



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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JANUARY 28, 2013

Regular meeting of the City Council held on Monday, JANUARY 28, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:04 PM.

ORDERED: That the Minutes of the City Council Meeting, JANUARY 7, 2013, **FILE**; adopted.

ORDERED: That the City Council President recognized Boy Scout Troop 303 for the Citizenship and Community Merit Badges, **FILE**; adopted.

ORDERED: That the newly appointed Firefighters John DeGiacomo, Omar Atocha-Torres, Michael Burnell, are recognized, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING Application for Special Permit from Crown Castle, on behalf of T-Mobile, to exchange six existing antennas on a cell tower, 445 Simarano Dr., Order No. 12/13-1005249, **CONTINUED UNTIL FEBRUARY 25, 2013**; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

ORDERED: That the PUBLIC HEARING On Proposed Zoning Amendment by Attorney Bergeron by adding to Section 650-17, Table of Uses Regulation, an additional use, "Utility Service Vehicle Maintenance," said use to be allowed only in the Industrial zones; and by adding to Chapter 650 Section 650-18(A) new section (41) Utility Service Vehicle Maintenance, Order No. 12/13-1005267, all were heard who wish to be heard, hearing recessed at 8:39 p.m; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

ORDERED: PUBLIC HEARING On the Petition from NGrid to install six new heavy duty hand holes in the area of Bigelow Heights, URD, Bergeron Rd, Ahlgren Circle, Duca Dr., Rodgers Ave., Evelina Dr. and Houde St., Order No. 12/13-1005285, **CONTINUED UNTIL MARCH 11, 2013**; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

ORDERED: That the Police Department transfer request in the amount of \$132,623.00 which moves funds from and to various accounts as noted on the spreadsheet to pay for overtime costs associated with an increased number of vacant positions as well as several injuries, equipment for new hires, and a higher than anticipated need for overtime cell watch for female detainees, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Fire Department transfer request in the amount of \$102,605.48 which moves funds from and to various accounts as noted on the spreadsheet to pay for overtime costs associated with injuries of several firefighters early in the month of December and personal long term sick leave of others over the past several months, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Open Space transfer request in the amount of \$81,000.00 which moves funds from Undesignated to Stabilization-Open Space, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900	\$81,000.00
Undesignated Funds	

TO:

Acct. # 83600-32918	\$81,000.00
Stabilization-Open Space	

ORDERED: That the Building Department transfer request in the amount of \$506.00 and \$900.00 which moves funds from In-State Travel to Zoning Board Member and In-State Travel to Board Secretary respectively due to an unanticipated increase in the number of Zoning Board of Appeals hearings, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12410006-57100	\$506.00
In-state Travel	

TO:

Acct. # 1241003-51180	\$506.00
Zoning Board Member	

FROM:

Acct. # 12410006-57100	\$900.00
In-state Travel	

TO:

Acct. # 12410002-51050	\$900.00
Board Secretary	

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Conservation Grant in the amount of \$1,000.00 from the Butler Family foundation to assist with ongoing maintenance of the Felton Conservation Land fields and other conservation related materials; adopted.

ORDERED: That the Reappointment of David Brumby as Personnel Director for a term of three years upon approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Reappointments of Harold Scheid and Bradford Dunn to Chief Assessor/Board of Assessors Chairman and Board of Assessors respectively for an additional sixty days, **APPROVED**; adopted.

ORDERED: That the Notification pertinent to Tax Bills, **FILE**; adopted.

ORDERED: That the 2013 City Council Regular Meeting Schedule and City Council Committee Assignments, **APPROVED**; adopted.

ORDERED: That the Agreement to Extend Time Limitations on the Application for Special Permit from Logical Partners, LLC to extend time limitations for construction of three Townhouse Condominium Units at 126 Pleasant St. to April 1, 2013, **APPROVED**; adopted.

Councilor Tunnera abstained

ORDERED: Petition from NGrid to install new intermediate p.11-5 approximately 35' north of existing p.11. This pole is necessary to provide new service to proposed solar project at 40 Washington Street, **REMOVED FROM AGENDA**; adopted.

ORDERED: Communication from Attorney Bergeron re: Proposed Zoning Amendment to Sections 650-40(F), 48(C)(1) and 47(F), 1) That Sec. 650-40(F) be amended by adding thereto the following new subsection 11

"(11) Bridges, walkways or passageways, enclosed or otherwise, connecting buildings located on different lots in a Limited Industrial district shall not thereby violate any lot setback provision of any building or buildings connected by said structures "

2) That Section 650-48(C)(1) be amended by adding thereto, at the end thereof, the following sentence:

"In a Limited Industrial district, the parking shall be provided within 500 feet of the building or structure to be served, on the building lot, on any lot under the same ownership, or on any lot subject to an easement to the owner of said building to be served which, in the opinion of the Building Commissioner, causes said parking to be available for the purposes of this section."

3) That Section 650-47(F) be amended by adding thereto the following subsection 5:

(5) In all Limited Industrial districts, the side yard landscaping requirement shall not apply to side yard or rear yard lines that bisect parking lots, if both lots are in common ownership or if there are parking easements that, in the opinion of the Building Commissioner, adequately allow for parking in one lot by persons using the other lot.

4) That the Table of Lot Areas, Yards and Height of Structures, which is referred to in Section 650-41, be amended by adding to the table of heights and their relationship to their distance from a Residential zone, the following:

"Over 500 feet from a residential zone: 85 feet"

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR FEBRUARY 25, 2013**; adopted.

ORDERED: That the Communication from Paul Brodeur for Ward Park Neighborhood Association re: new Senior Center in Ward Park, **FILE AND REFER TO THE MAYOR**; adopted.

ORDERED: That the Communication from Sudbury Companies Militia & Minute re: Permission to place a temporary sign on city property, at the corner of Route 20 and Hagar Road from Sept 22, 2013 to Sept 28, 2013, **APPROVED**; adopted.

ORDERED: That the Minutes, Board of Assessors, November 29, & December 28, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Recreation Commission, December 11 & December 17, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Community Development Authority, January 3, 2013, **FILE**; adopted.

ORDERED: That the Communication from Commerce Insurance on behalf of Bonnie Beland, 12 Hudson St, refer to the **LEGAL DEPARTMENT**; adopted.

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

- A. Eugene Hannay, 84 Barnard Road, residential mailbox claim 2(b)
- B. Lisbeth Ambrosio, 275 Forest Street, residential mailbox claim 2(a)
- C. Robert Cipriano, 56 Felton Street, residential mailbox claim 2(a)
- D. Commercial Property Management, PO Box 5967, other property damage

Reports of Committees:

Councilor Delano orally reported the following out of the Operations and Oversight Committee:

Order No. 12-1005262 – The Operations & Oversight Committee met on 1/29/13 and took up Council Order No. 12-1005262 MEDC Master Plan. Discussions will continue at future meetings.

Councilor Clancy reported the following out the Wireless Communications Committee:

The Wireless Committee met on 1/22/13 at 7:03 PM and took up Council Order No. 12-1005191.

The request by T-Mobile Northeast LLC seeking permission to modify the Original Special Permit to allow the replacement of the existing six antennas with 6 newer models, add a GPS antenna with a 1/2" feed mounted to an existing support pipe, replace the existing 2106 equipment cabinet with a 6102 equipment cabinet, remove the existing GSM Tower Mounted Amplifiers and lastly consolidate the existing coax cables. The modification will actually result in a slight reduction of equipment at the site.

The applicant submitted documentation of the Articles of Organization from the previous wireless site developer, OmniPoint Communications to the present applicant T-Mobile Northeast LLC. The applicant also presented evidence of a License Agreement with the Site Owner/Site Management LLC. The evidence submitted was given an approval by the City Solicitor who was present at the meeting.

All of the evidence and conditions have been reviewed during the present and previous subcommittee meeting with slight modifications to the wording.

Motion to approve made to by Councilor Robey seconded by the Chair. Motion was approved 2-0

Members Present: Councilors Clancy and Robey. Councilor Oram was absent due to a conflicting meeting.

Also: City Solicitor Rider

Applicants Present: David Scarfo

Councilor Robey requested that a **Suspension of the Rules** be granted at the next regular City Council to send to the City Solicitor to be placed in Proper Form. So voted 2-0

Councilor Landers reported the following out the Public Services Committee:

The Public Service Committee met on 1/22/13 at 6:30PM and took up:

1-7-13 – Order No. 13-1005283

Application by TJX, Companies, Inc., 300 Puritan Way for a Fuel Storage License at 300 Puritan Way – 4,000 gallon above ground; 10,000 gallon underground – No. 2 Diesel Fuel (license formerly held by Fidelity)

Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval 3-0.

1-7-13 – Order No. 13-1005284

Application by TJX, Companies, Inc., 400 Puritan Way for a Fuel Storage License at 400 Puritan Way – 30,000 (3 x 10,000) gallon underground – No. 2 Diesel Fuel (license formerly held by Fidelity)

Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval 3-0.

Members Present: Chairman Landers, Councilors Clancy, and Jenkins

Also Present: Fire Chief Fortin and Jim Blacquier, Manager of Home Office Facilities West, the TJX Companies, Inc.

Councilor Tunnera reported the following out the Personnel Committee:

The Personnel Committee met on 1/22/13 at 6:00PM and took up:

1-7-13 – Order No. 13-1005280: X-12-1005246

Communication from Mayor Vigeant with appointment of Ronald Guest as the Parking Clerk.

Motion made by Councilor Seymour, seconded by Elder, to recommend approval 3-0.

11-26-12 – Order No. 12-1005232

Communication from Mayor Vigeant with appointments of Kim Beauchemin, James David Elmore and Sandra Pirie-St. Armour to the Arts Lottery council for terms expiring on August 23, 2015.

Motion made by Councilor Seymour, seconded by Elder, to recommend approval 3-0.

11-5-12 – Order No. 12-1005214

Communication from Mayor Vigeant with reappointment of John Sahagian to the Zoning Board of Appeals for a period of five (5) years expiring May 5, 2017 and Ralph Loftin as an alternate member for a term of two (2) years expiring from the date of City Council approval.

Motion made by Councilor Seymour, seconded by Elder, to recommend approval 3-0.

Suspension of Rules requested – granted

ORDERED: Application from David Scarfo, agent for T-Mobile, for Special Permit for minor upgrades to existing telecom site located at 342 Lincoln St, be and is herewith refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM PER INSTRUCTIONS FROM THE WIRELESS COMMUNICATIONS COMMITTEE;** adopted.

Suspension of Rules requested – granted

ORDERED: That the DPW transfer request in the amount of \$52,725.22 which moves funds from Reserve for Salaries to various accounts as noted below to fund the Marlborough Public Works Equipment Operators Association Contract, **APPROVED**; adopted.

TRANSFER REQUEST									
DPW LABOR CONTRACT									
FROM ACCOUNT					TO ACCOUNT				
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT	ACCOUNT DISCRIP	AMOUNT	ORG CODE	OBJECT	ACCOUNT DISCRIP	AMOUNT AVAIL
\$ 624,992.00	\$ 52,725.22	11990006	57820	Resrv Salaries	\$ 16,111.00	14001301	50740	OPERATORS	\$ 392,845.00
					\$ 510.00		51430	LONG	\$ 363.49
					\$ 401.00		51920	SLBB	\$ 34,150.00
					\$ 3,362.00	14001403	50745	MOTOR OPS	\$ 84,087.00
					\$ 1,146.00		50760	WORKING FORE	\$ 29,351.00
					\$ 11.00		51430	LONG	\$ 1.00
					\$ 14,565.00	14001503	50740	OPERATORS	\$ 310,752.00
					\$ 241.00		51920	SLBB	\$ 14,412.00
					\$ 224.00		51430	LONG	\$ 4,606.00
					\$ 1,120.38	60081001	50750	OPERATORS	\$ 29,021.00
					\$ 10.42		51430	LONG	\$ 901.00
					\$ 1,120.38	60085001	50750	OPERATORS	\$ 28,020.00
					\$ 68.04		51430	LONG	\$ 2,955.84
					\$ 1,120.00	61090001	50460	WR READERS	\$ 28,020.00
					\$ 12,325.00	61090001	50740	OPERATORS	\$ 333,247.00
					\$ 200.00		51430	LONG	\$ 1,126.00
					\$ 190.00		51920	SLBB	\$ 33,637.00
				Total	\$ 52,725.22				\$ 1,327,495.33
Reason:	To fund DPW Labors Contract								

Suspension of Rules requested – granted

ORDERED: That the Fire Department transfer request in the amount of \$111,570.94 which moves funds from Reserve for Salaries to various accounts as noted below to fund the Marlborough Firefighters Local 1714 Contract, **APPROVED**; adopted.

From Account					TO Account				
General Gov't					FIRE DEPARTMENT				
Available	Amount	ORG	OBJECT	Account Disc	Amount	Description	Org	Object	Available
\$ 624,992.00	\$ 111,570.94	11990006	57820	Reserve for Salaries	\$ 5,662.04	Dpty Chiefs	12200001	50335	192011
					\$ 72,456.53	Firefighter	12200001	50450	1677727
					\$ 5,338.54	Fire Capitan	12200001	50800	159335
					\$ 12,289.17	Fire Lieutenan	12200001	50810	245747
					\$ 746.45	First Respond	12200003	51226	21525
					\$ 2,083.33	Fire OT	12200003	51300	80301
					\$ 322.67	Fire OT Veh	12200003	51324	22338
					\$ 606.86	Fire Call OT	12200003	51328	40308
					\$ 1,535.68	Longevity	12200003	51430	44047
					\$ 2,742.28	Educ Inct	12200003	51440	103900
					\$ 1,087.97	Night Shift	12200003	51450	33672
					\$ 1,789.25	EMT	12200003	51480	73387
					\$ 83.33	Train Spec Ser	12200003	51481	6976
					\$ 3,326.78	Holiday	12200003	51490	195523
					\$ 1,500.08	Sick Leave	12200003	51920	180138
					\$ 111,570.94				
Reason:	To fund Firefighters Labor Contract.								

ORDERED: That the Open Space transfer of \$147,363.53 which moves funds from Open Space Stabilization to Open Space Acquisition to pay outstanding loan balance for purchase of Mount Ward/Ward Hill, **APPROVED**; adopted.

FROM:

Acct. # 83600-11520 \$147,363.53

Open Space Stabilization

TO:

Acct. # 19300006-58170 \$147,363.53

Open Space Acquisition

ORDERED: That the Conservation Officer be requested to update the Open Space Committee on the status of available parcels in the City, including a map showing each site, name of landowner, approximate cost of each parcel, and time or other such constraints that may be associated with the acquisition or purchase of key parcels on the list, refer to **OPEN SPACE COMMITTEE AND CONSERVATION OFFICER**; adopted.

ORDERED: That the City Council of the City of Marlborough hereby authorizes the Chief Procurement Officer to issue a Notice of Award to Sprint Spectrum, L.P. ("Sprint"), a wholly owned subsidiary of Sprint Nextel Corporation, for a fifteen (15)-year lease, in the amount of \$32,550.00 for the first year of the lease, increasing annually by three (3%) on each anniversary of the Rent Commencement Date, subject to the approval of the Commissioner of Public Works and the conditions set forth in the Special Permit issued by the City Council in Order No. 12-1004032E, dated April 9, 2012, and the Antenna Permit #AN-2012-002 dated August 17, 2012 issued by the Building Department pursuant to the applicable Articles and Sections of the Marlborough Zoning Ordinance; and it is **FURTHER ORDERED**: that the Mayor is hereby authorized to negotiate a lease with Sprint for its existing Facility at the Fairmount Hill Water Tank site, located at 115 Onamog Street, Marlborough, MA 01752, shown on Assessors' Map 81, Parcel 238. Said municipal property has been declared available for disposition by lease by City Council Order No. 01-9384, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:04 PM.