



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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**MARCH 14, 2011**

Regular meeting of the City Council held on Monday, MARCH 14, 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 8:25 PM.

ORDERED: That the minutes of the City Council Meeting FEBRUARY 28, 2011, **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, all were heard who wish to be heard, hearing recessed at 8:02 p.m.; adopted. **Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy, & Landers.**

ORDERED: That the Retirement Benefits transfer request in the amount of \$9,000.00 which moves funds from Unemployment to Retirement to fund an employee's special military assessment benefits, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. #13100003-51730 \$9,000.00  
Unemployment

TO:

Acct. #11940006-51770 \$9,000.00  
Retirement

ORDERED: That the Unemployment Benefits transfer request in the amount of \$35,000.00 which moves funds from Unemployment to Unemployment to fund unemployment benefits for employees not funded in the original budget, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. #13100003-51730 \$35,000.00  
Unemployment

TO:

Acct. #11970006-51730 \$35,000.00  
Unemployment

ORDERED: That the Wireless Receipts transfer request in the amount of \$51,000.00 which moves funds from Undesignated to Open Space Stabilization to move the city's wireless antennae receipts for FY10 to open space account, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. #10000-35900 \$51,000.00  
Undesignated

TO:

Acct. #83600-32918 \$51,000.00  
Stabilization-Open Space

ORDERED: That the Council on Aging transfer request in the amount of \$2,532.00 which moves funds from Director Elderly to Principal Clerk to fully fund the position for the remainder of FY11, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. #15410001-50190

\$2,532.00

Director Elderly

TO:

Acct. #15410002-50520

\$2,532.00

Principal Clerk

ORDERED: That pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, upon the recommendation of the Mayor, approves expenditures of \$1,750,000.00 in excess of available appropriation for snow and ice removal for fiscal year 2011, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2011, amend paragraph (d) of Order No. 10-1002587B, which concerns a revolving fund to be utilized by the Mayor, as follows:

(a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and

(b) that expenditures from said fund shall be limited to public safety training; and

(c) that the Mayor shall be the only officer authorized to approve expenditures from the same; and

(d) no more than seventy-five thousand dollars shall be expended during Fiscal Year 2011, unless otherwise authorized by the City Council and Mayor; and

(e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and

(f) no provisions of this order shall be changed unless approved by the Mayor and City Council.

Refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the City of Marlborough, as part their the Green Communities designation, has been awarded five Big Belly solar compactors and as outlined in MGL Chapter 44, Section 53A ½ must be accepted by City Council and installed no later than April 15, 2011, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Fluoridation Equipment Upgrades for the Millham Water Treatment Plant grant in the amount of \$13,000.00 which provides funds for upgrades to water fluoride equipment at the Millham Water Treatment Plant to be used as outlined in accordance to MGL, Chapter 44, Section 53A, refer to **FINANCE COMMITTEE**; 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 125, ENTITLED "PERSONNEL," AS FOLLOWS:

POSITION	EFFECTIVE DATE	MINIMUM 1 <sup>st</sup> 6 mos.	STEP 1 2 <sup>nd</sup> 6 mos.	STEP 2 Next 12 mos.	MAXIMUM
Executive Director of Human Services	7/1/11	\$59,120.00	\$61,484.80	\$63,944.19	\$66,501.96
Human Services Manager	7/1/11	\$44,803.00	\$46,595.12	\$48,458.92	\$50,397.28
Council on Aging Program Manager <b>ADVERTISED</b> ; adopted.	7/1/11	N/A	N/A	N/A	\$19,000.00

ORDERED: WHEREAS the Marlborough City Council, in accordance with its charter, by-laws and ordinances, has voted to authorize the Superintendent of the Marlborough Public Schools to submit to the Massachusetts School Building Authority the Statement of Interest dated January 26, 2011 for the Richer School-80 Foley Road, Whitcomb School-25 Union Street and ECC (Freeman School)-17 Washington Street which describes and explains the following deficiencies and the priority category for which the Marlborough Public Schools may be invited to apply to the Massachusetts School Building Authority in the future. Richer and Whitcomb have been submitted for Priority# 5 which is defined as the replacement, renovation or modernization of school facility systems such as roofs, windows, boilers, heating and ventilation systems, to increase conservation and decrease energy related costs in a school facility. ECC (Freeman School) has been submitted for Priority# 5 as well as Priority# 7 which is defined as the replacement of or addition to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements, and hereby further specifically acknowledges that by submitting these Statement of Interests, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the City to filing an application for funding with the Massachusetts School Building Authority, NOW THEREFORE the City Council of the City of Marlborough hereby authorizes the Superintendent of the Marlborough Public Schools to submit a Statement of Interest to the Massachusetts School Building Authority for the above-specified projects, **APPROVED**; adopted.

ORDERED: Pursuant to City Council Order No. 08-1001774B authorizing a lease effective July 1, 2008 to the Assabet Valley Collaborative of the former Bigelow School located at 57 Orchard Street, for a one-year term with the option to renew for four additional one-year terms, and the terms and conditions of the original lease, said renewal being the third of four options was approved by the School Committee on March 8, 2011, a copy of which is attached hereto and incorporated herein, said lease is hereby renewed for the one-year term from July 1, 2011 to June 30, 2012 in the amount of \$153,985.00 (\$10.30 per square foot), **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, APRIL 11, 2011** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Bergeron on behalf of Melanson Development Group, Inc. to expand the non-conforming use of the existing Walker house and barn located on 93 Framingham Rd., refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Minutes, Planning Board, January 24 and February 14, 2011, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, February 3, 2011, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, February 15, 2011, **FILE**; adopted.

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

- A. Vicki Emerson, 72 Hillcrest Rd., other property damage
- B. Sarah Richards, 18 Demers Dr., residential mailbox claim 2(a)
- C. Majid Sairafi, 81 Woodland Dr., residential mailbox claim 2(a)
- D. Babak Roushanaee, 50 Cotting Ave., 2<sup>nd</sup> flr., other property damage
- E. Eugene Papalia, 81 Church St., other property damage
- F. Mary Warzynski, 369 Dutton Rd., Sudbury, other property damage
- G. Stella Luberto, 22 Fontaine St., other property damage
- H. Kay Ritter, 17 Greenwood St., other property damage
- I. Clementina Kennedy, 224 Brigham St., other property damage
- J. Alan Liverman, 13 Graham Path, residential mailbox 2(b)
- K. Downtown Marlboro LLC, 17 Weed St., other property damage
- L. William McCook, 119 Ash St., residential mailbox claim 2(a)
- M. Susan Wheeldon, 69F Phelps St., other property damage

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Order No. 11-1002814 – Transfer \$26,000 for Public Facilities.** The Finance Committee reviewed the Mayor's letter dated February 8, 2011 requesting the following two transfers for Overtime and the Principal Clerk line items in the Public Facilities Department:

- Transfer \$16,000.00 from the Custodian to Overtime line item
- Transfer \$10,000.00 from Building Maintenance Craftsman to Principal Clerk line item

**Recommendation of the Finance Committee is to approve the two transfers 4-0.**

**Order No. 11-1002830 – Various DPW transfers for \$19,756.00.** The Finance Committee reviewed the Mayor's letter dated February 24, 2011 requesting the following five transfers within the DPW budget:

- Transfer \$706.00 from the Assistant Commissioner Sewer Department to Principal Clerk DPW Administration line item
- Transfer \$3,500.00 from Chief Treatment Plant Operator EWWTP to Overtime EWWTP line item. The DPW Commissioner agreed to correct the transfer sheet identifying the account number for the EWWTP OT line item.
- Transfer \$1,600.00 from Equipment Operators Streets to the Dispatcher Streets line item. The DPW Commissioner agreed to correct the transfer sheet identifying the account number for the Equipment Operators.
- Transfer \$13,200.00 from Equipment Operators Streets to the Overtime Streets line item. The DPW Commissioner agreed to correct the transfer sheet identifying the account number for the Equipment Operators.

**Recommendation of the Finance Committee is to approve the four transfers 4-0.**

- Transfer \$750.00 from Miscellaneous Hand/Power Tools to the Repair/Maintenance Equipment line item in the Forestry Department. The Finance Committee identified that there were insufficient funds in the Miscellaneous Hand/Power Tools line item to cover the transfer.

**Recommendation of the Finance Committee is to table this transfer pending additional information from the DPW Commissioner 4-0.**

**Order No. 11-1002833 – STAG grant for \$485,000 for Design of Westerly Wastewater Treatment Plant.** The Finance Committee reviewed the Mayor's letter dated February 22, 2011 requesting the acceptance of the \$485,000 State and Tribal Grant (STAG). The grant provides the reimbursement monies for the design and construction of upgrades to the Westerly Waste Water Treatment Plant. This is the second STAG grant received for the Westerly Wastewater Treatment Plant design. The previous grant was for \$286,000. **Recommendation of the Finance Committee is to approve the acceptance of the STAG grant 4-0.**

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

**Order No. 11-1002822 – Communication from the Councilor Elder regarding a proposed Home Rule Petition pertaining to the restriction of pension, retirement and insurance benefits for certain City Councilors.** This was the second meeting held to discuss this matter. The Committee originally met February 28<sup>th</sup> and reviewed the letter dated February 9, 2011 from Councilor Elder. A letter from Mayor Stevens expressing her opposition to the Home Rule Petition was read into the record. In addition, Councilor Elder made a brief presentation explaining his rationale for eliminating pension and health insurance benefits for all new City Councilors. The Committee continued its discussion on this matter on March 9<sup>th</sup>. **Recommendation of the Legislative and Legal Affairs Committee is to approve the Home Rule Petition 3-0.**

**Order No. 11-1002834 - Proposed Home Rule Petition granting an additional license for the sale of alcoholic beverages not to be drunk on the premises under Section 15 of MGL Chapter 138 to Rick Lombardi and Julie Lombardi, d/b/a The Vin Bin, located at 91 Main Street, Marlborough, Massachusetts.** The Committee reviewed the Mayor’s letter dated February 24, 2011. A letter from Councilor Clancy was read into the record as he was unable to attend the meeting. Letters from Michael and Kimberly Manning, and Steven Zeitler, proprietors of local package stores were read into the record expressing their opposition to the proposed Home Rule Petition. Walter Bonin, Chairman of the Licensing Commission, and Assistant Solicitor Cynthia Panagore Griffin provided input on the matter and responded to inquiries. The Committee voted to approve the Home Rule petition as amended by modifying Section 2 to allow for the transfer of the license to another location in the downtown/Main Street area only. Assistant Solicitor Panagore Griffin will draft language to that effect. **Recommendation of the Legislative and Legal Affairs Committee is to approve 2-0 with Councilor Levy abstaining from the vote.**

**Suspension of the Rules requested - granted**

ORDERED: That the Petition from Massachusetts Electric Co. and Verizon New England, Inc. install stub P. 85-5 as midspan pole to service new construction of Farm Commons Dr., **APPROVED**; adopted.

**Suspension of the Rules requested - granted**

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, **APPROVED**.

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			

**Suspension of the Rules requested - granted**

ORDERED: That the Communication from the Mayor re: Fire intra-transfers as follows with explanations noted on the spreadsheet, **APPROVED**; 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 Application of Ronald Roza, d/b/a Techcell USA, for Junk Dealer's license at 276 Main St, **APPROVED**; adopted.

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

**TABLED UNTIL MARCH 28, 2011**; 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, **FILE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:25 p.m.