



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
SEPTEMBER 29, 2008**

Regular meeting of the City Council held on Monday SEPTEMBER 29, 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 9:50 p.m.

ORDERED: Minutes, City Council Meeting, September 8, 2008, **FILE**; adopted.

ORDERED: Now being the time set for the PUBLIC HEARING On the Application Attorney Arthur Bergeron, on behalf of 890 Post Rd LLC, re: modified version of adopting proposed New Car Dealership Overlay District, all were heard who wish to be heard, hearing adjourned at 9:15 p.m.

ORDERED: That the City Council meeting recessed at 9:15 p.m. and reconvened at 9:18 p.m., **APPROVED**; adopted.

ORDERED: That the communication from Diane Smith, City Auditor, providing status update and timeline pertinent to closing of FY08 books and submittals required relative to free cash certification, **FILE**; adopted.

ORDERED: That the Grant in the amount of \$20,000.00 from the Massachusetts Board of Library Commissioners be awarded to the Marlborough Public Library to improve services aimed at preteens and teen library users through the purchase of additional, age-appropriate selections, staff training, and upgrades to the Young Adult section as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, **APPROVED**; adopted.

ORDERED: That the Grant in the amount of \$43,000.00 from the Metro/South West Regional Employment Board be awarded to the Human Services Department to pay for two contracted positions-Partnership Director and Career Specialist as well as associated administration expenses to provide job development programs for those between the ages of 16 and 24, as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the appointment of Ronald Guest to a vacant position on the Cable Advisory Board with no term associated with said appointment, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the reappointments as follows: Alfred Hill & John Usinas to the Commission on Disabilities for terms expiring on November 6, 2011 and Bea Morris and Debra McManus to said Commission for terms expiring on November 6, 2010 & request that Richard Towle be switched to a full Commission member, refer to the **PERSONNEL COMMITTEE**; adopted.

ORDERED; That the reappointments of John Noble and Gary Brown to the Historical Commission for terms expiring on September 18, 2011, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the reappointment of James Holt to the as Caretaker of Soldiers and Sailors Graves for suggested term expiration of the 1st Monday of February 2010, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the reappointment of Gary Brown as the City's Director of Veteran Aid and Service for a term expiring on September 1, 2011, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the appointment of John Nicholson to the Youth Commission with no term associated with said appointment, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the City Council grant 740-744 Boston Post Rd, LLC a right of way easement to pass and repass over City property shown on the Assessor's map as Map 48, Parcel 32, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 6, 2008** as date for a **PUBLIC HEARING** on the petition by NSTAR to install 115' of 2.00" plastic gas main as a system improvement to supply 397 Stow Rd., be and is herewith refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That Application from Jack Milgram, on behalf of Ming, Order No. 08-1001805 regarding application for Special Permit for 358-364 Lincoln St. be withdrawn without prejudice, **NOT APPROVED**; adopted.

(Councilor Seymour abstained)

Yea: 9 – Nay: 1

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

ORDERED: That the Report of Independent Public Accountants from John Riordan, on behalf of Marlborough 2010 Inc., **FILE**; adopted.

ORDERED: That the minutes, Planning Board, August 13 & 18, 2008, **FILE**; adopted.

ORDERED: That the minutes, MetroWest Regional Transit Authority, July 21, 2008 **FILE**; adopted.

ORDERED: That the following CLAIMS, be and is herewith refer to the **LEGAL DEPARTMENT**; adopted.

- A. Sanjay Khanderia, 110 Felton St., property damage & other
- B. Gordon Watson, 10 Cardinal Ct., Stow, vehicle damage
- C. Bruce Duncan, 276 Main St., vehicle damage & personal injury
- D. Chung Lee, 90 Leoleis Dr., property damage

Reports of Committees:

Councilor Pope reported the following out of the Urban Affairs Committee:

Order No. 08-1001805A – Application for Special Permit from Ming Wang for conversion of former State Armory building into twelve residential condominiums in a Business B/Residence C zoned lot at 358-364 Lincoln St. Recommendation of the Urban Affairs Committee is to deny 3-0. Councilor Seymour abstained and Councilor Juairé was absent.

Order No. W/08-1001805 – Communication from Jack Milgram, on behalf of Ming Wang, re: submission of architectural plans to supplement plans previously submitted for Special Permit for 358-364 Lincoln St. Recommendation of the Urban Affairs Committee is to deny 4-0. Councilor Juairé was absent.

Councilor Delano reported the following out of the Wireless Communications Committee:

Order No. 08-1001952A – Application for Special Permit from MetroPCS Massachusetts LLC for proposed installation of a telecommunications facility onto the existing telecommunications tower located at 445 Simarano Dr. Recommendation of the Wireless Communication Committee is to Suspend the Rules to refer to City Solicitor to be put in proper form and place item on the October 6, 2008 agenda 3-0.

Suspension of Rules requested - granted

ORDERED: That the application for Special Permit from MetroPCS Massachusetts LLC for proposed installation of a telecommunications facility onto the existing telecommunications tower located at 445 Simarano Dr., refer to **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

ORDERED: That the Commissioner of Public Works inventory all major storm water culverts throughout the city and assess the condition of these culverts for the purposes of identifying those with safety or operational deficiencies which should be considered for repair or replacement through future capital program or other funding, refer to the **DPW COMMISSIONER**; adopted.

ORDERED: That the Application for Fuel Storage License, Ayoub Engineering on behalf of ExxonMobile Corp, 260 West Main St., **APPROVED**; adopted.

ORDERED: That the reappointment of Larry Wenzell to the Arts Lottery Council whose two term expires on May 1, 2010, **APPROVED**; adopted.

ORDERED: That the City Council of the City of Marlborough hereby appropriates the sum of \$3,100.00 from the Belleview Avenue Sewer Account, number 30542306-55951, for the purposes of awarding damages for the acquisition of a permanent municipal utility easement by Eminent Domain in a certain strip of land located at the end of Belleview Avenue consisting of approximately 818 ± square feet, now or formerly owned by Richard C. DiMatteo and Jacqueline T. Di Matteo, **APPROVED**; adopted.

Yea: 11 – Nay: 0

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

ORDERED: **EMINENT DOMAIN ORDER OF TAKING**

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience, public welfare, and necessity require that the land described herein be taken for a permanent municipal utility easement for the purposes of construction and maintenance of general municipal utilities, including water, sewer, and drain lines; and

WHEREAS, this land is necessary for the protection of the health, welfare and safety of the residents of Marlborough; and

WHEREAS, the City Council of the City of Marlborough has determined that the taking of a permanent municipal utility easement by Eminent Domain in, on, under, over, across and through the herein described land is necessary and reasonable to carry out the aforementioned purpose; and

WHEREAS, all preliminary requirements have been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough by virtue of the authority and the power conferred by the City Charter and by virtue of the applicable provisions of the Massachusetts General Laws, Chapter 79, and by virtue of every other power and authority thereto enabling, and in the exercise of power and authority conferred by said laws, does hereby take by Eminent Domain a permanent municipal utility easement, including all parcels of land, buildings, trees, and other vegetation thereon, in the following land:

DESCRIPTION OF LAND TAKEN

A strip of land now or formerly of Richard C. DiMatteo, Jr. and Jacqueline T. DiMatteo in Marlborough, Middlesex County, Massachusetts, situated at the end of Bellevue Avenue, as shown on the plan entitled “Plan of Taking For Permanent Municipal Utility Easement In Marlborough, Massachusetts, Prepared by: City of Marlborough Department of Public Works, Engineering Division, Scale: 1” = 20’, Date: January 18, 2008” and to be recorded at the Middlesex South District County Registry of Deeds together with an attested copy of this Order.

Meaning and intending to take and taking by Eminent Domain a permanent municipal utility easement in land shown as Parcel A as described in the aforementioned plan. For title, see Quitclaim Deed to current owners, Richard C. DiMatteo, Jr. & Jacqueline T. DiMatteo, dated July 7, 2003 and recorded at Middlesex South Registry of Deeds on October 1, 2003 in Book 41087, Page 439. The land consisting of Parcel A as referred to in the description above is also shown on the City of Marlborough Assessors Map as Parcel 93 on Map 43. The total land area being taken for a permanent municipal utility easement consists of approximately 818 ± SF, be and is herewith **APPROVED**.

AWARD

The City Council hereby makes the following award for damages for the owner or owners of record:

| <u>Owners</u> | <u>Area</u> | <u>Award</u> |
|--|-------------|--------------|
| Richard C. DiMatteo, Jr. & Jacqueline T. DiMatteo | 818 ± SF | \$3,100.00 |

Yea: 11 – Nay: 0

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

ORDERED: That the request for a Sewer Connection Compliance Certification from Brian Marchetti, Senior Project Engineer of Tetra Tech Rizzo, on behalf of First Student Inc., to construct a Bus Facility on Hayes Memorial Drive, **APPROVED** based upon the following conditions:

1. The permit will lapse if connection is not made within 180 days of obtaining all permits.
2. Any excess capacity available after the connection must be returned to the City.
3. The permitted sewer capacity will be 650 GPD; adopted.

ORDERED: That the request for an extension of a Sewer Permit from David P. Gadbois, on behalf of Gutierrez Co., for Devonshire at 495 Center which is located between Forest St. and Hayes Memorial Dr., **APPROVED** based on following conditions:

1. The sewer connection is limited to 56,000 gpd.
2. The sewer connection shall lapse if the connection is not made within 18 months after the date of final approval.
3. If the total volume is not needed, the surplus shall be returned to the City of Marlborough; adopted.

Councilor Schafer requested to be recorded in opposition.

ORDERED: That the following budget transfer request in the amount of \$91,355.88 which would move funds from Public Safety Stabilization to Police Officer to continue to meet the payroll charges for the two recently added police officers, refer to **BACK TO MAYOR**; adopted.

FROM:

Acct. # 83600-32701 \$91,355.88

Fringes

TO:

Acct. # 12100001-50420 \$91,355.88

Police Officer - Salary

ORDERED: That the drainage project in the Glenbrook neighborhood that is aimed at improving the entrance characteristics of the inlet control structure where Millham Brook enters the closed drainage system for the development be financed by a \$130,000.00 transfer request from Stabilization to Drainage account, **APPROVED**; adopted.

FROM:

Acct. # 836000-11515 \$130,000.00

Stabilization

TO:

Acct. # 19300006-58315 \$130,000.00

Drainage

ORDERED: That 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 Mayor. It is further ordered that:

- (a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and
- (b) that expenditures from said fund shall be limited to public safety training; and
- (c) that the Mayor shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than forty-five thousand dollars shall be expended during Fiscal Year 2009, unless otherwise authorized by the City Council and Mayor; and
- (e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and
- (f) no provisions of this order shall be changed unless approved by the Mayor and City Council, **APPROVED**; adopted.

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