwise be agreed by the City and DEM, as follows: to be opened at 8 a.m. and closed no later than a half hour after sunset.
 - d) The applicant shall regrade the gravel roadway, from the gate to the parking area, to provide a proper slope and an 18 foot width. No trees shall be removed along the roadway.
 - e) Gate and parking area to be completed by applicant in or within four months from receipt of DEM approval of site location and plans.
4. That a line shall be drawn on the Applicant's plan entitled "Existing Condition Plan of Gulbankian Trailer Park" passing through the most southerly Mobile Home/Trailer shown on said plan. All land north of said line shown as open space shall remain open space. The Applicants Engineer shall draw said line, and file a copy in the City Assessor's Office and City Clerk's Office. The Applicant shall not construct or add any additional units above said line excepting the existing Phase I and any other units granted to the Applicant by this Special Permit unless said permit is modified.
 5. That a natural buffer of trees, plants and bushes shall be forever retained around the Applicant's Mobile Home Park.
 6. That the erosion problem at the Applicant's park, including the land abutting Valchius and Fafard, shall be corrected by the Applicant subject to approval of the City Engineer on or before September 30, 1991.
 7. That the Applicant shall not construct, make or permit a vehicular road or way between his property and the Valchius and Fafard land.
 8. That in the event the Applicant seeks to discontinue the park or to change the use thereof, he shall comply with the relevant provision of MGL, Chapter 140. Notwithstanding all elderly, handicapped, low and moderate income residents of the entire park shall have

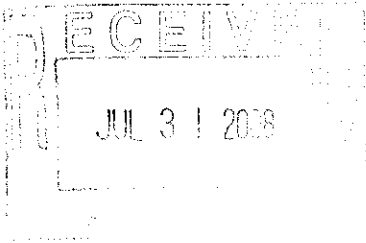
five years to relocate.

- 9. That the Applicant shall pay the sum of \$25,000.00 toward the cost of a survey to test the pumping capability of the Broadmeadow Road sewer pumping station and the cost of improvement to said Broadmeadow Road pumping station. Said payment shall be made by "Gulbankian" immediately upon notification by the City Engineer that said payment is due.

D. CONDITIONS FOR PHASE III

A Special Permit is hereby granted to the Applicant for Phase III subject to the following conditions

- 1. That the total number of units in Phase III shall be twenty-five.
- 2. That six (6) units shall be designated as affordable units as defined in the Code of the City of Marlborough, Chapter 200, Section 4, Paragraph B, and the remaining nineteen (19) units shall be for sale at market rates. The affordable units shall be placed on the mobile park, so as to scatter the affordable units. The affordable units shall be of the same general exterior appearance as the other units in the park and the outside amenities provided by the park owner shall be identical to the other units developed in Phase III. A record of ownership of the affordable units shall be supplied annually to the Director of the Housing Division of the City of Marlborough Community Development Authority.
- 3. That a hydrant system in this area must be installed to meet the requirement of the City Engineer and Fire Chief. All smoke detectors in the trailers shall be ceiling mounts.
- 4. That all the remaining and relevant conditions of Phase II shall also apply to Phase III.



21,

KEEGAN WERLIN LLP

ATTORNEYS AT LAW
265 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110-3113
—
(617) 951-1400

TELECOPIERS:
(617) 951-1354
(617) 951-0586

July 30, 2008

Town Clerk
City of Marlborough
140 Main Street
Marlborough, MA 01752

Re: NSTAR Gas Company, D.P.U. 08-34

Dear Town Clerk:

Enclosed please find a copy of a Notice of Filing and Public Hearing by NSTAR Gas Company regarding the above-referenced proceeding before the Massachusetts Department of Public Utilities. You are requested to post this notice for public review in your city/town hall through August 19, 2008.

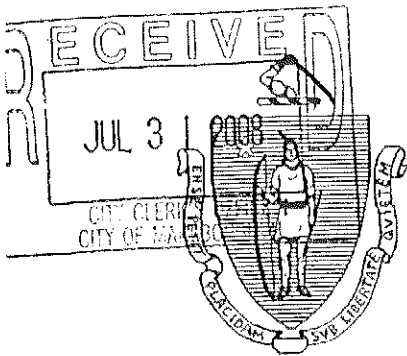
Please feel free to contact me with any questions.

Sincerely,

Karen Moriarty
Paralegal

Enclosure

2/2



The Commonwealth of Massachusetts
DEPARTMENT OF PUBLIC UTILITIES

NOTICE OF FILING AND PUBLIC HEARING

D.P.U. 08-34

July 24, 2008

Petition of NSTAR Gas Company to the Department of Public Utilities pursuant to G.L. c. 164, § 69I, for Review and Approval of its Load Forecast and Supply Plan for the five-year period 2008/2009 through 2012/2013.

On July 14, 2008, NSTAR Gas Company ("NSTAR" or "Company") filed a petition with the Department of Public Utilities ("Department") for approval of its Load Forecast and Supply Plan for the five-year period 2008/2009 to 2012/2013. Pursuant to G.L. c. 164, § 69I, the Department is required to ensure a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. Accordingly, the Department will review NSTAR's Load Forecast and Supply Plan to ensure that the forecast accurately projects the gas sendout requirements of the utility's market area. This matter has been docketed as D.P.U. 08-34.

The Department will conduct a public hearing to receive comments on the Company's petition. The hearing will take place on **Tuesday, August 19, 2008, at 2:00 p.m.** at the Department's offices, One South Station, 2nd Floor, Boston, Massachusetts 02110. A procedural conference will follow immediately thereafter. The petition and accompanying exhibits are available for inspection at NSTAR, 800 Boylston Street, Boston, Massachusetts, and at the Department's offices, Monday through Friday, between the hours of 9:00 A.M. and 5:00 P.M.

Any person who desires to file written comments or to participate otherwise in this proceeding shall file an original and four (4) copies of such written comments or petition for leave to intervene in the proceeding with Mary L. Cottrell, Secretary, Department of Public Utilities, One South Station, Boston, Massachusetts, 02110, no later than 5:00 p.m. on **Monday, August 18, 2008**, and serve one copy on counsel for the Company, Steven Frias, Esq., Keegan Werlin, LLP, 265 Franklin Street, 6th Floor, Boston, Massachusetts, 02110.

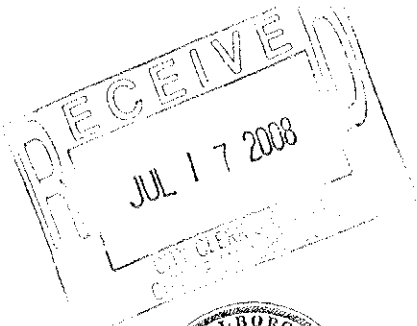
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D.P.U. 08-34

A petition for leave to intervene must satisfy the timing and substantive requirements of 220 C.M.R. § 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 C.M.R. § 1.01(4). To be allowed, a petition under 220 C.M.R. § 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10.

All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@state.ma.us and the hearing officer [laurie.e.weisman@state.ma.us]; or (2) on a 3.5" disk or CD-ROM. The text of the e-mail, disk label, or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 08-34); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or Adobe Acrobat (version 7 or higher). Data or spreadsheet responses should be compatible with Microsoft Excel (version 2000). The Department strongly encourages filers to avoid submitting scanned files but will accept them for posting when an alternative version does not exist in electronic format. In addition, if the petitioner, applicant, or any other participant has already filed a document relevant to this proceeding, such as the initial petition, application, or filing, without providing an electronic copy of that document, such entity is directed to do so in compliance with the above electronic filing requirements as soon as practicable. All documents submitted in electronic format will be posted on the Department's website: <http://www.mass.gov/dpu>.

Any person desiring further information regarding this notice may contact:
Laurie Ellen Weisman, Hearing Officer, Department of Public Utilities, One South Station,
Boston, Massachusetts, 02110, (617) 305-3721.



City of Marlborough
Commonwealth of Massachusetts

22,



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
June 23, 2008
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, June 23, 2008 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Clyde Johnson and Robert Hanson. Also present: City Engineer Thomas Cullen.

MINUTES

Meeting Minutes June 9, 2008

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

To accept and file the meeting minutes.

CHAIR'S BUSINESS

APPROVAL NOT REQUIRED PLAN

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Cullen stated that he has received the mylar's for O'Leary's Landing Subdivision. He also stated that Commonwealth Heights has their road opening permit and he has contacted the contractor for finishing the Fiddlehead Subdivision.

Acre Bridge Estates (Blake Circle)
Amended Covenant
City Solicitor Correspondence

Donald Rider, The City Solicitor, has reviewed the amended covenant for the referenced subdivision. He has suggested the following changes to the Covenant: preamble needs the change "Consolidated Design Group, Inc" to "Zanca Land Surveyors, Inc. and Consolidated

Design Group, Inc.”; In paragraph 1 following “Plan No. 1037 of 2004” add as amended by Plan No. 1324 of 2005 (both sheets”; In paragraph 5 add language “Covenant agrees to pay for the actual costs for recording of above referenced documents” and add the language to paragraph “the undersigned, Stephen J. Garofalo and Elizabeth T. Garofalo, as Trustees of SMC Realty Trust, u/d/t dated March 27, 1992, do hereby certify as follows: a. We are the duly authorized Trustees of the above-referenced Trust, and the above-referenced Trust allows reliance on the facts stated in this Certificate; b. We have full power and authority and further are duly authorized buy the terms of said Trust, and have been directed by all beneficiaries to execute this Amended Covenant on behalf of the Trust; and c. The aforementioned Trust is in full force and effect and has not been altered, amended, revoked, or terminated, and no beneficiary is a minor or corporation. There are no amendments, appointments, or resignations to this Trust.”

Mr. Dan Burger, the Developer’s attorney, has made the appropriate changes to the covenant and re-submitted the revised amended covenant. Ms. Fenby then asked if Mr. Cullen has reviewed the current amendments and he stated his office has not reviewed the document.

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

To refer the amended covenant to the Engineering Department for their review and have them report to the Board at the next meeting.

*Davis Estates (Bouvin Drive)
Tri-Partite Agreement
City Solicitor Correspondence*

The City Solicitor has reviewed the Tri Partite Covenant and made a few changes to Tri-Partite Agreement including the approval dates, subdivision plan dates, covenant subdivision plan’s book and page number.

Aldo Cipriano, attorney for the Developer, sent a clean version of the Tri-Partite Agreement and a minor change (as Plan of 1296 of 2005, of 2005 was left out) was still requested since the developer had not signed nor the bank, it was suggested before the Planning Board sign, the change can be made.

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

To accept and file correspondence; and to endorse the Tri-Partite Agreement after the minor change has been corrected and after the required signatures of the bank and developer.

Certificate of Performance

Mr. Cipriano is asking for the board to allow Ms. Fenby to sign the Certificate of Performance after the Tri-Partite Agreement has been recorded by the Registry of Deeds.

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

To allow Ms. Fenby to endorse the Certificate of Performance once Tri-Partite has been recorded at the Registry of Deeds.

*Mauro Farm (Cook Lane)
Phasing Request*

Martin Losielle of Capital Group Properties has asked the Planning Board if they would consider allowing a phasing for construction of this subdivision at the May 14, 2008 meeting. The Planning Board then referred the request to the Engineering Department and at request of the developer to delay the decision until tonight’s meeting.

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Mr. Loiselie once again showed to the Planning Board the phasing process of Phase 1A, construction of a 460' section of Nolan way with a temporary cul-de-sac with lots 1 through 7 built. Phase 1B includes the construction of Spenser Circle and lots 15 through 19 and Phase 1C would complete the construction of Nolan Way, remove the temporary cul-de-sac and complete the rest of the building lots.

Ms. Fenby was concerned since only four out of the seven members were in attendance and that she thought it would be better to discuss when more members are present.

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

To table any motion until the next meeting and if Board Members are not present to supply to Mrs. Lizotte their opinion.

PENDING SUBDIVISION PLANS: Updates and Discussion

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

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

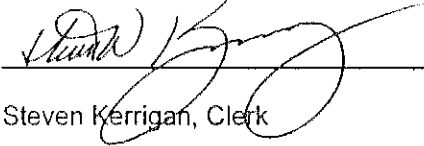
To accept all of the items listed under communications and/or correspondence.

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

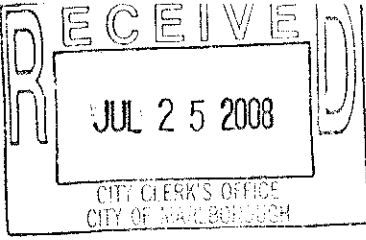
To adjourn at 7:40 p.m.

A TRUE COPY

ATTEST:



Steven Kerrigan, Clerk



23,

MetroWest Regional Transit Authority
Advisory Board
Meeting Minutes
Monday, June 23, 2008

The MetroWest Regional Transit Authority Advisory Board meeting was held on June 23, 2008 at 4:00 p.m., at the maintenance and operations facility of the MWRTA, located at 160 Waverley Street, Framingham, MA., at the call of Chairman John Stasik, Framingham. Also in attendance were; Carl Damigella, Holliston, Charles Hughes, Natick, Paul Monaco, Ashland, Elise Marcil, Disabled Community Representative, Gary Daugherty, Hopkinton, Kristin Kiesel, Sudbury, Christopher Peck, Sherborn, Edward Carr, Administrator, and Charles Stevenson, Counsel. A quorum was declared. Audience members included, Frank Hess, from Sherborn, Ted Welte, from the Metrowest Chamber of Commerce, Grace Shepard, from Sherborn, Donna Jacobs, from the MWGMC (Metrowest Growth Management Committee), Paul W. Spooner, from MWCIL (Metrowest Center for Independent Living), Kathie McCarthy from Framingham Disabilities Commission, Philip Jack, from Ashland. Charles Hughes made a motion to waive the reading of the previous minutes; it was seconded by Carl Damigella, and approved unanimously. Charles Hughes made a motion to approve the previous minutes; it was seconded by Carl Damigella, and approved unanimously.

Minutes Discussion:

Jessica Hanna was introduced as the new staff assistant for the MWRTA. Her duties will include taking, and typing of minutes. There was a discussion regarding how future minutes should be transcribed. The consensus of the board is that the minutes are too long, and with a tape back up available, the future minutes can be shortened.

Ashland Representative:

Paul Monaco, Chairman of the Board of Selectman, Ashland, was introduced as the new advisory board member for Ashland, replacing Philip Jack.

Administrator's Report:

• **Fixed Route Service:**

Starting July 1st the Natick system will be running with new buses, new fares, a slight change to some of the routes, and the new fare boxes that will make them part of the whole system. The Natick routes will be called route 10, and route 11. There is a possibility that passes will be sold at the Natick Town Hall. Also, on July 1st the route 6 to Milford will provide two buses in the morning, and three in the evening. During the day route 6 will run to Holliston and back. Route 4 will serve the Beaver Park area.

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- **Demand Response:**

The MWRTA Call Center will be in operation starting July 1st. It is the first phase of the demand response system, with the prime focus on Southborough /Marlborough (West Region), with more regions to come. Member town COA's (Council on Aging) will be contacted to discuss demand response service.

- **ADA RIDE Implementation:**

Monthly transitional meetings between The RIDE and the RTA will be ongoing. Members of the MBTA Staff visited the maintenance and operations facility.

- **Planning:**

The "Eliot Service" proposal for the Suburban Mobility Program was submitted, with the help of MWGMC. Eliot and Woodland stations are both being considered in the proposal. The CTPS study (*Central Transportation Planning Staff*), has not been executed yet, there are some details still being worked out with the MBTA (Massachusetts Bay Transportation Authority), but it should be happening shortly.

- **Outreach:**

Most of the outreach this month has focused on the demand response ridership in the "West Region." Outreach was done in the Beaver Park neighborhood, showing kids how to use the bus. A preliminary meeting regarding the Consumer Advisory Group was held.

- **Research:**

The MWRTA is continuing to work with the GEO Labs at Bridgewater State to improve customer service.

- **Marketing:**

Interviews for marketing firms are ongoing. The RTA is currently waiting on a proposal for some schedules from one of the firms. The RTA now has the ability to accept credit cards.

- **Comments on Administrators Report:**

THE RIDE:

Mr. Hughes asked if the MBTA is going to advertise the contract for renewal.

Mr. Carr responded that the MBTA will be accepting proposals before Labor Day, with a new provider in place by March, 2009.

Mr. Carr stated that the MWRTA will advertise an RFP seeking proposals for operators to provide the service after June 30th, 2009.

Mr. Peck asked Mr. Carr if after June 30th, 2009 when the RTA takes over THE RIDE service, will the RTA's finances be able to absorb the expenses of that service.

Mr. Carr stated that the money currently being paid to the MBTA for THE RIDE service in Natick/Framingham will now be the RTA's money to expend to provide that service. He also stated that some rides will be more cost efficient to provide than what is currently being paid now to provide those rides.

Demand Response:

Ms. Marcil questioned what was discussed in Marlborough/Southborough (West Region) at the senior locations. Mr. Carr responded that the level of service would remain the same, basically only the phone number would change, and a slight fare change. The public was made aware of the coming changes. The new MWRTA call center will begin operations July 1st, 2008 servicing the West Region (Marlborough/Southborough).

Mr. Stasik asked who the RTA is required to provide service to in Marlborough/Southborough, and what qualifications are required of the users? Mr. Carr stated that the rider's qualifications are that they need to be either elderly or disabled.

For other towns such as Holliston, Ashland, etc. the RTA is supporting the COA's in those towns in helping to provide service. Contracts for each COA are different depending on their town's individual needs.

Journey to work service is also being provided in Marlborough/Southborough.

Grace Sheppard asked Mr. Carr how the RTA will be able to financially continue to provide THE RIDE service. Mr. Carr responded that the service provided in Natick/Framingham will continue through state contract assistance and local assessments.

Milford Route:

Mr. Stasik asked Mr. Carr what the status of the Milford service would be after July 1st, 2008. Mr. Carr responded by saying there will be two buses provided in the morning, and three on the return in the evening to accommodate the journey to work riders. During the day the route turns around in Holliston rather than going into Milford. The continued Milford service is being funded by both the RTA member communities, and interdistrict funding. The new Route 4 services the Beaver Park area, which the Milford route provided in the past. Mr. Jack wanted to know if the Route 4 was considered new service for Ashland. Mr. Carr said no, that Ashland has always been assessed for that service.

Kathie McCarthy wanted to know if continuing the service in Milford would be an incentive for the town to consider joining the RTA. Mr. Carr stated that he and Mr. Damigella, along with Mr. Stasik have met with Milford officials on

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several occasions to talk about the service provided to Milford. Ms. McCarthy felt that losing the day time service into Milford may entice Milford officials to reconsider joining the RTA.

Eliot/Woodland Service:

Mr. Stasik wanted an update from Mr. Carr about providing the proposed commuter service to the Eliot Station. Mr. Stasik thought that the CTPS study would help to analyze whether the service should be to Eliot or the Woodland. Mr. Carr stated the MPO has pointed out that the Eliot street station is not handicapped accessible, and that access is through a small neighborhood setting. The RTA is working with MWGMC and Barbara Lucas of MAPC to aid the RTA in their pursuit to provide commuter service to the Green Line. Mr. Carr stated that the decision will be made at the MPO level after accessing the RTA proposal. Donna Jacobs of MWGMC stated that going to Woodland would entail dealing with more traffic lights, and also would require more vehicles, but she also felt that the reverse commute would be better served with additional vehicles, and would also service Newton Wellesley Hospital.

Old Business:

• **Disabled Community Representative (Ashland)**

Philip Jack stated that the lead on two potential candidates has fallen through, but he is working with JoAnne Duffy of the Ashland COA to find a new candidate. Ms. Marcell stated that she would stay on the board another month until a candidate can be found. If a candidate cannot be found from Ashland by the next meeting then Holliston will attempt to fill the position.

• **Goals/Objectives for Administrator:**

Mr. Stasik asked the board for their input on the goals/objectives outline. Mr. Stasik stated that this would be the template for the coming year, and the beginning of the strategic plan for the next five years.

Mr. Peck mentioned that under planning, in creating a mission statement, he would like to see member town participation added, because he feels that each individual town has their own strategic planning vision. Mr. Stasik stated that the goals/objectives outline will work together with the CTPS study. Mr. Jack asked Mr. Carr to list his top five priorities for the coming year:

1. Mr. Carr stated that finalizing the fixed route system has taken up much of his time this past year.
2. Next on his agenda is to get the demand response part of the system up and running and ready for the July 1st, 2009 transition.
3. The Green Line service is also on his list of priorities.

4. Mr. Carr would also like to focus on finding a new operations and maintenance facility, given that the current facility is part of a short-term lease, he mentioned that representative Markey's office is working on earmark funding to potentially build a new facility.

5. Mr. Carr's five year goal is to build an intermodal center, near the golden triangle

6. Mr. Carr also feels that building ridership will be an important part of his agenda, especially with the price of fuel and the desire to get more people to think green and use public transit. The RTA is in the process of developing a marketing plan which will include new schedules, bus stop branding, and increased ridership.

7. Mr. Carr stated he wants to focus on getting the call center more organized.

• **Comments on Goals/Objectives**

Kathie McCarthy commented that she would like to see a link to the MWRTA through the Metrowest Chamber and town websites.

Elise Marcil commented about #9 under budget, and finance in the goals/objective document relating to mitigation funds that need to be transferred to the MWRTA.

A motion was made to adopt the goals/objectives with changes, by Mr. Hughes and was seconded by Mr. Damigella. It was unanimous.

New Business:

• **FY09 Budget:**

The FY09 budget is similar to FY08 budget, with some increases. Cost of Marlborough/ Southborough demand response service has been added. In FY08 budget there were no expenses for the maintenance and operations facility. Mr. Carr believes he had solid numbers to go by in developing the FY09 budget, which include UZA funds (Urbanized Zoning Area Funds), and how the RTA will acquire them. Mr. Carr also talked about the interdistrict funds and how that may impact the budget, depending on how much funding will be available for FY09.

Mr. Damigella asked about maintenance costs. Mr. Carr stated that maintenance costs for the vehicles are provided by First Transit under the contract with them. Fuel cost was also discussed. Mr. Carr stated that in last years budget Mass Bay Limo provided the fuel, for half the year, in this year's budget it is provided by the RTA. Ms. Marcil asked what the meaning of brokerage cost was. Mr. Carr explained that it was the cost associated with running the call center, but it did not include the cost of computers and some software which are capital costs. Mr. Carr talked about developing a marketing budget once he knows what money is available through mitigation funds, and other sources. He stated that interviews for a marketing firm were being conducted, but he would like to know exactly what funds would be available to the RTA for paying those costs, before proceeding in hiring a firm. Mr. Welte suggested that a survey be done with other RTA's to find out what they average for marketing costs per year.

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Mr. Peck asked about the interest expenses. Mr. Carr stated that those expenses are incurred by the RANs (Revenue Anticipation Notes). Mr. Peck asked about the travel expenses. Mr. Carr stated that those expenses are incurred by trips for meetings, such as to Boston.

Mr. Welte asked if the cherry sheet error was indicated in the FY09 budget. Mr. Carr stated no, not until he receives some definitive information from the state budget, and EOT (Executive Office of Transportation).

A motion was made by Mr. Peck to approve the FY09 budget; it was seconded by Mr. Daugherty, and approved unanimously.

- **Consumer Advisory Group Nominee:**

Mr. Paul Spooner has agreed to Chair the MWRTA's Consumer Advisory Group (CAG). Mr. Spooner would like the CAG to consist of a diverse group of approximately 15 members who are also riders of the system, elderly, disabled, journey to work, etc. from each town. Mr. Carr asked the board to consider candidates from their towns who may be interested in serving. Mr. Stasik asked who the CAG answered to. Mr. Carr stated that they would advise the Advisory Board through a written report following CAG meetings. Mr. Spooner will contact other RTA's to evaluate the way their CAG's operate.

- **Auditing Firms:**

Letters of interest went out to six auditing firms. Three responses were received. Interviews were conducted and all firms were asked to produce a cost proposal. Mr. Carr's recommendation for auditor is Roland Lamblot. He however, cannot appoint a firm, because the firm will be auditing the RTA.

Mr. Damigella made a motion to approve Roland Lamblott as auditor, it was seconded by Mr. Hughes and approved unanimously.

- **Demand Response Service and Fares:**

The board discussed the fare rates proposed by Mr. Carr for demand response services. Ms. Marcil had some reservations about the fare structure. Mr. Stevenson explained that the fares would be for Marlborough/Southborough for the July 1st, 2008 start up, and that fares can be amended at anytime by the Advisory Board. Ms. Kisty stated that the fares represent an increase, but that the riders now have more options of where they can go and that the city of Marlborough has set up a coupon program to help elevate the cost of the \$5.00 ride for those who need it.

Paul Monaco asked Mr. Carr if he has set a time table of when he would evaluate the demand response system. Mr. Carr stated that it would happen over the next year, and stated that this was a starting point for the service.

A motion was made by Mr. Hughes to approve the fare structure; it was seconded by Mr. Daugherty and approved unanimously.

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- **Additional Comments:**

Mr. Damigella asked if there were any funds available for shelters for communities that have fixed routes. Mr. Carr stated that he can apply for a federal grant for a shelter. Mr. Damigella stated that at the next meeting appointments of new officers of the Advisory Board should be on the agenda.

The next meeting was set for Monday, July 21st, 2008 at 4:00 p.m.

Motion to adjourn was made by Mr. Hughes seconded by Mr. Damigella and approved unanimously.

The meeting ended at 5:40 p.m.

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Certificate

The undersigned being the duly qualified clerk of the MetroWest Regional Transit Authority Advisory Board, acknowledges that the foregoing minutes accurately reflect the actions taken at a legally convened meeting of the Advisory Board held on June 23, 2008.

Carl Damigella, Holliston -