



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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June 15, 2009**

Regular meeting of the City Council held on Monday June 15, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juaire, Seymour, Clancy and Landers. Meeting adjourned at 9:45 p.m.

ORDERED: That the unavailable minutes of the City Council Meeting June 8, 2009, **TABLED UNTIL JUNE 22, 2009**; adopted.

ORDERED: That the Public Safety Revolving Fund for emergency dispatch fees from Patriot Ambulance's contract with the City to be utilized by the City for Public Safety training, **TABLED UNTIL JUNE 22, 2009**; adopted.

ORDERED: That the Communication from the City Solicitor re: Revised Special Permit from Toll MA Land Limited Partnership to construct 69 Retirement Units on Less than 14 Acres and to revise current Special Permit conditions accordingly in proper form, Order No. 09-1002151B, **TABLED UNTIL JUNE 22, 2009**; adopted.

ORDERED: That the Communication from the City Solicitor re: Application for Special Permit on behalf of Marlborough Savings Bank for a Drive-Thru Teller and ATM at proposed 16,500 s.f. bank/office building at 83 Granger Blvd. in proper form, Order No. 09-1002152B, **TABLED UNTIL JUNE 22, 2009**; adopted.

Councilor Delano abstained

ORDERED: That the minutes, Planning Board, May 11, 2009, **FILE**; adopted.

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

- A. Cresenio Jimenez, 16 Martin St., Other Property Damage
- B. Christine Smith, 257 Lakeshore Dr., Other Property Damage

Reports of Committees:

Councilor Clancy reported the following out of the Personnel Committee:

Order No. 09-1002230 – Communication from the Mayor re: Offset of an Appropriation by Estimated Fees Related to Site Plan Review, together with Order requesting funding for a portion of the salary for the position of City Planner for all of FY2010 in the amount of \$14,677.00 with the estimated receipts from the Site Plan Review process being used to

offset that portion of the salary. The offset appropriation is similar to establishing a revolving fund, except that the money must first be appropriated and any balance at the end of the fiscal year is automatically deposited into the General Fund. Discussion was gathered about how the "Planner" position would be funded, if the amount of \$14,677.00 was not met through Site Plan Review fees.

Mr. Abel submitted options:

- 1) Transfer the difference from Free Cash;
- 2) Transfer the difference from Stabilization;
- 3) Transfer from budgetary accounts that have a surplus at year's end
- 4) A supplemental budget;
- 5) Fund the difference on the 2011 recap sheet as a revenue deficit.

Recommendation of the Personnel Committee is to approve 3-0.

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

Order No. 09-1002146 - Communication from Mayor Stevens with transfer request in the amount of \$15,000.00 which moves funds from Undesignated to Affordable Housing which represents payment by St. Mary's of French Hill Redevelopment LLC in satisfaction of condition #22 of Special Permit #07-100-1500C. Chairman Ferro read an electronic communication from Community Development Director Flynn. **Recommendation of the Operations and Oversight Committee is to approve 3-0.**

Councilor Ossing reported the following out of the Finance Committee:

Order No. 09-1002205 – \$35,000.00 Water Conservation Grant: The Finance Committee reviewed the Mayor's letter dated May 6, 2009 requesting the approval of the \$35,000 grant from the Massachusetts Department of Environmental Protection for leak detection services. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002223 – Transfer \$66,277.00 from Insurance Proceeds to City Hall Repairs: The Finance Committee reviewed the Mayor's letter dated May 28, 2009 requesting the transfer of \$66,277.00 from the Insurance Proceeds Account to the City Hall Repair account to purchase an evaporative cooler that was damaged in the December 2008 ice storm. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002226 – Emergency Management Grant for \$2,500.00: The Finance Committee reviewed the Mayor's letter dated June 2, 2009 requesting the approval of the Massachusetts Emergency Management grant for \$2500.00 to upgrade the Comprehensive Emergency Management Plan. **Recommendation of the Finance Committee is to approve 5-0.**

Suspension of Rules requested-granted

ORDERED: That the budget transfer request in the amount of \$300,000.00 to move funds from Electricity and Undesignated to Roof/Repair Replace accounts which allow for roof replacements at the City's Police Station and the Middle School gym and Kane School, **APPROVED;** adopted.

FROM:

Acct. # 10000-35900 \$150,000.00

Undesignated

Acct. # 11920006-52120 \$150,000.00

Electricity

TO:

Acct. # 11920006-52444 \$300,000.00

Roof Repair/Replace

ORDERED: That the FY10 Budget, item 8, order No. 09-1002197-1A, be moved before item 7, **APPROVED**; adopted.

Suspension of the Rules requested to allow the DPW Commissioner to speak – DOES NOT CARRY

ORDERED: That the FY10 Budget recommendation from the Finance Committee reducing the Mayor’s proposed budget by \$433,181 from \$118,483,381 to \$118,050,200 be amended as follows:

- 1) Reduce the following line items:

		FY10 Mayor Recommendation (\$)	Proposed Reduction (\$)
Line Item			
4000-150 DPW FP&C	50690 - Foreman	248,657.00	57,284.00
	51940 - Clothing Allow	17,630.00	990.00
	51440 - Educ. Incentive	6,200.00	1,400.00
	51310 - OT	24,000.00	8,000.00
	53140 - Contract Services	52,560.00	5,000.00
9000 Water Enterprise Fund	50690 - Foreman	182,196.00	54,614.00
	50690 - Longevity	30,770.00	2,731.00
	50690 - SLBB	26,378.00	2,101.00
	51940 - Clothing Allow	17,430.00	990.00
	51440 - Educ. Incentive	9,100.00	300.00
1970 Unemployment Compensation	51730 - Unemployment	45,000.00	25,000.00
			158,410.00

2) Restore the cuts previously recommended in the following line items:

Line Item	FY10 Mayor Recommendation (\$)	Proposed Reduction (\$)
4000-130 DPW Streets	51240 - Temp Part Time 4,800.00	4,800.00
4000-140 DPW Fleet Maint.	51240 - Temp Part Time 8,000.00	8,000.00
4000-150 DPW FP&C	50740 - Equip. Operators 628,844.00 51940 - Clothing Allow 17,630.00	84,208.00 1,980.00
		98,988.00

The changes above combined with the Finance Committee recommendations results in a reduction of the \$492,603 to the Mayor's FY10 budget. That the City Council approved a FY10 budget of \$117,990,778, **APPROVED**; adopted.

ORDERED: At President Vigeant's request to recess at 9:12 PM and returned to open meeting at 9:14 PM, **APPROVED**; adopted.

ORDERED: That the appointment of Nancy Savoie for the position of City Planner which expires one year from the date of confirmation, **APPROVED**; adopted.

Councilors Pope, Schafer and Ferro requested to be recorded in opposition.

ORDERED: That the budget transfer request in the amount of \$1,506,917.81 which moves funds from Undesignated to DPW/Snow Removal to cover snow and ice deficits incurred during FY09, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$1,506,917.81
Undesignated

TO:

Acct. # 14001206-52960 \$1,506,917.81
DPW/Snow Removal

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 \$500,000.00 in excess of available appropriation for snow and ice removal for fiscal year 2010, **APPROVED**; adopted.

ORDERED: That the following intra-department transfers from various departments to balance FY09 year end, **APPROVED**; adopted.

Transfer in the amount of \$8,000.00 from Account No. 11920003-50560 (Custodian) to Account No. 11920001-50385 (Electrician)

Transfer in the amount of \$700.00 from Account No. 12410004-53150 (Advertising) to Account No. 12410001-50380 (Electrical Inspector)

Transfer in the amount of \$3,200.00 from Account No. 1241006-57100 (In-state Travel) to Account No. 12410001-50380 (Electrical Inspector)

Transfer in the amount of \$7,200.00 from Account No. 14001503-50740 (Equipment operators- FP & C) to Account No. 14001505-54680 (Stump Removal- FP & C)

Transfer in the amount of \$2,200.00 (FINCOM reduced from \$9,900.00) from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001403-51240 (Temp. Part-time- Repair)

Transfer in the amount of \$6,600.00 from Account No. 14001503-50740 (Equipment Operators- FP & C) to Account No. 14001306-52600 (Traffic & Fld light- Streets)

Transfer in the amount of \$10,000.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001306-55440 (Drainage Maintenance- Streets)

Transfer in the amount of \$1,000.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001306-55500 (Stream Maintenance- Streets)

Transfer in the amount of \$8,146.00 (FINCOM reduced from \$12,146.00) from Account No. 14001501-50690 (Foreman- FP & C) to Account No. 14001303-51310 (Overtime-Regular- Streets)

Transfer in the amount of \$10,000.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001305-55310 (Highway Constr. Materials- Streets)

Transfer in the amount of \$24,100.00 from Account No. 61090001-50740 (Equipment Operator) to Account No. 61090006-52322 (Water Marlboro Plant)

Transfer in the amount of \$7.86 moving funds from Account No. 14001003-51920 (Sick Leave Buy Back) to Account No. 14001003-51430 (Longevity)

Transfer in the amount of \$1,000.00 from Account No. 12100003-51920 (Sick Leave Buy Back) to Account No. 12100003-51195 (Detention Attendant)

ORDERED: That the following intra-department transfers from various departments to balance FY09 year end, **APPROVED**; adopted.

Transfer in the amount of \$4,018.00 from Account No.12410004-53180 (Professional & Technical Services) to Account No. 12410002-50770 (Senior Clerk)

Transfer in the amount of \$2,150.00 from Account No. 14001503-50740 (Equipment Operator) to Account No. 14001002-50770 (Senior Clerk)

Transfer in the amount of \$240.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001303-51240 (Temp. Part-time- Streets)

Councilors Ferro and Schafer requested to be recorded in opposition.

ORDERED: That the following intra-department transfers from various departments to balance FY09 year end, **DENIED**; adopted.

Transfer in the amount of \$200.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001505-54220 (Office Supply/Expense- FP & C)

Transfer in the amount of \$900.00 from Account No. 14001503-50740 (Equipment operators- FP & C) to Account No. 14001505-54610 (General Materials- FP & C)

Transfer in the amount of \$400.00 from Account No. 14001503-50740 (Equipment operators- FP & C) to Account No. 14001505-54680 (Cemetery Supplies- FP & C)

ORDERED: That the following intra-department transfer from various departments to balance FY09 year end, **APPROVED**; adopted.

Transfer in the amount of \$4,000.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001503-51241(Temp. Help- Downtown- FP &C)

ORDERED: That the following intra-department transfers from various departments to balance FY09 year end, **DENIED**; adopted.

Transfer in the amount of \$1,400.00 from Account No. 14001301-50660 (Assistant City Engineer- Streets) to Account No. 14001504-53810 (Insect & Pest Control- FP & C)

Transfer in the amount of \$16,000.00 from Account No. 61090001-50460 (Meter Reader) to Account No. 61090006-52322 (Water Marlboro Plant)

ORDERED: At President Vigeant's request to recess at 9:27 PM and returned to open meeting at 9:29 PM, **APPROVED**; adopted.

ORDERED: That the following inter-departmental budget transfer requests from the Fringes account necessary to balance year-end FY09, **TABLED UNTIL JUNE 22, 2009**; adopted.

FROM:

Acct. # 11990006-51500	\$19,649.00
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Fringes

TO:

Acct. # 11520001-50530	\$7,000.00
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Director of Personnel

Acct. # 11550001-50210	\$45.00
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IT/Sr. System Analyst

Acct. # 14001303-51920	\$12,109.00
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DPW/Street/SLBB

Acct. # 14001303-51430	\$495.00
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DPW/Street/Longevity

Note: The City Council approved the \$5,000.00 transfer to the Veterans benefit account at the May 11, 2009 City Council meeting.

ORDERED: That the budget transfer request in the amount of \$429,417.00 which moves funds from Undesignated to fund the following requests for Capital Outlay, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$429,417.00
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Undesignated

TO:

Acct. # 19300006-58467	\$200,000.00
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Public Facilities

Acct. # 19300006-58508	\$54,000.00
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Police Vehicles

Acct. # 19300006-58513	\$36,500.00
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Fire Protective

Acct. # 19300006-58596	\$138,917.00
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Emergency Management

ORDERED: That the budget transfer request in the amount of \$350,000.00 which moves funds from Undesignated to fund the following requests for Capital Outlay, **TABLED UNTIL JUNE 22, 2009**; adopted.

FROM:

Acct. # 10000-35900	\$350,000.00
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Undesignated

TO:

Acct. # 19300006-58618	\$350,000.00
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Hardware

ORDERED: That the budget transfer request in the amount of \$759,200.00 which moves funds from Undesignated to fund the following requests for Capital Outlay, **TABLED IN FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$759,200.00

Undesignated

TO:

Acct. # 19300006-58311 \$64,000.00

Street Sign Replacement

Acct. # 19300006-58462 \$153,000.00

DPW Water

Acct. # 19300006-58731 \$542,200.00

DPW Equipment

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 hereby re-authorize a revolving fund during fiscal year 2010 for Geographical Information System (GIS) purposes to be administered by the Department of Public Works. It is further ordered that:

(a) departmental receipts credited to the fund shall be limited to payments and fees due the City from those who purchase data and related copy-written material that has been created by the City of Marlborough Geographical Information System, unless otherwise directed by the General Laws; and

(b) that expenditures from said fund shall be limited to the maintenance, improvement and related expenses for the maintenance and improvement of the City of Marlborough Geographical Information System; and

(c) that the Commissioner of Public Works shall be the only officer authorized to approve expenditures from the fund; and

(d) no more than \$10,000.00 shall be expended during fiscal year 2010, unless otherwise authorized by the City Council and Mayor; and

(e) the Commissioner of Public Works 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, **APPROVED**; 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 hereby re-authorize a revolving fund during fiscal year 2010 for parks and playground improvement purposes to be administered through the Department of Public Works. It is further ordered that:

(a) departmental receipts credited to the fund shall be limited to lease payments and fees due the City from owners of antennae and related telecommunications equipment located on Fairmount Hill; and

(b) that expenditures from said fund shall be limited to the maintenance and improvement of neighborhood parks and playgrounds, and that priority for such expenditures shall, through fiscal year 2010, be utilized for the maintenance and improvement of Artemus Ward Park; and

(c) that the Commissioner of Public Works shall be the only officer authorized to approve expenditures from the fund; and

(d) no more than \$100,000.00 shall be expended during fiscal year 2010, unless otherwise authorized by the City Council and Mayor; and

(e) the Commissioner of Public Works 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, **APPROVED**; 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 2010, re-authorize the revolving fund utilized by the Public Facilities Department. It is further ordered that:

(a) departmental receipts credited to the fund shall be limited to lease payments and fees due the City from owners of antennae and related telecommunications equipment on property that is maintained by, or assigned or transferred to be maintained by, the Public Facilities Department, unless otherwise directed by the General Laws; and

(b) that expenditures from said fund shall be limited to the maintenance and related expenses for Sligo Hill and Stevens Park; and

(c) that the Director of Public Facilities shall be the only officer authorized to approve expenditures from the same; and

(d) no more than three hundred thousand dollars shall be expended during Fiscal Year 2010, unless otherwise authorized by the City Council and Mayor; and

(e) the Director of Public Facilities 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, **APPROVED**; adopted.

ORDERED:

**EASTERLY WASTEWATER TREATMENT PLANT
WIRELESS COMMUNICATIONS FACILITY REVOLVING FUND – FY2009**

That, pursuant to the provisions of § 53E1/2 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 2009, authorize the establishment of a revolving fund to be utilized by the Department of Public Works.

It is further ordered that:

- (a) departmental receipts credited to the fund shall be limited to payments, fees and/or rental income due the City from owners of antennae and related telecommunications equipment located or co-located at the wireless communications facility ("WCF") situated on property under the care, custody, management and control of the Department of Public Works at the Easterly Wastewater Treatment Plant ("EWTP") at 860 Boston Post Road in Marlborough or any land adjacent thereto and unless otherwise directed by the General Laws; and
- (b) expenditures from said fund shall be limited to the maintenance and improvement of municipal parks and playgrounds; and,
- (c) the Commissioner of Public Works shall be the only officer authorized to approve expenditures from the fund; and,
- (d) no more than \$75,000.00 shall be expended during Fiscal Year 2009, unless otherwise authorized by the City Council and Mayor; and,
- (e) priority for expenditure of said payments, fees and/or rental income from the WCF at the EWTP shall, through Fiscal Year 2011, be utilized for the maintenance and improvement of Byrne Field; and,
- (f) the Commissioner of Public Works shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and,
- (g) no provisions of this order shall be changed unless approved by the Mayor and City Council, **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 ADDING THERETO A NEW CHAPTER 66, ENTITLED "REGISTRATION AND MAINTENANCE OF ABANDONED AND/OR FORECLOSING RESIDENTIAL PROPERTIES," AS FOLLOWS:

CHAPTER 66

REGISTRATION AND MAINTENANCE OF ABANDONED AND/OR FORECLOSING RESIDENTIAL PROPERTIES

Sec. 66-1. Purpose; Enforcement Authority.

- A. It is the purpose and intent of this Chapter to protect and preserve public safety and security, and the quiet enjoyment of occupants, abutters and neighborhoods, by: (i) requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosing residential properties with the City of Marlborough; and (ii) regulating the maintenance and security of abandoned and/or foreclosing residential properties to help prevent blighted and unsecure residences.
- B. The Building Commissioner of the City of Marlborough has enforcement authority as to this Chapter, pursuant to MGL c. 143, § 3, the State Building Code, and the City's Zoning Ordinance.

Sec. 66-2. Definitions.

When used in this Chapter 66, the following terms shall have the following meanings, unless a contrary intention clearly appears:

"Abandoned" means vacant.

"City" means the City of Marlborough.

"Commissioner" means the Building Commissioner of the City of Marlborough or his/her designee.

"Days" means consecutive calendar days, including legal holidays as specified in MGL c. 4, § 7 and weekend days.

"Evidence of abandonment" means any condition that, by itself or in combination with other conditions, might lead a reasonable person to conclude that a property is vacant. Such conditions include but are not limited to overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; the absence of window coverings such as curtains, blinds and/or

shutters; the absence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents and/or governmental employees that the property is vacant; and such evidence as would constitute a violation of the City of Marlborough's so-called Anti-Blight Ordinance, codified at Chapter 64 of the City Code.

"Foreclosing" means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower of that loan defaults.

"Initiation of the foreclosure process" means the taking of any of the following actions: (i) taking possession of a residential property pursuant to MGL c. 244, § 1; (ii) publishing the first foreclosure notice of a residential property pursuant to MGL c. 244, § 14; (iii) delivering the mortgagee's notice of intention to foreclose pursuant to MGL c. 244, § 17B; or (iv) commencing a foreclosure action on a residential property in either the Land Court or the Superior Court.

"Local" means within twenty (20) driving miles of the property in question.

"Mortgagee" means the creditor, including but not limited to service companies, lenders in a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the mortgage agreement.

"Mortgagee in possession" means a mortgagee that, upon default of the borrower, has taken over control and/or occupancy of a property in order to collect income from the property and/or to prepare the property for foreclosure.

"Owner" means every person, entity, service company, property manager or real estate broker, who alone or severally with others:

- (i) has legal or equitable title to any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park); or
- (ii) has care, charge or control of any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park), in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- (iii) is a mortgagee in possession of any such any dwelling, dwelling unit, mobile home unit, building or parcel of land, vacant or otherwise, including a mobile home park; or
- (iv) is an officer or trustee of the association of unit owners of a condominium;
- (v) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities and has initiated the foreclosure process; or
- (vi) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (vii) is a person who operates a rooming house.

“Property” means any real, residential property, or portion thereof, located in the City of Marlborough, including but not limited to buildings and structures situated on the property.

“Residential Property” means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

“Vacant” means any residential building or structure not currently legally occupied.

Sec. 66-3. Registration.

- A. All owners of abandoned and/or foreclosing residential properties shall register such properties with the Commissioner on forms provided by the Commissioner.
1. Each registration must state the individual owner’s or agent’s name, phone number and mailing address located within the Commonwealth of Massachusetts as required by MGL c. 59, § 57D, MGL c. 156D, § 5.02, and 950 CMR 113.20; the mailing address may not be a post office box.
 2. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned. If the property shows evidence of abandonment, the property is abandoned for purposes of this Chapter 66. Each registration must designate a local individual or local property management company responsible for the maintenance and the security of the property. This designation must state the individual or company’s name, direct phone number, and local mailing address; the mailing address may not be a post office box.
 - a. If the owner’s inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven (7) days of the owner’s inspection.
 - b. If the owner’s inspection determines that the property is not abandoned, but foreclosure proceedings have been initiated, the registration must be received by the Commissioner within seven (7) days of the initiation of the foreclosure process.
 - c. If the Commissioner’s inspection pursuant to Section 66-5 determines that the property is abandoned, the registration must be received by the Commissioner within fourteen (14) days of the Commissioner’s first citation for improper maintenance.

- d. If, regardless of any determination as to abandonment, foreclosure proceedings have been initiated, the registration must be received by the Commissioner within seven (7) days of the initiation of the foreclosure process.
- B. All property registrations pursuant to this Section 66-3 are valid for one (1) calendar year from the date when the registration is received by the Commissioner. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty (30) days after the date of expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure, as the case may be.
- C. Any owner that has registered a property under this Section 66-3 must report any change in information contained in the registration within ten (10) days of the change.
- D. Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

Sec. 66-4. Maintenance and Security Requirements.

- A. Properties subject to this Chapter must be maintained in accordance with the State Sanitary Code, the State Building Code, and local regulations concerning external and/or visible maintenance including but not limited to the City of Marlborough's so-called Anti-Blight Ordinance, codified at Chapter 64 of the City Code. The local owner or local property management company must inspect and maintain the property on a monthly basis for so long as the property is abandoned or shows evidence of abandonment. The name and the 24-hour contact phone number of the local owner or local property management company responsible for the maintenance must be posted on the front of the property so as to be clearly visible by the Commissioner or his/her designee from the street.
- B. In accordance with state law, including but not limited to MGL c. 143, §§ 6-10 and 780 CMR 121.0, abandoned property that is abandoned or that shows evidence of abandonment must be made safe and must be secured so as not to be accessible to unauthorized persons.
- C. Compliance with this Section 66-4 does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions, and/or homeowners' association rules and regulations.

Sec. 66-5. Inspections.

Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this Chapter for compliance with this Chapter and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided that such determination is reasonably calculated to ensure that this Chapter is enforced.

Sec. 66-6. Violations and Penalties.

- A. A failure to initially register with the Commissioner pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00.
- B. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00 for each violation, and a like fine for each day's continuation of such violation.
- C. A failure to maintain and/or to secure the property pursuant to Section 66-4 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$300.00 for each week during which the property is not maintained and/or not secured in compliance with Section 66-4.
- D. The penalties provided in this Section 66-6 shall not be construed to restrict the City from pursuing other legal remedies available to the City.

Sec. 66-7. Appeals.

Any person aggrieved by the requirements of this Chapter or by a decision issued hereunder may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

Sec. 66-8. Applicability.

If any provision of this Chapter imposes greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, then the provisions of this Chapter shall control.

Sec. 66-9. Regulatory Authority.

The Commissioner shall have the authority to promulgate rules and regulations necessary to implement and enforce this Chapter.

Sec. 66-10. Severability.

If any provision of this Chapter is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from this Chapter's remaining provisions, which shall remain in full force and effect.

Sec. 66-11. Notice.

A copy of this ordinance is to be advertised in one (1) newspaper of general circulation in the City of Marlborough, and is to be mailed to all loan institutions, banks, real estate offices, and management companies located in, and/or having legal or equitable interest in any residential property located in, the City of Marlborough.

Sec. 66-12. Effective Date.

The provisions of this Chapter shall take effect immediately upon passage and all provisions shall be enforced immediately, except that no monetary fine shall be imposed pursuant to this Chapter until thirty (30) days after the date when notices are mailed pursuant to Section 66-11.

TABLED UNTIL JUNE 22, 2009

Councilor Schafer abstained

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 147, ENTITLED "NON-CRIMINAL DISPOSITION," AS FOLLOWS:

Chapter 147 is hereby amended by adding to section B the following new sub-section:

29. Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties (City Code, Chapter 66).

TABLED UNTIL JUNE 22, 2009

Councilor Schafer abstained

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 ADDING A NEW CHAPTER 51, ENTITLED "PUBLIC CONSUMPTION OF MARIHUANA OR TETRAHYDROCANNABINOL," AS FOLLOWS:

- A. No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the City of Marlborough; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.
- B. This ordinance may be enforced by any police officer through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D.
- C. The fine for violation of this ordinance shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this ordinance shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

TABLED UNTIL JUNE 22, 2009

Councilor Schafer abstained

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 147, ENTITLED "NON-CRIMINAL DISPOSITION," AS FOLLOWS:

Chapter 147 is hereby amended by adding to section B the following new sub-section:

30. Public Consumption of Marihuana or Tetrahydrocannabinol (City Code, Chapter 51).

TABLED UNTIL JUNE 22, 2009

Councilor Schafer abstained

ORDERED: That the application to renew Pool Table (2) licenses, Marlboro Cozy Café, 487A Lincoln St., **APPROVED**; adopted.

ORDERED: That the application of Tony Bitar, d/b/a Hannoush Jewelers, for Junk Dealer's license at 601 Donald Lynch Blvd., **APPROVED**; adopted.

ORDERED: That the petition by Petition from National Grid to install one new pole on Florence St. #14-50, **APPROVED**; adopted.

ORDERED: Now being the time set for the PUBLIC HEARING on the Petition from National Grid to install 60' of primary ug across Forest St. from P.47 to a hand hole, **CONTINUED UNTIL JUNE 22, 2009**; adopted.

ORDERED:

A. That, pursuant to an open space special permit granted by the Marlborough Planning Board on February 22, 2005, a deed dated May 16, 2008, from Henry H. Renaud, III, Marlo J. Renaud, Thomas A. Kehoe and Elizabeth J. Kehoe to the City of Marlborough, conveying a certain tract of open space land designated "Open Space (Passive Recreation) to City of Marlborough, Map 54, Parcel 29, Area: 102,650 s.f.+/-, (2.356 +/- acres)(18.3% wetlands)," as shown on a plan entitled, "Subdivision Plan of Land, Definitive Open Space, Lotting Plan Modification of Plan No. 277 of 2006 and Plan No. 868 of 2007, Berlin Farms, Marlborough, Mass.," Owner/Applicant: Berlin Farms 2007 Realty Trust, Charles V. Freeman, Trustee, P.O. Box 118, Hudson, MA 01749, Scale 1" = 40', Date: November 28, 2007, Prepared by: Inland Survey, Inc., dba Zanca Land Surveying, Civil Engineers and Land Surveyors, 16 Gleasondale Road, Stow, MA (978) 461-2355, (Sheet 2 of 6), said plan being last revised on January 17, 2008 and recorded at the Middlesex South District Registry of Deeds as Plan Number 140 of 2008, and to which plan reference is hereby made for a more particular description of said open space land, subject to the drainage easement for the benefit of Lots 1, 2, 3 and 4 as shown on said plan, is accepted under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

B. That, since, pursuant to an open space special permit granted by the Marlborough Planning Board on February 22, 2005, the City of Marlborough is the accepting entity for the Berlin Farms open space parcel referenced in part A above, the amount of \$5,000.00 is accepted under the provisions of Mass. Gen. Laws c. 44, § 53A and is to be placed in the Conservation Maintenance Trust Fund, account #84500-48300, for the purposes of managing the Berlin Farms open space parcel and other conservation land, **APPROVED**; adopted.

Yea: 10 – Nay: 0

Yea: Delano, Ferro, Schafer, Juair, Clancy, Landers, Ossing, Pope, Vigeant, & Levy

Absent: Seymour

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:45 p.m.