



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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OCTOBER 7, 2013

Regular meeting of the City Council held on Monday, OCTOBER 7, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Elder, Tunnera, Seymour, Clancy, and Landers. Absent: Jenkins. Meeting adjourned at 8:46 PM.

ORDERED: That the minutes of the City Council Meeting SEPTEMBER 23, 2013, **FILE AS AMENDED**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Petition of NGrid and Verizon to install 1-Joint owned Pole #47-25 approximately 56' from Pole #47 and 4-6" Conduits on Forest Dr., Order No. 13-1005523, all were heard who wish to be heard, hearing recessed at 8:04 p.m; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Elder, Tunnera, Seymour, Clancy & Landers. Absent: Jenkins

ORDERED: That the **PUBLIC HEARING** On the Petition of NGrid and Verizon to install of approximately 1100' of 4-5" Conduits and two manholes on Forest St. and 1-Joint owned Pole #P2-50 on Bartlett Dr., Order No. 13-1005524, all were heard who wish to be heard, hearing recessed at 8:05 p.m; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Elder, Tunnera, Seymour, Clancy & Landers. Absent: Jenkins

ORDERED: That the **PUBLIC HEARING** On the Petition of NGrid and Verizon to install new Joint owned Pole #20 on the public way of Kings Grant Rd. currently the conductors between Pole #19 and Pole #2 are hanging low, and were reported by the Fire Department as a safety issue. The new pole will alleviate the low hanging wires, and help maintain proper clearances of wires over the public way, Order No. 13-1005554, all were heard who wish to be heard, hearing recessed at 8:15 p.m; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Elder, Tunnera, Seymour, Clancy & Landers. Absent: Jenkins

Suspension of the Rules requested – granted

ORDERED: That the Petition of NGrid and Verizon to install new Joint owned Pole #20 on the public way of Kings Grant Rd.; currently the conductors between Pole 19 and Pole 2 are hanging low, and were reported by the Fire Department as a safety issue. The new pole will alleviate the low hanging wires, and help maintain proper clearances of wires over the public way, **APPROVED WITH CONDITIONS ATTACHED**; adopted.

- 1) Any necessary easements are to be obtained from affected property owners.
- 2) A street opening permit must be applied for by the proposed contractor performing the work.
- 3) The contractor performing the work must obtain a street opening bond with the City of Marlborough.
- 4) The contractor is to provide the Engineering Division preconstruction photos of driveways, sidewalks, lawn areas, wooden retaining wall, and roadway areas impacted by all construction activities.
- 5) The contractor is to coordinate with the affected residents to have irrigation systems flagged before trenching begins and provide them a timetable of the proposed work.
- 6) A proper staging area is to be located/acquired before work commences – material and equipment is not to be parked/stockpiled within the city right of way.
- 7) The contractor is to ensure residents are always able to enter and exit their driveways (have necessary steel plating on site and accessible).
- 8) Ensure construction safety controls are established (signage, drums, police details, etc...) and are in accordance with the latest MUTCD standards.
- 9) Trench backfilling, compacting, temporary, and final paving are to be done in accordance with the City of Marlborough standard trenching details.
- 10) Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended.
- 11) Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765.
- 12) Entire width of sidewalk (from back of curb to back of sidewalk) is to be included in final trench paving – any disturbed curbing is to be replaced.
- 13) NGrid and Verizon will work together to coordinate the work required under this petition, including notification and coordination with Comcast.
- 14) All work shall be completed on or before November 1, 2013.

ORDERED: That the **CONTINUED PUBLIC HEARING** On the Application for Special Permit from Luiza DeMoura of Jump in with Us, Inc. to develop an inflatable playground and to accommodate birthday parties for kids and families from Tuesdays to Sundays, 10:00 AM to 7:00 PM, Order No. 13-1005482A, **TABLED UNTIL NEXT CITY COUNCIL MEETING**; adopted.

Councilors Present: Ossing, Pope, Oram, Robey, Delano, Elder, Tunnera, Seymour, Clancy & Landers, Absent: Jenkins

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Executive Office of Public Safety and Security grant in the amount of \$99,805.00 awarded to the Police Department to be utilized to offset personnel costs in the dispatching center as well as to cover fire alarm related equipment purchases and to purchase dispatch chairs; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Executive Office of Elder Affairs grant in the amount of \$53,624.00 awarded to the Council on Aging to be utilized in many ways including but not limited to senior transportation, programming activities and enrichment, and a weekly wellness clinic staffed by a licensed nurse; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Article II Of Chapter 270, entitled “Building And Site Development,” is hereby amended by inserting the following new section:

§ 270–10. Incorporation by reference: Specifications and Permit of the Marlborough Fire Department, Bi-Directional/Unidirectional Antenna For In-Building Fire Department and Police Department Radio Coverage In Buildings:

- A. The Marlborough Fire Department requires that, in accordance with 780 CMR 915.1, et seq., of the Code of Massachusetts Regulations, as amended, all new buildings and all existing buildings undergoing renovations or rehabilitation constituting new construction, herein defined as 25% or more of gross square footage, provide reliable radio communications for fire fighters, EMS, and police officers within the building based upon the existing coverage levels of the Marlborough Fire Department and the Marlborough Police Department communication systems at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.
- B. The installation and operation of radio-based fire department communication systems must comply with the document entitled “Marlborough Fire Department Bi-Directional/Unidirectional Antenna Specifications For In-Building Fire Department Radio Coverage In Buildings,” which document may be obtained at the Marlborough Fire Department and is incorporated herein by reference. The Marlborough Fire Department is authorized to promulgate and amend, from time to time, said regulations. No radio-based fire department communication systems shall be installed or operated without first filing with the Marlborough Fire Department a written application and obtaining a permit therefor. No occupancy permit shall be issued by the Building Department without said permit, or a written waiver therefrom by the Marlborough Fire Department.
- C. Each permit issued by the Marlborough Fire Department under this section is subject to the fee for installation and maintenance of a Fire Department and Police Department communications system which is listed in Section 328-2 of Chapter 328.
- II. Section 328-2 of Article II of Chapter 328, entitled “Fire Department Fee Schedule,” is hereby amended by inserting the following new fee:

Type	Fee
Installation and Maintenance of Fire Department and Police Department Communications System	\$50.00

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Appointment of Dr. John Curran to the Board of Health for a term of three years to expire February 1, 2016, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor Panagore Griffin pertinent to the following:

- a) Application for Junk Dealer License, Bernard Novitch;
- b) Order No. 13-1005522: Referral to Legal Department and Code Officer;
- c) Report from City Solicitor Panagore Griffin – Bernard Novitch Matter Regarding a Secondhand Shop License (AKA “Junk Dealers License)

Refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Planning Board re: Favorable Recommendation of Proposed Zoning Amendment, Section 650-17, entitled "Table of Uses" by regulating the business uses entitled “Power laundries and dry cleaning” so as to separate into independent categories said uses and allow Dry Cleaning establishments as of right in the Business (B) district and in the Commercial Automotive (CA) district, Order No. 13-1005481B, **FILE**; adopted.

Suspension of the Rules requested to remove from Table - granted

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

Section 650-17, entitled “Table of Uses,” is hereby amended by regulating the business uses entitled “Power laundries and dry cleaning” so as to separate into independent categories said uses and allow Dry Cleaning establishments as of right in the Business (B) district, as follows:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I
Power laundries	N	N	N	N	N	N	N	N	N	N	Y
	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I
Dry cleaning	N	N	N	N	N	N	N	Y	N	N	Y

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

ORDERED: That the Communication from Paul Brodeur re: Proposed Placement of Senior Center at Ward Park, **FILE**; adopted.

ORDERED: That there being no objection thereto set **Monday, October 21, 2013** as date for a **PUBLIC HEARING** on the Petition of NGrid to install P#13-50 across the street from 11 Houde St. to solve the sag issue from P#13 to P#14. This puts a line angle on P#13 which needs to be supported by an anchor & guy on the property of 11 Houde St.

Branches and limbs near service wires to House 11 are to be cleared as well, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **Monday, October 21, 2013** as date for a **PUBLIC HEARING** on the Petition of NStar to install 75' of 4" plastic gas main as a system improvement to a new duplex on Crescent St. from 34 Crescent St. southeasterly for 75', refer to **PUBLIC SERVICES COMMITTEE**; adopted.

Councilor Oram abstained

ORDERED: That there being no objection thereto set **Monday, October 21, 2013** as date for a **PUBLIC HEARING** on the Petition of NStar to install 85' of 2" plastic main as a system improvement to supply 463 Stow Rd. as follows:

Simpson Rd.-From the end of Simpson Rd. (at the intersection with Stow Rd.) easterly to the eastern side of Stow Rd. (23').

Stow Rd.-From the intersection with Simpson Rd. southerly on the eastern side of Stow Rd. towards 463 Stow Rd. (62'), refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from NGrid, Notice of Public Filing, Public Hearing, Procedural Conference and Request for Comments, **FILE**; adopted.

ORDERED: That the Communication from NGrid, Notice of Public Hearing and Request for Comments, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, September 9, 2013, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, August 27, 2013, **FILE**; adopted.

ORDERED: That the Communication from Hanover Insurance, re: James Severin, 21 Barrett Rd., refer to **LEGAL DEPARTMENT**; adopted.

Reports of Committees:

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

Order No. 13-1005523 - Application of NGrid and Verizon to install-Joint owned Pole #47-25 approximately 56' from Pole #47 and 4-6" Conduits on Forest Street.

REFER TO PUBLIC SERVICES

PUBLIC HEARING: OCTOBER 7, 2013

Motion made by Councilor Clancy, seconded by Councilor Jenkins, to recommend approval of the application, subject to further written conditions to be stipulated by the City Engineer. 3-0

Order No. 13-1005524 - Application of NGrid and Verizon to install approximately 1100' of 4-5" conduits and two manholes on Forest Street and 1-Joint owned Pole #P2-50 on Bartlett Drive.

REFER TO PUBLIC SERVICES

PUBLIC HEARING: OCTOBER 7, 2013

This is for the Partners Health development.

Motion made by Councilor Clancy, seconded by Councilor Jenkins, to recommend approval, subject to further written conditions to be stipulated by the City Engineer. 3-0

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

Order No. 13-1005495 -_Communication from Historical Commission Chair, Gary Brown re: Historical Preservation Restriction – 197 Stow Road.

The Committee reviewed the letter dated July 17, 2013 from Gary Brown, Chair of the Marlborough Historical Commission. **The Committee voted 3-0 to accept and place on file.**

Order No. 13-1005496 - Communication from Attorney David Gadbois for his client 197 Stow Road RealtyTrust, seeking a Historic Preservation Restriction pursuant to Massachusetts General Law Chapter 184 Section 31 for its property located at 197 Stow Road, Marlborough, as a condition of the a Special Permit that was approved for Limited Development Subdivision by the Marlborough Planning Board.

The Committee reviewed the letter dated July 17, 2013 from Attorney Gadbois. There was some concern expressed that, as a condition of the Special Permit for an approved Limited Subdivision, the Historic Preservation Restriction should have been approved prior to the commencement of any construction. This however did not occur. Notwithstanding the concern that construction had in fact occurred prior to now, it is in the City's best interest to approve the Order. **The Committee voted 3-0 to approve the Order.**

Councilor Elder verbally divulged that he recused himself from the items discussed during the Operations and Oversight meeting but at this point in time, there is no longer a conflict as he is no longer renting out Ward Park.

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

Order No. 13-1005509 - Communication from Mayor Vigeant with request for appropriation, Loan Order/Bond in the amount of Three Million (\$3,000,000) Dollars for the reconstruction of municipal outdoor recreational facilities, payable in not more than fifteen (15) years from its date of issue. (Note: Ward Park).

Councilor Elder recused himself from this matter and left the chamber.

After lengthy discussion a motion was made by Councilor Landers to take this up later in the meeting after the Senior Center bond request. 2-0

Councilor Elder returned to the chamber.

Order No. 13-1005508 - Communication from the Mayor with request for appropriation, Loan, Order/ Bond in the amount of Six Million five Hundred Thousand (\$6,500,000.00) Dollars for the construction of a Senior Center, payable in not more than twenty (20) years from its date of issue.

A presentation was made by Mayor Vigeant and his team showing the plans and drawings for a new Senior Center at Ward Park. Councilors present expressed support for the building design.

Several councilors expressed concern about the location of the Senior Center at Ward Park, not because they were necessarily opposed to the location, but as to whether we had done our due diligence in selecting a location. When asked, the Mayor refused to consider any other locations or to put out another (RFP). A gift of \$750K from Partners HealthCare could be used to reduce the bond by that amount.

Motion to refer out without a recommendation. (Landers) 3-0

Committee took up the Ward Park Bond request again. Councilor Elder recused himself and left the chamber.

Motion to refer out without a recommendation. (Landers) 2-0

Suspension of the Rules requested – granted

ORDERED: That the Communication from Attorney Gadbois to extend public hearing to February 11, 2014 in accordance with MGL, Chapter 40A, Section 9, **FILE**; adopted.

ORDERED: That there being no objection thereto set the **THIRD REGULARLY SCHEDULED MEETING IN 2014** as date for a **PUBLIC HEARING** On the Application for Special Permit from Attorney Gadbois on behalf of DBK Realty, LLC, to construct a facility at 1000 Nickerson Rd. to store and use toxic chemicals in the manufacture of small specialty parts for the medical instrument, airline and defense industries, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:46 PM.