



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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NOVEMBER 2, 2015

Regular meeting of the City Council held on Monday, NOVEMBER 2, 2015 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Oram, Ossing, Robey, Delano, Elder, Tunnera, Irish and Landers. Meeting adjourned at 8:26 PM.

ORDERED: That the Minutes of the City Council meeting OCTOBER 19, 2015, **FILE**; adopted.

ORDERED: That the Communication from the Mayor re: Notification of Free Cash in the amount of \$6,721,252.00, **FILE**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the FY16 MA Cultural Grant Acceptance in the amount of \$10,600.00 by which funds will be dispersed by the Cultural Council later this year in support of worthy arts, humanities, music, and youth based initiatives throughout our community; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the FY16 Emergency Management Performance Grant in the amount of \$9,460.00 in which funds will be used to allow the City to reprogram 20 Public Safety radios to enable more effective communications with State Police and other local communities during emergencies; adopted.

ORDERED: That the Information Technology transfer request in the amount of \$450.00 which moves funds from On-line Information Services to Longevity to pay an employee's longevity payment in early December, be and is herewith **APPROVED**; adopted.

ORDERED: That the Communication from City Solicitor Rider re: OYO Sportstoy's Inc., TIF Proposal in proper legal form, Order No.15-1006335, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor Rider re: Memorandum of Understanding – Latino Health Insurance Program, Order No. 15-1006322, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Metal Man Recycling, LLC re: Submittal and availability of a Phase 1, Initial Site Investigation & Tier 11, Classification Report in connection with a reportable release of petroleum located at 44 Brook St., refer to **CONSERVATION COMMISSION AND FILE**; adopted.

ORDERED: That the Minutes, Library Board of Trustees, September 1, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, September 25, 2015, **FILE**, adopted.

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

- a. Vilma Boaventura, 688 Boston Post Rd. East, Apt 224, pothole or other road defect
- b. Jeremiah Gordon, 750 Farm Rd., Apt 117, pothole or other road defect
- c. Michael Doak, 24 Oregon Rd., Southborough, MA, pothole or other road defect
- d. Steven Bober, 70 Melody Ln., pothole or other road defect
- e. Brenda Costa, 34 Rice St., other property damage and/or personal injury
- f. Evans Carter, PC, PO Box 812, Framingham, MA, pothole or other road defect

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: October 27, 2015

Time: 5:30 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 5:30 PM

Adjourned: 5:43 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Clancy, Elder, and Landers; (Councilor Tunnera absent); and Councilor Robey

Also Present: Steve Pedro, Ayoub Engineering; Robert Camacho, Building Commissioner

Order No. 15-1006262: Application for Sign Ordinance Special Permit, Ayoub Engineering, Inc. on behalf of Nouria/Shell Station, to allow a new red LED price panel at 413 Lakeside Avenue. The Urban Affairs Committee met with Steve Pedro of Ayoub Engineering for a continued discussion of the proposed LED price panel for the Shell Station located at 413 Lakeside Avenue. They reviewed the revised Signage Plan, dated October 2, 2015, and Decision on a Special Permit. Mr. Ayoub explained the changes to the proposed sign and the committee agreed the sign shall conform to the requirements of the sign ordinance without variance. The sign description was updated to reference the newly proposed sign dimensions and the Signage Plan dated October 2, 2015. **Motion made by Councilor Elder, seconded by Chair, to approve as amended. The motion carried 4-0. Motion made by Councilor Clancy, seconded by Chair, to refer to the Legal Department to be placed in proper legal form. The motion carried 4-0 (Councilor Tunnera absent.)**

Motion made by Councilor Clancy, seconded by Chair, to adjourn. The motion carried 4-0 (Councilor Tunnera absent.) The meeting adjourned at 5:43 PM.

Reports of Committees continued:

Councilor Robey reported the following out of the Legislative and Legal Affairs Committee:

City Council Legislative and Legal Affairs Committee
Tuesday, October 27, 2015 – In Council Chambers
Minutes and Report

Present: Chairman Katie Robey, Councilor Delano, and Councilor Clancy
Also present were Cathleen Liberty, Director of Public Health for Item 1; Assistant Solicitor Panagore Griffin & City Engineer Evan Pilachowski for Items 2 & 3; and Solicitor Rider for Item 4. The meeting was called to order at 6:05 PM.

Order No. 15-1006322-Board of Health Memorandum of Understanding between City of Marlborough and the Latino Health Insurance Program, Inc. (LHIP)

The chair went through the MOU, indicating a change to Section 10, Liability Insurance, which was modified by Beverly Sleeper, Marlborough's Procurement Officer, to show that LHIP shall maintain general liability insurance with the city (Community Partner) named as additional insured. The Director of Public Health was asked about the dates listed in the duration in Section 4 and agreed that it could be changed from August 3, 2015 to the date the MOU is approved by the full council. Section 5 Responsibilities of LHIP (a) Referrals and Section 6 Responsibilities of Community Partner (b) Referrals were discussed and it was agreed that the last sentence of 6(b) could be deleted as it contradicts what is in 5(a). The sentence to be deleted reads: Community Partner will designate a staff member to serve as a liaison to LHIP for care management and coordination.

Motion made by Councilor Delano and seconded to recommend approval of the MOU as amended. The vote carried 3-0.

Order No. 15-1006323-Order of Acceptance of Layout of LaCombe St. as a Public Way and Eminent Domain Order of Taking; Quitclaim Deed for LaCombe St. Cul-de-Sac and Easements, referencing Order 14-1005847A

Order No 14-1005847A had been referred to Public Services and the Planning Board in June of 2014. In July of 2014, the Planning Board recommended the City Council not accept LaCombe St. extension until the ownership issue of easterly side is cleared. That has been cleared and the 2015 order has also been referred to Planning Board for their recommendation. The City Engineer went thru the plan of land shown as Exhibit A delineating each property and the chair read each of the property descriptions and the awards for each property. The awards will be paid from bonds the city received as subdivisions were created. The Assistant Solicitor confirmed that the language of the order does include the Quitclaim Deed from owner Paul DiTullio for drainage and flow easements.

Motion made by Councilor Delano and seconded to recommend acceptance of layout of LaCombe Street as a Public Way and Eminent Domain Order of Taking pending a recommendation from the Planning Board. This would be reported out on Nov. 2nd and lay on table with a recommendation from Planning Board expected at the Nov. 16th Council meeting. The vote carried 3-0.

Reports of Committees continued:

Order No. 15-1006342-Proposed Order for a Home Rule Petition Concerning Conveyance by the Division of Capital Asset Management and Maintenance of Permanent Easements to the City of Marlborough.

The City Engineer identified the parcel on Farm Rd. needed for proposed construction by DPW of drainage improvements and the two parcels on Walker St. for future pedestrian improvements. The Assistant Solicitor discussed Section 4, which requires the City of Marlborough to convey to the commonwealth for use by the Metropolitan District Commission or place under conservation restriction a parcel of land located in the city within the watershed of the Sudbury Reservoir that is equal to or greater than the total area proposed to be conveyed to the city. She also stated that the state is still owed a parcel from a prior petition and that our Conservation Officer has identified a parcel on Parmenter St. that would be placed under a conservation restriction and is large enough to satisfy both the past petition and this one. A title search is being completed now.

A motion was made by Councilor Delano and seconded to recommend approval of the order for a Home Rule Petition to the General Court, which would authorize the Division of Capital Asset Management and Maintenance to convey permanent easements in land originally acquired for water quality protection for the Sudbury Reservoir in the City of Marlborough. The vote carried 3-0.

Order No. 15-1006343-Water's Edger Subdivision, Proposed Acceptance of Deed of Open Space Parcels

Because the Solicitor is still waiting for a response to questions about fulfillment of items from the original special permit for this development, he recommended the committee table this item.

A motion was made by Councilor Delano and seconded to table in committee. The vote carried 3-0.

Motion made and seconded to adjourn, carried 3-0.

Meeting adjourned at 7:00 PM.

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

Meeting Name: City Council Public Services Committee

Date: October 26, 2015

Time: 6:00 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 6:02 PM

Adjourned: 6:46 PM

Present: Chairman Landers; Public Services Committee Members Councilors Clancy and Irish; and Councilor Robey; Donald Rider, City Solicitor; John Ghiloni, Commissioner of Public Works

Reports of Committees continued:

Order No. 15-1006336: Acceptance of Dicenzo Boulevard as a Public Way. City Solicitor Donald Rider explained this order as a request for the City Council to vote on the acceptance of Dicenzo Boulevard as a public way and various related easements. The Indian Development Corporation, also known as Fafard Real Estate, in accordance with their development plan is looking to deed approximately fourteen easements which includes a ten foot wide pedestrian easement that runs from a twenty acre parcel the City acquired from them last year to Callahan State Park. City Solicitor Rider advised the committee their recommendation should be contingent upon the Planning Board providing a favorable report to the City Council. **Motion made by Councilor Clancy, seconded by Chair, to approve the acceptance of Dicenzo Boulevard as a Public Way and that its appurtenant easements be accepted as municipal easements pending a favorable report by the Planning Board. The motion carried 3-0.**

Order No. 15-1006338: Petition of National Grid to place new solely owned pole 59-80 to be set approximately 40' north of existing pole 59 to serve new UG services for traffic camera to be installed between 495 North & 495 South. Crystal Tognazzi appeared before the committee on behalf of National Grid and explained the project. She met with the electrician from Mass Bay Electric, contractor for MassDOT traffic camera projects. The original plan was to go underground from pole 59-80 on Berlin Road and obtain proper permitting for underground site service. However, their trenching schedule fell behind and they asked if they could instead have another pole set across from the existing pole. **Motion made by Councilor Clancy, seconded by Chair, to approve the petition of National Grid to place a new solely owned pole 59-80 to serve new UG services for traffic cameras to be installed between 495 North & 495 South. The motion carried 3-0.**

Order No. 15-1006310: Petition from Verizon New England Inc. to place two 4" conduits on the northeasterly side of Ames Street beginning at Pole T.20 1/2, located on the northeasterly side of Ames Street, then running in a northwesterly direction a distance of approximately 495' to handhole #1, located on the northeasterly side of Ames Street, & then continuing in a northwesterly direction a distance of approximately 535' to a point on the northeasterly side of Ames Street. Thomas Blicharz of UC Synergetic is the engineering and rights of way consultants for Verizon. On Ames Street, a developer proposed five buildings of fifty-five units each called Brookview Village. In order for Verizon and National Grid to get facilities, both power and communication, into this five building development, they proposed to dig a joint trench from a riser pole to be set with about 1,000 feet of underground trench placed from that riser. Cables will be placed underground in conduits and will enter the property of the developer and this 1,000 feet will be in the public way. This is a proposed joint trench with strict clearances between power and telephone cables. **Motion made by Councilor Clancy, seconded by Chair, to approve the petition from Verizon New England Inc. to place two 4" conduits on the northeasterly side of Ames Street. The motion carried 3-0.**

Reports of Committees continued:

Order No. 15-1006164A: Application, Fuel Storage License, Discount Gas, 50 Main Street, to increase Fuel Storage capacity from 15,000 to 18,000 gallons. Motion made by Councilor Clancy, seconded by the Chair, to remove the item from the table. The motion carried 3-0. Vrej Askanian appeared before the committee to request an increase of the fuel storage license from 15,000 to 18,000 gallons for Discount Gas located at 50 Main Street. He explained by increasing his fuel storage capacity at the site, he would only require one delivery per week versus two fuel deliveries per week. It would be less of an inconvenience for the surrounding businesses and residences if deliveries were limited to once per week. The committee received a favorable review from the Site Plan Review Committee and Chairman Landers read their set of conditions for the record.

Site Plan Review Standard Conditions:

The main concern with this gas station is to be sure that no cars being repaired are blocking the access ways or sidewalks and that it is kept in an orderly and clean fashion. Therefore the following conditions shall apply and be ongoing throughout the operation of this gas station:

1. The project must conform to the City Council license for fuel storage and the ongoing annual renewal with the Fire Department.
2. No vehicles that are in the process of being serviced and repaired in the garage shall be parked on the sidewalk or other locations to obstruct the travelled way within the site.
3. All vehicles awaiting repair or waiting to be picked up shall be parked in the designated area shown on the approved plans. This area is located to the west of the building (between the building and Cotting Ave.) Five (5) cars can be parked in this location at one time. These cars shall not obstruct the traveled way or the sidewalk, and may not be parked on the street.
4. A building permit shall be obtained for the island canopy.
5. Once the occupancy permit is issued for the gas station the Police Department shall monitor the site periodically to ensure that conformance to the parking described above is being met.
6. The Planting Island shall be maintained with healthy plants. If plants die over time, these must be replaced.

Motion made by Councilor Clancy, seconded by Chair, to approve the application for a Fuel Storage License to Discount Gas, 50 Main Street, to increase Fuel Storage capacity from 15,000 to 18,000 gallons. The motion carried 2-1 (Councilor Irish opposed).

Motion made by Councilor Clancy, seconded by Chair, to request a suspension of the rules at their November 2, 2015 City Council meeting to vote on the application. The motion carried 3-0.

Motion made by Councilor Clancy, seconded by Chair, to adjourn. The motion carried 3-0. The meeting adjourned at 6:46 PM.

Reports of Committees continued:

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee
Monday October 26, 2015
In Council Chambers**

Present: Vice-Chair Robey; Finance Committee members Councilors Elder, Oram and Irish (Chairman Ossing was absent.) Councilors Clancy and Landers were also in attendance as well as Mayor Vigeant and Solicitor Rider. The meeting convened at 7:05 PM.

1. **Order #15-1006335 – OYO Sportstoy Tax Increment Financing (TIF):** The FINCOM reviewed the Mayor's letter dated October 1, 2015 requesting the approval of OYO Sportstoy, Inc.'s Economic Development Incentive Program (EDIP) Preliminary Application and a Tax Increment Financing Agreement between the city and OYO Sportstoy. The FINCOM voted 4 - 0 to recommend approval of the Resolution which authorizes the following activities necessary to pursue a Certified Project designation:

- That the Massachusetts Economic Assistance Coordinating Council approve OYO Sportstoy, Inc.'s application for an EDIP Certified Project for ten (10) years.
- The City Council of the City of Marlborough agrees to authorize the use of Tax Increment Financing (TIF) and submit the TIF agreement to the Massachusetts Economic Assistance Coordinating Council.

The FINCOM voted to recommend suspending the rules at the November 2, 2015 meeting to request action by full council vote at that meeting.

The FINCOM adjourned at 7:58 PM.

The Vice-chair asked the Solicitor to place the EDIP Preliminary Application, Proposed TIF Agreement and the Proposed Council Resolution in proper legal form on the November 2nd Council agenda.

Suspension of the Rules requested - granted

ORDERED: That the Application, Fuel Storage License, Discount Gas, 50 Main St., to increase Fuel Storage capacity from 15,000 to 18,000 gallons, **APPROVED**; adopted.

Councilor Irish opposed

Suspension of the Rules requested - granted

ORDERED: That the OYO Sportstoy's EDIP Application (TIF) Constructing a State-of-the-Art Manufacturing Facility and Corporate Headquarters to be located at 111 Locke Dr., with following documents attached, **APPROVED**; adopted.

1. City Council Resolution
2. The Economic Development Incentive Program (EDIP) Local Incentive Only Application
3. The TIF Agreement

ORDERED: That the Communication from City Solicitor Rider re: OYO Sportstoy's Inc., TIF Proposal in proper legal form, Order No.15-1006335, **FILE**; adopted.

Suspension of the Rules requested - granted

ORDERED:

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE LATINO HEALTH INSURANCE PROGRAM, INC.
and
THE CITY OF MARLBOROUGH**

1. Purpose of Memorandum of Understanding

The parties enter into this Memorandum of Understanding under the grant from the Massachusetts Department of Public Health Prevention and Wellness Trust Fund ("PWTF"), to the Town of Hudson, to address chronic health conditions in the towns of Hudson, Framingham, Northborough, and the City of Marlborough. The goal of the PWTF is to improve the health of people living with chronic conditions in the towns of Hudson, Framingham, Marlborough and Northborough, through enhanced care coordination, increasing patient and family education, and establishing clinical-community linkages.

The parties wish to further the clinical-community linkages goal of the PWTF by engaging in case management and referral of people with chronic conditions for assistance, as appropriate following protocols developed by PWTF.

This Memorandum of Understanding outlines the relationship between The Latino Health Insurance Program, Inc., and the City of Marlborough.

2. No Interference with Existing Agreements

This Memorandum of Understanding sets forth the agreement of the parties as to their rights and obligations under the PWTF, and does not alter nor interfere with any existing agreements between the parties.

3. Description of the Parties

The Latino Health Insurance Program, Inc. is a nonprofit, charitable corporation organized under the laws of the Commonwealth of Massachusetts, with principal offices at 276 Union Ave, 2d Floor, Framingham, Massachusetts 01702. The Latino Health Insurance Program, Inc., has three primary goals; to offer Latinos a community-based, culturally-specific program for health insurance enrollment and maintenance; to connect clients to the appropriate health and health care services (including primary care, oral health services, and specialty care); to promote a more effective use of preventive services, and to reduce chronic health conditions.

The City of Marlborough, a municipal corporation, Middlesex County in the Commonwealth of Massachusetts ("COMMUNITY PARTNER"); provides elder prevention services through referrals to the Community Health Worker.

4. Duration

The relationship between the parties as set forth in this Memorandum of Understanding shall begin on **November 2, 2015 and end on June 30, 2017** unless terminated earlier as set forth in paragraph 11 of this Memorandum of Understanding. This Memorandum of Understanding is not automatically renewable, and may be renewed only upon the written agreement of the parties.

5. Responsibilities of the Latino Health Insurance Program, Inc. (LHIP)

- (a) Referrals: LHIP will refer patients with chronic conditions to COMMUNITY PARTNER, in accordance with established PWTF protocols. LHIP will designate a liaison to COMMUNITY PARTNER who will serve as the contact person for the coordination of case management, referrals and advocacy.
- (b) Medical File Confidentiality: LHIP will comply with the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") with respect to Protected Health Information (PHI) and shall treat such information as confidential. LHIP will obtain and document patient consent before referring a patient to COMMUNITY PARTNER.

6. Responsibilities of COMMUNITY PARTNER

- (a) Programs: COMMUNITY PARTNER will host and operate [check all that apply]:
- Chronic Disease Self-Management (CDSMP) courses in English
 - Tai Chi
 - MOB in English
 - Home Safety Assessments
- (b) Referrals: COMMUNITY PARTNER will receive referrals from LHIP and be responsible for enrolling those referrals and sending status updates, as agreed by the parties, for each referral.
- (c) Medical File Confidentiality: COMMUNITY PARTNER will take all reasonable steps to preserve the confidentiality of PHI. LHIP will provide PHI to COMMUNITY PARTNER upon the receipt of the patient's signed authorization.
- (d) Impermissible Disclosure of PHI: If an impermissible disclosure of PHI occurs, COMMUNITY PARTNER agrees to inform LHIP of the disclosure, as soon as practicable after discovering the disclosure.

7. Mutual Responsibilities

- (a) Communication: The designated COMMUNITY PARTNER staff shall be accessible to LHIP staff by telephone and email during normal, weekday business hours. LHIP liason (s) shall be available to COMMUNITY PARTNER by telephone and email during normal, weekday business hours.
- (b) Data: LHIP and COMMUNITY PARTNER will work together to collect and share data throughout the course of the PWTF grant period. Program data will be reported following the confidentiality and data sharing protocols outlined in paragraphs 5(b) and 6 (c) and (d) of this Memorandum of Understanding.
- (c) Program Evaluation: COMMUNITY PARTNER and LHIP will promptly and jointly develop evaluation protocols and engage in regular evaluation or program activities and outcomes as required by the PWTF. The parties agree to share outcomes when feasible, with patient consent, while safeguarding PHI.

8. No Partnership or Joint Venture

This Memorandum of Understanding shall not create a partnership or joint venture between the parties. Neither party may act as an agent, express or implied, for the other, nor may either party make any commitment, financial or otherwise, on behalf of the other. No employee of the LHIP shall be considered an employee of the COMMUNITY PARTNER. No employee of the COMMUNITY PARTNER shall be considered an employee of LHIP.

9. Indemnification and Hold Harmless Provisions

(a) Indemnification of the COMMUNITY PARTNER

LHIP agrees at all times during the operation of this Agreement to indemnify and hold harmless the COMMUNITY PARTNER against any liability, loss, damages or expenses that COMMUNITY PARTNER may sustain, incur, or be required to pay by reason of any person's personal injury, death, or property loss or damage sustained because of the negligence acts or omissions of LHIP, or any of its employees, officers, agents, volunteers, or representatives, in providing services under the terms of this Memorandum of Understanding, except that the provisions of this clause shall not apply to liabilities, losses, charges, costs or expenses caused solely or resulting solely from the negligent acts or omissions of the COMMUNITY PARTNER or any of the COMMUNITY PARTNER's employees, officers, agents, volunteers, or representatives.

10. Liability Insurance

During the operation of this Memorandum of Understanding, the LHIP shall maintain General Liability insurance in amount not less than \$1,000,000 per incident/\$2,000,000 per coverage period. COMMUNITY PARTNER shall be named as an additional insured. Within ten (10) days of the execution of this Agreement by the LHIP, LHIP shall provide the COMMUNITY PARTNER with a certificate of insurance indicating the coverage as set forth in this paragraph, and indicating the COMMUNITY PARTNER as an additional insured for the limits specified above. The policy of insurance referenced in this paragraph shall provide that the insurer will provide at least thirty (30) days' notice to the COMMUNITY PARTNER if coverage is reduced, expires, or is cancelled. In the event that coverage is reduced, expires or is cancelled during the operation of this Agreement, the COMMUNITY PARTNER may pay the insurer directly to maintain the policy as in effect at the time of the notice of reduction, termination or expiration. The COMMUNITY PARTNER may deduct the amount of the payment of the full or partial insurance policy premium, from money owed or to be owed, to LHIP.

11. Termination

Either party may terminate this Memorandum of Understanding for any reason, without cause, upon thirty (30) calendar day’s prior written notice to the other party. Written notice under this paragraph must be presented to the other party at the address set forth in paragraph 3 of this Memorandum of Understanding, by any of the following means: (a) Certified mail, return receipt requested; (b) By-Hand; (c) overnight delivery via any mail or delivery service that provides the sender with a record of the date of receipt by the receiving party.

12. Applicable Law

This Memorandum of Understanding shall be interpreted and construed by the laws of the Commonwealth of Massachusetts, without regard to conflict of laws provisions.

THE LATINO HEALTH INSURANCE PROGRAM, INC., BY:

COMMUNITY PARTNER, CITY OF MARLBOROUGH BY:

Signature

Signature

Milagros Abreu, President
Name and Title

Arthur G. Vigeant, Mayor
Name and Title

Date

Date

APPROVED; adopted.

ORDERED: That the Communication from City Solicitor Rider re: Memorandum of Understanding – Latino Health Insurance Program, Order No. 15-1006322, **FILE;** adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:26 PM.