



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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FEBRUARY 28, 2011**

Regular meeting of the City Council held on Monday, FEBRUARY 28, 2011 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy and Landers. Meeting adjourned at 9:30 PM.

ORDERED: That the minutes of the City Council Meeting February 14, 2011, **FILE AS AMENDED**; adopted.

ORDERED: That Councilor Landers recognized Councilor Clancy as he was named Conservation Commissioner of the Year by the MA Conservation Commission, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the application for new Pool Table License, the Lazy Dog, 31 Main St., Order No. 11-1002080A, **OPEN AND CONTINUE HEARING WITHOUT ANY EVIDENCE BEING HEARD TO THE MARCH 14, 2011 MEETING**; adopted. **Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy, & Landers.**

ORDERED: That the Communication from the Mayor re: suspension requested for DPW intra-transfers as follows necessary to cover expenses in accounts that are at or nearing zero balances, refer to **FINANCE COMMITTEE**; adopted.

Transfer in the amount of \$900.00 from Chief Treatment Plant Operator to Interim Foreman-EWTP.

Transfer in the amount of \$9,021.00 from Equipment Operators - Streets to Interim Foreman.

Transfer in the amount of \$300.00 from Clothing Allowance to License and Inspection.

Transfer in the amount of \$900.00 from Educational Incentive to License and Inspection.

CITY OF MARLBOROUGH --BUDGET TRANSFERS--										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2011		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$48,394	\$900	60081001	50910	Chief Treatment Plant Operator	\$900	60081003	51470	Interim Foreman-EWTP	\$131	
	Reason:	Money available due to WC case				Higher than expected use due to non-work related injury to Head Treatment Operator				
\$273,616	\$9,021	14001303	5074	Equipment Operators - Streets	\$9,021	14001303	51470	Interim Foreman	\$24	
	Reason:	Money available due to WC case				Supplemental funding required to cover year end appointments.				
\$1,790	\$300	14001503	51940	Clothing Allowance	\$300	14001506	54240	License & Inspection	\$0	
	Reason:	Money available due to retirement				Additional funds needed to cover increased cost of State license renewals				
\$900	\$900	14001503	51440	Educational Incentive	\$900	14001506	54240	License & Inspection	\$0	
	Reason:	Money available due to retirement				Additional funds needed to cover increased cost of State license renewals				

ORDERED: That the Communication from the Mayor re: DPW intra-transfers as follows with explanations noted on the spreadsheet, refer to **FINANCE COMMITTEE**; adopted.
 Transfer in the amount of \$706.00 from Assistant Commissioner to Principal Clerk.
 Transfer in the amount of \$3,500.00 from Chief Treatment Operator to Overtime-Regular-EWTP.
 Transfer in the amount of \$1,600.00 from Equipment Operators - Streets to Dispatcher.
 Transfer in the amount of \$13,200.00 from Equipment Operators - Streets to Overtime-Regular.
 Transfer in the amount of \$200.00 from Misc. Hand/Power Tool to Rep./Maint. Equipment.

CITY OF MARLBOROUGH										
--BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2011		
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$50,505	\$706	60080001	50630	Assistant Commissioner	\$706	14001002	50520	Principal Clerk	\$14,362	
	Reason:	Money available due to retirement				Insufficient funds transferred to cover retroactive step increases				
\$48,394	\$3,500	60081001	50910	Chief Treatment Plant Operator	\$3,500	60081003	51310	Overtime-Regular-EWTP	\$5,679	
	Reason:	Money available due to WC case				Higher than expected use associated with major system repairs.				
\$273,616	\$1,600	14001303	50740	Equipment Operators - Streets	\$1,600	14001303	50790	Dispatcher	\$11,565	
	Reason:	Money available due to WC case				Insufficient funds transferred to cover retroactive step increases.				
\$273,616	\$13,200	14001303	50740	Equipment Operators - Streets	\$13,200	14001303	51310	Overtime-Regular	\$9,588	
	Reason:	Money available due to WC case				Supplemental funding required to cover year end cost based on 3-year average.				
\$226	\$200	14001506	54420	Misc. Hand/Power Tool	\$200	14001506	52500	Rep./Maint. Equipment	\$6	
	Reason:	Money available in account				Increase in repair cost associated with hand powered tools in lieu of purchasing replacement tools				

ORDERED: That the Communication from the Mayor re: Fire intra-transfers as follows with explanations noted on the spreadsheet, refer to **FINANCE COMMITTEE**; adopted.
 Transfer in the amount of \$16,807.38 moving funds from Firefighter to Additional OT.
 Transfer in the amount of \$466.40 moving funds from Fire Lieutenant to Additional OT.
 Transfer in the amount of \$8,771.34 moving funds from Firefighter to Additional OT.
 Transfer in the amount of \$10,849.44 moving funds from Longevity to Additional OT.
 Transfer in the amount of \$10,000.00 from EMT to Additional OT.
 Transfer in the amount of \$4,610.94 moving funds from Firefighter to Sick Leave Buy Back.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT: Fire					FISCAL YEAR: 2011				
FROM ACCOUNT:					TO ACCOUNT:				
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$16,807.38	12200001	50450	FIREFIGHTER	\$16,807.38	12200003	51300	ADDITIONAL OT	\$21,500	
Reason: Retirement of employee									
\$466.40	12200001	50810	FIRE LIEUTENANT	\$466.40	12200003	51300	ADDITIONAL OT	\$21,500	
Reason: To fund 111F payments for Lieutenant									
\$8,771.34	12200001	50450	FIREFIGHTER	\$8,771.34	12200003	51300	ADDITIONAL OT	\$21,500	
Reason: To fund 111F payments for Lieutenant									
\$10,849.44	12200003	51430	LONGEVITY	\$10,849.44	12200003	51300	ADDITIONAL OT	\$21,500	
Reason: Anticipated surplus									
\$10,000.00	12200003	51480	EMT	\$10,000.00	12200003	51300	ADDITIONAL OT	\$21,500	
Reason: Anticipated surplus									
\$4,610.94	12200001	50450	FIREFIGHTER	\$4,610.94	12200003	51920	SICK LEAVE BUY BACK	\$26,246	
Reason: Retirement of employee									
\$51,505.50				\$51,505.50					

ORDERED: That the Council on Aging transfer in the amount of \$4,385.00 which moves funds from Part-Time Nurse to Program Manager to appropriate funding for the part-time nursing account, **MOVE TO ITEM 19, HUMAN SERVICES COMMITTEE, REORGANIZATIONAL PLAN**; adopted.

FROM:

Acct. #15410001-50391
Part Time Nurse

\$4,385.00

TO:

Acct. # 15410001-50191
Program Manager

\$4,385.00

ORDERED: That the FY09 State and Tribal Grant (STAG) awarded to the City of Marlborough in the amount of \$485,000.00 which provides reimbursement monies for the design and construction of upgrades to the Westerly Wastewater Treatment facility to be used as outlined in MGL, Chapter 44, Section 53A, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

Section 1. Notwithstanding Section 17 of Chapter 138 of the General Laws, the licensing authority of the City of Marlborough may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises under Section 15 of said Chapter 138 to the Rick Lombardi and Julie Lombardi, d/b/a The Vin Bin, located at 91 Main Street, Marlborough, MA. The license shall be subject to all of said Chapter 138 except said Section 17. The applicant holds a Wine and Malt license which shall be surrendered upon licensing authority approval of the Package Store License.

Section 2. The licensing authority shall not approve the transfer of the license to any other location. The license may be reissued by the licensing authority to a new applicant at the same location if the applicant files with the licensing authority from the Department of Revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

Section 3. If the license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant.

Section 4. This act shall take effect upon its passage, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from the Mayor re: Veto of Order No. 11-1002825, Enforcement of City's Sidewalk Snow and Ice Removal Ordinances, **TABLED UNTIL MARCH 14, 2011**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 551, ENTITLED "STREETS AND SIDEWALKS," AS FOLLOWS:

1. Section 551-25, entitled "Snow removal," is hereby amended:
 - a. by amending subsection A, by adding at the end of the subsection the following words:-- The mayor can, in his or her discretion, suspend enforcement of this subsection against any private resident upon a determination by the Commissioner of Public Works that extraordinary winter-time circumstances then exist in the City of Marlborough.
 - b. by adding a new subsection E containing the following words:-- Prior to any enforcement efforts by the City of Marlborough against any private resident for failure to remove snow in compliance with subsection A of this ordinance as amended, the City shall make a determination of its ability to remove snow from all sidewalks abutting any City-owned building or City-owned lot of land within 12 hours after the snow ceases to fall, if it ceases to fall in the daytime, and before 12:00 noon, if it ceases to fall in the nighttime.

2. Section 551-26, entitled "Ice removal," is hereby amended by adding at the end of the section the following words:-- The mayor can, in his or her discretion, suspend enforcement of this section against any private resident upon a determination by the Commissioner of Public Works that extraordinary winter-time circumstances then exist in the City of Marlborough.
3. The effective date of these amendments shall be thirty (30) days after their approval, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Application for Taxi and Livery license, Metrowest Taxi, John St. Martin, 212 Sudbury St, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Planning Board, January 10, 2011, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, December 21, 2010, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, March 18, 2010, October 14 & 21, 2010, November 4 and 18, 2010, December 16, 2010, **FILE**; adopted.

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

- A. George Cook, 94 Framingham Rd., other property damage
- B. Elizabeth Johnson,, 10 Commonwealth Ct., Apt 14, Brighton, other property damage,
- C. Anthony Mellace, 23 Dirado Dr, other property damage
- D. David Myers, 293 Stearns St., residential mailbox 2(a)
- E. David Lehmann, 587 Farm Rd., other property damage
- F. George Wright, 330 South St., other property damage
- G. Robert Jackson, 269 Clover Hill St., other property damage
- H. Laura Wilner, 172 Stearns St., residential mailbox 2(a)
- I. Elaine Derosa, 147 Chestnut Hill, other property damage
- J. Lisa Rockland, 566 Stow Rd., pothole or other road defect
- K. Warren Grasso, 5 Howe Ct., other property damage
- L. Louis Lambe, 18 Joseph North Rd., mailbox claim (type not noted)
- M. James Ryan, 150 Clover Hill St., other property damage

Reports of Committees:

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

Order No. 11-1002779 - Application of Ronald Roza, d/b/a Techcell USA for Junk Dealer's License at 276 Main Street. The Committee discussed the application with Mr. Roza who noted that he would like to sell refurbished electronics, including computers and cell phones. **Recommendation of the Public Services Committee is to approve 3-0.**

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

Order No. 10/11-1002730 - Communication from Mayor Stevens regarding proposed changes to the City Code regulating the construction of swimming pools. The Committee reviewed the letter dated November 4, 2010 from Mayor Stevens. **Recommendation of the Legislative and Legal Affairs Committee is to approve the Order deleting Sections 557-1 through 557-6 of the City Code and providing reference to the Commonwealth of Massachusetts State Building Code 2-0 and under Suspension of the Rules to advertise Ordinance amendment and place item on the March 28, 2011 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the March 14, 2011 agenda 3-0.**

Suspension of the Rules requested – granted

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY DELETING IN THEIR ENTIRETY SECTIONS 557-1 (PERMIT REQUIRED), 557-2 (FENCES OR BARRIERS REQUIRED), 557-3 (INSPECTION REQUIRED), 557-4 (EXEMPTIONS), 557-5 (COMPLIANCE), AND 557-6 (VIOLATIONS AND PENALTIES) OF CHAPTER 557, AND ADDING THE FOLLOWING NEW PARAGRAPH TO THE SECTION OF CHAPTER 557 ENTITLED “GENERAL REFERENCES”:

Commonwealth of Massachusetts State Building Code, as amended (See 780 CMR), **ADVERTISED AND PLACE ON MARCH 28, 2011 AGENDA.**

ORDERED: That the DPW and Fire Chief review the attached letter recommending street markings for the fire hydrants and storm drains for identification in the winter months. Report results of the review to the Public Services Committee, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Police transfer requests as follows:

Transfer in the amount of \$44,436.00 moving funds from Stabilization – Public Safety to Police Officers

Transfer in the amount of \$84,208.00 moving funds from Police Officers to Regular Overtime

Transfer in the amount of \$5,000.00 moving funds from Court OT to Holiday Pay, **APPROVED**; adopted.

FROM:

Acct. # 83600-32701	\$44,436.00
Stabilization-Public Safety	
Acct. # 12100001-50420	\$84,208.00
Police Officers	
Acct. # 12100003-51320	\$5,000.00
Court OT	

TO:

Acct. # 12100001-50420 \$44,436.00

Police Officers

Acct. # 12100003-51310 \$84,208.00

Regular OT

Acct. # 12100003-51490 \$5,000.00

Holiday Pay

ORDERED: That the Legal transfer request in the amount of \$25,000.00 which moves funds from Undesignated to Legal Services to fund a variety of legal services, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$25,000.00

Undesignated Fund

TO:

Acct. # 11510004-53110 \$25,000.00

Legal Services

ORDERED: That Item #19, Human Services Committee, Reorganizational Plan and Item #6, Council on Aging transfer in the amount of \$4,385.00 which moves funds from Part-Time Nurse to Program Manager to appropriate funding for the part-time nursing account, **MOVE TO ITEM #26, TRANSFER REQUEST IN THE AMOUNT OF \$21,111.00 TO FUND THE DIRECTOR OF HUMAN SERVICES FOR THE REMAINDER OF FY11**; adopted.

ORDERED: That the reappointment of Deborah Puleo as City Collector for a period of one year effective February 1, 2011, be and is herewith **APPROVED**.

ORDERED: That the reappointment of Lisa Thomas as City Clerk for a term to expire three years from date of confirmation, **APPROVED**; adopted.

ORDERED: That the appointment of Eric Asman to the Community Development Authority for a term to expire April 15, 2012, **APPROVED**; adopted.

ORDERED: That the reappointment of Mark Gibbs as Director of Information Technology for a term to expire three years from date of approval, **APPROVED**; adopted.

ORDERED: That the reappointment of Stephen Reid as the City of Marlborough Building Inspector for a term to expire three years from date of approval, **APPROVED**; adopted.

ORDERED: That the reappointment of Cynthia Panagore Griffin as Assistant City Solicitor for term of three years from date of confirmation as her current term expires on January 7, 2010, **APPROVED**; adopted.

Councilor Elder read a letter into record requested by Councilor Ferro written by John Raymond, President of the Marlborough Veteran's Council in support of Gary Brown, the Veterans Agent and denounced support of the reorganization of Veterans Services.

At Councilor Pope's request to recess at 9:05 PM and return to open meeting at 9:07 PM, **APPROVED**; adopted.

MOTION made by Council President Vigeant to support Councilor Ferro's motion which is to set the minimum salary of the Human Services Manager to \$41,135.00 and maximum salary of \$46,271.00, but only if the current Human Services Director's salary remains the same until the position is vacated. – **DOES NOT CARRY**.

MOTION made by Councilor Ferro to set the minimum salary of the Human Services Manager to \$41,135.00 and maximum salary of \$46,271.00. – **DOES NOT CARRY.**

MOTION made by Councilor Elder to set the minimum salary of the Human Services Manager to \$44,803.00 and maximum salary of \$50,397.00, **APPROVED AND REFER TO CITY SOLICITOR TO PUT IN PROPER LEGAL FORM**; adopted.
Councilor Ossing and Vigeant requested to be recorded in opposition.

MOTION made by Councilor Levy for friendly amendment to Councilor Ferro's motion, which was accepted by Councilor Ferro, to set the minimum salary of the Executive Director of Human Services to \$56,302.00 and maximum salary of \$63,332.00 to align with the incremental 4% increases per step. – **DOES NOT CARRY**

MOTION made by Councilor Elder to set the minimum salary of the Executive Director of Human Services to \$59,120.00 and maximum salary of \$66,500.00, **APPROVED AND REFER TO CITY SOLICITOR TO PUT IN PROPER LEGAL FORM**; adopted.
Councilor Ossing and Vigeant requested to be recorded in opposition.

MOTION made by Councilor Elder to set the minimum salary of the Part-Time Program Manager to \$19,000.00, **APPROVED AND REFER TO CITY SOLICITOR TO PUT IN PROPER LEGAL FORM**; adopted.
Councilor Ossing and Vigeant requested to be recorded in opposition.

MOTION made by Councilor Elder to set the salary of the Veteran's Agent, **TABLED**; adopted.

ORDERED: That the Council on Aging transfer in the amount of \$4,385.00 which moves funds from Part-Time Nurse to Program Manager to appropriate funding for the part-time nursing account, refer **BACK TO MAYOR**; adopted.

FROM:

Acct. #15410001-50391	\$4,385.00
Part Time Nurse	

TO:

Acct. # 15410001-50191	\$4,385.00
Program Manager	

ORDERED: That the transfer request in the amount of \$21,111.00 which moves funds from Undesignated to fund the Director of the Department of Human Services for the remainder of FY11, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$21,111.00
Undesignated Fund	

TO:

Acct. # 15270001-50595	\$21,111.00
Human Services Director	

Councilor Ferro requested to be recorded in opposition.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:30 p.m.