



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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MARCH 12, 2012

Regular meeting of the City Council held on Monday, MARCH 12, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 8:45 PM.

ORDERED: Minutes of the City Council Meeting, FEBRUARY 27, 2012, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition from National Grid to replace and relocate existing utility P.61 24' south east of present location toward property line of house 522 on Pleasant St. Along with this pole, P. 61-89 will be relocated to new location on private property, Order No. 12-1004065, **CONTINUED UNTIL MARCH 26, 2012**; adopted.

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

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility located at 115 Onamog St, Order No. 12-1004032B, hearing recessed at 8:02 p.m.; adopted.

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

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Rossella Mercuri, on behalf of Sprint, for modification of a wireless facility located at 2 Mount Royal Dr., Order No. 12-1004064, , hearing recessed at 8:07 p.m.; adopted.

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

ORDERED: That the School transfer request in the amount of \$492,562.00 which moves funds from Undesignated to Building Repair and Maintenance to fund Whitcomb School auditorium renovations and energy upgrades, move to **REPORTS OF COMMITTEE**; adopted.

FROM:

Acct. # 1000-35900

\$492,562.00

Undesignated Fund

TO:

Acct. # 19300006-54310

\$492,562.00

Build Repair and Maintenance

ORDERED: That the Evergreen Cemetery transfer request in the amount of \$50,000.00 which moves funds from Undesignated to Evergreen Cemetery to fund expansion design for the cemetery, **TABLED UNTIL MARCH 26, 2012**; adopted.

FROM:

Acct. # 10000-35900 \$50,000.00
Undesignated

TO:

Acct. # 19300006-58316 \$50,000.00
Evergreen Cemetery

ORDERED: That the Legal Services transfer request in the amount of \$45,000.00 which moves funds from Long Term Debt Principal-Multi Purpose Bond to Legal Services to fund contracted legal services for the remainder of FY2012, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 60071106-59963 \$45,000.00
Multi Purpose Bond

TO:

Acct. # 11510004-53110 \$45,000.00
Legal Services

ORDERED: That the City Council's opinion of Line Item Budget presentation, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Approval of Draft Tax Increment Financing (TIF) from TJX Companies, Inc., refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Communication from the Mayor re: City Collector Deborah Puleo's retirement, **FILE**; adopted.

ORDERED: That the Communication from the Mayor re: appointment of Councilor Robert Tunnera to the Commission on Disabilities, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from Helen Downey re: Disclosure of Financial Interest by Special Municipal Employee and Approval, **APPROVED**; adopted.

ORDERED: That the Application for Taxi License, Asia Rowland, d/b/a Marlborough Taxi, 225 Cedar Hill St., Suite 200, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Junk Dealer's License, Jason Deni, d/b/a/ Fifth Avenue Jewelry, 601 Donald Lynch blvd., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Traffic Commission, January 31, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, February 13, 2012, **FILE**; adopted.

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

- A. Theresa Venzina, 60 Grant St., other property damage
- B. Christopher Eddy, 20 Beauegard Circle, other property damage
- C. Najat Sandabad, 294 South St., residential mailbox claim 2(a)
- D. John Farley, 352 Simpson Rd., residential mailbox 2(a)

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Order No. 12-1004037 – Transfer \$878,045.70 to Purchase Containers for Trash Collection.

The Finance Committee continued the review of the Mayor's letter dated January 18, 2012 requesting two transfers totaling \$878,045.70 to purchase the containers for the automated curbside collection of solid waste and recyclables. The Finance Committee previously discussed and tabled this Order at the January 30, 2012 Finance Committee meeting. The Finance Committee voted 5 – 0 to approve following two transfers:

- Transfer \$303,805.00 from Sewer Department Long Term Debt Interest to Curb Containers Capital Outlay account
- Transfer \$574,240.70 from Sewer Multi Purpose Bonds to Curb Containers Capital Outlay account

The Finance Committee recommended supporting a suspension of the rules at the March 12, 2012 City Council meeting.

2. Order No. 12-1004078 – Two Grants Totaling \$105,000 to Promote and Offset Curbside Containers for Trash Collection. The Finance Committee reviewed the Mayor's letter dated February 22, 2012 requesting the approval of two grants to promote and offset the curbside container system for trash collection. The Finance Committee voted 5 - 0 to approve the following grants:

- \$105,000 to offset the purchase of containers and educational materials
- 80 hours of technical assistance to promote the container system

The Finance Committee recommended supporting a suspension of the rules at the March 12, 2012 City Council meeting.

3. Order No. 11/12-1003016 – Capital Bond Request for FY12 for \$16,508,995.00. The Finance Committee reviewed the Mayor's letter dated September 7, 2011 requesting the approval of 10 bonds totaling \$16,508,995.00. The Finance Committee took the following actions:

- Bond #1 - \$1,980,000.00 Department Equipment 5 Year Bond – The Finance Committee voted 5 – 0 to deny the bond because \$1,480,000.00 was approved from the Undesignated funds (City Council Meeting 11/21/11 approved \$298,000 for two bombardiers and City Council Meeting 12/5/11 approved \$1,182,000 for the balance of the Department equipment) and the \$500,000 for the Fire Department Pumper Truck was not approved.
- Bond #2 - \$3,043,833.00 Street Construction 10 Year Bond – The Finance Committee voted 4 - 1 (Councilor Ossing opposed) to approve the bond.
- Bond #3 - \$200,000.00 Sidewalk Construction 5 Year Bond – The Finance Committee voted 5 – 0 to deny the bond.

- Bond #4 - \$5,205,000 Sewer Construction 30 Year Bond – The Finance Committee reduced the bond amount per the recommendation of the DPW Commissioner by \$175,000 for the Primary Clarifiers for the EWWTP. The Finance Committee voted 3 -2 (Councilor's Seymour and Ossing opposed) to approve the revised bond amount of \$5,030,000.
- Bond #5 - \$1,835,000.00 Water Meter 10 Year Bond – This bond will install water meters in the 497 industrial/commercial facilities by the end of 2012 and expected to increase city revenue by over \$500,000 per year. The Finance Committee approved the bond 5 – 0.
- Bond #6 - \$3,172,600 Water Project 40 Year Bond – The Finance Committee took up two votes. First, the Finance Committee approved \$720,000 for upgrades to the Millham Water Treatment Plant 5 – 0. Second, the Finance Committee approved the various water projects in the amount of \$2,452,600.00 3 – 2 (Councilors Seymour and Ossing opposed).
- Bond #7 - \$492,562 Building Renovations 20 Year Bond – The Finance Committee voted 5 – 0 to deny the bond and request the Mayor send a \$492,562.00 transfer from the Undesignated Fund to cover the building renovations. The Finance Committee recommended suspending the rules at the next meeting to approve the transfer. The Public facilities Director noted that the School Department will be supplying \$150,000 to supplement the renovations to the Whitcomb school auditorium.
- Bond #8 - \$100,000 Design 5 Year Bond - The Finance Committee voted 5 – 0 to deny the bond and request the Mayor send a \$100,000.00 transfer from the Undesignated Fund to cover design activities.
- Bond #9 - \$300,000.00 Land Cap and Drainage System 30 Year Bond - The Finance Committee voted 5 – 0 to deny the bond and request the Mayor send a \$300,000.00 transfer from the Undesignated Fund to cover land cap and drainage system repairs.
- Bond #10 - \$180,000.00 Computer Hardware 10 Year Bond – The Finance Committee voted 5 – 0 to deny the bond. The Finance Committee approved the Mayor's letter dated February 22, 2012 requesting a \$180,000.00 transfer from Undesignated Funds to purchase computer hardware. The Finance Committee voted 5 – 0 to approve the transfer and recommend suspending the rules at the next City Council meeting.

Attachment 1 summarizes the Finance Committee recommendations.

The Finance Committee voted 5 – 0 recommend suspending the rules to request Bonds #2, 4, 5 and 6 be advertised.

The Finance Committee adjourned at 9:56 PM.

Attachment 1: FY12 Capital Bonds**Summary of Finance Committee Recommendation**

Bond Number Description	Bond Amount (\$)	Finance Committee Recommendation (\$)	Reduction (\$)	Comments
1. Department Equipment	1,980,000	0 Denied 5 - 0	1,980,000	Used undesignated funds to purchase \$1,480,000 of equipment. The pumper truck for \$500,000 was not approved
2. Street Construction	3,043,833	\$3,043,833 4 - 1(Councilor Ossing opposed)	0	
3. Sidewalk Construction	200,000	0 Denied 5 - 0	200,000	\$180,000 funds still available from previous bonds
4. Sewer Construction	5,205,000	5,030,000 Approved 3 – 2 (Councilors Seymour and Ossing opposed)	175,000	Eliminated the Primary Clarifier per the DPW Commissioner
5. Water Meters	1,835,000	1,835,000 Approved 5 - 0		Installation for industrial facilities
6. Water	3,172,600	\$720,000 – Approved 5 – 0 \$2,452,600 Approved 3 – 2 (Councilors Seymour and Ossing opposed)	0	The \$720,000 is for the Millham treatment plant upgrades. The \$2,452,600 is for the water projects in various locations.
7. Buildings	492,562	0 Denied 5 - 0	492,562	Recommend the Mayor fund these renovations using the Undesignated Funds
8. Design	100,000	0 Denied 5 - 0	100,000	Recommend the Mayor fund these renovations using the Undesignated Funds
9. Landfill Cap	300,000	0 Denied 5 - 0	300,000	Recommend the Mayor fund these renovations using the Undesignated Funds
10. Computers	180,000	0 Denied 5 - 0	180,000	Approved 5 – 0 the transfer from Undesignated in the mayor letter dated 2/22/12.
Total	16,508,995	13,081,433	3,427,562	

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

Urban Affairs met on Tuesday, February 8th to discuss Order # 12-1004033, Special Permit of Marlborough Nissan to expand their showroom.

Attorney Sandra Austin and Jeff Batta, owner of Marlborough Nissan, spoke to the Committee to address the reason for the additional floor as well as where they stood regarding the neighbors' concerns.

The abutters had a few concerns.

-Mr. Batta informed the Committee they addressed lighting concerns by shutting off the lights at night

-He also showed the Committee Nissan's plans regarding snow storage, which was essentially storing it in the parking lot so it won't impact the neighbors.

-Marlborough Nissan will close the shop doors while they paint

-Regarding the driveway, Marlborough Nissan proposed expanding the driveway on the western side of the property, which will essentially give the neighbors one driveway and Marlborough Nissan the other.

-Attorney Austin is working with the owners of the property and the legal department to finalize the driveway plan before our next meeting. The conservation commission will review the plan at its Thursday meeting.

Councilor Clancy made a motion to approve the permit, which was seconded by the chair, and the committee voted to approve the permit 5-0.

I'd like to request a suspension tonight to refer the matter to the legal department so we can have a final draft on the next agenda.

Suspension of Rules requested – granted

ORDERED: That the transfer request in the amount of \$303,805.00 which moves funds from Long Term Debt Interest to Curb Containers and \$574,240.70 which moves funds from Multi Purpose Bond to Curb Containers for the purpose of purchasing the containers for automated curbside collection of solid waste and recyclables, **APPROVED**; adopted.

FROM:

Acct. # 60075106-58964	\$303,805.00
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Long Term Debt Interest	
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Acct. # 60071106-59963	\$574,240.70
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Multi Purpose Bond	
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TO:

Acct. # 19300006-58100	\$303,805.00
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Curb Containers	
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Acct. # 19300006-58100	\$574,240.70
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Curb Containers	
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Councilors Pope, Clancy, and Elder opposed

Suspension of Rules requested – granted

ORDERED: That the Massachusetts Department of Environmental Protection (Mass DEP) Grants awarded to DPW of which the first grant is for \$105,000.00 to offset the purchase of containers and educational materials, and the second grant is to provide 80 hours of technical assistance to promote the container system, **APPROVED**; adopted.

Suspension of Rules requested – granted

ORDERED: That the sum of \$3,043,833.00 (three million forty three thousand eight hundred thirty three) dollars be and is hereby appropriated for street construction. That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$3,043,833.00. Pursuant to the provisions of Chapter 44, Section 7 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue, **ADVERTISED**; adopted.

Suspension of Rules requested – granted

ORDERED: That the sum of \$5,030,000.00 (five million thirty thousand) dollars be and is hereby appropriated for sewer construction. That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$5,030,000.00. Pursuant to the provisions of Chapter 44, Section 8 (15) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from its date of issue, **ADVERTISED**; adopted.

Suspension of Rules requested – granted

ORDERED: That the sum of \$1,835,000.00 (one million eight hundred thirty five thousand) dollars be and is hereby appropriated for water meters. That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$1,835,000.00. Pursuant to the provisions of Chapter 44, Section 8 (7A) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue, **ADVERTISED**; adopted.

Suspension of Rules requested – granted

ORDERED: That the sum of \$3,172,600.00 (three million one hundred seventy two thousand six hundred) dollars be and is hereby appropriated for water main construction. That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$3,172,600.00. Pursuant to the provisions of Chapter 44, Section 8 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than forty (40) years from its date of issue, **ADVERTISED**; adopted.

Suspension of Rules requested – granted

ORDERED: That the \$492,562.00 (four hundred ninety two thousand five hundred sixty two) dollars be appropriated for building renovations, **DENIED BY A ROLL CALL VOTE OF 11-0** as noted below, and that the School transfer request in the amount of \$492,562.00 which moves funds from Undesignated to Building Repair and Maintenance to fund Whitcomb School auditorium renovations and energy upgrades, **APPROVED**; adopted.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

Suspension of Rules requested – granted

ORDERED: That the \$180,000.00 (one hundred eighty thousand) dollars be appropriated for computer hardware, be and is herewith **DENIED BY A ROLL CALL VOTE OF 11-0** as noted below, and that IT transfer request in the amount of \$180,000.00 which moves funds from Undesignated to Capital Outlay-IT Equipment for the purpose of upgrades throughout the IT network, Order No. 12-1004073, **APPROVED**; adopted.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram and Robey

FROM:

Acct. # 1000-35900	\$180,000.00
Undesignated Fund	

TO:

Acct. # 19300006-58618	\$180,000.00
IT Equipment	

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Nissan Automobiles of Marlborough, Inc. to modify of a portion of its building which includes its showroom, customer service, and offices to add a second story, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM PER INSTRUCTIONS FROM THE URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Operations and Oversight Committee invite Police Chief Leonard to attend a committee meeting affording him the opportunity to publicly discuss the details leading to the voluntary separation from employment with the City of Marlborough by former Police Detective Derek Johnson, refer to **OPERATIONS AND OVERSIGHT**; adopted.

Councilor Oram opposed

ORDERED: That the appointment of Patricia Carlson and Cheryl Soucy to the Commission on Disabilities for a term of three years from date of approval, **APPROVED**; adopted.

ORDERED: That the appointment of Stephen P. Leduc and Sally Swartz to the Community Development Authority for a term of three years from date of approval, **APPROVED**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING TO SECTION 7-13 OF CHAPTER 7 OF ARTICLE II THE FOLLOWING NEW PARAGRAPH:

Any written claim presented to the City of Marlborough alleging that a residential mailbox has been damaged by the operation of a snow plow shall be granted upon written confirmation provided by the Department of Public Works to the Legal Department that City of Marlborough snow plow operations were in effect during the date when, and on the street where, the claimed mailbox damage occurred; provided, however, that such claim must be accompanied both by an auto-dated photograph(s) of the damaged mailbox as well as by a paid receipt showing the actual cost of the mailbox's repair or replacement; and provided, further, the maximum amount of reimbursement shall be set at Seventy-Five and 00/100 (\$75.00) Dollars, except that in the absence of such photograph(s) and/or such paid receipt, the maximum amount of reimbursement shall be set at Thirty and 00/100 (\$30.00) Dollars. This paragraph shall be applicable to only those mailbox claims accruing on or after March 1, 2012, **APPROVED**; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

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