



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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APRIL 28, 2008

Regular meeting of the City Council held on Monday APRIL 28, 2008 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juare, and Landers. Absent was Clancy. Meeting adjourned at 9:26 p.m.

ORDERED: Minutes, City Council meeting, April 7, 2008, **FILE**; adopted.

ORDERED: That the following budget transfer request on behalf of DPW in the amount of \$13,880.00 which would move funds from Motor Vehicle Repairman to Temporary Part-Time Help for continued coverage due to employee injury, **APPROVED**; adopted.

FROM:

Acct. # 14001403-50745 \$13,880.00
Motor Equipment Repairman

TO:

Acct. # 14001403-51240 \$13,880.00
Temporary Part Time Help

ORDERED: That the following budget transfer request in the amount of \$26,000.00 which would move funds from Solid Waste to Vehicle Maintenance and Water Plant to cover unanticipated/more costly repairs and to increase production at the Millham Water Treatment Plant respectively, **APPROVED**; adopted.

FROM:

Acct. # 60086006-52935 \$26,000.00
Solid Waste

TO:

Acct. # 61090006-54810 \$11,000.00
Vehicles Maintenance

Acct. # 61090006-52322 \$15,000.00
Water Plant

ORDERED: That the Department of Public Works has received a Municipal Sustainability grant in the amount of \$17,617.80 from the Massachusetts Department of Environmental Protection for the purpose of providing funds for the purchase of consumer educational materials, rain barrels and technical assistance relative to climate protection, **APPROVED**; adopted.

ORDERED: That the Department of Public Works has received a Municipal Sustainability Climate Protection grant in the amount of \$12,000.00 from the Massachusetts Department of Environmental Protection for the purpose allocating \$9,130.00 to DPW for replacement of traffic lights with energy-saving LED bulbs and \$2,870.00 to Public Facilities for completion of energy audits for the City's municipal properties, **APPROVED**; adopted.

Suspension of the Rules requested - granted

ORDERED: At the Mayor's request to convene 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 collective bargaining and/or litigating position of the City of Marlborough, the City Council moved to EXECUTIVE SESSION and returned to open meeting at 8:41 p.m., **APPROVED**; adopted.

Yea: 8 – Nay: 0

Abstain: 1 (Councilor Juaire)

Absent: 1 (Councilor Clancy)

Ward 5 seat is vacant

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

ORDERED: That Diane Smith, City Auditor, successfully passed both the legal and practical sections of the certification exam offered by the Massachusetts Municipal Auditor's and Accountant's Association, **FILE**; adopted.

ORDERED: That the reappointments of Shiela Bracken, Paulina Lynch and Catherine Mockus to the Council on Aging Board for terms of four years expiring on May 1, 2012, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does hereby re-authorize a revolving fund during fiscal year 2009 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 2009, 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, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2009, 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 2009, 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, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does hereby re-authorize a revolving fund during fiscal year 2009 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 2009, 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 2009, 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, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the following notification from the City Clerk re: 2008 Special Ward Five Election Call, **FILE**; adopted. That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **WARD FIVE SPECIAL ELECTION** will be held in the polling locations as noted below on **MAY 6, 2008** for Ward Five Councilor:

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.
POLLING LOCATIONS ARE AS FOLLOWS:

WARD FIVE: Prec. 1

Senior Center, 250 Main St,

WARD FIVE: Prec. 2

Masonic Hall, 208 Main St (corner of
Main/Newton Sts)

MOTION: Agenda item #12, communication from the City Solicitor regarding RFP/Lease of Bigelow School moved to Reports of Committees, **APPROVED**; adopted.

ORDERED: That the application of Richard Roach d/b/a Hudmar Ltd. for renewal of Junk Dealer's license, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JUNE 9, 2008** as the date for a **PUBLIC HEARING** on the application for "**SECOND**" Special Permit Boston Post Rd LLC for permission to construct and operate a car wash at 355 Boston Post Rd. West as it is also located in the Water Supply Protection District, refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

(Councilor Juare submitted a disclosure statement)

ORDERED: That there being no objection thereto set **MONDAY, JUNE 23, 2008** as the date for a **PUBLIC HEARING** on the application for Special Permit from Gary White, Trustee of 566 and 574 Lincoln St. Realty Trust to construct 19 new townhouse condominium units on Lincoln St., Map 80, parcels 47, 48 & 51, refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the communication from Dept of Public Utilities re: NSTAR Gas Co. annual Report/Chapter 164 Section 84A, **FILE**; adopted.

ORDERED: That the communication from Commonwealth of Massachusetts, Executive Office of Environmental Affairs re: Environmental Notification Form, **FILE**; adopted.

ORDERED: That the communication from Commonwealth of Massachusetts, Executive Office of Transportation, Massachusetts Highway Department, re: I-495/I-290 Interchange Project, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, March 24, 2008, **FILE**; adopted.

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

- A. Robert Manion, Jr., 275 Mechanic St., vehicle damage
- B. Coleen Logomasini, 141 Raymond Rd., vehicle damage, personal injury, vehicle accident
- C. Shirley Borella, 117 Bolton St., property damage
- D. Kerrie Brasington, 24 Gregoire Dr., vehicle damage
- E. David Winske, 271 Farm Rd., vehicle damage
- F. Michael Kaczmarek, 40 Lakeshore Dr., Hudson, MA, vehicle damage
- G. Rick Valdez, 1 Hobbleshush Rd., Shrewsbury, MA, vehicle damage
- H. Nancy Cavallo, 566 Hosmer St., property damage
- I. Sean Cudmore, 560 Hosmer St., property damage
- J. Carole Ricciuti, 236 Framingham Rd., vehicle damage

Suspension of the Rules requested – granted

ORDERED: That there being no objection thereto set **MONDAY, JUNE 9, 2008** as the date for a **PUBLIC HEARING** pursuant to § 5 of Chapter 40A of the General Laws, the City Council of the City of Marlborough, having received a submission from the Planning Board of the City of Marlborough to amend the zoning ordinance of the city of Marlborough, as amended, by further amending Chapter 200, Article VI, Section 200-30, entitled “Limited Development Subdivisions,” now ordains that the Zoning Ordinance of the City of Marlborough, as amended, be further amended by adding thereto, as follows:

1. The introductory preamble to § 200-30 is hereby deleted in its entirety and replaced with the following:

A parcel located in a residence district with frontage on a public way may be subdivided, subject to a special permit from the Planning Board, into Limited Development Subdivision lots for the use only as single-family dwellings under the alternative lot area, frontage and dimensional criteria set forth below; provided, however, that the special permit applicant must clearly demonstrate to the Board that the parcel which is the subject of the special permit application could be subdivided by right under conventional subdivision requirements, as set forth in the applicable ordinances of the City of Marlborough, the Subdivision Control Law and the Board’s Rules and Regulations, into at least two and one-half times as many building lots as the number of building lots proposed in the special permit application.

2. The caption of Section 200-30A is hereby amended by deleting the word, “Dimensional.”
3. Section 200-30A(8) is hereby deleted in its entirety and replaced with the following:

(8) The applicant for a special permit hereunder shall file with the Planning Board a preliminary plan that must clearly demonstrate to the Board that the parcel which is the subject of the special permit application is capable, as of right, of conventional subdivision, pursuant to the applicable ordinances of the City of Marlborough, the Subdivision Control Law and the Board’s Rules and Regulations, into at least two and one-half building lots for each building lot proposed under the Limited Development Subdivision criteria, refer to **PLANNING BOARD, URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That Application for Special Permit from Boston Post Rd LLC Order No. 08-1001806 for permission to construct and operate a car wash at 355 Boston Post Rd. West, is withdrawn with out prejudice, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That there being no objection thereto set **JUNE 9, 2008** as date for a **PUBLIC HEARING** for **resubmitting** the application of the Special Permit by Arthur Bergeron, on behalf of Boston Post 355, LLC for permission to construct and operate a car wash at 355 Boston Post Rd. West, refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

(Councilor Juaire submitted a disclosure statement)

Suspension of the Rules requested – granted

ORDERED: That the following budget transfer request in the amount of \$9,500.00 re: costs associated with inspections and supplies for “Leavitt” parcel which would move funds from Inspectional Stabilization to Professional Technical, Assistant Plumbing Inspector, and Office Supply accounts, **APPROVED**; adopted.

FROM:

Acct. # 836000-32717 \$9,500.00

Inspectional Stabilization

TO:

Acct. # 1241004-53180 \$8,200.00

Professional & Technical

Acct. # 1241001-50960 \$1,000.00

Assistant Plumbing Inspector

Acct. # 1241004-55422 \$300.00

Office Supplies

Suspension of the Rules requested – granted

ORDERED: That the following budget transfer requests in the amount of \$402,000.00 which would move funds from Stabilization to Computer Hardware, **APPROVED**; adopted.

FROM:

Acct. # 836000-11515 \$402,000.00

Stabilization

TO:

Acct. # 19300006-58618 \$402,000.00

Computer Hardware

Suspension of the Rules requested – granted

ORDERED: That the appointment of Albert R. DeSimone to the position of Plumbing Inspector whose term expires on February 11, 2011, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That Brian Marchetti, Senior Project Engineer of Tetra Tech Rizzo, on behalf of First Student Inc., requests a Sewer Connection Compliance Certification to construct a Bus Facility on Hayes Memorial Drive, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That there being no objection thereto set **MONDAY, JUNE 9, 2008** as the date for a **PUBLIC HEARING** on the application of 890 Boston Rd. LLC for adopting a proposed New Car Dealership Overlay District for Maps 62 parcels 1 and 24, refer to **PLANNING BOARD, URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Marlborough City Council, pursuant to Section 15A of Chapter 40 of the General Laws, and at the request of the Marlborough School Committee, hereby declares the municipal property, known as Bigelow School and identified as Map 81, parcel 190A, to be available for disposition effective on the date municipal activities cease, **APPROVED**; adopted.

Yea: 9 – Nay: 0, Absent: 1 (Councilor Clancy), Ward 5 seat is vacant
Yea: Delano, Ferro, Schafer, Juairé, Landers, Ossing, Pope, Vigeant & Levy

Suspension of the Rules requested – granted

ORDERED: THAT, pursuant to Mass. Gen. Laws c. 40, § 3, the City of Marlborough declares the municipal property known as Bigelow School available for disposition by lease or rent for a period of one year from July 1, 2008 to June 30, 2009, and that said lease or rental agreement be subject to the re-use restrictions below as set forth by the Marlborough School Committee subject to the approval of the City Solicitor and the Mayor:

- 1) One-year lease with four (4) one-year options to renew at City's sole discretion and subject to annual review by the City Council and School Committee
- 2) Educational organizations only
- 3) Lease all or a minimum of 6,500 square feet of the unused school
- 4) Lease at a minimum cost of \$10.00 per square foot
- 5) 90-days Notice of Intent to not renew required from either party

Restrictions 2 and 5 are contingent on the School Committee's approval, if any, of these restrictions; if either or both are not approved by the Committee, the restriction(s) so not approved shall not be in effect.

IT IS FURTHER ORDERED that the Chief Procurement Officer is hereby authorized to ensure compliance with Chapter 30B of the General Laws by issuing Request for Proposals. The most advantageous proposal from a responsive and responsible proposer shall be subject to final approval by the Marlborough City Council and the Marlborough School Committee.

IT IS FURTHER ORDERED that pursuant to § 3 of Chapter 40 of the General Laws, income from any lease or rental agreement shall be deposited in the School Department's revolving maintenance fund and shall be used for the maintenance of the property. Nothing herein shall prevent the Marlborough School Committee from assigning daily management of the property to the Public Facilities Department, **APPROVED**; adopted.

Yea: 9 – Nay: 0, Absent: 1 (Councilor Clancy), Ward 5 seat is vacant
Yea: Delano, Ferro, Schafer, Juairé, Landers, Ossing, Pope, Vigeant & Levy

ORDERED: That the City Clerk and Public Facilities Director be requested to study the feasibility of establishing an alternative to the Ward 4 polling place and report their findings to the City Council within ninety days, refer to **CITY CLERK AND PUBLIC FACILITIES DIRECTOR**; adopted.

ORDERED: That the Mayor and DPW Commissioner be requested to develop a recycling plan to deal with the potential increase in disposal of analog-based televisions in early 2009, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the appointments of Ray Hale and Janice Merk to the Library Board of Trustees for a term of three years expiring on the first Monday in February 2011, **APPROVED**; adopted.

ORDERED; That a Grant of Easement to the City of Marlborough from George T. Voyiatizis, Trustee of the Bolton Granger Realty Trust, to provide more efficient access and egress to and from South Bolton St. and Weed St. Extension, **APPROVED**; adopted.

ORDERED: That the City of Marlborough grant a temporary utility easement, to be executed by the Mayor on behalf of the City, to NSTAR Gas Company (a/k/a "NStar"), as described in the attached Grant Of Temporary Easement and as shown on the plan attached to said Grant as "Exhibit A," entitled "Easement Agreement Plan, 215 Maple Street, Marlborough Fire Department, Exhibit A," dated December 3, 2007, for the purposes of making necessary excavations, locating, relocating, erecting, constructing, reconstructing, adding to, extending, repairing, replacing, maintaining, operating, inspecting or removing gas mains, together with an instrumentation or "traffic" box and appurtenances associated with the transportation, transmission and monitoring of gas service, and fittings, equipment and other fixtures and appurtenances necessary or useful in connection therewith for the transmission and/or distribution of natural gas on, over, under and across that certain parcel of the City of Marlborough's land described and shown on Exhibit A, which shall be recorded at the Middlesex South District Registry of Deeds, **APPROVED**; adopted.

ORDERED: That the City of Marlborough grant a temporary utility easement, to be executed by the Mayor on behalf of the City, to Massachusetts Electric Company (a/k/a "NGrid"), as described in the attached Grant Of Temporary Easement and as shown on the plan attached to said Grant as "Exhibit A," entitled "NATIONAL GRID USA 05-07-1990675_1; DATE: 02/05/2007," for the purposes of installing, constructing, reconstructing, repairing, replacing, adding to, maintaining and operating for the transmission of high and low voltage electric current and for the transmission of intelligence an underground electric distribution system in, through, under, over, and across a statutory private way named Crowley Drive and land of the City of Marlborough as shown and described on Exhibit A, which shall be recorded at the Middlesex South District Registry of Deeds, **APPROVED**; adopted.

ORDERED: That the communication from Mark Cavanagh, Executive Director of the Massachusetts State Lottery Commission, pertinent to their latest venture, **KENO to go, FILE**; adopted.

ORDERED: That the following budget transfer in the amount of \$146,120.90 to fund a deficit in the overtime line items for both Police and Fire as a result of staff injuries, **APPROVED**; adopted.

FROM:

Acct. # 12100001-50420	\$76,941.52
Police Officer	
Acct. # 12100001-50820	\$9,696.72
Sergeants	
Acct. # 12200001-50450	\$59,482.66
Firefighters	

TO:	
Acct. # 12100003-51310	\$71,638.24
Overtime	
Acct. # 12100003-51320	\$15,000.00
OT Court	
Acct. # 12200003-51300	\$59,482.66
Additional Overtime	
(Councilor Juairé abstained)	

ORDERED: That the following budget transfer in the amount of \$150,000.00 which would move funds from Undesignated Funds to DPW Repair Shop to fund a significant deficit relative to the purchase of fuel for City vehicles, herewith **APPROVED**; adopted.

FROM:	
Acct. # 100-35900	\$150,000.00
Undesignated Funds	

TO:	
Acct. # 14001406-54830	\$150,000.00
DPW Repair Shop-Fuel	

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:26 p.m.