



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

**Lisa M. Thomas  
140 Main St.**

**Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723  
September 14, 2009**

Regular meeting of the City Council held on Monday, September 14, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Pope, Vigeant, Delano, Ferro, Schafer, Juaire, Seymour, Clancy and Landers. Councilors absent: Ossing. Meeting adjourned at 9:20 p.m.

ORDERED: That the minutes of the City Council Meeting AUGUST 17, 2009, **FILE**; adopted.  
**Councilor Schafer abstained**

ORDERED: Now being the time set for the CONTINUED PUBLIC HEARING on the Application for Special Permit from Cheraq Patel to construct a 104 room hotel at 257 Simarano Dr. as it is in an industrial zone, all were heard who wish to be heard, hearing recessed at 8:20 p.m.; adopted.

ORDERED: That the following budget transfer request in the amount of \$11,500.00 from Equipment Operator-Water to Temp. P.T. Help Water & Sewer and \$7,448.00 from Motor Equipment Repairman to Temp. P.T. Help Fleet Maintenance, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 61090001-50740 \$11,500.00  
Equipment Operator-Water

TO:

Acct. # 61090003-51240 \$11,500.00  
Temp. P.T. Help Water & Sewer

FROM:

Acct. # 14001403-50745 \$7,448.00  
Motor Equipment Repairman

TO:

Acct. # 14001403-51240 \$7,448.00  
Temp. P.T. Help Fleet Maintenance

ORDERED: That the following budget transfer request in the amount of \$22,141.80 from Fringes to Sick Leave Buy Back associated with an employee's retirement, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11990006-51500 \$22,141.80  
Fringes

TO:

Acct. # 60080003-51920 \$22,141.80  
Sick Leave Buy Back

ORDERED: That the following budget transfer request in the amount of \$496,000.00 from Stabilization to DPW Projects which allows for the replacement of all lead services that currently exist within the Bolton St. right-of-way project, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 836000-11515

\$496,000.00

Stabilization

TO:

Acct. # 19300006-58514

\$496,000.00

DPW Projects

ORDERED: That the appointment of Robert Page as an alternate member of the Zoning Board of Appeals which expires two years from the date of City Council approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the along with the City Council's approval of the FY10 operating budget, a recommendation of adopting of Section 4, Chapter 73 of the Acts of 1986 which allows for the doubling of all exemptions offered in the City to qualified residents (i.e. Elderly, Blind, Disabled Vets) as provided by Massachusetts law in which the City would absorb any associated costs through the overlay account, **APPROVED**; adopted.

ORDERED: **Order For Appropriation**

That the City Council of the City of Marlborough hereby appropriates the sum of \$5,000.00 from Legal Department account number 11510006-57600 for the purposes of acquiring a permanent municipal sewer easement from the Division of Capital Asset Management and Maintenance, acting on behalf of the Massachusetts Highway Department, for the purposes of installing, maintaining, replacing, removing, and using an existing underground municipal sewer line located across and under land of the Commonwealth on Pleasant Street, as described in the attached Grant Of Easement and as shown on the plan attached to said Grant as "Exhibit A," entitled "Sewer Easement Plan in Marlborough, MA," prepared for the City of Marlborough, City Hall, 140 Main Street, Marlborough, MA 01752, dated November 1, 2006, revised December 6, 2006, Scale: 1"=40', prepared by Bruce Saluk & Associates, Inc., 576 Boston Post Road, Marlborough, MA 01752, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: **Order For Acquisition Of Easement**

That the City of Marlborough purchase a permanent Grant of Easement, to be executed by the Mayor on behalf of the City, from the Division of Capital Asset Management and Maintenance, acting on behalf of the Massachusetts Highway Department, has granted a permanent easement to the City for the purposes of installing, maintaining, replacing, removing, and using an existing underground municipal sewer line located across and under land of the Commonwealth on Pleasant Street, as described in the attached Grant Of Easement and as shown on the plan attached to said Grant as "Exhibit A," entitled "Sewer Easement Plan in Marlborough, MA," prepared for the City of Marlborough, City Hall, 140 Main Street, Marlborough, MA 01752, dated November 1, 2006, revised December 6, 2006, Scale: 1"=40', prepared by Bruce Saluk & Associates, Inc., 576 Boston Post Road, Marlborough, MA 01752, which shall be recorded at the Middlesex South District Registry of Deeds, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Green Communities Grant for Planning Assistance awarded to the City of Marlborough from the Commonwealth of Massachusetts Department of Energy Resources (DOER), **FILE**; 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 TO SECTION 7-13 OF CHAPTER 7 OF ARTICLE II THE FOLLOWING NEW PARAGRAPHS:

It shall be deemed to be within the proper discharge of the official duties of the employees in the Legal Department for said employees to contact private contractors and/or their insurers in an effort to assist, or attempt to assist, those claimants whose claims against the City of Marlborough have been denied based upon a determination by the Legal Department or the City's insurer that said private contractors are responsible for satisfying those claimants' claims; provided however, that nothing contained herein shall be construed to create an attorney-client relationship between any claimant so assisted, or attempted to be assisted, and either the Solicitor or the Assistant Solicitor, whose sole client is and shall remain the City of Marlborough; and provided, further, that nothing contained herein shall be construed so as to interfere, in the sole determination of the Solicitor or the Assistant Solicitor, with the proper discharge of any other official duties of the employees in the Legal Department. This paragraph shall be applicable to only those claims accruing on or after November 1, 2009.

Notwithstanding the immediately preceding paragraph, any written claim presented to the City of Marlborough alleging that a residential mailbox has been damaged by the operation of a snow plow shall be granted upon written confirmation provided by the Department of Public Works to the Legal Department that City of Marlborough snow plow operations were in effect during the date when, and on the street where, the claimed mailbox damage occurred; provided, however, that such claim must be accompanied both by an auto-dated photograph(s) of the damaged mailbox as well as by a paid receipt showing the actual cost of the mailbox's repair or replacement; and provided, further, the maximum amount of reimbursement shall be set at Seventy-Five and 00/100 (\$75.00) Dollars, except that in the absence of such photograph(s) and/or such paid receipt, the maximum amount of reimbursement shall be set at Thirty and 00/100 (\$30.00) Dollars. This paragraph shall be applicable to only those mailbox claims accruing on or after November 1, 2009.

The foregoing amendment to Section 7-13 of Chapter 7 of Article II of the Code of the City of Marlborough, as amended, shall expire on June 30, 2010 unless prior to expiration the City Council determines it is appropriate to extend this amendment beyond June 30, 2010,

refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; 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 §7-33 OF CHAPTER 7 IN ITS ENTIRETY, AND INSERTING IN ITS PLACE THE FOLLOWING:

**§7-33. Tree Warden.**

- A. Pursuant to the provisions of M.G.L. c. 41, §106, there shall be a “Tree Warden,” who shall be appointed for a term of three (3) years by the Mayor subject to confirmation of the City Council.
- B. The Tree Warden shall be the officer charged with the care of public shade trees with all of the powers and duties conferred and imposed on tree wardens under M.G.L. c. 41, §106 and M.G.L. c. 87, as provided under M.G.L. c. 87, §13, and with the all of the powers and duties of the superintendent of shade tree management and pest control as provided under M.G.L. c. 132, §13. The Tree Warden shall report directly to the Commissioner of the Department of Public Works.
- C. The Tree Warden shall be qualified to carry out the powers and duties of the position by experience and training in arboriculture and licensed to use pesticides in accordance with M.G.L. c. 41, §106 and M.G.L. c. 132, §13.
- D. Any person requiring the services of the Tree Warden shall pay for such services at an hourly rate equal to the hourly rate of the general foreman of the Forestry, Parks & Cemetery Division of the Department of Public Works. Such compensation shall be paid directly to the Tree Warden.
- E. The Tree Warden must obtain prior written authorization to perform services on City-owned property from the City department with care, custody, and control of the particular City property,

refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from the DPW Commissioner re: removal of trees on parcel of land adjacent to the Grace Circle subdivision in the vicinity of 389 Hosmer St., **APPROVE DPW TO REMOVE THE TREES AND REFER TO OPEN SPACE COMMITTEE FOR REVIEW OF ALL PARCELS UNDER THE JURISDICTION OF THE CITY**; adopted.

ORDERED: That the following notification from the City Clerk re: 2009 Biennial Preliminary Municipal Election Call, **FILE**; adopted.

CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **PRELIMINARY BIENNIAL**

**MUNICIPAL ELECTION** will be held in the polling locations as noted below on **OCTOBER 6, 2009** as follows: **Ward 3 only**

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD THREE: Prec. 1                      Masonic Hall, 8 Newton St., corner of Main/Newton Sts.,  
rear  
WARD THREE: Prec. 2                      Raymond J. Richer School, 80 Foley Rd, gymnasium

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 5, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Hoyt, on behalf of Clear Wireless LLC, for installation of a wireless communications facility at 342 Lincoln St., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the communication from David Perini, Commissioner of the Executive Office for Administration and Finance, Division of Capital Asset Management re: Transfer of 54.4 ± Acres of State-Owned Property on Pleasant St. in the City of Marlborough, **APPROVED AS AMENDED WITH THE CERTIFICATE OF NOTIFICATION WAIVER DATE AMENDED TO REFLECT THE CITY OF MARLBOROUGH'S AGREEMENT, PURSUANT TO MGL C. 40, § 11I, TO SHORTEN DCAM'S 120-DAY NOTIFICATION PERIOD TO 60 DAYS FROM THE DATE OF DCAM'S AUGUST 20, 2009 NOTICE TO THE CITY, WHICH PERIOD EXPIRES OCTOBER 19, 2009**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 5, 2009** as date for a **PUBLIC HEARING** requested by Attorney Arthur Bergeron, on behalf of 400 South St. LLC, 424 South St. LLC and 428 South St. LLC, to request that City Council rezone Map 93 Parcels 18A, 19, 20, 22, 23 32, 101 and 103 from Industrial (I) to Commercial & Automotive (CA), refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE**; adopted.

ORDERED: That the minutes, Planning Board, July 27 2009, **FILE**; adopted.

ORDERED: That the minutes, Traffic Commission, July 28 2009, **FILE**; adopted.

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

A. Richard Sullivan, 327 Cook Lane, other property damage

Reports of Committees:

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

**Order No.09-1002277 - Communication from City Council President Vigeant with Proposed Amendment to the Zoning Ordinance to regulate the location of, but not prohibit, narcotic detoxification and/or maintenance facilities in the City of Marlborough.** The Committee discussed the proposed ordinance as drafted by the Solicitor and reviewed maps displaying buffers of 500, 750 and 1000 feet around excluded locations specified in §C2 of the ordinance. The Committee agreed to further amend the ordinance to reflect a 1000' buffer but

also requested additional maps reflecting 1500' and 2000' buffers be prepared for the full Council prior to a final vote.

**Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Ordinance with an amendment of a 2,000' buffer from a School, Recreational Facility, a Park, an Elderly Housing Facility and Retirement Community, set a Public Hearing for October 5, 2009, refer to Planning Board, and under Suspension of the Rules to advertise amended Ordinance and place item on the October 5, 2009 agenda 3-0.**

**Order No.09-1002273 - Communication from City Clerk – Fee Genealogy Process.** The Committee reviewed the proposed amendment to Ch. 328 of the City Code as requested by the City Clerk and drafted by the City Solicitor to add a new sub-section P detailing fees for genealogical research at \$10.00 per half-hour and \$20.00 per hour. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Proposed Ordinance as amended and under Suspension of the Rules to advertise Ordinance and place item on the October 5, 2009 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the September 28, 2009 agenda 3-0.**

**Order No.09-1002289 - Communication from the City Solicitor with Proposed Amendments to the Sex Offender Ordinance in light of opinions from the Attorney General concerning similar by-laws enacted by various towns around the Commonwealth.** The City Solicitor reviewed the proposed order reflecting recommended changes to the City's Sex Offender Ordinance in Ch. 517 of the City Code to address concerns raised by the Office of the Attorney General in reviewing similar ordinances adopted by towns in the Commonwealth. One further correction was noted in changing "Department of Mental Retardation" to "Department of Developmental Services" to properly reflect the name change of this state department. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval of the Proposed Ordinance as amended and under Suspension of the Rules to advertise Ordinance and place item on the October 5, 2009 agenda as the advertisement cannot be published in time to comply with the ten day period prior to the September 28, 2009 agenda 3-0.** Councilor Schafer abstained.

**Order No.09-100-2288 - Communication from the Mayor with proposed amendment to the Anti-Blight Ordinance regarding registered and unregistered vehicles.** The Committee met with the Code Enforcement Officer to review the requested change to the City's blight ordinance. **Recommendation of the Legal and Legislative Affairs Committee is to recommend approval 3-0. Subsequent to this meeting and prior to reporting this out, more questions have been raised that warrant further discussion. As a result, this order is not being reported out and remains in Committee.**

Councilor Clancy reported the following out of the Personnel Committee:

**Order No. 09-1002287 – Communication from Mayor Stevens with the re-appointments of Jack Gracey and Lynn Faust to the Historical Commission for a three year term, expiring September 18, 2012. Recommendation of the Personnel Committee is to approve 3-0.**

**Order No. 09-1002285 - Communication from Mayor Stevens with the reappointment of Thomas Krouse as Wiring Inspector with an expiration date of February 6, 2012. Recommendation of the Personnel Committee is to approve 3-0.**

**Order No. 09-1002286 - Communication from Mayor Stevens with the appointment of William Short & reappointment of Joseph Moineau to the Board of Registrar of Voters with an expiration date of April 1, 2011 and April 1, 2012 respectively. Note: Joseph Moineau was unable to attend. Recommendation of the Personnel Committee is to approve the appointment of William Short 3-0. The appointment of Joseph Moineau remains in Committee.**

**Order No. 09-1002283 - Communication from Mayor Stevens with the reappointment of Priscilla Ryder as Conservation Officer for a three year term expiring August 31, 2012. Recommendation of the Personnel Committee is to approve the appointment of Priscilla Ryder 2-0. (Councilor Clancy abstained due to his role as Chairman of the Conservation Commission).**

**Order No. 09-1002284 - Communication from Mayor Stevens with the reappointment of Allan White to the Conservation Commission for a three year term expiring March 5, 2012. Recommendation of the Personnel Committee is to approve 2-0. (Councilor Clancy abstained due to his role as Chairman of the Conservation Commission).**

**Suspension of the Rules requested - granted**

ORDERED: That the application of 250 Locke Dr. Corporation, 929 Boston Post Rd., for Fuel Storage License for 250 Locke Dr. with an underground capacity of 10,500 gallons diesel fuel, **APPROVED**; adopted.

**Suspension of the Rules requested - granted**

ORDERED: Notice is given that the **City Council of the City of Marlborough** will hold a **PUBLIC HEARING ON Monday, October 5, 2009 at 8:00 p.m. in City Council Chambers**, 2<sup>nd</sup> floor City Hall, 140 Main Street, Marlborough, Massachusetts on the Proposed Zoning Change as follows:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled "Definitions; Word Usage," is hereby amended by adding to said Section the following definition:

**NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITY:** A non-residential drug treatment program that assists individual addicted to drugs by administration of a substitute drug. Any facility that dispenses, prescribes, administers, allocates, delivers, hands out, or uses in any way a substitute drug, with or without providing other treatment services, shall be deemed a “Narcotic Detoxification and/or Maintenance Facility” and subject to the regulations under Section 650-31 of this ordinance.

2. Section 650-17, entitled “Table of Uses,” is hereby amended by adding to said section a new business use entitled, “Narcotic Detoxification and/or Maintenance Facility,” which shall be regulated, as follows:

RR	A1	A2	A3	RB	RC	B	CA	LI	I
N	N	N	N	N	N	N	SP	SP	SP

3. A new Section 650-31, entitled “NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES,” is hereby added, as follows:

**650-31 NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES**

- A. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and provisions of the Rehabilitation Act and the Americans with Disabilities Act, the City of Marlborough Zoning Ordinance will not prohibit the location of a facility for narcotic detoxification or narcotic maintenance within the City of Marlborough, but will instead regulate such facilities. A Narcotic Detoxification and/or Maintenance Facility should provide medical support, security, drug testing with oversight by a physician, and standards that meet or exceed state regulations under 105 CMR 164 for licensure of substance abuse treatment programs. Facilities should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these facilities are located in such a way as to not pose a direct threat to the health or safety of either the participants in the rehabilitation treatment or the public at large, the provisions of this section will apply to all such facilities.
- B. Where a Special Permit is required for a Narcotic Detoxification and/or Maintenance Facility, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:



1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment;
6. Potential fiscal impact, including impact on City services, tax base, and employment; and
7. The ability for the facility to:
  - a. meet a demonstrated need;
  - b. provide a secure indoor waiting area for clients;
  - c. provide an adequate pick-up/drop-off area;
  - d. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
  - e. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the facility, and its impact on neighboring uses.

The Special Permit Granting Authority may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.

C. A Narcotic Detoxification and/or Maintenance Facility shall not be located:

1. within five thousand (5,000) feet of another Narcotic Detoxification and/or Maintenance Facility; nor,
2. within two thousand (2,000) feet of:
  - a. a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough;
  - b. a recreational facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
  - c. a park (as defined in § 517-2 of the Code of the City of Marlborough, as amended).
  - d. an elderly housing facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
  - e. a retirement community (as defined in § 650-4 of the Zoning Ordinance of the City of Marlborough, as amended) located within the City of Marlborough.

**ADVERTISED, REFER TO PLANNING BOARD AND PLACE ON OCTOBER 5, 2009 AGENDA.**

(In Legal and Legislative Affairs Committee)

**Suspension of the Rules requested - granted**

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 328, ENTITLED "CLERK'S FEES," AS FOLLOWS:

Chapter 328 is hereby amended by adding to section 328-1 the following new subsection:

- P. For researching more than 2 records in response to a genealogical request, \$10.00 per half-hour (3-7 records search), \$20 per hour (8-12 records search).

**ADVERTISED AND PLACE ON OCTOBER 5, 2009 AGENDA.**

(In Legal and Legislative Affairs Committee)

**Suspension of the Rules requested – granted**

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 517, ENTITLED "SEX OFFENDERS," AS FOLLOWS:

1. Section 517-1, entitled "Findings and intent," is hereby amended by striking out in the last line of subsection D thereof the words "where the state law is silent" and inserting in place thereof the following words:-- to the extent state law is silent.
2. Section 517-2, entitled "Definitions," is hereby amended:
  - a. by amending the definition of "day care center" by striking out in the third line thereof the words "Office of Child Care Services" and inserting in place thereof the following words:-- Department of Early Education and Care.
  - b. by amending the definition of "facility for the mentally retarded" by striking out in the first line thereof the words "Department of Mental Retardation" and inserting in place thereof the following words:-- Department of Developmental Services.
  - c. by adding the following definition: "Loitering – To remain for more than fifteen (15) minutes within a five hundred (500) foot distance of the location in question."
  - d. by amending the definition of "mentally retarded person" by striking out in the third line thereof the words "Department of Mental Retardation" and inserting in place thereof the following words:-- Department of Developmental Services.

- e. by amending the definition of “park” by striking out in the second and third lines thereof the words “, the Commonwealth of Massachusetts or other governmental subdivision,”.
  - f. by amending the definition of “registered sex offender”:
    - i. by striking out in the second line thereof the words “Chapter 6, § 178C” and inserting in place thereof the following words:-- Chapter 6, § 178K(2)(c).
    - ii. by adding in the fifth line thereof, after the word “who”, the following words:-- , for so long as such person.
    - iii. by adding after the word “Registry” in the sixth line thereof the following word:-- Board.
    - iv. by adding in the eighth line thereof, after the word “who”, the following words:-- , for so long as such person.
    - v. by adding after the word “Registry” in the ninth line thereof the following word:-- Board.
3. Section 517-3, entitled “Residency restrictions,” is hereby amended:
- a. by amending subsection A thereof, entitled “Prohibition,” by adding after the word “retarded” in the third line thereof the following words: ; provided, however, that the prohibition contained in this section shall not apply to any Level 3 offender, to the extent and in the manner such Level 3 offender is already governed by MGL c. 6, § 178K(2)(e).
4. Section 517-4, entitled “Safety zones,” is hereby amended:
- a. By striking out in subsection A, entitled “Prohibitions,” in the first through third lines of sub-subsection 4 the words “A registered sex offender is prohibited, after having received notice from the Marlborough Police Department that he/she is loitering within five hundred (500) feet of a school, a day care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded, from continuing to so loiter or from returning thereto” and inserting in place thereof the following words:-- A registered sex offender, after having received notice from the Marlborough Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within a five hundred (500) foot distance of a school, a day care center, a park, any recreational facility, elderly housing facility or facility for the mentally retarded, is prohibited from continuing to so loiter.

- b. By striking out in subsection A, entitled "Prohibitions," in the first and second lines of sub-subsection 5 the words "A registered sex offender is prohibited, after having received notice from the Marlborough Police Department that he/she is loitering within five hundred (500) feet of a school bus stop, from continuing to so loiter or from returning thereto" and inserting in place thereof the following words:-- A registered sex offender, after having received notice from the Marlborough Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school bus stop, is prohibited from continuing to so loiter.
  - c. By striking out in subsection C, entitled "Penalties," in the third through the fifth lines thereof the words "In lieu of non-criminal disposition, registered sex offenders who commit an additional violation under this section, except for those who are not yet seventeen (17) years of age when they commit any such additional violation, **may be subject to immediate arrest under state law.**"
5. These amendments shall become effective immediately upon passage.

**ADVERTISED AND PLACE ON OCTOBER 5, 2009 AGENDA.**

**Councilor Schafer abstained**

(In Legal and Legislative Affairs Committee)

ORDERED: That the City Council meet with the Code Officer and members of the City's Legal Department to consider the feasibility of an initiative to phase out rooming houses to allow for permanent, low cost housing for residents of Marlborough under tax incentives and other methods that would encourage such a phase-out plan. Said review should include a moratorium on the issuance of boarding room licenses. ***It is Further Ordered:*** That the Mayor, as Chairman of the Community Development Authority, be and is hereby requested to explore the possibilities of this program with members of the CDA, the Community Development and Planning Director and the City Planner, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: The Marlborough Savings Bank TIF proposal, consisting of the following five documents, attached hereto, **APPROVED**; adopted.

1. The TIF Agreement;
2. The TIF Plan;
3. The Certified Project Application;
4. The Economic Opportunity Area;
5. The City Council Resolution

**Councilor Delano abstained**

**ROLL CALL VOTE FOR TIF AGREEMENT ONLY**

**Yea: 9 – Nay: 0**

**Yea: Ferro, Schafer, Juairé, Seymour, Clancy, Landers, Pope Vigeant, Levy**

**Absent: Ossing**

**ALL OTHER VOTES WERE BY VOICE**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:20 p.m.