



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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

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

**APRIL 22, 2013**

Regular meeting of the City Council held on Monday, APRIL 22, 2013 at 8:03 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, and Landers. Absent: Clancy. Meeting adjourned at 8:45 PM.

**MOTION** made by Councilor Delano to Suspend the Rules to request the Mayor to speak – Carries.

**ORDERED:** That the Mayor and Council President recognized Detective Robert Bonina and Patrolman Kenneth McKenzie for their participation with the SWAT Task Force in its efforts to capture the suspects who terrorized Boston on Patriot's Day, **FILE**; adopted.

**ORDERED:** That the minutes of the City Council Meeting APRIL 8, 2013, **FILE**; adopted.

**ORDERED:** That the **PUBLIC HEARING** On the Medical Marijuana Treatment Centers-Proposed Moratorium, Order No. 12/13-1005247A, all were heard who wish to be heard, hearing recessed at 8:09 p.m.; adopted.

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

**Absent: Clancy.**

**ORDERED:** That the Legal Department transfer request in the amount of \$265.00 which moves funds from Registry of Deed to Office Supply to cover the department's expenses for the remainder of this fiscal year, **APPROVED**; adopted.

**FROM:**

Acct. # 11510006-53880 \$265.00  
Registry of Deeds

**TO:**

Acct. # 11510005-54220 \$265.00  
Office Supply/Expenses



THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., Room 103
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD SIX: Prec. 1 and 2	1LT Charles W. Whitcomb School, 25 Union St., Library
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: AT & T Mobility LLC Special Permit, 75 Donald Lynch Blvd, in proper legal form, Order No. 13-1005342B, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: T-Mobile Northeast LLC Special Permit, 445 Simarano Dr., in proper legal form, Order No. 12/13-1005249B, **MOVED TO ITEM 27**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Logical Partners LLC Special Permit, 126 Pleasant St., in proper legal form, Order No. 12/13-1005151F, **MOVED TO ITEM 29**; adopted.

**Councilor Tunnera abstained**

ORDERED: That the proposed Grant of Easement to National Grid for Easterly Wastewater Treatment Plant, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Building Commissioner, Michael Mendoza, re: Proposed Zoning Amendment, Section 41, Utility Service Vehicle Maintenance, Order No. 12/13-1005267B, **FILE**; adopted.

ORDERED: That the Communication from Attorney Bergeron re: Acceptance of Bouffard Drive as a public way, refer to **PUBLIC SERVICES COMMITTEE AND PLANNING BOARD**; adopted.

ORDERED: That the Communication from Attorney Mitrakas re: request to extend date for City Council vote on Special Permit, Logical Partners LLC, Order No. 12/13-1005151F, to May 6, 2013, **APPROVED**; adopted.

**Councilor Tunnera abstained**

- ORDERED: That there being no objection thereto set **Monday, May 20, 2013** as date for a **PUBLIC HEARING** on the Petition from National Grid to install conduit from manhole 15-22 to pole 50, Simarano Dr. and pole 50, D'Angelo Dr. and two pole installations on Simarano and D'Angelo Dr., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Application for Renewal of Junk Dealer's License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald Lynch Blvd., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Application for Renewal of Junk Dealer's License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Minutes, Council on Aging, March 12, 2013, **FILE**; adopted.
- ORDERED: That the Minutes, Recreation Commission, March 13, 2013, **FILE**; adopted.
- ORDERED: That the Minutes, Conservation Commission, January 19, April 5, July 19, August 2 & 16, September 6, October 4 & 18, December 6 & 20, 2012 and January 17, 2013, **FILE**; adopted.
- ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
- A. Maranatha Christian Church, 276 Boston Post Rd. East., other property damage,
  - B. A. Richard Desimone, 54 Schofield Dr., residential mailbox claim 2(a)
  - C. Ken and Andrea Mercier, 14 Fish Lane, residential mailbox claim 2(b)
  - D. Rich Berte, 11 Paquine Dr., residential mailbox claim 2(a)
  - E. Dan Tran, 39 Desimone Dr., residential mailbox claim 2(a)
  - F. Francis McCarthy, 114 Leolis Dr., other property damage
  - G. Janice Stafford, 287 Forest St., residential mailbox claim 2(b)

Reports of Committees:

Councilor Elder reported the following out of Urban Affairs Committee:

Present: Chairman Elder, Councilor Robey, Councilor Landers, Councilor Tunnera, Council President Pope

Absent: Councilor Clancy

**Order No. 12/13-1005154D** - Communication from Attorney Gadbois, re: Submission of a draft of a Master Concept Plan and Development Agreement for the Results Way Mixed Use Overlay District, Order No. 12-1005154C, adopted December 17, 2012.

The meeting started with Attorney Gadbois and the petitioners updating the Council on the zoning overlay and advancement in its development.

Attorney Gadbois told the Council that the apartment complex will be high end, and they have finalized an agreement with Avalon Bay to have them develop the housing.

The committee read through the development agreement and made minor changes and clarified a few sections.

**Motion by Councilor Robey to approve as amended, seconded by the Chair. Approved 4-0.**

**Motion by Councilor Robey to request that the Council suspend the rules on April 22 to forward to the Solicitor to place in proper legal form. Approved 4-0.**

Councilor Tunnera reported the following out of the Personnel Committee:

Present: Chairman Tunnera; Councilors Seymour and Elder

Also: Councilors Pope, Robey and Landers

**Order No. 13-1005357** - Communication from Mayor Vigeant with appointment of Lynn Anderson as a member of the Council on Aging for a term of three years to expire on the 1<sup>st</sup> Monday in May following a City Council meeting.

-REFER TO PERSONNEL

**Motion made by Councilor Seymour and seconded to recommend approval – Approved 3-0**

**Order No. 13-1005355** - Communication from Mayor Vigeant with reappointment of Beverly Sleeper as Chief Procurement Officer for a term of three years to expire on the anniversary of her confirmation by the City Council

-REFER TO PERSONNEL

**Motion made by Councilor Seymour and seconded to recommend approval – Approved 3-0**

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

**Order No. 13-100-1005285A** - Application by NGRID to install six (6) new heavy duty hand holes in the area of BIGELOW STREET, URD: Bergeron Road, Ahlgren Circle, Duca Drive, Rodgers Avenue, Evelina Drive and Houde Street

-REFER TO PUBLIC SERVICES

The Committee discussed the project with NGrid engineer.

**Motion made and seconded to recommend approval of the petition by NGRID to install six (6) new heavy duty hand holes in the area of BIGELOW STREET, URD: Bergeron Road, Ahlgren Circle, Duca Drive, Rodgers Avenue, Evelina Drive and Houde Street with conditions recommended by the City Engineer and Councilor Clancy. Approved 2-0**

**(Note: See (2) attachments for conditions)**

**Suspension of Rules requested – granted**

ORDERED: That the Development Agreement for Results Way Mixed Use Overlay District, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE MAY 6, 2013 CITY COUNCIL MEETING**; adopted.

**Suspension of Rules requested – granted**

ORDERED: That the Appointment of James Griffin to the Board of Health for a term of three years, expiring on February 1, 2016, **APPROVED**; adopted.

ORDERED: That the Comptroller's transfer request in the amount of \$10,308.00 which moves funds from Bond Issue Expense to Finance Assistant to fund costs associated with the unanticipated short term absence of payroll personnel, **APPROVED**; adopted.

FROM:

Acct. # 11330006-57850 \$10,308.00  
 Bond issue Expense

TO:

Acct. # 11330002-50062 \$10,308.00  
 Finance Assistant

**Councilor Seymour abstained**

ORDERED: That City Clerk's transfer request in the amount of \$18,712.85 which moves funds from Assistant City Clerk to appropriate \$14,680.85 to Pollworker and \$4,032.00 to Constables to fund Special State Elections, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		City Clerk/Election				FISCAL YEAR: 2013			
		FROM ACCOUNT:				TO ACCOUNT:			
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available
\$39,315.16	<b>\$18,712.85</b>	11610002	50290	Assistant City Clerk	<b>\$14,680.85</b>	11620006	53871	Poll Workers	\$5,400.00
	Reason:	Fund two Special State Elections			<b>\$4,032.00</b>	11620003	51460	Constables at Poll	\$5,968.00
	\$18,712.85	Total			\$18,712.85	Total			

ORDERED: That the Public Service Internship Program transfer request in the amount of \$25,000.00 which moves funds from Loan Origination Fee to Summer Employment Initiative which will allow the City to hire a maximum of twenty college interns for the remainder of FY2013 and to allow advertising well in advance of summer breaks, **APPROVED**; adopted.

FROM:

Acct. # 60019906-58891 \$25,000.00  
 Loan Origination Fee

TO:

Acct. # 11210003-51250 \$25,000.00  
 Summer Employment Initiative

ORDERED: That the Comptroller's transfer request in the amount of \$6,176.00 which moves funds from Bond Issue Expense to Widows Pensions, **APPROVED**; adopted.

FROM:

Acct. # 11330006-57850 \$6,176.00  
 Bond Issue Expense

TO:

Acct. # 11940006-51860

\$6,176.00

Widows Pensions

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**T-MOBILE NORTHEAST LLC (OMNIPOINT HOLDINGS, INC.)**

**CITY COUNCIL ORDER NO. 12/13-1005249C**

Re: 445 Simarano Drive, fka 40 Crane Meadow Road

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 01-9069D, submitted by Crown Castle on behalf of T-Mobile Northeast LLC, having a usual place of business at 15 Commerce Way, Suite B, Norton, MA 02766 as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Crown Castle (Crown Castle USA Inc) with a principal office located at 2000 Corporate Drive, Canonsburg, PA 15317 (hereinafter, "the Applicant"), on behalf of T-Mobile Northeast LLC (Omnipoint Holdings, Inc.), with its principal office located at 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006.
2. On November 19, 2001 , the City Council granted to Omnipoint Holdings, Inc., Division of VoiceStream Wireless, Inc., a special permit to locate and operate a wireless communications facility located at 445 Simarano Drive, fka 40 Crane Meadow Road, Marlborough, MA (hereinafter, "the Original Special Permit"). In 2006, Omnipoint Holdings, Inc. converted into a limited liability company named T-Mobile Northeast LLC. The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 34813, Page 247. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116, Lot 1 (hereinafter, "the Site"). The owner of record for the Site is 445 Simarano Drive Marlborough LLC.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter, "the Application"), the Applicant seeks permission to allow the replacement of six (6) panel antennas currently located on the wireless communication facility. Applicant also seeks to add one (1) fiber optic cable (1" O.D.) to the wireless communication facility (hereinafter, "the Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Site Name: BOS Marlborough 2 969202, Site ID Number: 4BS0494A, Site Address: 40 Crane Meadow Road, Marlborough, MA 01752," by Tectonic Engineering & Surveying Consultants P.C., 1279 Route 300, Newburgh, NY 12550, dated 10/10/12 and last revised 4/3/13, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").

4. The Applicant is the Wireless Communication Facility owner and lessee of the Site's owner for purposes of the Application.
5. The Proposed WCF Project is located in the Industrial (I) Zoning District. Wireless communication devices are allowed by grant of special permit in the Industrial (I) Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 28, 2013, continued to February 25, 2013, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.

C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit, as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) Applicant agrees to all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Applicant's existing WCF.
- 4) The issuance of this Modified Special Permit is further subject to Site Plan Review in accordance with the City of Marlborough's Ordinance, prior to the issuance of an actual building permit. Any additional changes, alterations, modifications or amendments, as required by Site Plan Review, shall be further conditions attached to this Modified Special Permit. No occupancy permit shall be issued until the Applicant complies with all such further conditions, if any.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 6) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified Special Permit. Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.

- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
  
- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.
- 10) All conditions set forth in the Original Special Permit shall apply to this Modified Special Permit.

**Yea: 10 - Nay: 0 – Absent:1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram & Robey**

**Absent: Clancy**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**AT&T Mobility LLC, successor to AT&T Wireless Services (“ATT”),  
by its contractor and agent Tower 16, Inc. (“Tower 16” and collectively with ATT, the  
“Applicant”)**

**CITY COUNCIL ORDER NO. 13-1005342C**

Re: 75 Donald Lynch Blvd, Marlborough, Massachusetts (the “Site”)

The City Council of the City of Marlborough (the “City Council”) hereby GRANTS the application to modify Special Permit No. 97-6754F, as previously modified by City Council Order No. 11-1002955 (collectively, the “Existing Special Permit”), submitted by Applicant, having a usual place of business at 550 Cochituate Road, Framingham, MA 01701, as provided in this Decision and subject to the following findings of fact and conditions.

**EVIDENCE**

1. On April 29, 1997, by Order No. 97-6754F, the City Council granted Applicant a special permit to construct a 130.5 foot monopole wireless communication facility at the Site (the “Existing WCF Tower”). The 1997 Special Permit is recorded at the Middlesex County South District Registry of Deeds (“MSDRD”) in Book 27316, Page 532, and was later modified in 2011 and recorded at the MSDRD in Book 57756, Page 356. The Site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 13, Parcel 2. The current owner of record for the Site is Albert D. Bombard.

2. Through its Application for Modification of Special Permit for a Wireless Communication Facility submitted to the City Council on February 21, 2013 (“the Application”), the Applicant seeks permission to perform general maintenance to the Existing WCF Tower consisting of (i) reinforcing the Existing WCF Tower by installing 1.25 inch thick steel plating to the surface of the Existing WCF Tower up to a height of 87.5 feet, and (ii) reinforcing and reconfiguring the subgrade foundation and concrete pads at the base of the Existing WCF Tower (the “Proposed WCF Project”), all as substantially depicted on those certain plans entitled “Marlborough 290/495, USID #: 3083, 130.5’ FWT Monopole,” prepared by GPD Group, 520 South Main Street, Suite 2531, Akron, OH 44311, and issued as of November 2, 2012 (the “Plans”).
3. The Applicant holds a leasehold interest in the Site for purposes of the Application.
4. The Site is located in the Limited Industrial zoning district. Wireless communication facilities are allowed in the Limited Industrial zoning district by special permit of the City Council.
5. Applicant seeks modification of the Existing Special Permit pursuant to Article VI, Section 650-25 et seq. the Zoning Code of the City of Marlborough.
6. Pursuant to the Rules and Regulations of Application for Special Permit (“Rules and Regulations”), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
7. The Applicant has complied with all of the applicable Rules of the Rules and Regulations.
8. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on March 25, 2013, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
9. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project continues to meet all the applicable Special Permit criteria of Article VI, Section 650-25 et seq.
10. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.

11. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Existing WCF Tower to minimize adverse impact on the abutting neighborhood and on nearby residential properties. The Proposed WCF Project will not change the visual appearance of the Existing WCF Tower.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Existing Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**
  1. Applicant agrees to comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts, and the federal government as they may apply to the construction, maintenance and operation of Applicant's Proposed WCF Project.
  2. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, as amended, are herein incorporated and become conditions and requirements of this Modified Special Permit unless otherwise altered by the City Council.

3. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until the Applicant complies with all such further conditions, if any.
4. All conditions set forth in the Existing Special Permit are applicable to this Modified Special Permit.
5. Since the Existing Special Permit requires Applicant to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 (the "Open Space Payment"), failure to make the Open Space Payment shall constitute a violation of this Modified Special Permit, and pursuant to the terms of the Existing Special Permit the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment. No additional Open Space Payment above that which is required pursuant to the Existing Special Permit is imposed or required in connection with the Proposed WCF Project or the issuance of this Modified Special Permit.
6. Applicant shall provide landscaping around the equipment cabinets owned by Applicant at the Site to adequately shield them from view, if required by Site Plan Review.
7. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
8. Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system for such hazardous materials.
9. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards.

10. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.

**Yea: 10 - Nay: 0 – Absent:1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram & Robey**

**Absent: Clancy**

ORDERED: That the City Council vote on Special Permit from Logical Partners LLC, 126 Pleasant St., **TABLED UNTIL MAY 6, 2013**; adopted.

**Councilor Tunnera Abstained**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:45 PM.