



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
December 21, 2009**

Regular meeting of the City Council held on Monday, December 21, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juairé, Seymour, Clancy and Landers. Meeting adjourned at 9:52 p.m.

ORDERED: That the minutes of the City Council Meeting December 7, 2009, **FILE**; adopted.

ORDERED: Now being the time set for the **CONTINUED PUBLIC HEARING** on the Application for Special Permit from Donald Conn, on behalf of Jam Enterprises LLC, for a drive-thru window at a drive-in Sonic Restaurant, Map 89, Lot 77, **CONTINUED UNTIL JANUARY 11, 2010**; adopted.

ORDERED: It is moved, in conformance with the provisions of § 23B(3) of Chapter 39 of the General Laws of the Commonwealth, that the Marlborough City Council conduct an executive session for the purpose of discussing strategy with respect to collective bargaining and/or litigation, as an open meeting may have a detrimental effect on the collective bargaining and/or litigating position of the City of Marlborough. It is further moved and stated that the Marlborough City Council will re-convene in open session after the executive session, **APPROVED and returned to open meeting at 8:40 p.m.**; adopted.

Yea: 11 -Nay: 0

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

ORDERED: That the communication from the Mayor regarding a brief update on the Westerly Wastewater Treatment Plant upgrade, **FILE**; adopted.

ORDERED: That the designation of a City liaison to the Ethics Commission, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE AND TO CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That the following transfer requests from the DPW Department necessary to fund the Repair/Maintenance Supply account, **APPROVED**; adopted.

FROM:

Acct. # 14001403-50745 \$24,000.00
Motor Equipment Repairman

TO:

Acct. # 14001406-54810 \$24,000.00
Repair/Maintenance Supplies

FROM:

Acct. # 14001403-51430 \$1,700.00
Longevity

TO:	
Acct. # 14001406-54810	\$1,700.00
Repair/Maintenance Supplies	
FROM:	
Acct. # 14001403-51440	\$900.00
Educational Incentive	
TO:	
Acct. # 14001406-54810	\$900.00
Repair/Maintenance Supplies	
FROM:	
Acct. # 14001403-51920	\$1,900.00
Sick Leave Buy Back	
TO:	
Acct. # 14001406-54810	\$1,900.00
Repair/Maintenance Supplies	
FROM:	
Acct. # 14001301-50690	\$3,500.00
Foreman	
TO:	
Acct. # 14001406-54810	\$3,500.00
Repair/Maintenance Supplies	
FROM:	
Acct. # 14001303-51440	\$1,000.00
Educational Incentive	
TO:	
Acct. # 14001406-54810	\$1,000.00
Repair/Maintenance Supplies	

ORDERED: That the transfer request in the amount of \$5,000.00 to move funds from Undesignated to City Clerk's Advertising account due to an increased demand for advertisements, **APPROVED**; adopted.

FROM:	
Acct. # 10000-35900	\$5,000.00
Undesignated Fund	
TO:	
Acct. # 11610004-53150	\$5,000.00
Advertising	

ORDERED: That the transfer request totaling in \$1,230.00 which moves funds from Fringes to Longevity associated with employee longevity payments, **REFER BACK TO MAYOR WITH COMPLETE LIST OF LONGEVITY PAYMENTS**; adopted.

FROM:	
Acct. # 11990006-51500	\$1,230.00
Fringes	
TO:	
Acct. # 116100003-51430	\$640.00
Longevity	
TO:	
Acct. # 15120003-51430	\$590.00
Longevity	

ORDERED: That the transfer request in the amount of \$722.70 which moves funds from Sewer Service Longevity to West Plant Sick Leave Buy Back associated with an employee who became eligible during this fiscal year, **APPROVED**; adopted.

FROM:

Acct. # 60080003-51430 \$722.70

Sewer Service Longevity

TO:

Acct. # 60085003-51920 \$722.70

West Plant Sick Leave Buy Back

ORDERED: That the transfer request in the amount of \$23,080.00 which moves funds from Fringes to two Sick Leave Buy Back accounts associated with the retirement of two employees, **APPROVED**; approved.

FROM:

Acct. # 11990006-51500 \$23,080.75

Sewer Service Longevity

TO:

Acct. # 60080003-51920 \$999.26

Sick Leave Buy Back

Acct. # 61090003-51920 \$22,081.49

Sick Leave Buy Back

ORDERED: That the transfer request in the amount of \$3,000.00 which moves funds from Water Service Fund-Longevity to Water Service Fund-Sick Leave Buy Back associated with the retirement of an employee, **APPROVED**; approved.

FROM:

Acct. # 61090003-51430 \$3,000.00

Water Service Fund- Longevity

TO:

Acct. # 610900030-51920 \$3,000.00

Water Service Fund-Sick Leave Buy Back

ORDERED: That the following notification from the City Clerk re: Special State 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 **SPECIAL STATE ELECTION** will be held in the polling locations as noted below on **JANUARY 19, 2010** as follows: Senator in Congress.

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

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1 rear	Masonic Hall, 8 Newton St., corner of Main/Newton Sts., rear
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., cafeteria
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St., corner of Main/Newton Sts., rear

WARD SIX: Prec. 1 and 2

Marlborough Middle (Intermediate) School, 25 Union St.
Library

WARD SEVEN: Prec. 1 and 2

Hildreth School Gymnasium, 85 Sawin St.

ORDERED: That the minutes, Planning Board, November 23, 2009, **FILE**; adopted.

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

- A. Mike Saliga, 69 White Pond Rd., Hudson, pothole or other road defect
- B. Joseph Tunnera, 209 Blanchette Dr., pothole or other road defect
- C. Christopher Nordstrom, 182 Blanchette Dr., pothole or other road defect
- D. Caroline McDonald, 10 Stone Hill Rd., pothole or other road defect
- E. Sharon Judd, 112 Liberty St., other property damage
- F. Sandra DeOliveira, 60 Mosher Ln., pothole or other road defect
- G. Robert Bickford, 46 Maurice Dr., other property damage
- H. Chris O'Brien, 29 Slocumb Ln., residential mailbox claim (2b)

Suspension of Rules requested – granted

ORDERED: That the City Council accept and place on file the October 15, 2009 letter from Commissioner Ronald LaFreniere of the Department of Public Works declaring a portion of municipal property, identified as parcel 148 on Map 82 of the Assessors Maps (the "Parcel"), and more specifically described as a strip of land located on Maple Street beneath which is situated a municipal sewer line, and containing approximately 0.1118 acres, more or less, to be surplus, and further, pursuant to Section Fifteen A of Chapter Forty of the Massachusetts General Laws the City Council hereby transfers the care, custody, management, and control of the Parcel from the Department of Public Works to the City Council for the purpose of disposition with reservation of a permanent sewer easement, **APPROVED**; adopted.

Yea: 11 -Nay: 0

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

Suspension of Rules requested – granted

ORDERED: That the City Council hereby determines that a certain portion of municipal property, pursuant to Section Fifteen A of Chapter Forty of the Massachusetts General Laws, as identified in Order No, 09-1002357C is declared available for disposition by sale to Dennis P. and Carolyn M. Kennedy, with reservation of a permanent sewer easement which is hereby transferred to the care, custody, management, and control of the Department of Public Works.

FURTHER ORDERED:

It is FURTHER ORDERED: that the Mayor is authorized to sell the parcel for the minimum price of four thousand eight hundred seventy-two (\$4,872.00) dollars in "as is" condition subject to reservation of a permanent sewer easement, be and is herewith **APPROVED**; adopted.

Yea: 11 -Nay: 0

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

Suspension of Rules requested – granted

ORDERED: That the acquisition from Stephen M. Fitzpatrick, Trustee of Fitzpatrick Family Investment Trust, of the Utility Easement recited in the said Trust's easement deed to the City of Marlborough executed on October 1, 2009 and recorded at the Middlesex South District Registry of Deeds at Book 53650, Page 534, as attached hereto, be and hereby is approved; and

That the acquisition from Stephen M. Fitzpatrick, Trustee of Fitzpatrick Family Investment Trust, of the Sidewalk Easement (Area A and Area B) recited in the said Trust's easement deed to the City of Marlborough executed on October 1, 2009 and recorded at the Middlesex South District Registry of Deeds at Book 53650, Page 537, as attached hereto, be and herewith **APPROVED**; adopted.

Yea: 11 -Nay: 0

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

Suspension of the Rules requested – granted

ORDERED: That the Department of Public Works be authorized to plow and remove snow from the following way, in accordance with the provisions of Massachusetts General Law Chapter 40, Section 6-C, provided, that said way be of such construction and condition that, in the opinion of the Commissioner of Public Works, said plowing can be safely and conveniently accomplished **APPROVED**; adopted.

Boivin Drive – Davis Estates Subdivision, off Farm Road

ORDERED: That the City of Marlborough make a determination of its ability to plow all sidewalks in which it is an owner of any building or lot of land bordering on any street, lane, court, square or public place within the City where there is a sidewalk within 12 hours after snow ceases to fall in the daytime, and before 12:00 noon, if it ceases to fall in the nighttime, in strict accordance with the provisions on City Ordinances prior to enforcement against any private resident for failure to perform such snow and ice removable **REFER TO MAYOR AND DPW COMMISSIONER FOR CONSIDERATION IN ADDITION TO CONSULTING WITH THE CODE ENFORCEMENT OFFICER**; adopted.

Suspension of the Rules requested-granted

MOTION made by Councilor Ferro to remove Order No. 08-1002070A, reappointment of Tom Abel as Comptroller from the table, **DOES NOT CARRY AFTER PRESIDENT VIGEANT'S REQUEST TO RECESS AT 9:07 PM AND RETURN TO OPEN MEETING AT 9:16 PM.**; adopted.

Councilor Seymour abstained

Yea: 4-Nay: 6

Yea: Delano, Ferro, Schafer, & Levy

Nay: Juairé, Clancy, Landers, Ossing, Pope, Vigeant

ORDERED: That the budget transfer requests in the amount of \$9,215.69 from Firefighter to Gross Overtime and \$699.60 from Fire Lieutenant to Gross Overtime for the purpose of

funding OT for the Fire Department for the rest of this fiscal year, **APPROVED**; adopted.

MOTION made by Councilor Juaire to reinstate \$30,000.00 transfer from Undesignated Fund to Gross Overtime – **DOES NOT CARRY**

FROM:

Acct. # 12200001-50450 \$9,215.69

Firefighter

TO:

Acct. # 12200003-51300 \$9,215.69

Gross OT

FROM:

Acct. # 12200001-50810 \$699.60

Fire Lieutenant

TO:

Acct. # 12200003-51300 \$699.60

Gross OT

ORDERED: That the budget transfer request in the amount of \$1,620.00 from Engr.-Jr. Civil Engr. to Sick Leave Buy Back due to an employee's resignation, **APPROVED**; adopted.

FROM:

Acct. # 14001101-50710 \$1,620.00

Engineer-Junior Civil Engineer

TO:

Acct. # 14001103-51920 \$1,620.00

Sick Leave Buy Back

ORDERED: That the budget transfer request in the amount of \$5,000.00 from Undesignated Fund to High School Library for monies received from condition 12B of Special Permit, Valvoline-214 Boston Post Rd. East, Order No. 05-100872C, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$5,000.00

Undesignated Fund

TO:

Acct. # 19300006-55975 \$5,000.00

High School Library

ORDERED: That budget transfer request in the amount of \$600.00 from Undesignated Fund to Advertising for the purpose of advertising delinquent taxes, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$600.00

Undesignated Fund

TO:

Acct. # 11440004-53150 \$600.00

Advertising

ORDERED: That budget transfer request in the amount of \$1,000,000.00 from Undesignated Fund to Other Post Employment Benefits (OPEB) Stabilization account to allow the City to put aside funds to offset the first several years of payments to the OPEB Trust Fund that will be established in 2012, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$1,000,000.00

Undesignated Fund

TO:

Acct. # 836000-32726

\$1,000,000.00

Other Post Employment Benefits (OPEB) Stabilization

Councilor Pope requested to be recorded in opposition.

ORDERED: That government employers are required to implement Governmental Accounting Standards Board (GASB) 43 and 45, which is an accounting of obligations for post employment benefits not related to pensions (OPEB) which must be disclosed on the City's financial statements and must contain: an actuarially-determined liability, assumptions used to determine liability, what benefits are offered, which employees are eligible, and the number of employees covered. Further, that the implementation date for GASB 43 and 45 varies according to the FY1999 annual revenues of the governmental unit and Marlborough must begin reporting its OPEB with the publication of our FY2009 financial statements, **CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR;** adopted.

ORDERED: That the review of the Personnel Director's Salary, **FILE;** adopted.

ORDERED: That the request from Old Marlborough Inc. to make a presentation on a "Public Art Program" for the Downtown/Central Business Area, **CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR;** adopted.

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

From DANJOU DRIVE To Terminus

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

DESCRIPTION

Plan entitled "PLAN OF ACCEPTANCE OF DANJOU DRIVE AND EASEMENTS IN MARLBOROUGH, MASSACHUSETTS, ROBERT J. PARENTE, P.L.S., 15 HICKORY ROAD, SOUTHBOROUGH, MA 01772, DATE: OCT. 14, 2004, LATEST REV. DATE: OCT. 14, 2009, SCALE: 1" = 40'," RECORDED HERewith IN THE MIDDLESEX SOUTH REGISTRY OF DEEDS PLAN BOOK ____ AS PLAN ____ OF _____;

Title to the roadway known as DANJOU DRIVE and title to all of the easements, including sewer, flowage, drainage, sidewalk, and sight easements, as shown on said plan has been granted to the City of Marlborough in a Quitclaim Deed from Niel Fossile and Geraldine Fossile, Trustees of Crystal Ridge Realty Trust, P.O. Box 676, Marlborough, MA, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

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

Quitclaim Deed

We, Niel Fossile and Geraldine Fossile, Trustees of Crystal Ridge Realty Trust u/d/t dated November 13, 1995, recorded with the Middlesex South Registry of Deeds in Book 25881 Page 141

of Marlborough, Middlesex County, Massachusetts

for consideration paid and in full consideration of ONE DOLLAR (\$1.00) and 00/100

hereby grant, sell, transfer and deliver unto the **City of Marlborough**, a municipal corporation having a principal address of City Hall, 140 Main Street, Marlborough, MA,

with Quitclaim covenants, all right, title and interest of Grantor in and to the fee in that certain subdivision roadway, known as Danjou Drive, together with perpetual easements including sidewalk easement(s), sight easement(s), sewer easement(s), drainage easement(s), flowage easement(s), and all water and drain pipes, manholes, conduits and all appurtenances thereto, that are now or hereafter constructed or installed in, through or under the land herein shown on "Plan of Acceptance of Danjou Drive and Easements in Marlborough, Massachusetts, Robert J. Parente, P.L.S., 15 Hickory Road, Southborough, MA 01772, Date: Oct 14, 2004, Latest Rev. Date: October 14, 2009, Scale: 1" = 40'," recorded herewith in the Middlesex South Registry of Deeds Plan Book ____ as Plan ____ of _____ bounded and described as follows:

Said area of Danjou Drive contains 48,007 square feet as shown on said plan.

Beginning at the southwesterly corner of Danjou Drive at a stone bound with a drill hole on the northerly sideline of Farm Road at land of Joseph & Laura Bovaconti and at a point of curvature,

thence running by land of Bovaconti and a curve to the left having a radius of 31.83 feet and a length of 57.20 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Bovaconti and a curve to the left having a radius of 127.67 feet and a length of 90.71 feet to a stone bound with a drill hole,

thence running by land of Bovaconti N55-00-00W 77.00 feet to a point at land of Sanjay & Bina Ahuja,

thence running by land of Ahuja N28-45-30E 3.00 feet to a stone bound with a drill hole at a point of curvature,

thence running by Ahuja, land of John & Eleanor Ryan and land of Jerry Wortzman and a curve to the right having a radius of 1,025.00 feet and a length of 414.40 feet to a stone bound with a drill hole at land of Alberto & Maria Ferreira,

thence running by land of Ferreira and land of Virender & Mimi Katech N31-50-09W 132.80 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Katech and a curve to the left having a radius of 30.00 feet and a length of 24.38 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Katech, land of Paul & Jennifer Weibel and land of David & Yamyle Krajil and a curve to the right having a radius of 50.00 feet and a length of 238.36 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Krajil and a curve to the left having a radius of 30.00 feet and a length of 24.38 to a stone bound with a drill hole,

thence running by land of Krajil and land of Janice Hynes S31-50-09E 132.80 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Hynes, land of Lewis & Debra Rosenthal, land of Kevin Luz Santos and land of Wayne & Christine Gillis and a curve to the left having a radius of 975.00 feet and a length of 394.18 feet to a stone bound with a drill hole,

thence running by land of Gillis and a curve to the right having a radius of 180.69 feet and length of 146.80 feet to a stone bound with a drill hole at a point of curvature,

thence running by land of Gillis and a curve to the left having a radius of 30.00 feet and a length of 46.70 feet to a stone bound with a drill hole at a point on the northerly sideline of Farm Road,

thence running by the northerly sideline of Farm Road S82-24-50W 57.32 feet to a point,

thence running by the northerly sideline of Farm Road S88-41-34W 58.36 feet to a stone bound with a drill hole at the point and place of beginning.

Together with the following easements:

Drainage Easement "A"

Beginning at the southeasterly corner of the easement at a stone bound with a drill hole on the westerly sideline of Danjou Drive,

thence running by Danjou Drive S28-45-30W 60.02 feet to a point at land of Joseph & Laura Bovaconti,

thence running by land of Bovaconti and land of Patrick & Charlene Orsborne and the wall N80-14-52W 42.18 feet to a point,

thence running by land of Orsborne and land of Theodore & Dorothy Van Lingen and the wall N75-32-55W 175.60 feet to a point,

thence running by land of Van Lingen and the wall N72-18-35W 107.63 feet to a point at land of Jerry Wortzman,

thence running by land of Wortzman N33-00-00W 60.00 feet to a point,

thence running by land of Wortzman N57-00-00E 30.00 feet to a point,

thence running by land of Wortzman N20-38-26E 37.25 feet to a point,

thence running by land of Wortzman and land of John & Eleanor Ryan S33-00-00E 108.07 feet to a point,

thence running by land of Ryan S72-18-35E 47.96 feet to a point,

thence running by land of Ryan and land of Sanjay & Binu Ahuja S75-32-55E 175.46 feet to a point,

thence running by land of Ahuja N49-00-54E 51.56 feet to a point of curvature on the westerly sideline of Danjou Drive,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 1,025.00 feet and a length of 30.00 feet to a stone bound with a drill hole at the point and place of beginning.

Drainage Easement "B"

Beginning at the southeasterly corner of the easement at a point on the westerly sideline of Danjou Drive and at land of Jerry Wortzman,

thence running by land of Wortzman S58-09-51W 114.42 feet to a point,

thence running by land of Wortzman S00-00-00W 43.31 feet to a point,

thence running by land of Wortzman N90-00-00W 30.00 feet to a point,

thence running by land of Wortzman and land of Alberto & Maria Ferreira N00-00-00W 60.00 feet to a point,

thence running by land of Ferreira N58-10-09E 131.00 feet to a point on the westerly sideline of Danjou Drive,

thence running by the westerly sideline of Danjou Drive S31-50-09E 15.00 feet to a stone bound with a drill hole at a point of curvature,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 1,025.00 feet and a length of 15.00 feet to the point and place of beginning.

Sidewalk Easement (Lot 9)

Beginning at the southerly end of the easement at a stone bound with a drill hole on the westerly sideline of Danjou Drive and at land of Virender & Mimi Katech,

thence running by land of Katech N60-27-15W 34.25 feet to an iron rod at a point of curvature on the westerly sideline of Danjou Drive,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 50.00 feet and a length of 10.88 feet to a stone bound with a drill at a point of curvature,

thence running by the westerly sideline of Danjou Drive and a curve to the right having a radius of 30.00 feet and a length of 24.38 feet to a stone bound with a drill hole at the point and place of beginning.

Sidewalk Easement (Lot 4)

Beginning at the southerly end of the easement at a stone bound with a drill hole at a point of curvature on the westerly sideline of Danjou Drive;

thence running by the westerly sideline of Danjou Drive and a curve to the right having a radius of 30.00 feet and a length of 24.38 feet to a stone bound with a drill hole at a point of curvature,

thence running by the westerly sideline of Danjou Drive and a curve to the left having a radius of 50.00 feet and a length of 17.47 feet to an iron rod at land of David & Yamyle Krajil,

thence running by land of Krajil S02-56-32E 40.83 feet to a stone bound with a drill hole at the point and place of beginning.

Sewer Easement (Lot 11)

Beginning at the southwesterly corner of the easement at a point on the northerly sideline of Farm Road and at land of Wayne and Christine Gillis,

thence running by land of Gillis N67-25-49W 132.04 feet to a point,

thence running by land of Gillis N64-53-36W 65.38 feet to a point,

thence running by land of Gillis S77-00-00W 41.17 feet to a stone bound with a drill hole at a point on the easterly sideline of Danjou Drive,

thence running by the easterly sideline of Danjou Drive N55-00-00W 40.37 feet to a point at land of Wayne & Christine Gillis,

thence running by land of Gillis N77-00-00E 78.50 feet to a point at land of Paul J. Banacos,

thence running by land of Banacos S64-53-36E 74.45 feet to a point,

thence running by land of Banacos S67-25-49E 129.98 feet to a point on the northerly sideline of Farm Road,

thence running by the northerly sideline of Farm Road S18-38-47W 30.07 feet to the point and place of beginning.

Line of Sight Easement (Lot 11)

Beginning at the southwesterly end of the easement at a point on the easterly sideline of Danjou Drive and at land of Wayne & Christine Gillis,

thence running by land of Gillis N54-49-52E 175.30 feet to a point at land of Paul J. Banacos on the northerly sideline of Farm Road,

thence running by a curve to the right having a radius of 274.00 feet and a length of 164.24 feet to a stone bound with a drill hole at a point of curvature on the easterly sideline of Danjou Drive,

thence running by the easterly sideline of Danjou Drive and a curve to the right having a radius of 30.00 feet and a length of 22.30 feet to the point and place of beginning.

Flowage Easement (Lot 7)

Beginning at the southwesterly corner of the easement and land owned by Jerry Wortzman at a point on the wall and at land of Alberto & Maria Ferreira,

thence running by land of Ferreira N20-38-36E 170.05 feet to a point,

thence running by other land of Jerry Wortzman S50-23-10E 104.12 feet to a point,

thence running by other land of Wortzman S19-21-53E 36.14 feet to a point at land of John & Eleanor Ryan,

thence running by land of Ryan S20-38-26W 101.11 feet to a point on the wall at land of Joseph & Dorothy Magliozzi,

thence running by the wall and land of Magliozzi N71-59-36W 98.95 feet to a point,

thence running by the wall and land of Magliozzo N76-24-28W 23.00 feet to the point and place of beginning.

Together with all of the right to construct, inspect, repair, renew, replace, operate, and forever maintain sidewalks, curbs, water mains, storm drains, and sanitary sewers, with any manholes, pipes, conduits and other appurtenances thereto, and to do all acts incidental thereto in, through and over said land.

Being a portion of the premises conveyed to the Grantor in that certain Deed dated December 8, 1995, recorded with the Middlesex South Registry of Deeds in Book 25881, Page 146.

The undersigned hereby certifies as follows:

1. That said Declaration of Trust and Schedule of Beneficial Interest remains in full force and effect and has not been modified or amended;
2. That we are the duly named and appointed Trustees of said Trust;
3. None of the Beneficiaries of the Trust are minors;
4. That the Trustees have been directed and authorized by the Beneficiaries to execute and deliver this Deed.

Councilor Schafer requested to be recorded in opposition.

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

From BLAKE CIRCLE To Terminus

and the appurtenant easements be accepted as municipal easements as shown on a plan thereof and as hereinafter described:

DESCRIPTION

Plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775, recorded with the Middlesex South District Registry of Deeds as Plan _____ of 20__, and attached hereto;

Title to the roadway known as BLAKE CIRCLE, and title to the municipal drainage easement denoted as "Drain Easement" as shown on said plan as well as to the flowage easement denoted as "Municipal Flowage Rights" as shown on said plan, has been granted to the City of Marlborough in a quitclaim deed from SMC Realty Trust, u/d/t dated March 27, 1992, by Stephen J. Garofalo and Elizabeth T. Garofalo, as Trustees of said Trust, said deed to be recorded herewith at the Middlesex County (Southern District) Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

BLAKE CIRCLE be accepted as a public way and its appurtenant easements be accepted as municipal easements in the City of Marlborough; adopted.

QUITCLAIM DEED

SMC Realty Trust, u/d/t dated March 27, 1992, and recorded with the Middlesex County (Southern District) Registry of Deeds in Book 21891, Page 587, by Stephen J. Garofalo and Elizabeth T. Garofalo, as Trustees,

In consideration of less than one hundred (\$100.00) dollars

Grants to the City of Marlborough, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts and having its usual place of business at 140 Main Street, Marlborough, Massachusetts

With Quitclaim Covenants

The parcel of land in said Marlborough, Middlesex County, Massachusetts, known as Blake Circle, together with an appurtenant municipal drainage easement and an appurtenant municipal flowage easement, all as described in the legal description attached hereto as "Exhibit A." Said Blake Circle and appurtenant easements are as shown on a plan entitled, "Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County)," scale 1" = 20', dated

September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775, recorded with the Middlesex County (Southern District) Registry of Deeds as Plan _____ of 20__.

Said appurtenant municipal drainage easement shall include the right to install, maintain, repair and reconstruct municipal utilities in the area denoted as "Drain Easement" as shown on the above-referenced plan.

Said appurtenant municipal flowage easement shall include the right to install, maintain, repair and reconstruct municipal utilities in the area denoted as "Municipal Flowage Rights" as shown on the above-referenced plan.

For Grantor's title, see deed dated April 12, 2002 and recorded on April 16, 2002 with the Middlesex County (Southern District) Registry of Deeds in Book 35273, Page 271.

The undersigned do hereby certify as follows: a) They are the duly authorized Trustees of the above-referenced Trust, and the above-referenced Trust allows reliance on the facts stated in this certification; b) They have full power and authority and further are duly authorized by the terms of said Trust, and have been directed by all beneficiaries to execute and deliver, on behalf of the Trust, this Quitclaim Deed to the City of Marlborough; c) The above-referenced Trust is in full force and effect and has not been altered, amended, revoked, or terminated, and no beneficiary is a minor or corporation; and d) There are no amendments, appointments, or resignations to this Trust.

EXHIBIT A

BLAKE CIRCLE

Legal Description

Beginning at a granite bound with drill hole on the northeast side of Cook Lane at Blake Circle thence running by the northeast side of Cook Lane by a curve to the right having a radius of 880.00' a length of 102.98' to a spike set in sidewalk;

Thence running by a curve to the left having a radius of 25.00' a length of 40.73' to a granite bound with drill hole;

Thence running N18°-16'-10"E a distance of 123.49' to a spike set in bit drive;

Thence by a curve to the right having a radius of 175.00' a length of 55.67' to a granite bound with drill hole;

Thence running N36°-29'-45"E a distance of 235.00' to a granite bound with drill hole;

Thence running by a curve to the right having a radius of 50.00' a length of 221.13' to a granite bound with drill hole;

Thence running by a curve to the left having a radius of 20.00' a length of 25.62' to a granite bound with drill hole;

Thence running S36°-29'-45"W a distance of 167.92' to a granite bound with drill hole;

Thence running by a curve to the left having a radius of 125.00' a length of 39.76' to a spike in bit drive;

Thence running S18°-16'-10"W a distance of 123.49' to a granite bound with drill hole;

Thence running by a curve to the left having a radius of 25.00' a length of 40.73' to the point of beginning.

Said Blake Circle contains 27,870± sq. ft. and is denoted as “Blake Circle (Public – 50’ Wide)” as shown on a plan entitled, “Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County),” scale 1” = 20’, dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775.

MUNICIPAL DRAINAGE EASEMENT

Legal Description

Beginning at a granite bound with drill hole at Lot D and running N18°-16'-10"E a distance of 30.00' to a granite bound with drill hole;
Thence running S71°-43'-50"E a distance of 112.30' to a granite bound with drill hole;
Thence running S03°-08'-55"E a distance of 26.35' to a granite bound with drill hole;
Thence running S56°-58'-48"E a distance of 32.13' to a granite bound with drill hole on the northerly side of Farm Road;
Thence running S33°-01'-12"W a distance of 34.25' to a stone bound with drill hole;
Thence running by a curve to the right having a radius of 55.54' a length of 43.95' to a granite bound with drill hole;
Thence running N02°-23'-38"W a distance of 74.63' to a granite bound with drill hole;
Thence running N71°-43'-50"W a distance of 91.92' to the point of beginning.

Said municipal drainage easement contains 6,167± sq. ft. and is denoted as “Drain Easement” as shown on a plan entitled, “Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County),” scale 1” = 20’, dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775.

MUNICIPAL FLOWAGE EASEMENT

Legal Description

Beginning at a granite bound with drill hole running N33°-06'-18"E a distance of 88.15' to a granite bound with drill hole;
Thence running N79°-12'-36"E a distance of 13.06' to a granite bound with drill hole;
Thence running S57°-08'-04"E a distance of 38.29' to a granite bound with drill hole;
Thence running S39°-44'-50"E a distance of 30.31' to a granite bound with drill hole;
Thence running S55°-01'-10"E a distance of 17.72' to a granite bound with drill hole on the northerly side of Farm Road;
Thence running by the northerly side of Farm Road by a curve to the left having a radius of 1051.93' a length of 35.99' to a stone bound with drill hole;
Thence running still by the northerly side of Farm Road S33°-01'-12"W a distance of 60.83' to a granite bound with drill hole;
Thence running N56°-58'-48"W a distance of 32.13' to a granite bound with drill hole;
Thence running N03°-08'-55"W a distance of 26.35' to a granite bound with drill hole;
Thence running N71°-43'-50"W a distance of 47.80' to the point of beginning.

Said municipal flowage easement contains 8,789± sq. ft. and is denoted as “Municipal Flowage Rights” as shown on a plan entitled, “Street Acceptance Plan and Easements of Blake Circle, Marlborough, MA (Middlesex County),” scale 1” = 20’, dated September 8, 2008, revised July 16, 2009, prepared by Inland Survey, Inc., dba Zanca Land Surveying, 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775.

ORDERED: That the Application for Junk Dealer’s License by Gerald Dumais, d/b/a Dumais and Sons at 67 Mechanic Street, **APPROVED**; adopted.

ORDERED: That the Application for Junk Dealer’s License by Sylvia Jahns at 461 South Street, **APPROVED WITH FOLLOWING CONDITIONS AS RECOMMENDED BY THE BUILDING INSPECTOR**; adopted.

1. **No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;**
2. **No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;**
3. **There shall be no outdoor storage of merchandise, wares, inventory or items for sale;**
4. **All signage shall comply with the City of Marlborough Sign Ordinance without variance.**

ORDERED: That a Proclamation was given to Councilor Schafer, who did not seek re-election as City Councilor, recognizing his years of dedicated service and an honorable mention of Larry Foti, former Clerk of Committees, who has retired **FILE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:50 p.m.; adopted.