



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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MARCH 26, 2012

Regular meeting of the City Council held on Monday, MARCH 26, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:40 PM.

ORDERED: Minutes of the City Council Meeting, MARCH 12, 2012, **FILE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the appointment of Captain James M. Fortin of the Marlborough Fire Department to permanent Chief effective 8:00 AM on Tuesday, March 27, 2012, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition from National Grid to replace and relocate existing utility P.61 24' south east of present location toward property line of house 522 on Pleasant St. Along with this pole, P. 61-89 will be relocated to new location on private property, Order No. 12-1004065, **WITHDRAWN WITHOUT PREJUDICE**; adopted.

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

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Attorney Sem Aykanian, on behalf of Marlborough Savings Bank, to modify Special Permit, Order No.09-1002152C, to allow operation of the drive-through teller from 8:00 AM to 8:00 PM seven days per week, and operation of the drive-through ATM 24 hours per day, seven days per week, Order No. 12-1004081, hearing recessed at 8:22 p.m.

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

Councilor Delano abstained

ORDERED: That the following transfer request to fund the recently signed contract between the City and the International Association of firefighters Local 1714, AFL-CIO for fiscal years 2010, 2011 and 2012, refer to **FINANCE COMMITTEE**; adopted.

From Account					TO Account				
General Gov't					FIRE DEPARTMENT				
Available	Amount	ORG	OBJECT	Account Disc	Amount	Description	Org	Object	Available
\$ 416,172.00	\$ 238,322.84	11990006	57820	Reserve for Salaries					
					\$ 11,777.47	Dpty Chiefs	12200001	50335	104056
					\$ 120,707.43	Firefighter	12200001	50450	973486
					\$ 10,373.89	Fire Capitan	12200001	50800	82161
					\$ 19,015.97	Fire Lieutenan	12200001	50810	156300
					\$ 3,291.82	First Respond	12200003	51226	12653
					\$ 15,869.41	Fire OT	12200003	51300	84011
					\$ 1,341.72	Fire OT Veh	12200003	51324	7134
					\$ 2,775.80	Fire Call OT	12200003	51328	23098
					\$ 6,766.53	Longevity	12200003	51430	23494
					\$ 12,129.52	Educ Inct	12200003	51440	72682
					\$ 4,695.41	Night Shift	12200003	51450	18620
					\$ 7,869.68	EMT	12200003	51480	31946
					\$ 15,071.01	Holiday	12200003	51490	101048
					\$ 6,637.20	Sick Leave	12200003	51920	5.58
					\$ 238,322.84				

Reason: To fund Firefighters Labor Contract.

ORDERED: That the Public Works transfer request from and to various accounts as noted on the spreadsheets to cover several expenses related to contractual obligations, equipment repair and upgrades, building maintenance, and higher than anticipated disposal costs due to weather related events, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
DEPT: PUBLIC WORKS					FISCAL YEAR: 2012					
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$34,665	\$1,327	14001101	50700	Grade 2 Engineer	\$1,327	14001101	50108	GIS Administrator	\$18,506	
				Reason: Funds available due to prior vacancy				Increase needed to fund MOA		
\$34,665	\$1,578	14001101	50700	Grade 2 Engineer	\$1,578	14001301	50660	Assistant City Engineer	\$22,085	
				Reason: Funds available due to prior vacancy				Increase needed to fund MOA		
\$34,665	\$1,400	14001101	50700	Grade 2 Engineer	\$1,400	14001403	51470	Interim Foreman-Fleet	\$0	
				Reason: Funds available due to prior vacancy				Funds needed for contractual coverage for remainder of FY 12		
\$67,060	\$5,000	14001101	50710	Junior Civil Engineer	\$5,000	14001303	51310	Overtime-regular	\$12,431	
				Reason: Funds available due to prior vacancy				Based on historical data to complete FY 12		
\$67,060	\$4,021	14001101	50710	Junior Civil Engineer	\$4,021	14001503	51470	Interim Foreman- F/P/C	\$0	
				Reason: Funds available due to prior vacancy				Funds needed for contractual coverage for remainder of FY 12		
\$35,797	\$9,071	14001101	50705	Asst Civil Engineer	\$9,071	14001305	55310	Highway Constr Mater-Sfs	\$7,295	
				Reason: Funds available due to prior vacancy				Repair of roadway deficiencies throughout city		
\$35,797	\$3,726	14001101	50705	Asst Civil Engineer	\$3,726	61090001	50780	Chief Pumping Station Operator	\$15,612	
				Reason: Funds available due to prior vacancy				Increase needed to fund MOA		
\$35,797	\$1,603	14001101	50705	Asst Civil Engineer	\$1,603	61090001	50680	General Foreman	\$22,039	
				Reason: Funds available due to prior vacancy				Increase needed to fund MOA		
\$46,091	\$10,000	60080001	50570	Chemist	\$10,000	14001406	54810	Rep/Maint Supplies -Fleet	\$5,998	
				Reason: Money available due to retirement				Additional parts and supplies needed for remainder of FY 12		
\$46,091	\$4,200	60080001	50570	Chemist	\$4,200	60080001	50580	Assistant Chemist	\$11,988	
				Reason: Money available due to retirement				Increase needed to fund MOA		
\$46,091	\$500	60080001	50570	Chemist	\$500	60081003	51470	Interim Foreman-EWTP	\$404	
				Reason: Money available due to retirement				Funds needed for contractual coverage for remainder of FY 12		
\$46,091	\$125	60080001	50570	Chemist	\$125	60085003	51470	Interim Foreman-WWTP	\$830	
				Reason: Money available due to retirement				Funds needed for contractual coverage for remainder of FY 12		

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
DEPT: PUBLIC WORKS					FISCAL YEAR: 2012					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$46,091	\$2,000	60080001	50570	Chemist	\$2,000	60085003	51310	Overtime-Regular	\$4,852	
				Money available due to retirement				Higher than anticipated system repairs/storm event cost		
\$46,091	\$1,800	60080001	50570	Chemist	\$1,800	60085003	51315	West Plant Const. OT	\$0	
				Reason: Money available due to retirement				Higher than expected cost associated with plant upgrades		
\$46,091	\$2,200	60080001	50570	Chemist	\$2,200	60086006	58654	Hazmat Collection DA	\$0	
				Reason: Money available due to retirement				Additional funds needed to cover remaining fiscal year		
\$46,091	\$5,000	60080001	50570	Chemist	\$5,000	61090006	55750	Water Service Constr.	\$450	
				Reason: Money available due to retirement				Anticipated funds needed to cover materials/breaks		
\$37,858	\$6,000	60081001	50910	Chief Treatment Plant Op.	\$6,000	60080006	55650	Sewer Maintenance	\$242	
				Reason: Money available due to WC case				Anticipated cost to complete FY 12 sewer breaks/blockages		
\$37,858	\$2,000	60081001	50910	Chief Treatment Plant Op.	\$2,000	60081005	55014	Lab/Testing Supplies	\$628	
				Reason: Money available due to WC case				Additional supplies needed for testing requirements		
\$37,858	\$9,000	60081001	50910	Chief Treatment Plant Op.	\$9,000	60086006	52920	Rubbish Collection	\$0	
				Reason: Money available due to WC case				Anticipated cost to complete FY 12 solid waste collection		
\$37,858	\$2,800	60081001	50910	Chief Treatment Plant Op.	\$2,800	61090003	51240	Temporary Part-Time-W&S	\$1,020	
				Reason: Money available due to WC case				Funds needed to cover water billing office		
\$37,858	\$1,000	60081001	50910	Chief Treatment Plant Op.	\$1,000	61090006	55750	Water Service Constr.	\$450	
				Reason: Money available due to WC case				Anticipated funds needed to cover materials/breaks		
\$41,597	\$20,000	60080001	50630	Assistant Commissioner	\$20,000	60080006	55660	Pumping Station Maint.	\$6,095	
				Reason: Money available due to retirement				Anticipate funds needed to maint./repair pumping stations for the remaining fiscal year.		
\$41,597	\$7,000	60080001	50630	Assistant Commissioner	\$7,000	61090006	55730	Water Pumping Sta Ma	\$136	
				Reason: Money available due to retirement				Additional funds needed for pumping station maintenance		

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
DEPT: PUBLIC WORKS					FISCAL YEAR: 2012					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$114,850	\$7,000	60085001 (West)	50850	Sewer Tr Pft Operators	\$7,000	60080006	55640	Sewer Service Const.	\$622	
				Reason: Money available due to WC case				Additional funds needed to cover emergency repair/upgrades		
\$224,187	\$5,000	14001303	50740	Equipment Operators	\$5,000	14001303	51470	Interim Foreman-St's	\$103	
				Reason: Money available due to WC case				Funds needed for contractual coverage		
\$224,187	\$300	14001303	50740	Equipment Operators	\$300	61090005	54220	Office Supply/Expense	\$138	
				Reason: Money available due to WC case				Additional office supplies needed to get through FY 12		
\$208,978	\$1,578	14001503	50740	Equipment Operators	\$1,578	14001401	50692	Supt. Of Auto Maintenance	\$22,004	
				Reason: Money available due to WC case				Increase needed to fund MOA		
\$208,978	\$3,200	14001503	50740	Equipment Operators	\$3,200	14001403	51240	Temp. Part-time/Co-op -Fleet	\$1,120	
				Reason: Money available due to WC case				Additional funds needed to complete Co-op Program with		
\$208,978	\$1,578	14001503	50740	Equipment Operators	\$1,578	14001501	50680	General Foreman-F/P/C	\$22,004	
				Reason: Money available due to WC case				Increase needed to fund MOA		
\$208,978	\$2,800	14001503	50740	Equipment Operators	\$2,800	14001503	51470	Interim Foreman- F/P/C	\$0	
				Reason: Money available due to WC case				Funds needed for contractual coverage for remainder of FY 12		
\$208,978	\$190	14001503	50740	Equipment Operators	\$190	14001503	51940	Clothing Allowance-F/P/C	\$0	
				Reason: Money available due to WC case				New employee		
\$208,978	\$150	14001503	50740	Equipment Operators	\$150	14001506	57340	Dues and Subscriptions	\$45	
				Reason: Money available due to WC case				Funds needed to cover increase of state license renewals		
\$208,978	\$5,000	14001503	50740	Equipment Operators	\$5,000	61090006	55710	Water Maintenance	\$0	
				Reason: Money available due to WC case				Higher than normal water main breaks		

CITY OF MARLBOROUGH --BUDGET TRANSFERS --											
DEPT:	PUBLIC WORKS				FISCAL YEAR:	2012					
FROM ACCOUNT:	TO ACCOUNT:										
\$202,728	\$10,000	61090001	50740	Equipment Operators	\$10,000	60085006	55980	West Waste Water Treat	\$7,872		
Reason:	Money available due to WC case				Funds needed due to increase in chemical costs						
\$202,728	\$4,000	61090001	50740	Equipment Operators	\$4,000	61090006	55750	Water Service Constr.	\$450		
Reason:	Money available due to WC case				Anticipated funds needed to cover materials/breaks						
\$202,728	\$1,000	61090001	50740	Equipment Operators	\$1,000	61090006	55750	Water Service Constr.	\$450		
Reason:	Money available due to WC case				Anticipated funds needed to cover materials/breaks						
\$3,380	\$1,803	61090003	51940	Clothing Allowance	\$1,803	14001101	50660	Assistant City Engineer	\$22,103		
Reason:	Funds available due to prior vacancy				Increase needed to fund MOA						
\$3,380	\$400	61090003	51940	Clothing Allowance	\$400	61090006	55750	Water Service Constr.	\$450		
Reason:	Money available due to WC case				Anticipated funds needed to cover materials/breaks						
\$40,977	\$30,000	60081006	55950	East Waste Water Treatment	\$30,000	60086006	52935	Solid Waste Disposal	\$89,989		
Reason:	Money available due to lower than anticipated use of additional chemicals				Unusually high disposal volumes due to major weather events						

ORDERED: That the Public Facilities transfer request in the amount of \$100,000.00 which moves funds from Multi-Purpose Bond to Electricity and \$50,000.00 which moves funds from Natural Gas to Electricity to fund higher than anticipated electricity costs, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 60071106-59963 \$100,000.00
 Multi Purpose Bond
 Acct. # 11920006-52200 \$50,000.00
 Natural Gas

TO:

Acct. # 11920006-52120 \$100,000.00
 Electricity
 Acct. # 11920006-52120 \$50,000.00
 Electricity

ORDERED: That the Fire Department transfer request in the amount of \$2,500.00 which moves funds from Educational Incentive to Meal Allowance to fund unexpected expenses in meal allowances due to retirement vacancies, **APPROVED**; adopted.

FROM:

Acct. # 12200003-51440 \$2,500.00
 Educational Incentive

TO:

Acct. # 12200006-51990 \$2,500.00
 Meal Allowance

ORDERED: That the Marlborough Economic Development Corporation transfer request in the amount of \$200,000.00 which moves fund from Economic Development to MEDC funding to fund operations and special projects for the remainder of the calendar year, be and is herewith refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 27000099-42440 \$200,000.00
Economic Development

TO:

Acct. # 11740006-53950 \$200,000.00
MEDC Funding

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Service Incentive Grant in the amount of \$2,000.00 to increase transportation access to programs and services for Latino and Brazilian senior citizens; adopted.

ORDERED: That the transfer request in the amount of \$15,000.00 from Short Term Debt Interest to Summer Employment Initiative to fund the City of Marlborough's Youth Employment and Public Service Internship Programs, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 27000099-42440 \$15,000.00
Economic Development

TO:

Acct. # 11740006-53950 \$15,000.00
MEDC Funding

ORDERED: That the Special Permit from Marlborough Nissan in proper legal form, **MOVED TO ITEM #20**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, APRIL 23, 2012**, as date for a **PUBLIC HEARING** for the Application for Special Permit from Xcellerex Inc., 150-170 Locke Dr., as a requirement to operate in compliance with specific Zoning Ordinance (Water Supply Protection District), refer to **URBAN AFFAIRS COMMITTEE, CONSERVATION COMMISSION AND ADVERTISE**; adopted.

ORDERED: That the Communication from Marguerite Sawyer re: damages occurring at her property, 33 Teller St., refer to the **CITY SOLICITOR**; adopted.

ORDERED: That the Application for Junk Dealer's License, Sergey Yeghiyan, d/b/a C.T.C. Gold & Diamond Refinery, 149 Main St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Planning Board, February 27 2012, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, October 6 & 20, November 3, December 1, 2011 and January 5, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Community Development Authority, January 5 & 26, and February 23, 2012, **FILE**; adopted.

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

- A. John Mahan, 21 O'Malley Rd., residential mailbox claim 2(a)
- B. Fernanda Tavares, 45 Highgate Rd., residential mailbox claim 2(a)
- C. Scott Garner, 32 Forbes Ave., residential mailbox claim 2(a)

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Seymour, Delano and Oram. Councilors Pope, Clancy, Landers, Elder, Robey and Tunnera were also in attendance. The meeting convened at 7:04 PM.

Order No. 12-1004091 – Line Item Budget Recommendation. The Finance Committee reviewed the Mayor's letter dated March 8, 2012 seeking the position of the City Council on the FY13 budget presentation. The Finance Committee requested the Solicitor draft an Order to adopt a modified abbreviated budget process to authorize transfers within their department for expenditure line items. The Auditor would provide a monthly summary of these transfers to the City Council. All salary transfers and transfers between departments would require City Council approval. This process would be in effect for FY13 with a sunset clause expiring on 6/30/13. **Recommendation of the Finance Committee is to table 4-0.**

Order No.12-1004056 – Transfer \$4000.00 to Fund Programs at the Council of Aging. The Finance Committee reviewed the Mayor's letter dated February 8, 2012 requesting the approval of a \$4000.00 transfer from the Council of Aging Program Manager account to the Programs account. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

Order No. 12-1004075 – Transfer \$4000.00 to Fund Custodian Overtime. The Finance Committee reviewed the Mayor's letter dated February 22, 2012 requesting the approval of a \$4,000.00 transfer from the Public Facilities Custodian salary account to the Overtime account because of a vacant custodian position. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

Order No.12-1004090 – Transfer \$45,000.00 to Fund Legal Services. The Finance Committee reviewed the Mayor's letter dated March 8, 2012 requesting the approval of a \$45,000.00 transfer from the Sewer Long Term Debt account to Legal Services account. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

Councilor Clancy reported the following out of Wireless Communications Committee:

The Wireless Committee met on 3/20/2012 at 4:28 PM and completed the review of all of the requests by Sprint Wireless PCS for changes and upgrades to the equipment at the following sites:

2 Mt. Royal Avenue: Council Order No. 12-1004064A

115 Onamog St.: Council Order No. 12-1004032C

445 Simarano Dr.: Council Order No. 11-1003096B

450-460 Boston Post Rd.: Council Order No. 11-1003071C

157 Union St.: Council Order No. 11-1003072C

Each request was reviewed separately and corrections to the documents were taken up. Suggested changes to the upgrades of the various installations were placed on to the documents under review. All installations were similar and were basically being brought up to the newest technology available, to better service the Sprint Wireless customers. Sprint Wireless representative Rosella Mercuri introduced new photographic simulations of the upgrades to 3 of the wireless installations that had been reviewed at a previous Wireless Committee meeting.

Motions were made to approve each individual request, as amended, to the various sites:

2 Mt. Royal Avenue: 2-0 Clancy and Robey, Councilor Oram absent

115 Onamog St.: 3-0 Clancy, Robey and Oram

445 Simarano Dr.: 3-0 Clancy, Robey and Oram

450-460 Boston Post Rd.: 3-0 Clancy, Robey and Oram

157 Union St.: 2-0 Clancy and Oram, Councilor Robey was recused

Recommendation of the Wireless Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form.

Councilor Landers reported the following out of Public Services Committee:

Order No. 11-1003005B - CARRY OVER TO NEXT LEGISLATIVE SESSION – 2012/2013. Communication from R. Paul Faxon re: Acceptance of Perry Lane as a Public Way.

- The Marlborough Planning Board has endorsed the acceptance of Perry Lane.
- The Legal Department has provided the acceptance documents in proper legal form for acceptance by the City Council.

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

Order No. 12-1005000 – Invite Police Chief Leonard to attend a Committee meeting affording him the opportunity to publicly discuss the voluntary separation of Derek Johnson.

Suspension of Rules requested – granted

The TJX Companies, Inc. TIF proposal, consisting of the following five documents, attached hereto, be and is herewith **APPROVED**.

1. The TIF agreement, Order No. 12-1004092A-1
2. The TIF plan, Order No. 12-1004092A-2
3. The certified project application, Order No. 12-1004092A-3
4. The economic opportunity area application, Order No. 12-1004092A-4
5. The Council Resolution, 12-1004092A-5

Councilor Jenkins orally disclosed that he was an employee of TJX Company and has no financial interest in this decision and would be participating in the vote.

A roll call vote was taken for each of the documents note above as follows:

Order No. 12-1004092A-1

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

Order No. 12-1004092A-2

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

Order No. 12-1004092A-3

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

Order No. 12-1004092A-4

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

Order No. 12-1004092A-5

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility located at 2 Mount Royal Dr., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING**; adopted.

Councilors Seymour and Robey abstained

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility located at 115 Onamog St., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING**; adopted.

Councilors Seymour and Robey abstained

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility located at 445 Simarano Dr., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING**; adopted.

Councilors Seymour and Robey abstained

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility at 450-460 Boston Post Rd., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING**; adopted

Councilors Seymour and Robey abstained

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility located at 157 Union St., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING**; adopted.

Councilors Seymour and Robey abstained

ORDERED: That the \$1,980,000.00 Five Year Department Equipment Bond, **DENIED**; adopted.

ROLL CALL VOTE WAS TO DENY

Yea: 11 - Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

MOTION made by Councilor Ossing to table the \$3,043,833.00 Ten Year Street Construction Bond – **DOES NOT CARRY**.

ORDERED: **A PRELIMINARY ROLL CALL VOTE WAS TAKEN AS FOLLOWS WITH THE CONFIRMATORY VOTE TO TAKE PLACE ON APRIL 9, 2012 AS THE BOND WAS NOT ADVERTISED FOR 10 COMPLETE DAYS**; adopted.

PRELIMINARY ROLL CALL VOTE

Yea: 9 - Abstained: 2

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Pope, and Robey
Abstained: Ossing and Oram

ORDERED: That the \$200,000.00 Five Year Sidewalk Construction Bond, **DENIED**; adopted.
ROLL CALL VOTE WAS TO DENY
Yea: 11 - Nay: 0
Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

MOTION made by Councilor Ossing to table the \$5,030,000.00 Thirty Year Sewer Construction Bond – **DOES NOT CARRY**.

ORDERED: **A PRELIMINARY ROLL CALL VOTE WAS TAKEN AS FOLLOWS WITH THE CONFIRMATORY VOTE TO TAKE PLACE ON APRIL 9, 2012 AS THE BOND WAS NOT ADVERTISED FOR 10 COMPLETE DAYS**; adopted.
PRELIMINARY ROLL CALL VOTE
Yea: 8 - Nay: 2 - Abstained: 1
Yea: Delano, Jenkins, Elder, Tunnera, Clancy, Landers, Pope, and Robey
Nay: Seymour and Ossing
Abstained: Oram

ORDERED: That the \$1,835,000.00 Ten Year Water Bond which will install water meters in the 497 industrial/ commercial facilities by the end of 2012 and expected to increase City revenue by over \$500,000.00 per year, **TABLED**; adopted.

MOTION made by Councilor Ossing to table the \$3,172,600.00 Forty Year Water Project Bond which includes \$720,000.00 upgrades to Millham Water treatment Plant and \$2,452,600.00 for various water projects – **DOES NOT CARRY**.

ORDERED: **A PRELIMINARY ROLL CALL VOTE WAS TAKEN AS FOLLOWS WITH THE CONFIRMATORY VOTE TO TAKE PLACE ON APRIL 9, 2012 AS THE BOND WAS NOT ADVERTISED FOR 10 COMPLETE DAYS**; adopted.
PRELIMINARY ROLL CALL VOTE
Yea: 8 - Nay: 2 - Abstained: 1
Yea: Delano, Jenkins, Elder, Tunnera, Clancy, Landers, Pope, and Robey
Nay: Seymour and Ossing
Abstained: Oram

ORDERED: That the \$492,562.00 Twenty Year Building Renovations Bond was denied at the last meeting (03/12/12) therefore, **FILE**; adopted.

ORDERED: That the \$100,000.00 Five Year Design Bond, **DENIED**; adopted.
ROLL CALL VOTE WAS TO DENY
Yea: 11 - Nay: 0
Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

ORDERED: That the \$300,000.00 Thirty Year Land Cap and Drainage System Bond, **DENIED**; adopted.

ROLL CALL VOTE WAS TO DENY

Yea: 11 - Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

ORDERED: That the \$180,000.00 Ten Year Computer Hardware Bond was denied at the last meeting (03/12/12) therefore, **FILE**; adopted.

DECISION ON AN APPLICATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Nissan Automobiles of Marlborough, Inc., having a usual place of business at 740 Boston Post Road, Marlborough, Massachusetts 01752 as provided in the Decision and subject to the following Procedural Findings, Findings of Facts and Conditions:

PROCEDURAL FINDINGS

1. Nissan Automobiles of Marlborough, Inc. is a corporation organized and existing under laws of the Commonwealth of Massachusetts having a usual place of business at 740 Boston Post Road, Marlborough, Massachusetts 01752, hereinafter referred to as the "Applicant."
2. 740-744 Boston Post Road LLC with a usual place of business at 740 Boston Post Road, Marlborough, Massachusetts 01752, is the owner of property located at 740 Boston Post Road, Marlborough, Massachusetts 01752 (the "Site"). Said property is further described as Assessor's Map 61 Parcel 28 and Parcel 28A and in a deed recorded in the Middlesex South District Registry of Deeds in Book 44617 Page 149.
3. The Applicant, on or about December 28, 2011, filed with the City Clerk of the City of Marlborough, an Application to City Council for the Issuance of a Special Permit (the "Application") under Section 650-12 B of the Code of the City of Marlborough to modify the front portion of its building within the current footprint by adding a second story of approximately 1,775 s.f. (the "Project").
4. The Application consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement, (c) Filing Fee in the amount of \$500.00, (d) Plan Delivery Certification, (e) Tax Payment Certification, (f) Abutters List, (g) Preliminary Site Plan, and (h) Planning Department Certification (collectively, the "Documents") which Documents are incorporated herein and become a part of this Decision. Eleven sets of documents were delivered to the City Council and one set each to the Police Chief, Fire Chief, Building Commissioner, and City Engineer, all in accordance with Section 650-59 of the Code of the City of Marlborough.

5. The Applicant filed with the Application a Certificate of Completeness of Application on a form signed by the Building Commissioner for the City Planner for the City of Marlborough as having complied with the provisions of Section 650-59 C(7) of the Code of the City of Marlborough.
6. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A, Sections 9 and 11, the City Council established a date for a public hearing on the Application and caused to be advertised notice of said hearing and the date thereof in the MetroWest Daily News and mailed said notice to those entitled thereto.
7. The Marlborough City Council held a public hearing on the Application on February 13, 2012 in accordance with the published notice (the "Public Hearing"). The Public Hearing, following the completion of testimony, was closed on that same date.
8. The Applicant presented written and oral testimony at the Public Hearing and at the following Urban Affairs Committee detailing the Project, its impact on the neighborhood, and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the Public Hearing. Subjects of concern were snow storage, outdoor lighting, closure of garage doors during painting, trash, and shared driveway use with Applicant's neighbor to the rear.

BASED UPON THE ABOVE, THE CITY COUNCIL OF THE CITY OF
MARLBOROUGH MAKES THE FOLLOWING FINDINGS:

- A. The City Council finds that it may grant a Special Permit (the "Special Permit") subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (the "City").
- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or Massachusetts General Laws Chapter 40A, et seq.
- C. The City Council finds that the use of the Site for the Project is an appropriate use, and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough.

- D. The Site Plan, shown on a plan entitled "Site Plan, Prepared For Marlboro Nissan, 740 Boston Post Road, Marlborough, MA, Date: December 19, 2011, prepared by Bruce Saluk & Assoc., Inc., Civil Engineers & Land Surveyors, 576 Boston Post Road East, Marlborough, MA 01752, tel: (508) 485-1662, Scale 1" = 20' (the "Site Plan") as submitted to the City Council and the Urban Affairs Committee, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive and the conditions imposed will enhance the quality of life for the residential community abutting the Project. The City Council makes this determination subject to the completion and adherence by the Applicant to the conditions more fully set forth herein.
- E. The Applicant has complied with all the procedural rules and regulations of the City Council of the City of Marlborough and Section 650 of the Code of the City of Marlborough and Massachusetts General Laws Chapter 40A, Sections 9 and 11.

GRANT OF SPECIAL PERMIT WITH CONDITIONS

The City Council of the City of Marlborough, pursuant to its authority under Section 650 of the Code of the City of Marlborough and Massachusetts General Laws Chapter 40A, GRANTS to the Applicant a Special Permit to construct the Project to improve the front portion of the Nissan building, located at 740 Boston Post Road, Marlborough, Massachusetts 01752, by constructing a second story as per the Application materials submitted to the City Council and the Urban Affairs Committee, and subject to the following conditions:

1. Construction. Construction of the structure on the Site is to be in accordance with all building codes and zoning regulations in effect in the City of Marlborough and Commonwealth of Massachusetts and shall be built according to the Site Plan filed with the Permit Application. The Applicant's Site Plan indicates an existing footprint of the building within which the new building is to be located.
2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance the City of Marlborough Code, prior to issuance of the Building Permit. Any additional changes, alterations, modifications, or amendments as required by Site Plan Review to plans reviewed and approved by the City Council as the Special Permit granting authority shall be further conditions attached to the Special Permit, and no Occupancy Permit shall be issued until all conditions are complied with by Applicant. Site Plan Review shall be consistent with this Special Permit. Any violation of a condition of Site Plan Approval shall be a violation of this Special Permit.
3. Hazardous Waste. The Applicant shall comply with all directives by the Department of Environmental Protection of the Commonwealth of Massachusetts relative to the existence of any hazardous waste which may be located on the Site, compliance of the provisions of Massachusetts General Laws Chapter 21E and any other applicable government codes and as they relate to the authority of the Fire Chief of the City of Marlborough.

4. Compliance with Local, State and Federal Laws. The Applicant shall comply with all applicable rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and Federal Agencies as they may apply to the construction, maintenance, and operation of the Project and Site, including, without limitation, compliance with local Conservation Commission Orders, the Massachusetts Environmental Policy Act (MEPA), Massachusetts General Laws Chapter 30, Section 61 and the Massachusetts State Building Code. The terms and conditions of such decisions and findings will become a part of this decision.
5. Snow Plowing and Storage. The Applicant, its affiliates, successors and/or assigns shall provide a snow plowing and storage plan to its snow removal personnel and shall not plow or discharge snow on the easterly neighboring land. The Applicant shall provide for snow storage on-site along the easterly portion of its land according to the Snow Plowing and Storage Plan attached hereto. Applicant shall direct snowmelt runoff toward the southeasterly portion of the Site.
6. Construction Traffic. During construction of the Project, the Applicant, its affiliates, successors and/or assigns shall impose on each of its contractors a requirement that all heavy equipment accessing the Site shall not block shared driveway along the west abutting the Project.
7. Parking Lot Lighting. The Applicant shall install lighting shields so as to minimize glare and light spillage onto adjacent properties. All parking lot lighting shall be turned off at 10:00 PM except that necessary for site security.
8. Painting of Vehicles. All painting of motor vehicles shall occur indoors and the Applicant shall keep garage doors shut during painting.
9. Common Driveway. The Applicant shall construct an expansion of the currently shared driveway adjacent to the westerly side of its building on the City property. The expanded driveway shall be consistent with the plan entitled "Driveway Concept for Marlboro Nissan, 740 Boston Post Road East, Marlborough, MA, Date: December 18, 2008, Revised: 4/27/09, 2/28/12, Scale: 1"=30', prepared by Bruce Saluk & Assoc., Inc." (the "Driveway Concept Plan") as presented to the City Council and license from the City for such use. Compliance with this condition shall occur provided the City obtains a release of the covenants in the deed from the Grantor as required for such use and provided that the City agrees to grant a license for said use. Applicant shall comply with this condition prior to the issuance of an occupancy permit.
10. Recording of Special Permit. This Special Permit shall be recorded at the Middlesex South Registry of Deeds in accordance with the provisions of Massachusetts General Laws Chapter 40A, Section 11, within 20 days after the expiration of the appeal period for the granting of the Special Permit. The Applicant shall be responsible for the recording of this Special Permit and the cost thereof and shall present evidence to the City Council and City Solicitor of compliance.

11. Requirements. All Plans, photo renderings, site evaluations, briefs, and other documentation provided by the Applicant as part of this Special Permit Application as amended during the application process and hearings before the City Council and/or Urban Affairs Committee are herein incorporated and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
12. Incorporated by Reference. The 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 before the City Council and/or the Urban Affairs Committee, and in compliance with the Conditions of the Grant of Special Permit. All plans, applications and submissions to the City Council as part of the Special Permit Application are hereby incorporated by reference.

Condition 9 which reads "Compliance with this condition shall occur provided the City obtains a release of the covenants in the deed from the Grantor as required for such use and provided that the City agrees to grant a license for said use" was approved by hand vote.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

ORDERED: That the Evergreen Cemetery transfer request in the amount of \$50,000.00 which moves funds from Undesignated to Evergreen Cemetery to fund expansion design for the cemetery, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900

\$50,000.00

Undesignated

TO:

Acct. # 19300006-58316

\$50,000.00

Evergreen Cemetery

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:40 PM.