



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752
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NOVEMBER 26, 2012

Regular meeting of the City Council held on Monday, NOVEMBER 26, 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 9:02 PM.

ORDERED: That the Minutes of the City Council Meeting, NOVEMBER 5, 2012, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application from David Scarfo, agent for T-Mobile, for Special Permit for minor upgrades to existing telecom site located at 342 Lincoln St, Order No. 12-1005191, all were heard who wish to be heard, hearing recessed at 8:08 p.m.; adopted.

ORDERED: That the Mayor addressed the City Council regarding concerns pertinent to Sewer Issues, **FILE**; adopted.

ORDERED: That the Collector's Office transfer request in the amount of \$4,631.00 which moves funds from Collector to Contract Services and Temporary Clerk to fund temporary help, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11440001-50042 \$4,631.00
Collector

TO:

Acct. # 11440004-53140 \$3,500.00
Contract Services

Acct. # 11440002-50586 \$1,131.00
Temporary Clerk

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Public Library Grant from the Massachusetts Board of Library Commissioners awarded to the City in the amount of \$12,500.00 to fund a program called "Conservation Circles" which provides an opportunity for English language learners to practice their skills and learn about services the library provides; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Emergency Performance Grant (EMPG) from the Massachusetts Emergency Management Agency awarded to the City in the amount of \$11,250.00 which reimburses the City for costs associated with local emergency preparedness training, equipment and software upgrades; adopted.

ORDERED: That the temporary Appointment of Michael Berry as the Parking Clerk Hearing Officer for the next 60 days due to the resignation of Kim Gaudette, **FILE**; adopted.

ORDERED: That the Appointments of Kim Beauchemin, James David Elmore and Sandra Pirie-St. Amour to the Arts Lottery Council for terms expiring on August 23, 2015, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the New Senior Center Proposal, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Senior Center transfer request in the amount of \$500,000.00 from Undesignated Funds to Senior Center to fund costs associated with design and engineering plans for a new Senior Center, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$500,000.00

Undesignated Funds

TO:

Acct. # 19300006-53045 \$500,000.00

Senior Center

ORDERED: Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by amending the Zoning Ordinance as follows:

1. Adding to Section 650-5.B a definition for “Data Storage/Telecommunications Facility”, in alphabetical order, as follows:

DATA STORAGE/TELECOMMUNICATIONS FACILITY

A building for the operation, monitoring, and maintenance of data storage computers, telecommunications equipment and ancillary equipment, including appurtenant office space.

2. Adding to the Table of Use Regulations, Section 650-17, a category for “Data Storage/Telecommunications Facilities” under “Industrial Uses”, as follows:

	Zoning District Abbreviations											
	RR	A-1	A-2	A-3	RB	RC	RCR	B	CA	LI	I	
Industrial Use												
Data storage/telecommunications facilities	N	N	N	N	N	N	N	N	N	N	Y	Y

3. Adding to Section 650-48.A a new item (15) as follows:

- (15) Data storage/telecommunications facilities shall provide one parking space for each 2,500 square feet of building area; provided, however, that the site plan for a data storage/telecommunications facility shall provide an area labeled as “Reserve Parking Area” on the site plan, to be maintained as existing natural vegetation or as landscaped area, said Reserve Parking Area to be sufficient in size to accommodate the parking requirements in existence at the time for an office use at the site.

refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, ZONING BOARD AND ADVERTISE PUBLIC HEARING FOR DECEMBER 17, 2012**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JANUARY 7, 2013**, as date for a **PUBLIC HEARING** for the Application of Hancock Associates, on behalf of CMS Inc. for construction of a new 2,400 sq. ft. office building on nonconforming property at 379 South St., refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE**.

ORDERED: That the Communication from Attorney Bergeron, on behalf of 54 Main St., LLC to **WITHDRAW WITHOUT PREJUDICE** Application for Special Permit, Dunkin Donuts, 54 Main St., Order No. 12-1005152A, **APPROVED**; adopted.

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

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

APPROVED; adopted.

Yea: 11 - Nay: 0

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

ORDERED: That the Communication from Public Employee Retirement Administration Commission (PERAC) re: FY14 Appropriation, **FILE**; adopted.

ORDERED: That the Communication from Nobis Engineering, Inc. re: Immediate Response Action (IRA) Plan and Completion Report, formerly Jenney Gasoline Station site, 25 E. Main St., **FILE**; adopted.

ORDERED: That the Communication from Carl Aquilina, Site Acquisition Lead, SAI Communications re: Radio Frequency Energy Report, for Special Permit, Marlborough Hospital, 157 Union St., Order No. 11-1002976D, **FILE**; adopted.

Councilors Seymour and Robey abstained

ORDERED: That the Notice of Filing and Public Hearing, Department of Public Utilities, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, September 24, & October 15 & 23, 2012 **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
A. Bonnie Beland, 58 Emmet St., other

Reports of Committees:

Councilor Delano reported the following out of the Legislative and Legal Affairs Committee:

Order No. 12-1005149 – Proposed Conveyance of a Portion of City-Owned property, 93 Framingham Rd. Recommendation of the Legislative and Legal Affairs Committee is to recommend conveyance to Melanson Development Group a portion of municipal property at 93 Framingham Rd together with the following orders from the City Solicitor in proper form.

[1ST ORDER]

ORDERED:

That the City Council of the City of Marlborough,

having been notified by the Commissioner of Public Works, pursuant to M.G.L. c. 40, § 15, that the City's fee interest in a portion of municipal property taken for sewer purposes and located in part off Framingham Road, and identified and described as a portion of the land shown as Parcel 93A on Map 93 of the Marlborough Assessors Map,

and being more particularly shown as "Parcel 'D'" on a plan entitled "Plan of Land in Marlborough, MA, Owner: Celeste Walker, Executrix, 990 Center Street, Apt. #2, Jamaica Plain, MA 02130-3029, Prepared for: Melanson Development Group, Inc., P.O. Box 564, Woburn, MA 01801; Prepared by: Bruce Saluk & Associates, Inc., Civil Engineers & Land Surveyors, 576 Boston Post Road East, Marlborough, MA 01752; Date: November 29, 2010; Scale: 1" = 40'," containing 24,032 square feet (0.55 acres), more or less, said plan to be recorded in the South Middlesex Registry of Deeds,

is no longer needed for such purposes,

hereby declares, by a simple majority vote pursuant to M.G.L. c. 30B, § 16(a), that the fee interest in said Parcel D is available for disposition by sale, with the following restrictions on the subsequent use of said Parcel D:

1. the City reserves to itself a perpetual public sewer easement in, under, upon and through said Parcel D, for the purposes of maintenance, repair, construction or reconstruction of public sewer lines; for the installation, repair or replacement of additional sewer pipes or any other municipal utilities or services; and for passive recreation purposes; and

2. the City also reserves the right to excavate or disturb ground without responsibility for repairing the surface, whether with loam or seed, and hereby prohibiting the grantee, its heirs, successors or assigns from planting, installing or maintaining any bushes, plants, trees or a structure of any kind in or about said Parcel D, unless approved in advance by written approval of the Commissioner of Public Works of the City of Marlborough.

The above declaration shall be null and void unless, on or before January 1, 2014, the Marlborough Planning Board, pursuant to Chapter 650-28 of the Marlborough zoning ordinance, has granted to Melanson Development Group, Inc. an open space development special permit which incorporates said Parcel D as described above.

ORDER NO 12-1005149A

[2ND ORDER]

ORDERED:

That the City Council of the City of Marlborough,

having declared in Order No. 12-1005149A, that the fee interest in said Parcel D is available for disposition by sale, with the use restrictions recited in said Order,

now hereby authorizes the Mayor, by a two-thirds vote pursuant to M.G.L. c. 40, § 15, to convey the City's fee interest in said Parcel D to Melanson Development Group, Inc., of 5 Robertson Way, Woburn, Middlesex County, Massachusetts, for at least the minimum amount of Thirty-Six Thousand and 00/100 (\$36,000.00) Dollars, and upon such other terms as the Mayor shall consider proper and consistent with the intent of this Order and at a sales price that would maximize the total economic return to the City.

ORDER NO 12-1005149B

Suspension of Rules requested – granted

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Emergency Management Grant from the Massachusetts Emergency Management Agency awarded to the City in the amount of \$9,000.00 to replace radios and equipment in the Emergency Operations Center; adopted.

Suspension of Rules requested – granted

ORDERED: The Quest Diagnostics, TIF proposal, consisting of the following five documents, attached hereto, **APPROVED**; adopted.

1. The TIF agreement, Order No. 12-1005210A-1
2. The TIF plan, Order No. 12-1005210A-2
3. The EDIP-local tax incentive only project application, Order No. 12-1005210A-3
4. The economic opportunity area application, Order No. 12-1005210A-4
5. The Council Resolution, 12-1005210A-5

A roll call vote was taken for each of the documents noted above (except EDIP-local tax incentive only project application) as follows:

Order No. 12-1005210A-1

Yea: 11 - Nay: 0

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

Order No. 12-1005210A-2

Yea: 11 - Nay: 0

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

Order No. 12-1005210A-4

Yea: 11 - Nay: 0

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

Order No. 12-1005210A-5

Yea: 11 - Nay: 0

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:02 PM.