



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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MARCH 24, 2014

Regular meeting of the City Council held on Monday, March 24, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Irish, Clancy, and Landers. Absent: Tunnera. Meeting adjourned at 8:55 PM.

ORDERED: That the minutes of the City Council meeting MARCH 10, 2014, **FILE**; adopted.

ORDERED: That the Building Department transfer request in the amount of \$75,000.00 which moves funds from Undesignated to Contract Services pertinent to mitigation funds for AvalonBay, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$75,000.00
Undesignated Fund

TO:

Acct. # 12410004-53140 \$75,000.00
Contract Services

ORDERED: That pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, upon the recommendation of the Mayor, approves expenditures in excess of available appropriation up to \$1,850,000 for snow and ice removal for fiscal year 2014, **APPROVED**; adopted.

ORDERED: That the following Zoning Board of Appeals Appointments:

- a) Paul Giunta as a regular member for a term to expire five years from date of approval.
- b) Theodore Scott as a regular member for a term to expire five years from date of approval.
- c) Ralph Lotfin will serve the balance of the unexpired term of Robert Page which will expire on May 5, 2017

Refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Connie Mish to the Youth Commission for a term to expire three years from date of approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Reappointment of Elizabeth Evangelous to the Board of Registrars for a two year term to expire on April 1, 2016, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Karin Jost-Paquin to the Conservation Commission for a term to expire three years from date of approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from PERAC re: Appropriation from Fiscal Year 2015, **FILE**; adopted.

Suspension of the Rules request-granted to allow Joseph Zink, the President and CEO of Atlantic Management to speak.

ORDERED: That the City Council, under the provisions of Articled VI Chapter 650-33 Results Way Mixed Use Overlay District Section 33D Exclusivity/Control and Article II Section 270-2 Site plan review and approval F Prior earthmoving, **APPROVE** the draft "Site Plan" for the placement of fill material as provided in the plans dated March 18, 2014 Symmes Maini & McKee Associates, 1000 Massachusetts Avenue, Cambridge, Massachusetts 02138, Marlborough Hills Forest Street, Marlborough, MA consisting of sheets C-111 Site Preparation and Erosion Control Plan, C-141 Grading and Surface Treatment Plan and C-501 Details 1 Plan, collectively the "Plans" under the following terms and conditions:

1. That the work be performed in accordance with the Plans and the notes recited in the Plans;
2. That there be a preconstruction meeting with the Conservation Officer, the Site Contractor and the City Engineer (designee) once the erosion controls are in place and prior to doing any hauling for the purpose of reviewing the Plans and to exchange emergency contact information;
3. That in the event the future parking lot contemplated to be constructed in the fill area is not constructed within a year of the placement of the fill it be loomed and seeded and the temporary erosion control of tackifer be placed on the fill prior to looming and seeding in order to accomplish the erosion control of the fill area.

APPROVED AND REFER TO URBAN AFFAIRS COMMITTEE; adopted.

ORDERED: That the Communication from Attorney Gadbois re: Minor Site Plan Change, AvalonBay-200 Forest St. Plan is in City Clerk's office for viewing, Order No.13/14-1005446A, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer's License, Roman Kimyagarov, Arthur & Sons Shoe Repair, 107 Main St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Traffic Commission, December 17, 2013, **FILE**; adopted.

ORDERED: That the Minutes, License Board, January 22, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Board of Health, January 7, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, January 23 & February 20, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, February 10, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Board of Registrars, March 10, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Recreation Commission, January 8, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, February 11, 2014, **FILE**; adopted.

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

- A. Christopher Jarvis, 31 Brigham Ave., pothole or other road defect
- B. Leslie Meyers, 223 Vega Rd., residential mailbox claim 2(b)
- C. Eileen Barry, 555 Farm Rd., residential mailbox claim 2(b)
- D. Elizabeth Fialho, 302 Boston Post Rd. #C6, other property damage
- E. Sharon Clewes, 9 White Bagley Rd., Southborough, pothole or other road defect
- F. Michael Manning, 19 Longfellow Ter., other property damage
- G. Arthur Bergeron, 27 Prospect St., other property damage
- H. Irene Richardson, 204 Ridge Rd., other property damage
- I. Paul Ferreira, 67 Diana Dr., pothole or other road defect

Reports of Committees:

Councilor Landers reported the following out of the Public Services Committee:

Present: Chairman Landers; Public Services Committee Members Councilors Irish and Clancy
Also Present: NGrid Representative Crystal Tognazzi

1-27-14- Order No.14-1005671: Petition of NGrid and Verizon to locate existing P.C6 Lavolette Street 35 feet south towards the entrance to Lake Williams condominiums. This will be used as a primary riser pole to feed a pad-mounted transformer required to provide service to the new building (destroyed by fire).

The Public Services Committee met with a representative from National Grid to discuss the relocation of Pole 6 35 feet south of its current location. National Grid is ready to do the work and it should proceed quickly once approvals are in place. The committee would like the old Pole 6 removed upon completion of the work. Chairman Landers read the proposed conditions from Engineering Assistant Mark Dascoli:

Motion by Councilor Clancy, seconded by Councilor Irish, to approve subject to eight (8) following conditions proposed by City Engineering Division. Approved 3-0.

- 1) A street opening permit must be applied for by the proposed contractor performing the work;
- 2) A proper staging area is to be located/acquired before work commences – material and equipment shall not be parked/stockpiled within the city right of way;
- 3) The contractor is to ensure residents are always able to enter and exit their driveways;
- 4) Ensure construction safety controls are established (signage, drums, police details, etc) and are in accordance with the latest MUTCD standards;
- 5) Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended;

Reports of Committees cont'd:

- 6) Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765;
- 7) National Grid to work closely with other private utility companies to expedite the transfer of overhead wires from old to new poles;
- 8) If existing pole 6 is no longer necessary, this pole is to be removed immediately after overhead wires are transferred.

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Robey, Oram, Elder, and Irish. The meeting convened at 7:03 PM.

Order No. 14-1005721 – Transfer \$63,600.00 from the Fringes Account to the Public Works Department Accounts for Retirements. The Finance Committee reviewed the Mayor's letter dated March 6, 2014 requesting three transfers from the Fringe account totaling \$63,600.00 to fund the DPW Commissioner, sick leave buy back and longevity accounts for the retirement of a member of the Department of Public Works Department. **The Finance Committee voted 5 – 0 to approve the three transfers.**

Order No. 14-1005722 – Transfer \$21,500.00 from the Fringe Account to Fund Postage and Office Supplies in the Comptroller's Office. The Finance Committee reviewed the Mayor's letter dated March 6, 2014 requesting the transfer of \$21,500.00 from the Fringe account to fund the postage and office supply accounts in the Comptroller's office. **The Finance Committee voted 5 – 0 to approve the transfer.**

Order No. 14-1005723 – Transfer \$7,000.00 from Senior Clerk to the Legal/Tax/Appeal Account in the Assessor's Office. The Finance Committee reviewed the Mayor's letter dated March 6, 2014 requesting the transfer of \$7,000.00 from the Senior Clerk account to the Legal/Tax/Appeal account to ensure sufficient funds are available for the remainder of the year to cover abatement filings and appraisals. **The Finance Committee voted 5 – 0 to approve the transfer.**

In other business, the Finance Committee discussed the draft FY15 Finance Committee budget hearing schedule and asked Councilors for comments on the meeting dates. The Finance Committee adjourned at 7:29 PM.

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

Present: Chairman Delano; Urban Affairs Committee Members Councilors Clancy, Landers, Tunnera, and Page

Also Present: Attorney Gadbois, Barry Kittredge, Bruce Saluk, City Solicitor Rider

Reports of Committees cont'd:

CONTINUED REVIEW Order No. 13/14-1005555C: On the Application for Special Permit from Attorney Gadbois on behalf of DBK Realty, LLC, to construct a facility at 1000 Nickerson Rd. to store and use toxic chemicals in the manufacture of small parts for the medical instrument, airline and defense industries. Because the location of the business will be in Zone B of the Water Protection Zoning District, a Special Permit for such use is required.

REFER TO URBAN AFFAIRS

PUBLIC HEARING: FEBRUARY 10, 2014

The Urban Affairs Committee met on March 11, 2014 to continue their review of the Special Permit Application and Conditions for DBK Realty, LLC and Ktron Inc. Minor changes were made to the draft Special Permit application and it was approved by the Committee as amended. A suspension of the rules will be requested at the next City Council meeting for the purpose of referring to the City Solicitor for proper legal form.

Councilor Clancy makes a motion to approve as amended. The motion is made and seconded by the Chair. All are in favor, the motion carries, vote 5-0.

Councilor Clancy makes a motion to ask for a suspension of the rules at the next regularly scheduled City Council meeting for the purpose of referring to the City Solicitor for proper legal form. The motion is made and seconded by the Chair. All are in favor, the motion carries, vote 5-0.

Councilor Clancy makes a motion to adjourn. The motion is made and seconded by the Chair. All are in favor, the motion carries, vote 5-0. Adjourned at 6:28 PM.

Councilor Clancy reported the following out of the Legislative & Legal Affairs Committee:

Meeting Called to Order: 5:05 PM

Members Present: Councilors Clancy, Delano and Robey

Also: Councilor Landers and City Solicitor Rider

City Officials: Fire Chief Fortin and EMS Director Cusson

Cyber Comm. Inc. Representatives: Mc Kay and Connolly

Order No. 13/14-1005649 – Bi-Directional/Uni-Directional Antenna Specification Ordinance. The Emergency Response Personnel requested that an Ordinance be added to the Code of the City of Marlborough. This Ordinance would require that all renovations to existing structures, that met the present MGL 915.1 Building Code, be required to be tested and possibly have installed a Bi-Directional/Uni-Directional Antenna System.

Reports of Committees cont'd:

Chief Fortin and Director Cusson, along with representatives from Cyber Comm., explained how the testing of present structures would be conducted and how the antenna systems worked, if added to a building. The system is meant as a method to protect emergency personnel when placed in situations that would require emergency communications within a structure. Impact ramifications were discussed with input from the Building Inspector and all others present. It should be noted that single family homes and wooden structures would be considered exempt from this proposed Ordinance. Changes to the proposed Ordinance were discussed and added where necessary. The proposed Ordinance, as amended, is attached.

Motion to approve by Councilor Delano seconded by the Chair, Motion Passed: 3-0.

Meeting Adjourned: 6:40 PM

Councilor Clancy reported the following out of the Legislative & Legal Affairs Committee:

Members Present: Chairman Clancy, Councilors Delano and Robey

Also: Councilor Landers and Asst. Solicitor Panagore-Griffin

City Officials: Mayor Arthur Vigeant, Ex. Asst. Michael Berry

2-10-14 – Order No.14-1005690: Communication from the Mayor requesting amendments to the City Code relative to the BOARD OF ASSESSORS and position of PRINCIPAL ASSESSOR as follows:

--Eliminate the practice of a full-time City employee serving as Chairman of the Board of Assessors while simultaneously managing the Assessors' Office;

--Formally establish in the City Code the position of Principal Assessor who will serve as a member of the Board of Assessors, but never in the role of Chairman;

--Ensure that stipends are not available to employees of the Assessors' Office who also serve on the Board of Assessors.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

Mayor Vigeant outlined the proposed amendments and changes to Article VI, Board of Tax Assessors. The wording changes to S 67-27 Board of Tax Assessors; Chairman, S 67-28 Principal Assessor; Powers and Duties and S 67-32 Senior Assessor; Powers and Duties.

The members of committee reviewed and addressed the reasoning for the changes and agreed that the proposed changes would bring into line the existing operation and management of the Assessor's Office.

Motion to approve by Councilor Delano, seconded Councilor Robey. Motion Passed: 3-0

Suspension of the Rules requested – granted

ORDERED: That, in light of the fact that opiate overdose is presently the leading cause of accidental death in the Commonwealth of Massachusetts, the Mayor is hereby requested to implement, as soon as is possible, the deployment of nasal naloxone, or Narcan, to be carried by police in marked police vehicles, as well as by fire personnel in their fire department medical bags, for the administration of Narcan to opiate overdose victims in situations where emergency medical service personnel have not yet arrived to attend to such victims; provided, however, that such deployment is in any event contingent upon receipt of adequate funding, whether through grants or otherwise, **APPROVED**; adopted.

Yea: 9 - Nay: 1 – Absent: 1

Yea: Delano, Page, Elder, Irish, Clancy, Landers, Pope, Oram & Robey

Nay: Ossing

Absent: Tunnera

Suspension of the Rules requested – granted

ORDERED: That the Application for Special Permit from Attorney Gadbois on behalf of DBK Realty, LLC, to construct a facility at 1000 Nickerson Rd. to store and use toxic chemicals in the manufacture of small parts for the medical instrument, airline and defense industries. Because the location of the business will be in Zone B of the Water Protection Zoning District, a Special Permit for such use is required, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM**; adopted.

ORDERED: That following transfer requests in the amount of \$63,559.06 which moves funds from Fringe to Sick Leave Buy Back to fund costs associated with the retirements of members of the Police and Public Works Departments, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		DPW - Water				FISCAL YEAR:		2014		
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$18,740.88	11990006	51500	Fringes	\$18,740.88	61090003	51920	Sick Leave BuyBack	\$1,472.32	
Reason:		Sick Leave Buy Back				Retirement				

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		DPW - Streets Division				FISCAL YEAR:		2014		
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$18,741.00	11990006	5150	Fringes	\$18,741.00	14001303	51920	Sick Leave Buy Back	\$2,183.89	
Reason:		Sick Leave Buy Back				Retirement				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Police					FISCAL YEAR:	2014		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$463,313.00	\$26,077.18	11990006	51500	Fringes	\$26,077.18	12100003	51920	Sick Leave Buy Back	\$15,130.53	
	Reason:	Sick Leave Buy Back					Retirement			

ORDERED: That the transfer request in the amount of \$12,000.00 which moves funds from Fringe to Actuarial Study to fund an actuarial study regarding our OPEB (Other Post-Employment Benefits) obligations, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Comptroller					FISCAL YEAR:	2014		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$463,313.00	\$12,000.00	11990006	51500	Fringes	\$12,000.00	11990006	53052	Actuarial Study	\$3,000.00	
	Reason:	Surplus in account					Update OPEB report for GASB 45			

ORDERED: That the transfer request in the amount of \$10,000.00 which moves funds from Fringe to Conference & Training to fund participation in the Supervisory and Leadership Development Program through the Collins Center for Public Management, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Personnel					FISCAL YEAR:	2014		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$463,313.00	\$10,000.00	11990006	51500	Fringes	\$10,000.00	11520006	57380	Conference & Training	\$13,754.31	
	Reason:	Surplus in account					Personnel Management training			

ORDERED: That the transfer request in the amount of \$1,710.00 which moves funds from P/T Nurse to Medical Supplies to fund higher than anticipated demand for flu vaccinations, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Board of Health				FISCAL YEAR:		2014		
FROM ACCOUNT:					TO ACCOUNT:					
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$12,608.15	\$1,710.00	15120001	50391	Part Time Nurse	\$1,710.00	15120005	55050	Medical Supplies	\$152.93	
Reason:		Surplus due to retirement				Heavy activity this year for flu vaccines				

ORDERED: That the DPW transfer requests totaling \$59,000.00 from and to various accounts as noted on the spreadsheets due to a noticeable increase in water main breaks, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Department of Public Works				FISCAL YEAR:		2014		
FROM ACCOUNT:					TO ACCOUNT:					
Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:	Available Balance	
\$7,000	60080001	50580	Assistant Chemist		\$7,000	61090006	55710	Water Maintenance	\$8,316	
Reason:		Money available due to previous vacancy				Higher than normal water main breaks				
\$9,000	60081001	50850	Sewage Tr Plt Opera		\$9,000	61090006	54620	Maintenance/Trenches	\$0	
Reason:		Money available due to retirement				Funds needed to perform roadway repairs associated with emergency leaks/breaks				
\$9,000	60081001	50850	Sewage Tr Plt Opera		\$9,000	61090006	54620	Maintenance/Trenches	\$0	
Reason:		Money available due to W.C.				Funds needed to perform roadway repairs associated with emergency leaks/breaks				
\$7,000	60085001	50850	Sewage Tr Plt Opera		\$7,000	61090006	55750	Water Service Const.	\$5,340	
Reason:		Money available due to W.C.				Anticipated funds needed to cover materials for breaks				
\$10,000	60085001	50850	Sewage Tr Plt Opera		\$10,000	61090003	51310	Water Overtime	\$51,446	
Reason:		Money available due to W.C.				Higher than anticipated system repairs				
\$42,000	Total				\$42,000	Total				

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:					FISCAL YEAR:				
FROM ACCOUNT:					TO ACCOUNT:				
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$5,000	14001303	50740	Equipment Operators	\$5,000	14001305	55310	Highway Constr Mate	\$8,076	
Reason:			Money available due to retirement	Funds needed to perform roadway repairs associated with emergency leaks/breaks					
\$12,000	14001303	50740	Equipment Operators	\$12,000	14001304	53140	Contract Services	\$4,666	
Reason:			Money available due to retirement	Anticipated cost to cover the removal/disposal of material collected from spring time sweeping program					
\$17,000	Total			\$17,000	Total				

ORDERED: That the Fire Department transfer request in the amount of \$30,000.00 which moves funds from Educational and EMT to Contract Services for the purpose of utilizing an outside consulting firm to review policies, procedures, and overall operations of the Fire Department, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:					FISCAL YEAR:				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$79,265.98	\$15,000.00	12200003	51440	Educational	\$30,000.00	12200003	53140	Contract Services	\$0.00
Reason:			Fewer than expected obtained college credits and unfilled positions	For review of departmental policies, procedures, etc					
\$56,605.25	\$15,000.00	12200003	51480	EMT					
Reason:			Fewer than expected certified as EMTs and unfilled positions						
	\$30,000.00	Total			\$30,000.00	Total			

ORDERED: That the Reappointments of the following to the Disabilities Commission:
 a) Debra McManus for a term of two years
 b) John Usinas for a term of three years
 c) Richard Towle for a term of two years

APPROVED; adopted.

ORDERED: That the Communication from Council President Pope re: Reappointment of Lisa Thomas as City Clerk for a three year term to expire on February 28, 2017, **APPROVED**; adopted.

ORDERED: That the Mayor's Communication pertinent to the Open Space Plan, **FILE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:55 PM.