



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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APRIL 9, 2012

Regular meeting of the City Council held on Monday, APRIL 9, 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 9:00 PM.

ORDERED: That the City Council President recognized Boy Scout Troop 41 for the Citizenship and Community Merit Badges, and moment of silence in memory of three employees who have passed, **FILE**; adopted.

ORDERED: That the Minutes of the City Council Meeting, MARCH 26, 2012, **FILE**; adopted.

ORDERED: That the Communication from the Mayor Addressing City Council on the occasion of the Mayor's 100th day in office, **APPROVED**; adopted.

ORDERED: That the DPW transfer request for funding of Marlborough Public Works Equipment Operators Association (MPWEOA) Contract as itemized on the attached spreadsheets, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH --BUDGET TRANSFERS --								
DEPT:	PUBLIC WORKS			FISCAL YEAR: 2012				
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$23,812	11990006	57820	Reserve for Salaries & Benefits	\$23,812	14001303	50740	Equipment Operators (Sts.)	\$184,174
Reason: Funding needed for DPW Laborers MOA								
\$6,117	11990006	57820	Reserve for Salaries & Benefits	\$6,117	14001303	50790	Dispatcher	\$8,756
Reason: Funding needed for DPW Laborers MOA								
\$1,642	11990006	57820	Reserve for Salaries & Benefits	\$1,642	14001303	51310	Overtime - Regular	\$11,365
Reason: Funding needed for DPW Laborers MOA								
\$1,018	11990006	57820	Reserve for Salaries & Benefits	\$1,018	14001303	51430	Longevity Pay	\$2,438
Reason: Funding needed for DPW Laborers MOA								
\$238	11990006	57820	Reserve for Salaries & Benefits	\$238	14001303	51470	Interim Foreman	\$0
Reason: Funding needed for DPW Laborers MOA								
\$6,663	11990006	57820	Reserve for Salaries & Benefits	\$6,663	14001303	51920	Sick Leave Buyback	\$6,662
Reason: Funding needed for DPW Laborers MOA								
\$9,592	11990006	57820	Reserve for Salaries & Benefits	\$9,592	14001403	50745	Motor Equipment Repairman	\$33,278
Reason: Funding needed for DPW Laborers MOA								
\$2,318	11990006	57820	Reserve for Salaries & Benefits	\$2,318	14001403	50760	Working Foreman	\$11,970
Reason: Funding needed for DPW Laborers MOA								
\$140	11990006	57820	Reserve for Salaries & Benefits	\$140	14001403	51310	Overtime - Regular	978
Reason: Funding needed for DPW Laborers MOA								

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
	DEPT:	PUBLIC WORKS					FISCAL YEAR:	2012		
Available Balance		FROM ACCOUNT:					TO ACCOUNT:			
	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$416,172	\$139	11990006	57820	Reserve for Salaries & Benefits	\$139	14001403	51470	Interim Foreman	\$0	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$28,851	11990006	57820	Reserve for Salaries & Benefits	\$28,851	14001503	50740	Equipment Operators (FP&C)	\$172,452	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$1,050	11990006	57820	Reserve for Salaries & Benefits	\$1,050	14001503	51310	Overtime - Regular	\$8,570	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$406	11990006	57820	Reserve for Salaries & Benefits	\$406	14001503	51430	Longevity Pay	\$0	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$692	11990006	57820	Reserve for Salaries & Benefits	\$692	14001503	51470	Interim Foreman	\$0	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$406	11990006	57820	Reserve for Salaries & Benefits	\$406	14001503	51920	Sick Leave Buyback	\$2,875	
	Reason:	Funding needed for DPW Laborers MOA								

		FROM ACCOUNT:					TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$416,172	\$1,466	11990006	57820	Reserve for Salaries & Benefits	\$1,466	60081001	50750	Equipment Operator (EP)	\$12,950	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$4	11990006	57820	Reserve for Salaries & Benefits	\$4	60081003	51310	Overtime	\$5,046	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$2,990	11990006	57820	Reserve for Salaries & Benefits	\$2,990	60085001	50750	Equipment Operator (WP)	\$11,426	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$21	11990006	57820	Reserve for Salaries & Benefits	\$21	60085003	51310	Overtime	\$3,065	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$149	11990006	57820	Reserve for Salaries & Benefits	\$149	60085003	51430	Longevity Pay	\$2,783	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$2,990	11990006	57820	Reserve for Salaries & Benefits	\$2,990	61090001	50460	Water Meter Readers	\$11,426	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$23,196	11990006	57820	Reserve for Salaries & Benefits	\$23,196	61090001	50740	Equipment Operator (W)	\$174,021	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$4,720	11990006	57820	Reserve for Salaries & Benefits	\$4,720	61090003	51310	Overtime - Regular	\$39,910	
	Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$569	11990006	57820	Reserve for Salaries & Benefits	\$569	61090003	51430	Longevity Pay	\$3,395	
	Reason:	Funding needed for DPW Laborers MOA								

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
\$416,172	\$17	11990006	57820	Reserve for Salaries & Benefits	\$17	61090003	51470	Interim Foreman	\$4,540
Reason:		Funding needed for DPW Laborers MOA							
\$416,172	\$542	11990006	57820	Reserve for Salaries & Benefits	\$542	61090003	51920	Sick Leave Buyback	\$1,296
Reason:		Funding needed for DPW Laborers MOA							
\$416,172	\$8,720	11990006	57820	Reserve for Salaries & Benefits	\$8,720	14001203	51390	S&I Overtime	-\$6,078
Reason:		Funding needed for DPW Laborers MOA							

ORDERED: That the Worker's Compensation Trust Fund transfer request in the amount of \$165,000.00 to move funds from Undesignated to Workers Compensation to fund a projected deficit in the Workers Compensation Fund, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$165,000.00
Undesignated Fund

TO:

Acct. # 11960006-51710 \$165,000.00
Workers Compensation

ORDERED: That the Fire Department transfer request in the amounts of \$18,859.75 and \$43,244.60 which moves funds from Deputy Chief to Overtime and Firefighter to Overtime to fund overtime expenses due to work related injuries, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12200001-50335 \$18,859.75
Deputy Chief

Acct. # 12200001-50450 \$43,244.60
Firefighter

TO:

Acct. # 12200003-51300 \$18,859.75
Overtime

Acct. # 12200003-51300 \$43,244.60
Overtime

ORDERED: That the Police Department transfer request in the amount of \$58,741.60 which moves funds from Fringes to Sergeant, Sick Leave and Clothing to fund benefits associated with the retirement of an employee, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11990006-51500 \$58,741.60
Fringes

TO:

Acct. # 12100001-50820	\$14,450.40
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Sergeant

Acct. # 12100003-51920	\$43,351.20
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Sick Leave

Acct. # 12100003-51940	\$940.00
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Clothing

ORDERED: That the Building Department transfer request in the amount of \$10,501.05 which moves funds from Undesignated to Assistant Building Inspector to fund costs associated with a retiring employee, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900	\$10,501.05
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Undesignated Fund

TO:

Acct. # 12410001-50260	\$10,501.05
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Assistant Building Inspector

ORDERED: That the Mayor's Office transfer request in the amount of \$9,100.00 which moves funds from Multi-Purpose Bond to Executive Secretary to cover the salary of the Executive Secretary position for the remainder of this fiscal year, **APPROVED**; adopted.

FROM:

Acct. # 60071106-59963	\$9,100.00
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2011 Multi Purpose Bond

TO:

Acct. # 11210002-50590	\$9,100.00
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Executive Secretary

ORDERED: That the Personnel transfer request in the amount of \$2,000.00 which moves funds from Conference and Training to Advertising and Medical Exams to fund higher than anticipated costs relating to recruitment activity for open position, **APPROVED**; adopted.

FROM:

Acct. # 11520006-57380	\$2,000.00
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Conference and Training

TO:

Acct. # 11520004-53150	\$1,000.00
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Advertising

Acct. # 11520004-53010	\$1,000.00
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Medical Exams

ORDERED: That the City of Marlborough (the "City") hereby approves the \$62,434,488 borrowing of the Assabet Valley Regional Vocational School District (the "District"), authorized by said District, for the purpose of paying costs of repairs and renovations to the Assabet Valley Regional Technical High School, located at 215 Fitchburg St., Marlborough, MA 01752, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the district may be eligible for a school construction grant from the Massachusetts School Building Authority (the "MSBA"), said amount to be expended at the direction of the Assabet Valley Regional Vocational School District Building Committee; that the City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of (1) fifty-three and forty-eight one-hundredths percent (53.48%) of eligible approved Project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; and that the amount of borrowing authorized by the District shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Communication from the Mayor re: Senior Center Facility Report, **FILE**; adopted.

ORDERED: That the Special Permit from Sprint, 450-460 Boston Post Rd. East in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 2 Mount Royal Ave. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 115 Onamog St. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 445 Simarano Dr. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 157 Union St. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Communication from Brian Falk and Arthur Bergeron, Associate and Attorney with Mirick, O'Connell, DeMallie and Lougee, LLP, filing disclosure statements as special employee, **FILE**; adopted.

ORDERED: That the application for Taxi License, Angel Santiago, d/b/a Marlboro Metro Taxi, 160 West Main St. #1, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Planning Board, March 12, and April 9, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, March 13, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, February 28, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Community Development Authority, March 29, 2012, **FILE**; adopted.

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Seymour, Delano, Jenkins and Oram. Councilors Pope, Landers, and Robey were also in attendance. The meeting convened at 7:02 PM.

Order No. 12-1005006 – Public Facilities Electricity Transfers Totaling \$150,000.00. The Finance Committee reviewed the Mayor's letter dated March 22, 2012 requesting the approval of the following two transfers to fund higher than anticipated electricity costs:

- Transfer \$100,000.00 from Sewer Multi Purpose Bond to Public Facilities Electricity account
- Transfer \$50,000.00 from the Natural Gas account to the Public Facilities Electricity account

Recommendation of the Finance Committee is to approve both transfers 5-0.

Order No. 12-1005010 – Transfer \$15,000.00 Fund Summer Employment Initiative. The Finance Committee reviewed the Mayor's letter dated March 22, 2012 requesting the approval of a transfer of \$15,000.00 from the Short Term Interest Account to the Summer Employment Initiative account. The Finance Committee voted 5 - 0 to approve the transfer. **Recommendation of the Finance Committee is to recommend the Mayor fund the program in the FY13 budget for \$25,000.00 to cover anticipated program expenditures in July and August 2012. The Mayor will report back to the City Council the results of the program for consideration of funding for 2013.**

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

Voting Members present: Chairman Elder, Vice Chairman Clancy, Councilor Tunnera, Councilor Robey and Councilor Landers. Councilor Pope was also in attendance

Urban Affairs met on Tuesday, April 2nd to discuss Order # 12-1004081, application to amend Special Permit Order 09-1002152C Special Permit of Marlborough Savings Bank to expand the hours of operation of their drive-thru ATM to 24 hours, and change the hours of operation of their drive-thru teller from 8:00 AM to 8:00 PM seven days a week

Attorney Sem Aykanian and Rick Bennett, CEO of Marlborough Savings Bank, spoke to the Committee about the proposed changes.

Mr. Bennett told the Committee about the competition of many national banks in Marlborough and said he wanted to make the changes in the hours of operation to give his bank the same hours of the other banks in the area. Mr. Bennett told the Committee that he wasn't sure he was going to change the hours of the drive thru teller, but wanted the option depending on what his competition was doing.

Councilor Clancy asked Mr. Bennett about the concerns that local downtown businesses have with some of MSB's employees parking illegally at their businesses. Mr. Bennett said he would make sure his employees park where they're supposed to park.

President Pope thanked Mr. Bennett for removing a sign on his current drive-thru ATM at MSB referencing the Council for the restricted hours of operation. President Pope told Mr. Bennett she's received calls from constituents about the sign.

Chairman Elder told Mr. Bennett he wanted to make sure that MSB remained vigilant in adhering to the conditions of the current Special Permit, such as the times the Bank is allowed to plow and remove trash. Chairman Elder said he didn't want the Bank to become more lax on these, if the Committee and Council approved the permit.

Vice Chairman Clancy made a motion to approve and it was seconded by the Chair. The committee voted 5-0 to approve. Vice Chairman Clancy asked for a suspension of the rules at the Council's 4/9/12 meeting to send the Permit to the Solicitor to put in proper legal form.

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

Suspension of Rules requested – granted

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, **APPROVED**; 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.

Suspension of Rules requested – granted

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, **APPROVED;** 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- FIP/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-St's	\$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-IWTP	\$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				
FROM ACCOUNT:					TO ACCOUNT:				
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				
FROM ACCOUNT:					TO ACCOUNT:				
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 Pit 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-Sts	\$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			

Suspension of Rules requested – granted

ORDERED: That 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., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING.**

Councilor Delano abstained

ORDERED: That the Rules Committee convene a meeting to review the operating rules adopted at the organizational meeting on January 2, 2012 and recommend changes that may be appropriate to promote the effective operation of the City Council in the conduct of its business, refer to **RULES COMMITTEE**; adopted.

ORDERED: That the City Council's opinion of Line Item Budget presentation, **TABLED**; adopted.

ORDERED: That the Council on Aging transfer request in the amount of \$4,000.00 which moves funds from Program Manager to Program Funding for the purpose of adding classes and programs, **APPROVED**; adopted.

FROM:

Acct. # 15410001-50191	\$4,000.00
Program Manager	

TO:

Acct. # 15410006-57072	\$4,000.00
Program Funding	

ORDERED: That Building Department transfer request in the amount of \$4,000.00 which moves funds from Custodian to Gross OT due to a vacancy in the custodial staff, **APPROVED**; adopted.

FROM:

Acct. # 11920003-50560	\$4,000.00
Custodian	

TO:

Acct. # 11920003-51300	\$4,000.00
Gross OT	

ORDERED: That the Legal Services transfer request in the amount of \$45,000.00 which moves funds from Long Term Debt Principal-Multi Purpose Bond to Legal Services to fund contracted legal services for the remainder of FY2012, **APPROVED**; adopted.

FROM:

Acct. # 60071106-59963	\$45,000.00
2011 Multi Purpose Bond	

TO:

Acct. # 11510004-53110	\$45,000.00
Legal Services	

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 11/12-1003071D

Re: 450-460 Boston Post Road East

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 06100-1305B, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").
2. On March 26, 2007, the City Council granted to the Applicant a Special Permit to locate its wireless communications facility (3 canister antennas and associated equipment shelter) on the roof at the existing building located at 450-460 Boston Post Road East, Marlborough, MA (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 73, Lot 31 (hereinafter "Site"). The owner of record for the Site is Trinity Countryside Limited Partnership.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility rooftop; six (6) remote radio heads onto an existing wireless communication facility rooftop; replace one (1) GPS mounted to the rooftop; replace two (2) cabinets with three (3)MM equipment cabinets on the existing steel dunnage on the rooftop; as well as remove all existing coax cables and replace with three (3) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS03XC082, Countryside Village Apartments, 450-460 Boston Post Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 8/23/11 and last revised 3/19/12, a copy of which were provided in the Special Permit Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.

5. The Site is located partially in the Business B Zoning District and partially in the Residential A-1 Zoning District. The Proposed WCF is located in the portion of the Site located in the Business B Zoning District. Wireless communication devices are allowed by grant of Special Permit in Business B Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 WCF Project on January 23, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) 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 Applicant's WCF.
- 4) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 5) The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by the Applicant.
- 6) Applicant shall comply with all local regulations regarding the use of a crane or lifting device at the Site. If any crane or lifting device is used at the Site, Applicant must notify the owner and/or the operator of the Marlborough Airport at least 24 hours prior to such use.

- 7) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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.
- 8) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 9) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying

that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 10) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

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

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 12-1004064C

Re: 2 Mount Royal Avenue

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 97-7270, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter "Applicant").
2. On December 9, 1997, the City Council granted to Sprint Spectrum L.P., d/b/a Sprint PCS, a Special Permit to locate a wireless communications facility on the roof of the building at 2 Mount Royal Avenue, Marlborough, MA (hereinafter, "the Original Special Permit"). The Original Special Permit allows up to nine (9) antennas and additional equipment to be installed. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 79, Lots 33 and 33B (hereinafter, "the Site"). The owner of record for the Site is Mount Royal Associates, a Massachusetts limited partnership.

3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter "Application"), as amended by the Applicant at the Marlborough City Council's March 12, 2012 public hearing so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to replace three (3) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; six (6) remote radio heads; replace one (1) GPS mounted to the rooftop; replace one (1) cabinet with two (2) MM equipment cabinets within the existing lease area; remove all existing CDMA coax cables and replace with three (3) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS03XC081, Sligo Hill, 2 Mount Royal Avenue, Marlborough, MA 01752 " by Salient Architects, LLC, dated 1/24/2012, a copy of which were provided in the Special Permit Application (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Business Zoning District. Wireless communication devices are allowed by grant of Special Permit in the Business Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on March 12, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) Applicant agrees to 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 Applicant's Proposed WCF Project.
- 2) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 3) The antennae shall comply with all Federal Aviation Administration rules and regulations, as applicable.
- 4) No portion of any antenna will be more than fifteen feet (15') in height above the roof line of the building.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.

- 6) The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by the Applicant.
- 7) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 shall constitute a violation of the Modified 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.
- 8) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 9) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades.

The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 10) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

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

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 12-1004032E

Re: 115 Onamog Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 02-9506B to Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").

2. On June 10, 2002, the City Council granted to Sprint Spectrum L.P. a Special Permit to locate a wireless communications facility on the outside face of the Fairmount Hill water tank located at 115 Onamog Street, Marlborough, MA at a height of approximately eighty-three (83) feet (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 81, Parcel 238 (hereinafter, "the Site"). The owner of record for the Site is the City of Marlborough.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, "Application"), as amended by the Applicant at the Marlborough City Council's March 12, 2012 public hearing so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to replace three (3) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility watertank; six (6) remote radio heads onto the watertank; replace one (1) GPS mounted to the watertank; replace two (2) cabinets with three (3) MM equipment cabinets within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS54XC930, Fairmount Water Tank, 115 Onamog Street, Marlborough, MA 01752 " by Salient Architects, LLC, dated 10/25/11 and last revised 2/15/12, a copy of which were provided in the Special Permit Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Residence A Zoning District. Wireless communication devices are allowed by grant of Special Permit in Residence A Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council opened a public hearing on the Proposed WCF Project on February 13, 2012, continued it to February 27, 2012, and closed it on March 12, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 14:**
 - 1) Applicant agrees to 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 Applicant's Proposed WCF Project.

- 2) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
- 3) The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
- 4) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application, and as may be required by Site Plan Review.
- 5) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 shall constitute a violation of the Modified 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.
- 6) No installation work shall be performed by Applicant or its contractors without the supervision of an appropriate individual designated by the Commissioner of the City of Marlborough's Department of Public Works. Additionally, the MDPW will conduct a final inspection of the installation work within fifteen (15) days of completion of the installation.
- 7) Pursuant to Chapter 650-25F of the Marlborough Zoning Ordinance, Applicant shall indemnify the City of Marlborough regarding the installation, maintenance and operation of Applicant's equipment at the Site, and Applicant shall provide the City's Legal Department with a certificate of liability insurance naming the City as an additional insured.
- 8) Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.
- 9) Applicant shall not install any asphalt on the Site or the adjacent City-owned premises.

- 10) Applicant shall install a switch, if not already installed, for the light that was to have been installed, pursuant to the Original Special Permit, to illuminate the equipment area.
- 11) Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
- 12) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 13) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all

hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 14) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

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

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 11/12-1003096C

Re: 445 Simarano Drive (a/k/a 40 Crane Meadow Road)

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 00-8772B, submitted by Sprint, LLC, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint, LLC (hereinafter, "Applicant").

2. On July 19, 2000 the City Council granted to Crown Castle International/Nextel Communications a Special Permit to install and operate a wireless communications facility at 445 Simarano Drive, which is also known as, and is referred to in that Special Permit as, 40 Crane Meadow Road, Marlborough, MA (hereinafter, "the Original Special Permit"). In 2005, Nextel Communications was acquired by Sprint PCS. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116, Lot 1 (hereinafter "Site"). The owner of record for the Site is 445 Simarano Drive Marlborough LLC.
3. Through its Application for Modification of a Special Permit for an Existing Wireless Communications Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to modify the Original Special Permit referenced above to allow the consolidation of three (3) Iden antennae to two (2) dual pole antenna, remove three (3) CDMA antenna and replace with three (3) Sprint Vision antenna. The new antennae are substantially the same size and weight as the current antenna. Additionally, Sprint is proposing to install six (6) RRH behind or below the antennas, replace one (1) CDMA cabinet with two (2) new BBU cabinets and one (1) MM cabinet within the existing lease area, replace the GPS antenna, and remove all existing CDMA coax cable and replace with three (3) hyperflex cables (hereinafter "WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS73XC031, Cedar Hill, 40 Crane Meadow Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 8/16/11 and last revised 3/12/12, a copy of which were provided in the Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The Site is zoned Industrial (I). Wireless communication devices are allowed by grant of a special permit in Industrial (I) Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 23, 2012, 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 WCF Project meets all the applicable special permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 9:**

1. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
2. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of this Modified Special Permit are herein incorporated into and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

3. 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 Applicant's Proposed WCF Project.
4. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
5. Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application, and as may be required by Site Plan Review.
6. Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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 WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in the operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.

8. As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed Modification; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.
9. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

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

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

**SPRINT PCS (NEXTEL COMMUNICATION)
BY AT&T MOBILITY CORPORATION, ITS MANAGER**

CITY COUNCIL ORDER NO. 11/12-1003072D

Re: 157 Union Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 99-8205B, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").
2. On December 6, 1999, the City Council granted to Nextel Communications a Special Permit to locate and operate a wireless communications facility at the existing building located at 157 Union Street, Marlborough, MA (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 43, Lot 56 (hereinafter, "the Site"). The owner of record for the Site is Marlborough Hospital.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to allow the replacement of six (6) CDMA antenna with three (3) Network Vision antenna and install six (6) RRH; install two (2) new BBU cabinets and replace one (1) existing CDMA cabinet with one (1) MM-BTS cabinet, replace existing GPS with a new GPS, remove existing coax cable and install three (3) hyperflex cables (hereinafter, "the Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS13XC625, Marlborough Hospital, 157 Union Street, Marlborough, MA 01752" by Salient Architects, LLC, dated 10/20/11 and last revised 3/15/12, a copy of which was provided in the Special Permit Application and later revised (hereinafter "Plans").

4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Residential (A-3) Zoning District. Wireless communication devices are allowed by grant of Special Permit in the Residential (A-3) Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 23, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 9:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) 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 Applicant's WCF.
- 4) The issuance of this Modified Special Permit may be further subject to Site Plan Review, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 6) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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 WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.

- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 9 - Nay: 0 – Abstained: 2

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

Abstain: Seymour & Robey

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that PERRY LANE be accepted as a public way

From PERRY LANE To Terminus

and the associated easements be accepted as municipal easements as shown on plans thereof and as hereinafter described:

DESCRIPTION

Plan entitled "Definitive Plan of Fiddlehead Subdivision of Land in Marlborough, Mass.: Owned by High Ground Realty Trust, 2 Harrison Street, Maynard, Mass. 01754; Scale 1"=40'; Date: May 26, 1993; Revised: November 3, 1993; Highland Land Surveyors, Inc., 69 Maple Street, Marlboro, Mass.", recorded with Middlesex County South Registry of Deeds in Book 24220, Page 421 ("Definitive Plan").

Plan entitled "Acceptance Plan of Perry Lane and Municipal Easements; Marlborough, MA; Middlesex South County; Date: 03/23/2010; Scale: 1"=30'; Inland Survey, Inc., 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01175", recorded herewith ("Acceptance Plan").

Title to the roadway known as PERRY LANE and title to all of the easements, including sewer, drainage, and municipal utilities, as shown on said plans have been granted to the City of Marlborough in a Quitclaim Deed from Summer Sudbury Limited Partnership, 63 Franklin Street, Boston, Massachusetts, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

PERRY LANE be accepted as a public way and its associated easements be accepted as municipal easements in the City of Marlborough; adopted.

ORDERED: That the Operations and Oversight Committee invite Police Chief Leonard to attend a committee meeting affording him the opportunity to publicly discuss the details leading to the voluntary separation from employment with the City of Marlborough by former Police Detective Derek Johnson, **FILE**; adopted.

ORDERED: That the sum of \$3,043,833.00 (three million forty three thousand eight hundred thirty three) dollars be and is hereby appropriated for street 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 \$3,043,833.00.

Pursuant to the provisions of Chapter 44, Section 7 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue, **APPROVED**; adopted.

Yea: 10 - Nay: 1

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

Nay: Ossing

ORDERED: That the sum of \$5,030,000.00 (five million thirty thousand) dollars be and is hereby appropriated for sewer 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 \$5,030,000.00.

Pursuant to the provisions of Chapter 44, Section 8 (15) 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, **APPROVED**; adopted.

Yea: 9 - Nay: 2

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

Nay: Ossing & Seymour

ORDERED: That the sum of \$3,172,600.00 (three million one hundred seventy two thousand six hundred) dollars be and is hereby appropriated for water main 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 \$3,172,600.00.

Pursuant to the provisions of Chapter 44, Section 8 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than forty (40) years from its date of issue, **APPROVED**; adopted.

Yea: 9 - Nay: 2

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

Nay: Ossing & Seymour

ORDERED: That the sum of \$1,835,000.00 (one million eight hundred thirty five thousand) dollars be and is hereby appropriated for water meters.

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 \$1,835,000.00.

Pursuant to the provisions of Chapter 44, Section 8 (7A) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue, **APPROVED**; adopted.

Yea: 11 - Nay: 0

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:00 PM.