



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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**NOVEMBER 17, 2014**

Regular meeting of the City Council held on Monday, NOVEMBER 17, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Tunnera, Clancy, Irish, and Landers. Meeting adjourned at 8:52 PM.

**Council President Pope recognized the visiting Chinese Principal, Zhou Junshan.**

ORDERED: That the minutes of the City Council meeting NOVEMBER 3, 2014, **FILE**; adopted.

ORDERED: That the Update from DPW Commissioner Ghiloni re: Senior Center Building Project, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Bill Hanrahan of NB & C, on behalf of Sprint to modify existing wireless equipment at 450-460 Boston Post Rd., Order No. 14-1005984, all were heard who wish to be heard, hearing recessed at 8:10 PM.

**Councilors Present: Pope, Ossing, Robey, Oram, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.**

**Motion made and seconded to grant a Suspension of the Rules to vote to remove from Wireless Communications Committee. Motion carried, 11-0, it is approved.**

**Motion made and seconded to remove from Wireless Communications Committee. Motion carried, 11-0, it is approved.**

**Motion made and seconded to refer to City Solicitor's Office to place a decision in proper legal form on the December 1, 2014 regular meeting agenda effectively approving the application to modify existing equipment as requested, subject to all conditions in place for the site referred to as 460/460 Boston Post Road as if said conditions were recited herein in their entirety. Motion carried, 11-0, it is approved.**

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Bill Hanrahan of NB & C, on behalf of Sprint to modify existing wireless equipment at 115 Onamog St., Order No. 14-1005985, all were heard who wish to be heard, hearing recessed at 8:12 PM.

**Councilors Present: Pope, Ossing, Robey, Oram, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.**

**Motion made and seconded to grant a Suspension of the Rules to vote to remove from Wireless Communications Committee. Motion carried, 11-0, it is approved.**

**Motion made and seconded to vote to remove from Wireless Communications Committee. Motion carried, 11-0, it is approved.**

**Motion made and seconded to refer to City Solicitor's Office to place a decision in proper legal form on the December 1, 2014 regular meeting agenda effectively approving the application to modify existing equipment as requested, subject to all conditions in place for the site referred to as 115 Onamog Street as if said conditions were recited herein in their entirety. Motion carried, 11-0, it is approved.**

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Bill Hanrahan of NB & C, on behalf of Sprint to modify existing wireless equipment at 2 Mt. Royal Ave., Order No. 14-1005986, all were heard who wish to be heard, hearing recessed at 8:16 PM.

**Councilors Present: Pope, Ossing, Robey, Oram, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.**

**Motion made and seconded to grant a Suspension of the Rules to vote to remove from Wireless Communications Committee. Motion carried, 11-0, it is approved.**

**Motion made and seconded to remove from Wireless Communications Committee. Motion carried, 11-0, it is approved.**

**Motion made and seconded to refer to City Solicitor's Office to place a decision in proper legal form on the December 1, 2014 regular meeting agenda effectively approving the application to modify existing equipment as requested, subject to all conditions in place for the site referred to as 2 Mt. Royal Avenue as if said conditions were recited herein in their entirety. Motion carried, 11-0, it is approved.**

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Bill Hanrahan of NB & C, on behalf of Sprint to modify existing wireless equipment at 157 Union St., Order No. 14-1005987, all were heard who wish to be heard, hearing recessed at 8:18 PM.

**Councilors Present: Pope, Ossing, Oram, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.**

**Councilor Robey recused.**

**Motion made and seconded to grant a Suspension of the Rules to vote to remove from Wireless Communications Committee. Motion carried, 10-0-1 (Robey abstained), it is approved.**

**Motion made and seconded to remove from Wireless Communications Committee. Motion carried, 10-0-1 (Robey abstained), it is approved.**

**Motion made and seconded to refer to City Solicitor's Office to place a decision in proper legal form on the December 1, 2014 regular meeting agenda effectively approving the application to modify existing equipment as requested, subject to all conditions in place for the site referred to as 157 Union Street as if said conditions were recited herein in their entirety. Motion carried, 10-0-1 (Robey abstained), it is approved.**

**ORDERED:** Police Department transfer request in the amount of \$226,392.31 which moves funds from and to various accounts as noted on the attached spreadsheets to fund the City's contract with the Police Command Officers Union, Local 366, for fiscal years 2013, 2014, and 2015, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Police					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available	
Balance									Balance	
\$82,581.00	\$82,581.00	11990006	57820	Reverve for Salaries & Bene	\$21,045.04	12100001	50500	Police Captains	\$106,501.13	
	Reason:	Surplus in account					Police Command Contract			
\$6,103,681.00	\$143,811.31	10000	35900	Undesignated Fund Balance	\$47,614.35	12100001	50510	Police Lieutenants	\$244,201.85	
	Reason:						Police Command Contract			
					\$81,336.09	12100001	50820	Police Sergeants	\$418,123.71	
	Reason:						Police Command Contract			
					\$1,724.63	12100003	51360	Police OT - Training	\$35,974.63	
	Reason:						Police Command Contract			
					\$13,391.34	12100003	51310	Police OT - Regular	\$102,298.49	
	Reason:						Police Command Contract			
					\$514.65	12100003	51370	Police OT - Celebrations	\$3.21	
	Reason:						Police Command Contract			
					\$183.73	60080003	51380	Police OT Water/Sewer	\$294.29	
	Reason:						Police Command Contract			
					\$615.56	61090003	51380	Police OT Water/Sewer	\$0.00	
	Reason:						Police Command Contract			
					\$2,777.27	12100003	51320	OT- Court Time	\$139,382.91	
	Reason:						Police Command Contract			
					\$118.34	12100003	51319	OT - Cell Watch	\$3,523.71	
	Reason:						Police Command Contract			

					\$23.71	12100003	51329	On - Call Pay		\$8,090.64
	Reason:							Police Command Contract		
					\$7,728.53	12100003	51920	Sick Leave Buy Back		\$153,656.00
	Reason:							Police Command Contract		
					\$6,008.23	12100003	51490	Holiday Pay		\$208,690.95
	Reason:							Police Command Contract		
					\$9,077.51	12100003	51342	Longevity		\$118,185.50
	Reason:							Police Command Contract		
					\$30,702.79	12100003	51440	Educational Incentive		\$360,206.91
	Reason:							Police Command Contract		
					\$3,256.15	12100003	51450	Night Shift Differential		\$82,083.76
	Reason:							Police Command Contract		
					\$274.39	12100003	51410	First Responder		\$38,043.96
	Reason:							Police Command Contract		
	\$226,392.31	Total			\$226,392.31	Total				

**ORDERED:** That the Fire Department transfer request in the amount of \$159,777.53 which moves funds from and to various account as noted in the attached spreadsheets to mostly fund the sick leave and vacation buyback for a retiring member and to fund the overtime account which has received higher than projected usage, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Fringe				FISCAL YEAR:	15		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$400,000.00	\$65,940.30	11990006	51500	Fringe	\$65,940.30	12200003	51920	Sick Leave	\$188,850.00
	Reason:	Retirement payout of sick leave							
\$400,000.00	\$68,698.80	11990006	51500	Fringe	\$68,698.80	12200001	50450	Firefighter	\$2,334,099.21
	Reason:	Payout of vacation buy back							
	\$134,639.10	Total			\$134,639.10	Total			

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	FIRE				FISCAL YEAR:	15			
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$2,334,099.21	\$25,138.43	12200001	50450	Firefighter	\$25,138.43	12200003	51300	Overtime	\$106,355.69	
	Reason:	Transfer is available due to 111F payments								
	\$25,138.43	Total			\$25,138.43	Total				

ORDERED: That the DPW transfer request in the amount of \$24,630.00 which moves funds from Fringes to Sick Leave Buy Back to fund obligations due to a retiring member, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	DPW - Water Division				FISCAL YEAR:	2015			
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$400,000.00	\$24,630.00	11990006	51500	Fringes	\$24,630.00	61090003	51920	Sick Leave Buy Back	\$16,500.00	
	Reason:	Sick Leave Buy Back					Retirement			
	\$24,630.00	Total			\$24,630.00	Total				

ORDERED: That the Marlborough Fire Department Assessment Final Report, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

**President Pope divulged that she requested the Mayor or his designee deliver a presentation at the December 15, 2014 City Council meeting.**

ORDERED: Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that the Code of the City of Marlborough, as amended, be further amended as follows:

Section 125-27, entitled "Use of sick leave" is hereby amended by deleting paragraph C. in its entirety and inserting in place thereof the following new paragraph C.:

- C. Upon the termination of employment of a non-union employee, except where the termination is by the City for cause, or upon the death of a non-union employee, the City shall pay to said employee or said employee's beneficiary or estate, whichever is applicable, the value of the employee's accumulated and unused sick leave, not to exceed the amount of \$5,000.00.

Refer to **FINANCE COMMITTEE**; adopted.

ORDERED: Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that the Code of the City of Marlborough (hereinafter, the “City Code”), as amended, be further amended as follows:

- A. The City Code is hereby amended in its entirety by deleting the words “Personnel Director” wherever they appear throughout the City Code, and inserting in place thereof the words “Human Resources Director.”
- B. The City Code is hereby amended in its entirety by deleting the words “Personnel Department” wherever they appear throughout the City Code, and inserting in place thereof the words “Human Resources Department.”
- C. Paragraph F of Section 125-3, is hereby amended by deleting the words “Executive Aide” and, in its place, inserting “Chief of Staff.”
- D. The City Code is hereby amended in its entirety by deleting the words “Secretary/Research Assistant to the City Council” wherever they appear throughout the City Code, and inserting in place thereof the words “Legislative Aide to the City Council.”

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Municipal Aggregation Program, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

**Councilor Ossing recused.**

ORDERED: That the “Boroughs Trail” Conceptual Plan, refer to **OPEN SPACE COMMITTEE**; adopted.

ORDERED: It is moved, in conformance with the provision of section 21(a)(3) of Chapter 30A of the General Laws of the Commonwealth, that the Marlborough City Council conduct an executive session for the purpose of discussing litigation strategy in a wireless special permit dispute involving two properties on Boston Post Road, as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough and the City Council, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the City Council will re-convene in open session after the executive session, **APPROVED**; adopted.

**Yea: 11-Nay: 0**

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

ORDERED: That the Plowing of Private Way – Reagin Lane, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from the Planning Board re: Positive Recommendation Pertinent to the Downtown District Village, Order No. 14-1005947A, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Public Employee Retirement Administration Commission (PERAC) re: appropriation for Fiscal Year 2016, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, DECEMBER 15, 2014** as date for a **PUBLIC HEARING** on the Petition of NGrid and Verizon New England, Inc. to install new primary riser P20-50 to be located 23' off roadway in between existing P20 and P21 Ames St. Also to install 2-4" conduits encased in concrete, one primary pull box and underground cable along Ames St. Conduit system will be installed 3' back of curb on the north side of the roadway. This installation is required to provide electrical service to new multifamily residential development – The Preserve at Ames, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the portion of the public way identified on a plan entitled, "Plan of Land in Marlborough, Massachusetts, to be licensed to Richard F. and Jane A. Sullivan, 56 Emmett Street for parking, Prepared by: City of Marlborough Department of Public Works, Engineering Division (BWT), Scale: 1" = 20', January 2002," which is attached hereto and incorporated herein by reference, and containing 316.41± square feet, which Order No. 03-9919A declared available for disposition for the sole purpose of parking by the owners of 56 Emmett Street, is herewith approved as a license for the current owners of 56 Emmett Street, Kenneth D. and Kristin L. Regan, Jr., based, however, upon the following conditions:

1. The license shall be on a temporary two-year basis, requiring further City Council approval two years from the date of adoption of this order;
2. The licensees shall utilize the licensed premises for the parking of the vehicle(s) in their household, and they shall not permit the parking of their vehicle(s) on the public way so as to impede snow removal operations conducted by or on behalf of the City of Marlborough;
3. The licensees' use of the portion of the public way approved under this license, each year it is in effect, shall coincide with the period of the City of Marlborough's winter parking ban for that year, and the licensed portion of the public way shall otherwise be available to other neighbors and abutters for parking purposes at other times of the year, especially during the summer months; and
4. The licensees shall indemnify and hold harmless the City of Marlborough from any liability arising as a result of their use of the licensed portion of the public way for parking purposes.

**APPROVED**; adopted.

**Councilor Oram recused.**

ORDERED: That the Minutes, License Board, September 24, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, October 20, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Marlborough High School Meeting, October 1 & November 5, 2014, **FILE**; adopted.

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

- A. Beth Kelly, 12 Graham Path, pothole or other road defect.
- B. Gregory Grassby, 55 Clinton St., other property damage and/or personal injury
- C. Greg Flanigan, 50 Mill St., Maynard, MA other property damage and/or personal injury

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: November 10, 2014

Time: 5:30 PM

Location: City Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Agenda Item(s) addressed:

Convened: 5:38 PM

Adjourned: 6:41 PM

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

Also Present: Cynthia Panagore Griffin, Assistant City Solicitor, City of Marlborough; Mark Racicot, Director of the Land Use Department at Metropolitan Area Planning Council (MAPC)

**Order No. 14-1005947: Proposed Zoning Petition, Downtown Village (MVD) District.** The Urban Affairs Committee continued their review of Order No. 14-1005947, Proposed Zoning Petition, Marlborough Downtown Village District. The Assistant City Solicitor made changes requested by the committee and they reviewed an annotated version of comments and suggestions from their prior meeting. The committee made some minor changes/clarifications during their continued review of the proposed zoning petition. **Motion made by Councilor Clancy, seconded by Chair, to approve as amended with all supporting documents, Carries 5-0.**

**Motion made by Councilor Clancy, seconded by Chair, to adjourn, Carries 5-0. The meeting adjourned at 6:41 PM.**

*Reported by: Chairman Delano  
November 17, 2014*

**Suspension of the Rules requested – granted**

ORDERED: That the Proposed Zoning Petition, Downtown Village District, refer to **THE CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:52 PM.