



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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NOVEMBER 5, 2007

Regular meeting of the City Council held on Monday November 5, 2007 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Katz, Ferro, Juare, Schafer, Webster, Clancy and Towle. Meeting adjourned at 8:27 p.m.

- ORDERED: Minutes, City Council meeting, OCTOBER 29, 2007, **FILE**; adopted.
- ORDERED: Now being the time set for the PUBLIC HEARING on the petition of NSTAR to relocate existing vaults in Maple St. with state of the art equipment and to provide non interruptible access to Marlborough Fire Department's parking facility, all were heard who wish to be heard, hearing adjourned at 8:07 p.m., **IN PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Massachusetts Department of Revenue has certified the amount of available funds, or "free cash", for the City of Marlborough for FY07 in the amount of \$5,046,562.00, **FILE**; adopted.
- ORDERED: That the Communication from Attorney Bergeron, on behalf of 890 Post Rd. LLC, requesting to withdraw **without prejudice** Order No. 07-1667A pertinent to new automobile dealerships as an allowable use in a business zone, **APPROVE**; adopted.
- ORDERED: That the Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, re: request for road acceptance of Danjou Dr., refer to **PLANNING BOARD**; adopted.
- ORDERED: That the Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, re: request for road acceptance of Cleversy Dr., refer to **PLANNING BOARD**; adopted.
- ORDERED: That the Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, re: request for road acceptance of Miele Rd. & Balcom Rd., refer to **PLANNING BOARD**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 19, 2007** as date for a **PUBLIC HEARING** on the petition by NSTAR to install 250' of 2.00" plastic gas main as a system improvement to supply 417 South St, from 401 South St. easterly to 417 South St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 19, 2007** at as date for a **PUBLIC HEARING** on the application of Massachusetts Electric to install 1-3" PVC conduit from existing transformer 7 to existing secondary manhole 7E on Evelina Dr., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Planning Board, May 7, May 21, June 11, June 25, July 9, July 23, August 6, August 20, September 10, and September 24, 2007, **FILE**; adopted.

Suspension of the Rules requested – granted; adopted.

ORDERED: That the communication from Sprint Wireless Broadband Company LLC requesting to withdraw **without prejudice** Order No. 07-1709, the application for a Special Permit to modify the existing wireless facility located at 75 Donald Lynch Blvd., **APPROVE**; adopted.

Suspension of the Rules requested – granted; adopted.

ORDERED: That the petition by NSTAR to relocate existing vaults in Maple St. with state of the art equipment and to provide non interruptible access to Marlborough Fire Department’s parking facility, **APPROVE**; adopted.

ORDERED: That the City Council approve the maximum salary step for Tricia Richard of the Marlborough Fire Department commensurate with her experience and overall length of service, refer back to **FINANCE COMMITTEE**; adopted. Councilor Juaira filed a letter of disclosure with the City Clerk office dated November 5, 2007.

ORDERED: That City Council **APPROVE** the following transfer totaling \$15,200.00 from Reserve for Salaries to Clothing, and from Custodian to Overtime accounts; adopted.

FROM:

Acct. # 11990006-57820 \$3,200.00
Reserve for Salaries

TO:

Acct. # 11920003-51940 \$3,200.00
Clothing

FROM:

Acct # 11920001-50560 \$12,000.00
Custodian

TO:

Acct # 11920001-51300 \$12,000.00

ORDERED: That the City Council **APPROVE** the recommendation of the Finance Committee to accept and place on file the order that the Mayor and City Council consider the feasibility of establishing a “Code Enforcement Team”, and that the Mayor be requested to fund a clerical position in the Building Department to assist the “Code Enforcement Team”, in the housing code functions to the office. The Mayor was requested to develop a job description for the "Code Enforcement Team" and the requested clerical position, with Councilors to provide the Mayor with input on the job description.; adopted.

Order No. 07-1001675 - Communication from the Mayor re: amending the existing licensing agreement between the owner(s) of the property at 19 Weed Street and the City of Marlborough. Legal and Legislative Affairs Committee reviewed the Mayor's letter dated September 20, 2007 and a proposed order drafted by the City Solicitor. The Solicitor brought into question City Council's ability to authorize the full extent of the requested amendment as well as the previously granted license as a portion of the layout on Weed Street may, in fact, be owned by the CDA through the Redevelopment Authority. As such, the Solicitor recommended rescinding the previous License and issuing a new License both for the previously approved encroachments along with the new request to the extent City Council has such authority. There was also discussion as to the inclusion of a "hold harmless" clause protecting the city from future claims for damage to the new brick façade as a result of the normal use and maintenance of the sidewalk areas. The Chair was in favor of including the "hold harmless" language; other members were not. **Recommendation of the Legislative and Legal Affairs Committee is to approve 2-1 (Levy opposed) the proposed order rescinding a prior License to Encroach as amended and grant a new License to Encroach for existing footings and handicap access ramp as well as a new brick façade , with no "hold harmless" language.**

MOTION: On the recommendation of the Legal and Legislative Affairs Committee to rescind original decision to encroach – **carries.**

MOTION: Made by Councilor Levy to include the language provided to you as follows: Further, that the owners of the property at 19 Weed Street shall hold harmless the City of Marlborough from all claims of damage to the new brick façade as a result of the normal use and maintenance of the sidewalk areas adjacent to the building within Court Street and Weed Street – **does not carry.**

The original language recommended by the Legal and Legislative Affairs Committee is approved as follows:

ORDERED: The City Council **APPROVE**, the License to Encroach granted to the record owner of 19 Weed Street by the Marlborough City Council by Order No. 96-6696A, dated October 7, 1996 (copy attached), as amended by Order 96-6996B dated July 14, 1997 (copy attached), is hereby rescinded;

That the record owner of 17-21 Weed Street is hereby authorized, nunc pro tunc, to:

- 1) encroach on and occupy a portion of the layout of Court Street as well as, to the extent applicable, a portion of the layout of Weed Street, by placement of certain footings in connection with expansion of the building located at 17-21 Weed Street, which placement has already occurred; and
- 2) encroach on and occupy, to the extent applicable, a portion of the layout of Weed Street, by construction of a handicap access ramp, which construction has already occurred; and

That the record owner of 17-21 Weed Street is hereby further authorized to encroach on and occupy a portion of the layout of Court Street as well as, to the extent applicable, a portion of the layout of Weed Street, by installation of a new brick façade treatment to be applied to the exterior of the existing building located at 17-21 Weed Street; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned 8:27 p.m., **FILE**; adopted.