



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

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OCTOBER 15, 2012

Regular meeting of the City Council held on Monday, OCTOBER 15, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, and Landers. Absent: Clancy. Meeting adjourned at 9:42 PM.

ORDERED: That the Minutes of the City Council Meeting, SEPTEMBER 24, 2012, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Attorney Mitrakas, on behalf of Logical Partners, LLC, to construct a three Townhouse Condominium Unit on Map 68, Lot 466, 126 Pleasant St. which includes a recent communication regarding an amendment, Order No. 12-1005151A, hearing recessed at 8:17 p.m.; adopted.

Councilor Tunnera abstained

City Clerk read into the record Certification by City Councilor Clancy, Required Under Chapter 79 of the Acts of 2006, for the Public Hearing, October 15, 2012 re: Application of Logical Partners, LLC for Special Permit at 126 Pleasant St.

ORDERED: That the **PUBLIC HEARING** On the Application from Attorney Gadbois to amend the Zoning Code of the City of Marlborough Chapter 650 by adding to Article VI, section 650-32 RESULTS WAY MIXED USE OVERLAY DISTRICT, Order No. 12-1005154, all were heard who wish to be heard, hearing recessed at 8:55 p.m.; adopted.

ORDERED: That the PDF spread sheets pertinent to the Police Department transfer request in the amount of \$75,985.00 which will move funds from Reserve for Salaries to various accounts to fund the Police Patrol Officers Association contract, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Assessor's Department transfer request in the amount of \$13,800.00 which moves funds from Principal Assessor to Professional & Technical Services to fund the contract associated with appraisal services, **APPROVED**; adopted.

FROM:

Acct. # 11410001-50160 \$13,800.00
Principal Assessor

TO:

Acct. # 11410004-53180 \$13,800.00
Professional & Technical Services

ORDERED: That the Appointment of Harald Scheid and Bradford Dunn of Regional Resource Group, Inc. to the position of Chief Assessor and Board of Assessor's respectively, which will allow the Board of Assessors to carry out their duties for the remainder of this calendar year, **APPROVED**; adopted.

ORDERED: That the Appointment of Ronald Saloman and Elizabeth Evangelous to the Board of Registrars, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the City Council of the City of Marlborough, by two-thirds vote pursuant to Mass. Gen. Laws c. 40, § 15A, hereby transfers to the Department of Public Works of the City of Marlborough the care, custody, management, and control of Lot A, being a portion of land acquired by the City in 1953 for general purposes, located at 706 Hosmer Street at Memorial Beach, identified on Assessors Maps as Map 7, Parcel 49, and shown on an ANR Plan entitled "Approval-Not-Required, Plan of Land, World War II Memorial Beach, Hosmer Street, Marlborough, MA, Prepared For CDM Smith, Inc., Scale: 1"=50', Date: September 17, 2012," to be recorded in the South Middlesex District Registry of Deeds, **APPROVE**; adopted.

Yea: 10- Nay: 0

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

Absent: Clancy

ORDERED: That the Appointments of Councilors Clancy and Delano to the Municipal Aggregation Committee **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 26, 2012**, as date for a **PUBLIC HEARING** for the Application for Special Permit from T-Mobile for minor upgrades to existing telecom site at 342 Lincoln St., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Agreement to Extend Time Limitations from Metro PCS, LLC, re: request to extend time limitations to install a wireless communication facility onto the existing building located at 98 Pleasant St. to December 20, 2012 until 12:59 PM, Order No. 12-1005122B, **APPROVED**; adopted.

Councilor Tunnera abstained

ORDERED: That the Agreement to Extend Time Limitations from Cumberland Farms Inc. re: request to extend time limitations on application for Special Permit, 412 & 418 Maple St. and Walker St. to construct a convenience store with gasoline sales on the subject parcels to January 31, 2013 until 4:00 PM, Order No 12-1005081C, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Bergeron on behalf of Lazy Dog re: Withdrawal of Request for Pool Table License, Order No. 11/12-1002808B, **FILE**; adopted.

ORDERED: That the Communication from Executive Office of Energy and Environmental Affairs re: Environmental Notification Form (ENF) for the Sudbury St. Area Water and Sewer Project, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, June 26 & August 28, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, September 11, 2012, **FILE**; adopted.

ORDERED: That the Notice of Massachusetts Torte Claim on behalf of James Coggins refer to **LEGAL DEPARTMENT**; adopted.

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

A. Edward McManus, 44 Queen's View Rd, other

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Order No. 12-1005174 – Transfer \$42,576.00 to Fund Retirement of a Police Officer. The Finance Committee reviewed the Mayor’s letter dated September 20, 2012 requesting the transfer of \$42,576.00 from Fringes to Sick Leave Buy Back and Patrolmen accounts to cover the retirement of a Police Officer. **Recommendation of the Finance Committee is to approve the transfers 4-0.**

Councilor Tunnera reported the following out of the Personnel Committee:

Order No. 12-1005134 - Appointment of Shawn McCarthy to the Planning Board, term to expire Feb. 6, 2017. Recommendation of the Personnel Committee is to approve the appointment of Shawn McCarthy to the Planning Board, term to expire Feb.6, 2017, 2-0.

Order No. 12-1005147 - Reappointments of Jim Confrey and Brenda Costa to Council on Aging for period of four years expiring May 2, 2016. Recommendation of the Personnel Committee is to approve the reappointments Jim Confrey and Brenda Costa to Council on Aging for period of four years expiring May 2, 2016, 2-0.

Order No. 12-1005133A - Appointment of Stephen Zepf to the Youth Commission, term to expire three years from the date of approval. Recommendation of the Personnel Committee is to approve the appointment of Stephen Zepf to the Youth Commission, term to expire three years from the date of approval, 2-0.

Order No. 12-1005165 - Reappointment of Sheila Brecken to the Council on Aging for a period of four years to expire on May 2, 2016. Recommendation of the Personnel Committee is to approve the appointment of Sheila Brecken to the Council on Aging for a period of four years to expire on May 2, 2016, 2-0.

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

Order No. 12-1005181 - 25 Year Bigelow School Lease. Mayor Vigeant and Public Facilities Director John Ghiloni appeared before the Committee.

- A) **City Council must first accept the Bigelow School from the School Committee.** Mayor Vigeant explained that no promises were made to the School Committee as to the disposition or use of the building. **Recommendation of the Operations and Oversight Committee is to accept Bigelow School, 2-0.**
- B) **25 Year lease of Bigelow School to the Assabet Collaborative.** The Committee shared several concerns, particularly about the long-term nature of the lease with a fixed escalator of only 2% and asked the Mayor and Mr. Ghiloni to revisit the issue and consider an escalator that might better keep up with the rate of inflation in the middle and outer years.

The Committee was in favor of the concept of the 25 year lease to the Assabet Collaborative; however, while the committee did not want to usurp the Mayor's authority to negotiate the lease, they did express a desire to have final approval on such an important item that would ultimately involve millions of dollars. The Committee agreed to refer the matter out of Committee without a recommendation awaiting final terms of the lease from the Mayor. This will not slow down the Mayor or Mr. Ghiloni, but will allow the Council to have final approval. **Recommendation of Operations and Oversight Committee is to refer to the City Council without recommendation, 2-0.**

Order No.12-1005180 - Review of the new curbside trash pick-up program. Commissioner LaFreniere, Assistant Commissioner Temple, and Mr. Lavery from Republic (city curbside vendor) were in attendance.

Commissioner LaFreniere presented an overview highlighting a generally successful transition. He is working on creating a city-run composting operation which will save more money by not having this processed through WeCare at great expense. Mr. Temple explained that the number of non-compliance notices is shrinking weekly as people gradually learn the rules of the new system. Thus far, with the program not fully rolled out to condominium complexes the DPW is reporting significant savings due to the drop in solid waste disposal costs. The cost savings were already reflected in the current budget. Further savings are anticipated in the future. Several Councilors believe that a better job of education needs to be done.

Councilor Oram reported the following out of the Wireless Communication Committee:

Order No. 12-1005150A –

The Wireless Committee met on 10/9/2012 at 6:00 PM and took up Council Order No. 12-1005150A. The request by T-Mobile Northeast seeking permission to modify the Original Special Permit to allow the replacement of the existing six panel antennas currently located on the smokestack at 157 Union St. Removal of six (6) existing GSM TMA's (Tower Mounted Amplifiers), install hybrid cables and one (1) future site support cabinet. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order No. 01-9204 (Omnipoint Holdings, Inc., Division of Voicestream Wireless); nine (9) Conditions were discussed. Members Present: Councilors Clancy and Oram. It should be noted that Councilor Robey recused herself from the discussion. **Councilors Seymour and Robey abstained. Recommendation of the Wireless Communication Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

Councilor Robey reported the following out of the Wireless Communications Committee:

Order No. 12-1005092B –

The Wireless Committee met on 10/9/2012 at 6:45 PM and took up Council Order No. 12-1005092B. The request by Sprint PCS seeking permission to modify the Original Special Permit to allow the replacement of the existing (6) CDMA antenna with (3) Sprint Vision antenna and install (6) RRH antenna. Additionally the placement of (2) new BBU cabinets and replace (1) CDMA cabinet with (1) MMBTS cabinet. Replace the GPS antenna, and remove all existing coax cable and replace with (4) hyperflex cables. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order #97-7271, ten (10) Conditions were discussed. Members Present: Councilors Clancy and Robey. Councilor Oram absent. **Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

Order No. 12-1005093B –

The Wireless Committee met on 10/9/2012 at 6:45 PM and took up Council Order No. 12-1005093B. The request by Sprint PCS seeking permission to modify the Original Special Permit to allow the replacement of the existing (6) CDMA antenna with (3) Sprint Vision antenna and install (6) RRH antenna. Additionally the placement of (2) new BBU cabinets and replace (1) CDMA cabinet with (1) MMBTS cabinet, add one (1) Fiber Distribution Box and remove all existing coax cable and replace with (4) hyperflex cables. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order No. 05-100942A, thirteen (13) Conditions were discussed. Members Present: Councilors Clancy and Robey. Councilor Oram absent. **Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

Suspension of the rules requested – granted

ORDERED:

RESOLUTION:

WHEREAS, on November 23, 1998, the City Council of the City of Marlborough (“the City”) adopted an order (Order No. 98-7900A) approving a Tax Increment Financing Agreement (“the TIF Agreement”) between the City and Ken’s Foods, Inc./MIP Realty Trust (“Ken’s Foods”); and

WHEREAS, the TIF Agreement between the City and Ken’s Foods recites that the Ken’s Foods facility at 1 D’Angelo Drive in Marlborough is located within the South-West Quadrangle Economic Opportunity Area (“South-West Quadrangle EOA”), and that that facility consists of Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors’ Maps; and

WHEREAS, however, due to an apparent scrivener's error, the South-West Quadrangle EOA, approved by the City Council on August 26, 1996 (Order No. 96-6753) and later approved by the Massachusetts Economic Assistance Coordinating Council ("EACC") on October 30, 1996, in fact does not include either Parcel 8 on Map 116 or Parcel 5 on Map 115 of the Marlborough Assessors' Maps; and

WHEREAS, parcel 8 on map 116 and parcel 5 on map 115 of the Marlborough Assessors' Maps, among other parcels, had been included in an amendment to the Cedar Hill Economic Opportunity Area ("Cedar Hill EOA"), adopted by the City Council on August 28, 1995 (Order No. 95-5962A), later approved by the EACC on September 27, 1995; and

WHEREAS, Mass. Gen. Laws c. 23A, § 3E(4)(d) provides in relevant part that an EOA retains its designation as an economic opportunity area "for at least five years and not more than twenty years from the date it is so designated, as determined by the EACC;" and

WHEREAS, since the effective period for the Cedar Hill EOA was designated by the EACC on September 27, 1995 to be five years, the Cedar Hill EOA ceased to retain its designation as an economic opportunity area on September 27, 2000; and

WHEREAS, the TIF Agreement between the City and Ken's Foods calls for the tax exemptions recited therein to run through Fiscal Year 2014 (ending on June 30, 2014); and

WHEREAS, both the City and Ken's Foods desire that the TIF Agreement remain in full force and effect from September 27, 2000 through Fiscal Year 2014, including that Ken's Foods continue to receive, from September 27, 2000 through Fiscal Year 2014, the benefit of the tax exemptions contemplated by the TIF Agreement between the City and Ken's Foods; and

WHEREAS, since the effective period for the South-West Quadrangle EOA was designated by the EACC on October 30, 1996 to be twenty years, the South-West Quadrangle EOA will continue to retain its designation as an economic opportunity area until October 30, 2016;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marlborough that a petition be submitted by the City to the Massachusetts Economic Assistance Coordinating Council ("EACC"):

- a. to amend the Cedar Hill EOA so as to exclude Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors' Maps, effective retroactive to the date of the EACC's approval of the Cedar Hill EOA on September 27, 1995; and
- b. to amend the South-West Quadrangle EOA so as to include Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors' Maps, effective retroactive to the date of the EACC's approval of the South-West Quadrangle EOA on October 30, 1996; **APPROVED**; adopted.

Suspension of Rules requested – granted

ORDERED: The amended Ken's Food, TIF proposal, consisting of the following five documents, attached hereto, **APPROVED**; adopted

1. The TIF agreement, Order No. 12-1005182A-1
2. The TIF plan, Order No. 12-1005182A-2
3. The certified project application, Order No. 12-1005182A-3
4. The economic opportunity area application, Order No. 12-1005182A-4
5. The Council Resolution, 12-1005182A-5

A roll call vote was taken for each of the documents noted above (except certified project application plan) as follows:

Order No. 12-1005182A-1

Yea: 10 - Nay: 0 – Absent: 1

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

Absent: Clancy

Order No. 12-1005182A-2

Yea: 10 - Nay: 0 – Absent: 1

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

Absent: Clancy

Order No. 12-1005182A-4

Yea: 10 - Nay: 0 – Absent: 1

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

Absent: Clancy

Order No. 12-1005182A-5

Yea: 10 - Nay: 0 – Absent: 1

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

Absent: Clancy

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from David Scarfo, agent for T-Mobile, for minor upgrades to existing wireless facility at 157 Union St., Order No. 12-1005150A, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE OCTOBER 29, 2012 CITY COUNCIL MEETING**; adopted.

Councilors Seymour and Robey abstained

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Sprint for modification of a wireless facility located at 75 Donald Lynch Blvd, Order No. 12-1005092B, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE OCTOBER 29, 2012 CITY COUNCIL MEETING**; adopted.

Suspension of Rules requested – granted

ORDERED: Application for Special Permit from Sprint for modification of a wireless facility located at 860 Boston Post Rd, Order No. 12-1005093B, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE OCTOBER 29, 2012 CITY COUNCIL MEETING**; adopted.

That the City Council of the City of Marlborough hereby accepts the provisions of M.G.L. c. 59, § 5N, which authorizes the City to establish a program for residents of the City of Marlborough and who are veterans as authorized by the US Congress to participate in a property tax abatement program in exchange for community service in accordance with the requirements put forth in the statute. AND, FURTHER, THAT the City Council of the City of Marlborough adopt provisions for the proper implementation of the program, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

Councilor Jenkins abstained

ORDERED: That the Nonunion Employee Salary transfer request in the amount of \$49,856.35 to fund a 2% cost of living increase for nonunion employees except City Councilors which will be effective from 07/01/12, **APPROVED**; adopted.

AVAILABLE BALANCE	AMOUNT	FROM ACCOUNT		ACCOUNT DISCRIP	ORG CODE	To Account		Salary Increase	Balance FY 13
		ORG	OBJECT			OBJECT	ACCOUNT DISCRIP		
\$ 927,326.00	\$ 49,866.35	11990006	57820	Reserve Salaries	11210001	50010	MAYOR	1,573.62	68,089
						50321	EX AIDE	1,143.84	49,493
					11210002	50590	EX SECY	893.60	39,010
					11330001	50015	COMPTROLLER	1,874.68	81,116
					11330002	50588	PT Mail Clk	144.00	6,434
					11350001	50020	AUDITOR	1,492.46	64,577
					11410001	50160	ASSESSOR	1,380.38	68,220
					11440001	50042	COLLECTOR	1,492.46	63,935
					11110002	50350	CITY COU SECY	1,143.84	49,493
					11110003	51430	LONG	57.20	2,860
						51920	SICK LEAVE	44.00	2,200
					11510001	50030	SOLICITOR	1,971.22	85,293
						50172	ASST SOLICITOR	1,595.58	69,039
						50174	PROCURE. OFF.	1,215.68	52,601
						50175	PARALEGAL	813.92	35,217
					11520001	50530	PERS DIRECTOR	1,492.46	64,576
						50532	PER ASST.	980.76	42,435
					11520002	50401	PT SR CLK	425.64	17,814
					11550001	50014	Dir Info Sys	1,013.18	43,839
					11610001	50050	CITY CLK	1,492.78	64,592
					11610002	50290	ASST CITY CLK	1,110.94	55,546
					11920001	50291	DIRECTOR	877.46	37,967
					11920003	51430	LONG	88.76	13,298
						51920	SICK LEAVE	67.50	9,807
					12100001	50140	POLICE CHIEF	2,021.12	87,452
					12100003	51432	LONG	126.32	157,254
						51920	SICK LEAVE	77.74	155,829
						51440	EDUC	505.28	514,962
						51410	FIRST RESP	50.54	48,461
					12200001	50130	FIRE CHIEF	1,827.82	80,868
					12200003	51480	EMT	91.40	203,730
						51440	EDUC	182.78	311,890
						51226	FIRST RESP	36.56	34,750
						51430	Long	91.40	174,146
						51920	SLBB	128.20	180,009
					12410001	50090	BLDG INSP	1,641.64	73,326
						50109	ENVIR. OFFICER	1,372.14	59,371
					12910001	51210	Emg Mgt Dir	139.38	6,388
					14001001	50600	DPW COMM	2,207.86	95,532
						50630	ASST COMM	1,828.18	79,104
					14001003	51430	LONG	201.82	14,740
						51920	SICK LEAVE	155.24	11,502
					14001101	50640	ENGINEER	1,828.18	79,104
					14920001	50110	REC DIRECTOR	1,268.02	54,866
					15120001	50605	SAN/ADMIN	1,298.42	56,181
					15120001	50220	SEALER	255.56	11,057
						50390	NURSE	1,208.82	52,304
						50391	PT NURSE	562.12	23,978
					15120003	51430	LONG	61.46	5,297
						51920	SICK LEAVE	46.50	3,832
					15410001	50190	COA DIR	1,273.60	55,227
					15430001	50080	VET DIR	954.20	41,287
					16100001	50230	LIBRARY DIR	1,432.84	62,264
						50657	REF LIB	914.88	39,586
					16100003	51259	PT REF LIB	1,129.30	49,120
					16100003	51262	Lib Page	561.08	25,121
								49,866.35	
Reason :	To fund non union employees cost of living increase of 2%								

ORDERED: That the Retiring Employee transfer request in the amount of \$50,904.00 which will move funds from Fringes to Sick Leave and Longevity to fund the cost associated with the retirement of a member of the Marlborough Police Department, **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500 \$50,904.00

Fringes

TO:

Acct. # 12100003-51920 \$48,816.00

Sick Leave

Acct. # 12100003-51342 \$2,088.00

Longevity

ORDERED: That the Application for Livery License, Marc Marlegni, d/b/a Toy Motorsports, LLC, 896 Boston Post Rd. East, **APPROVED**; adopted.

ORDERED: That the Application for Junk Dealer's License, Andrew Spaventa, d/b/a ecoATM, 601 Donald Lynch Blvd, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Beattie re: Public Acceptance of Dufrense Dr, **TABLED UNTIL THE OCTOBER 29, 2012 CITY COUNCIL MEETING.**; adopted.

ORDERED: That the Petition from NGrid to relocate existing P. 2, 25' in a NE direction from existing location and installation of a new anchor off of relocated P. 2 on Manning St., Order No. 12-1005121A, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:42 PM.