



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723  
DECEMBER 5, 2011**

Regular meeting of the City Council held on Monday, DECEMBER 5, 2011 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:30 PM.

ORDERED: That the minutes of the City Council Meeting NOVEMBER 7, 2011, **FILE**; adopted.

ORDERED: That the minutes of the City Council Meeting NOVEMBER 21, 2011, **FILE**; adopted.

ORDERED: Now being the time set for the **JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, December 5 2011 at 8:00 p.m. in Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street, Marlborough, MA to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2012. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing adjourned at 8:32 p.m.; adopted.

**Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour & Clancy & Landers.**

ORDERED: That the transfer of \$634,866.82 (six hundred thirty four thousand, eight hundred sixty six dollars and eighty two cents) from Undesignated Funds to Reduce the FY2012 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$634,866.82
Undesignated Fund	

TO:

To Reduce 2012 Tax Levy	\$634,866.82
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ORDERED: That the transfer of \$1,365,133.18 (one million, three hundred sixty five thousand, one hundred thirty three dollars and eighteen cents) from Undesignated Funds to Reduce Snow and Ice Deficit on FY2012 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$1,365,133.18
Undesignated Fund	

TO:

To Reduce Snow and Ice Deficit	\$1,365,133.18
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ORDERED: That the following transfer of \$37,675.00, (thirty seven thousand six hundred seventy five dollars) from Sale of Graves to Reduce the FY2012 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 27000-33020 \$37,675.00

Sale of Graves

TO:

To Reduce FY2012 Tax Levy \$37,675.00

ORDERED: That the transfer of \$750,000.00 (seven hundred fifty thousand dollars) from Aquifer Protection to Reduce the FY2012 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 61000-31200 \$750,000.00

Aquifer Protection

TO:

To Reduce FY2012 Tax Levy \$750,000.00

ORDERED: That the transfer of \$10,884.83 (ten thousand eight hundred eighty four dollars and eighty three cents) from Sale of Land to Reduce the FY2012 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 27000-33040 \$10,884.83

Sale of Land

TO:

To Reduce FY2012 Tax Levy \$10,884.83

ORDERED: That the following percentage of FY2012 Tax Levy **APPROVED**; adopted.

Residential 51.9831

C.I.P. 48.0169

ORDERED: That the Information Technology Capital transfer request in the amount of \$180,000.00 which moves funds from Undesignated to Capital Outlay-IT Equipment, refer to the **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$180,000.00

Undesignated Fund

TO:

Acct. # 19300006-58618 \$180,000.00

Capital Outlay-IT Equipment

ORDERED: That item #7 re: St. Mary's Special Permit in proper form, **MOVE TO ITEM 19**; adopted.

ORDERED: That item #8 re: 110 Pleasant LLC Special Permit in proper form, **MOVE TO ITEM 20**; adopted.

ORDERED: That this vote is taken to clarify a vote taken on this matter on November 7, 2011;  
AND FURTHER ORDERED:

That, pursuant to this City Council Order, a portion of the Property, to be defined by the Fire Chief, at the Pleasant Street Fire Station site located at 98 Pleasant Street in Marlborough, is hereby declared available for disposition by lease for the installation, operation and maintenance of wireless telecommunications equipment, pursuant to the provisions of § 16(a) of M.G.L. c. 30B; provided that said declaration is hereby made subject to the following non-exclusive restrictions, including but not limited to (1) an applicant's engineering report for structural suitability, (2) an applicant's compliance with all federal and state regulations pertaining to the site's use as a fire station, and (3) subject to any restrictions as may be set forth by the Marlborough Historical Commission, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Bergeron on behalf of Marlborough/Northborough Land Realty Trust to **WITHDRAW WITHOUT PREJUDICE** Application for Special Permit to construct 290 apartment units on Boston Post Rd. West, Order No. 11-1002986A, **APPROVED**; adopted.

ORDERED: That the Communication from Charles Doty, John G. Crowe Associates, Inc., re: Extension of Time for Sewer Connection Permit, 55 Fairbanks Blvd, **FILE**; adopted.

ORDERED: That the Communication from Michael J. Norris re: Road Acceptance, Cleversy Drive, Elm Farm Valley Estates, **REFER TO LEGAL DEPARTMENT FOR PROPER FORM, PLANNING BOARD, PUBLIC SERVICES COMMITTEE, AND CARRY OVER TO NEXT LEGISLATIVE YEAR**; adopted.

ORDERED: That there being no objection thereto set **THE SECOND REGULARLY SCHEDULED MEETING IN 2012**, as date for a **PUBLIC HEARING** for the Application for Special Permit from Sprint for modification of a wireless facility located at 445 Simarano Dr., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Minutes, Planning Board, October 17 and November 7, **FILE**; adopted.

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

- A. Carol Willoughby, 189 Parkerville Rd., Southborough, other property damage
- B. Edward Philmon, 165 Dartmouth St., pothole or other road defect

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Order No. 11-1002994 – Bond for School Renovations in the Amount of \$7,500,000.00.** The Finance Committee reviewed the Mayor's letter dated August 24, 2011 requesting the 20 year bond for \$7,500,000.00 for renovations to the High School and Kane School. The City Council approved advertising of the bond at the August 29, 2011 City Council meeting. The City has received 54.16% reimbursement funding from the Massachusetts School Building Authority for the renovations. The net borrowing for this bond will be \$3,438,000.00. The Finance Committee voted 5 – 0 to approve the bond. The City Council previously approved \$1,000,000.00 for these renovations. The total amount of funding approved by the Finance Committee for the school renovations is \$8,500,000.00.

**Order No. 11-1003016 – 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:

- \$1,980,000.00 Department Equipment 5 Year Bond – The Finance Committee voted 5 – 0 to reduce the bond by \$1,480,000.00 (funds from the undesignated account were used to purchase the two bombardiers for \$298,000 and item 3 above for \$1,182,000). The Finance Committee voted 4 – 1 (Councilor Ferro) to not approve the bonding of the \$500,000.00 for a pumper truck. Based on these two votes, the Finance Committee did not approve the bond for \$1,980,000.
- \$180,000.00 Computer Hardware 10 Year Bond – The Finance Committee voted 5 – 0 to deny the bond. The Finance Committee asked for the total number of computers being purchased, what department the computers would be deployed to and consider a transfer from Undesignated funds to purchase the computers.
- \$3,043,833.00 Street Construction 10 Year Bond – The Finance Committee voted 3 – 2 (Councilors Pope and Ossing opposed) to approve the bond.
- \$200,000.00 Sidewalk Construction 5 Year Bond – The Finance Committee voted 5 – 0 to deny the bond.
- \$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 Pope and Ossing opposed).
- \$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.

Attachment 1 summarizes the Finance Committee recommendations.

The Finance Committee voted 5 – 0 to table the remaining 4 bonds until a future meeting. The capital bonds will need to be advertised prior to the City Council voting on the bonds.

**MOTION made by Councilor Ossing to CARRY OVER TO THE NEXT LEGISLATIVE YEAR – CARRIES.**

**Attachment 1: FY12 Capital Bonds****Summary of FINCOM Recommendation**

<b>Bond Number Description</b>	<b>Bond Amount (\$)</b>	<b>FINCOM Recommendation (\$)</b>	<b>Reduction (\$)</b>	<b>Comments</b>
<b>1. Department Equipment</b>	1,980,000	0 (\$1,498,000 – deny 5 – 0) (\$500,000 – deny 4 – 1 (Councilor Ferro opposed)	1,980,000	Use undesignated funds to purchase \$1,480,000 of equipment. The pumper truck for \$500,000 will be evaluated in 2012
<b>2. Street Construction</b>	3,043,833	\$3,043,833 3 - (Councilors Pope and Ossing opposed)	0	
<b>3. Sidewalk Construction</b>	200,000	0 Deny 5 - 0	200,000	\$180,000 funds still available from previous bonds
<b>4. Sewer Construction</b>	5,205,000			
<b>5. Water Meters</b>	1,835,000	1,835,000 Approved 5 - 0		Installation for industrial facilities
<b>6. Water</b>	3,172,600	\$720,000 – Approved 5 – 0 \$2,452,600 Approved 3 – 2 (Councilors Pope and Ossing opposed)	0	The \$720,00 is for the Millham treatment plant upgrades. The \$2,452,600 is for the water projects in various locations.
<b>7. Buildings</b>	492,562			
<b>8. Design</b>	100,000			
<b>9. Landfill Cap</b>	300,000			
<b>10. Computers</b>	180,000	0 Denied 5 - 0	180,000	Consider using undesignated funds in 2012
<b>Total</b>	<b>16,508,995</b>	<b>8,051,433</b>	<b>2,360,000</b>	

**Suspension of the Rules requested – granted**

ORDERED: That the That the Application for Taxi and Livery license, Yan Chun Zhang d/b/a Japan Car Service for Livery License at 197 Boston Post Rd. West., **CARRY OVER TO NEXT LEGISLATIVE YEAR**; adopted.

**Suspension of the Rules requested-granted**

ORDERED: That the Communication from Attorney Beattie re: Public Acceptance of Ewald Ave. and Muir Way in the Forest Grove Subdivision, **CARRY OVER TO NEXT LEGISLATIVE YEAR**; adopted.

**Suspension of the Rules requested-granted**

ORDERED: That the Communication from R. Paul Faxon re: Acceptance of Perry Lane as a Public Way, **CARRY OVER TO NEXT LEGISLATIVE YEAR**; adopted.

At Council President Vigeant's request to recess at 9:10 PM and return to open meeting at 9:12 PM, be and is herewith **APPROVED**.

**Suspension of the Rules requested- granted**

ORDERED: That the Zoning Ordinance of the City of Marlborough be amended by deleting Section 650-26(A)(1)(a) of the City Code as presently written and inserting in place thereof the following:

(a) Affordable Housing and Affordable Housing Units. The term "affordable housing" shall refer to "affordable housing units". The term "affordable housing units" shall mean those units of housing that are countable in the so-called Subsidized Housing Inventory (SHI) or any subsequent housing inventory used by the Department of Housing and Community Development of the Commonwealth of Massachusetts to determine the number of housing units in a community that are countable in meeting the City's obligation to maintain at least 10% of the total number of housing units in the city as affordable pursuant to Massachusetts General Laws Chapter 40B sections 20-23. Any development subject to this section shall provide that at least 15% of the housing units to be constructed are countable as affordable housing units in the SHI, or a sum not less than the amount necessary, in the opinion of the city council pursuant to the special permit process, to cause the construction of said number of affordable housing units shall be paid to the Marlborough Community Development Authority at such time as the city council shall determine, **WITHDRAWN**; adopted.

**Suspension of the Rules requested-granted**

**ORDERED:** That the Capital Outlay transfer request in the amount of \$519,720.00 which moves funds from Free Cash to various accounts as detailed in the attached spreadsheets, **APPROVED;** adopted.

TRANSFER REQUEST									
FROM ACCOUNT				TO ACCOUNT					
AVAILABLE BALANCE	AMOUNT	ORG C	OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
				<b>Undesignated Fund</b>				<b>Capital Outlay</b>	
\$ 7,766,863.00	\$ 519,720.00	10000	35900	Undesignated Fund	\$ 30,000.00		58461	Sewer	\$ -
					\$ 31,000.00		58462	Water	
					\$ 50,000.00		58514	DPW Projects	
					\$ 28,750.00		58731	DPW Equip	
					\$ 56,000.00		58508	Police Vehicles	
					\$ 53,143.00		58593	Police Equip	
					\$ 212,327.00		58512	Fire Equipment	
					\$ 28,500.00		58513	Fire Protection	
					\$ 30,000.00		58618	is Equipment	
					\$ 519,720.00				

Capital			
DPW			
Streets	5/8 Floor Standing Drill		\$ 400.00
	Jumping Jack Compactor		\$ 2,500.00
	Traffic Line Painting Downtown		\$ 50,000.00
			<b>\$ 52,900.00</b>
Repair	Wheel Grabber Tool Hub Remover		\$ 1,600.00
	13 Ton Puller Set		\$ 1,000.00
	Pressure Washer		\$ 6,900.00
			<b>\$ 9,500.00</b>
For,Parks	Winch for 254xyp Chipper		\$ 5,000.00
Cemet	48 inch walk behind mower		\$ 4,850.00
	Set of Flotation Tracks for Skidsteer		\$ 4,500.00
	Plate Compactor		\$ 2,000.00
			<b>\$ 16,350.00</b>
Sewer	1 inch Steel Plate 8"x20'		\$ 5,000.00
	Composite Sampler (EWTP)		\$ 4,000.00
	Composite Sampler (WWTP)		\$ 4,000.00
	Sewer Lateral Camera		\$ 5,000.00
	Sewer Gas Meter Detector		\$ 1,500.00
	Mudsucker Pump		\$ 2,000.00
	Trench Safety-Shoring Modular		\$ 8,500.00
			<b>\$ 30,000.00</b>

Water	1 inch Steel Plate 8'x20'	\$	5,000.00
	Jumping Jack Compactor	\$	2,500.00
	Portable Generator	\$	1,000.00
	Modular Trench Shoring	\$	8,500.00
	Fencing Water Tanks	\$	14,000.00
		\$	<b>31,000.00</b>
	DPW TOTAL	\$	<b>139,750.00</b>
Police	2 Patrol Vehicles	\$	56,000.00
	Automatic License Plate Reader Sys.	\$	20,000.00
	Update/Replace gym Equipment	\$	22,403.00
	Replace shotguns 15 @716	\$	10,740.00
		\$	<b>109,143.00</b>
FIRE	Radios	\$	183,927.00
	SCBA	\$	12,500.00
	Fit Tester	\$	15,900.00
	Turnout Gear	\$	28,500.00
		\$	<b>240,827.00</b>
IS	Security Set Up	\$	<b>30,000.00</b>
	Total	\$	<b>519,720.00</b>

### **Suspension of the Rules requested-granted**

**ORDERED:** That the Capital transfer request in the amount of \$1,182,000.00 which moves funds from Free Cash to various capital equipment accounts which will enable the City to purchase a portion of the FY12 capital equipment outright, therefore reducing the tax burden, **APPROVED;** adopted.

**FROM:**

Acct. # 10000-35900 \$1,182,000.00

Undesignated Fund

**TO:**

Acct. # 19300006-58462 \$299,000.00

Water

Acct. # 19300006-58731 \$358,000.00

DPW Equip.

Acct. # 19300006-58618 \$375,000.00

IT Equipment

Acct. # 19300006-58467 \$150,000.00

Public Facilities

**Suspension of the Rules requested-granted**

**ORDERED:** That the following transfer requests to fund the newly ratified agreement between the City of Marlborough and the DPW Foremen's Union, **TABLED UNTIL THE DECEMBER 19, 2011 MEETING;** adopted.

CITY OF MARLBOROUGH										
--BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012		
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$14,725	11990006	57820	Reserve for Salaries & Benefits	\$14,733	14001301	50690	Foreman, Streets	\$142,302	
					Reason:	Funding for union contract				
\$516,499	\$338	11990006	57820	Reserve for Salaries & Benefits	\$442	14001303	51310	Overtime, Streets	\$15,711	
					Reason:	Funding for union contract				
\$516,499	\$551	11990006	57820	Reserve for Salaries & Benefits	\$771	14001303	51430	Longevity, Streets	\$2,427	
					Reason:	Funding for union contract				
\$516,499	\$80	11990006	57820	Reserve for Salaries & Benefits	\$80	14001303	51470	Interim Foreman, Streets	\$1,251	
					Reason:	Funding for union contract				
\$516,499	\$345	11990006	57820	Reserve for Salaries & Benefits	\$623	14001303	51920	SLBB, Streets	\$33,911	
					Reason:	Funding for union contract				
					Total:	\$16,649				
CITY OF MARLBOROUGH										
--BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012		
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$50	11990006	57820	Reserve for Salaries & Benefits	\$50	14001303	51990	Clothing Allowance, Streets	\$2,679	
					Reason:	Funding for union contract				
\$516,499	\$1,055	11990006	57820	Reserve for Salaries & Benefits	\$1,221	14001203	51390	Overtime S&I	\$94,064	
					Reason:	Funding for union contract				
					Total:	\$1,271				
					Department Head signature:					

--BUDGET TRANSFERS --										
	DEPT:	PUBLIC WORKS				FISCAL YEAR:	2012			
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$11,136	11990006	57820	Reserve for Salaries & Benefits	\$11,142	14001501	50690	Foreman, FP&C	\$107,953	
					Reason:	Funding for union contract				
\$516,499	\$293	11990006	57820	Reserve for Salaries & Benefits	\$293	14001503	51310	Overtime, FP&C	\$13,642	
					Reason:	Funding for union contract				
\$516,499	\$400	11990006	57820	Reserve for Salaries & Benefits	\$517	14001503	51430	Longevity, FP&C	\$89	
					Reason:	Funding for union contract				
\$516,499	\$80	11990006	57820	Reserve for Salaries & Benefits	\$80	14001503	51470	Interim Foreman, FP&C	\$2,617	
					Reason:	Funding for union contract				
\$516,499	\$173	11990006	57820	Reserve for Salaries & Benefits	\$299	14001503	51920	SLBB, FP&C	\$13,765	
					Reason:	Funding for union contract				
				Total:	\$12,331					
CITY OF MARLBOROUGH										
--BUDGET TRANSFERS --										
	DEPT:	PUBLIC WORKS				FISCAL YEAR:	2012			
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$7,043	11990006	57820	Reserve for Salaries & Benefits	\$14,536	61090001	50690	Foreman, W&S	\$106,727	
					Reason:	Funding for union contract				
\$516,499	\$1,684	11990006	57820	Reserve for Salaries & Benefits	\$1,684	61090003	51310	Overtime, W&S	\$85,576	
					Reason:	Funding for union contract				
\$516,499	\$230	11990006	57820	Reserve for Salaries & Benefits	\$297	61090003	51430	Longevity, W&S	\$3,380	
					Reason:	Funding for union contract				
\$516,499	\$80	11990006	57820	Reserve for Salaries & Benefits	\$80	61090003	51470	Interim Foreman, W&S	\$10,182	
					Reason:	Funding for union contract				
\$516,499	\$173	11990006	57820	Reserve for Salaries & Benefits	\$299	61090003	51920	SLBB, W&S	\$16,172	
					Reason:	Funding for union contract				
				Total:	\$16,896					

ORDERED: That items #19 and #20 be moved before Item#15, **APPROVED**; adopted.

AMENDMENT  
TO ORIGINAL SPECIAL PERMIT  
GRANTED TO ST. MARY'S OF FRENCH HILL REDEVELOPMENT, LLC  
Order No. 11-1002922/X07-1001500C

St. Mary's of French Hill Redevelopment LLC  
26 Elderwood Drive, Stoughton, MA 02072

St. Mary's Condominiums  
26-30 Broad Street, 2-22 St. Mary's Way Marlborough, MA 01752

The City Council of the City of Marlborough hereby GRANTS the application of St. Mary's of French Hill Redevelopment LLC, a Massachusetts limited liability company having a mailing address of 26 Elderwood Drive, Stoughton, MA 02072, as provided in this Decision and subject to the following Findings of Fact and Conditions.

PROCEDURAL FINDINGS OF FACT

1. St. Mary's of French Hill Redevelopment LLC, a Massachusetts limited liability company having a mailing address of 26 Elderwood Drive, Stoughton, MA 02072, is referred to hereinafter as the "Applicant."
2. Applicant is the owner of certain real estate located at 26-30 Broad Street, Marlborough, MA, as further described in a deed recorded at the Middlesex South District Registry of Deeds in Book 50143, Page 588 (hereinafter, the "Premises").
3. On June 25, 2007, the City Council of the City of Marlborough voted to grant the Applicant a special permit concerning the Premises, as further described in a document recorded at the Middlesex South District Registry of Deeds in Book 50144, Page 1 (hereinafter, the "Original Special Permit").
4. On May 19, 2011, the Applicant submitted to the City Clerk for the City of Marlborough an application seeking to amend the Original Special Permit under the provisions of M.G.L. c. 40A, § 9 and the Marlborough Zoning Ordinance, Article VI, § 650-59C(20) (hereinafter, the "Application"). In connection with the Application, the Applicant submitted a Special Permit Summary Impact Statement, certified list of abutters, and filing fee.
5. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk caused to be advertised the public hearing's date in the MetroWest Daily News and sent notice of said hearing to abutters entitled to notice under law.
6. On June 20, 2011, the City Council held a public hearing concerning the Application. The hearing was opened and closed on that date. On October 17, 2011, the City Council voted to approve the Applicant's request to extend the time for final action on the Application to December 31, 2011.

7. The Applicant presented testimony at the public hearing detailing the Application. All testimony made by those speaking at the public hearing have been duly considered in making this Decision.

8. The Procedural Findings of Fact specified above supplement those made in the Original Special Permit, which are expressly incorporated herein by reference.

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

A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.

B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. Further, the City Council finds that the proposed new use of the non-conforming structures at the site will not be substantially more detrimental to the neighborhood than the original uses of those structures. The visual impacts from the proposed use have been mitigated, and the traffic impacts will be no more detrimental than the possible impacts from alternative uses. In addition, the City Council finds that the proposed residential use may act as a catalyst in encouraging further growth and improvements to the surrounding area.

C) The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, GRANTS the Applicant an amendment to the Original Special Permit, a) deleting the condition number 21 of the Original Special Permit and substituting therefor a new condition number 21, as set forth below; and b) deleting the condition number 27 of the Original Special Permit and substituting therefor a new condition number 27, as set forth below. All other conditions of the Original Special Permit shall continue in full force and effect, and are expressly incorporated herein by reference.

21. Recording. This Amendment to the Original Special Permit shall be recorded at the Middlesex South District Registry of Deeds in accordance with the provisions of M.G.L. Chapter 40A, § 11 promptly after any appeal period from the issuance hereof as expired, or after any said appeal has been resolved. The Applicant (St. Mary's of French Hill Redevelopment LLC), including its successors and assigns, shall be responsible for recording, at its expense, this Amendment to the Original Special Permit; and shall present evidence of said recording to the City Solicitor's office, which thereupon shall duly forward said recording evidence to the Building Inspector.

27. Owner-Occupancy. It shall be a condition of the condominium by-laws of the project that all units in the project, consisting of a total of thirty-six units, that are sold will be purchased by a person or persons who intend to reside in the units. The condominium documents shall provide for appropriate daily fines for the violation of this section of the condominium by-laws, and will provide that this section may not be amended. No occupancy permit regarding the project shall be issued unless and until the City Solicitor has certified to the Building Commissioner that the condominium by-laws for the project conform to this provision and that the condominium by-laws, along with the condominium master deed, have been recorded. Applicant (St. Mary's of French Hill Redevelopment LLC), including its successors and assigns, may, following the issuance of the occupancy permit for a particular unit but prior to the conveyance thereof to the purchaser of the unit, rent said unit to tenants; provided, however, that:

- a. No said unit shall be or continue to be rented after September 1, 2016;
- b. The number of units being rented and occupied by tenants shall not exceed eight (8) units;
- c. An executed "rent to own" contract shall qualify the subject unit as owner-occupied, so long as transfer of title for that unit occurs within 36 months of the starting date of the rental agreement for that unit; this condition shall not apply to 4 rented units for the first year of rent with rental agreements signed prior to June 20, 2011;
- d. Applicant, including its successors and assigns, shall continue to market the units as condominiums;
- e. No sign at the premises shall market any units as being for rent; however, "rent to own" signs are permissible so long as they are in compliance with City's sign ordinance without variance; and
- f. No unit shall be rented to any person or persons for more than three years unless, prior to the expiration of those three years, said person or persons execute(s) a purchase and sale agreement.

The term "Applicant, its successors and assigns," as used herein and for purposes of this Condition 27, shall include Applicant, its successors and assigns, and any entity controlled by said entities, or controlled by the principal and/or principals of said entities. No entity may, at one time, own more than 10% of the units in any condominium created hereunder.

**Yea: 11- Nay: 0**

**Yea: Delano, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Vigeant, Pope & Levy**

AMENDMENT  
TO ORIGINAL SPECIAL PERMIT  
GRANTED TO 110 PLEASANT LLC  
Order No. 11-1002923F/X10-1002683B

110 Pleasant LLC  
26 Elderwood Drive, Stoughton, MA 02072

110-118 Pleasant Street  
Marlborough, MA 01752

The City Council of the City of Marlborough hereby GRANTS the application of 110 Pleasant LLC, a Massachusetts limited liability company having a mailing address of 26 Elderwood Drive, Stoughton, MA 02072, as provided in this Decision and subject to the following Findings of Fact and Conditions.

PROCEDURAL FINDINGS OF FACT

1. 110 Pleasant LLC, a Massachusetts limited liability company having a mailing address of 26 Elderwood Drive, Stoughton, MA 02072, is referred to hereinafter as the "Applicant."
2. Applicant is the owner of certain real estate located at 110-118 Pleasant Street, Marlborough, MA, as further described in a deed recorded at the Middlesex South District Registry of Deeds in Book 55633, Page 468 (hereinafter, the "Premises").
3. On September 27, 2010, the City Council of the City of Marlborough voted to grant the Applicant a special permit concerning the Premises, as further described in a document recorded at the Middlesex South District Registry of Deeds in Book 55633, Page 471 (hereinafter, the "Original Special Permit").
4. On May 19, 2011, the Applicant submitted to the City Clerk for the City of Marlborough an application seeking to amend the Original Special Permit under the provisions of M.G.L. c. 40A, § 9 and the Marlborough Zoning Ordinance, Article VI, § 650-59C(20) (hereinafter, the "Application"). In connection with the Application, the Applicant submitted a Special Permit Summary Impact Statement, certified list of abutters, and filing fee.
5. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk caused to be advertised the public hearing's date in the MetroWest Daily News and sent notice of said hearing to abutters entitled to notice under law.
6. On June 20, 2011, the City Council held a public hearing concerning the Application. The hearing was opened and closed on that date. On October 17, 2011, the City Council voted to approve the Applicant's request to extend the time for final action on the Application to December 31, 2011.

7. The Applicant presented testimony at the public hearing detailing the Application. All testimony made by those speaking at the public hearing have been duly considered in making this Decision.

8. The Procedural Findings of Fact specified above supplement those made in the Original Special Permit, which are expressly incorporated herein by reference.

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

A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.

B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. Further, the City Council finds that the proposed new use of the site, and the structure as altered, will not be substantially more detrimental to the neighborhood than the continued use of the existing site and structure for manufacturing and other non-conforming uses. The visual impacts from the proposed use have been mitigated, and the traffic impacts will be no more detrimental than the possible impacts from industrial uses. In addition, the City Council finds that the proposed residential use may act as a catalyst in encouraging further growth and improvements to the surrounding area.

C) The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, GRANTS the Applicant an amendment to the Original Special Permit, a) deleting the condition number 22 of the Original Special Permit and substituting therefor a new condition number 22, as set forth below; and b) adding a new condition number 26, as set forth below. All other conditions of the Original Special Permit shall continue in full force and effect, and are expressly incorporated herein by reference.

22. Owner-Occupancy. It shall be a condition of the condominium by-laws of the project that all residential units in the project, consisting of a total of seventeen units, that are sold will be purchased by a person or persons who intend to reside in the units. The condominium documents shall provide for appropriate daily fines for the violation of this section of the condominium by-laws, and will provide that this section may not be amended. No occupancy permit regarding the project shall be issued unless and until the City Solicitor has certified to the Building Inspector that the condominium by-laws, along with the condominium master deed, have been recorded. Applicant (110 Pleasant LLC, 26 Elderwood Drive, Stoughton, MA 02072), including its successors and assigns, may, following the issuance of the occupancy permit for a particular unit but prior to the conveyance thereof to the purchaser of the unit, rent said units to tenants; provided, however, that:

- a. No said unit shall be or continue to be rented after the fifth anniversary of the date of issuance of the occupancy permit of said unit;
- b. No unit shall be rented or continue to be rented after the seventh anniversary of the date of issuance of the first occupancy permit for the site;

- c. The number of units being rented and occupied by tenants shall not exceed seventeen (17) units;
- d. An executed “rent to own” contract shall qualify the subject unit as owner-occupied, so long as transfer of title for that unit occurs within 36 months of the starting date of the rental agreement for that unit;
- e. Applicant, including its successors and assigns, shall continue to market the units as condominiums;
- f. No sign at the premises shall market any units as being for rent; however “rent to own” signs are permissible so long as they are in compliance with City’s sign ordinance without variance; and
- g. No unit shall be rented to any person or persons for more than three years unless, prior to the expiration of those three years, said person or persons execute(s) a purchase and sale agreement.

The term “Applicant, its successors and assigns,” as used herein and for purposes of this Condition 22, shall include Applicant, its successors and assigns, and any entity controlled by said entities, or controlled by the principal and/or principals of said entities. No entity may, at one time, own more than 10% of the units in any condominium created hereunder.

26. Recording. This Amendment to the Original Special Permit shall be recorded at the Middlesex South District Registry of Deeds in accordance with the provisions of M.G.L. Chapter 40A, § 11 prior to the issuance of any occupancy permit regarding the Project. The Applicant (110 Pleasant LLC, 26 Elderwood Drive, Stoughton, MA 02072), including its successors and assigns, shall be responsible for recording, at its expense, this Amendment to the Original Special Permit; and shall present evidence of said recording to the City Solicitor’s office, which thereupon shall duly forward said recording evidence to the Building Inspector as a condition of his issuance of any occupancy permit regarding the site.

**Yea: 11- Nay: 0**

**Yea: Delano, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Vigeant, Pope & Levy**

ORDERED: Under authority of MGL, Chapter 44, Section 53A, the City Council hereby **APPROVES** the Cultural Council Allocation, which provides grant support for cultural programming in our community in the amount of \$7,490.00; adopted.

That the DPW Engineer's transfer request to fund the new ratified agreement between the City of Marlborough and the DPW Engineer's Union, **APPROVED**; adopted.

CITY OF MARLBOROUGH --BUDGET TRANSFERS --									
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$516,499	\$ 160.59	11990006	57820	Reserve for Salaries & Ben.	\$ 160.59	14001103	51430	Longevity, Engineering	\$6,417.00
	Reason:	Funding required for Engineers MOA							
\$516,499	\$ 183.78	11990006	57820	Reserve for Salaries & Ben.	\$ 183.78	60085003	51430	Longevity, West Plant	\$11,961.00
	Reason:	Funding required for Engineers MOA							
\$516,499	\$ 164.35	11990006	57820	Reserve for Salaries & Ben.	\$ 164.35	60081003	51430	Longevity, East Plant	\$8,769.00
	Reason:	Funding required for Engineers MOA							
\$516,499	\$ 461.93	11990006	57820	Reserve for Salaries & Ben.	\$ 461.93	14001103	51920	SLBB, Engineering	\$10,090.00
	Reason:	Funding required for Engineers MOA							

CITY OF MARLBOROUGH --BUDGET TRANSFERS --									
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$516,499	\$8,897.92	11990006	57820	Reserve for Salaries & Ben.	\$8,897.92	60081001	50850	Treatment Plant Operators	\$166,101.47
	Reason:	Funding required for Engineers MOA							
\$516,499	\$6,673.44	11990006	57820	Reserve for Salaries & Ben.	\$6,673.44	60085001	50850	Treatment Plant Operators	\$124,576.90
	Reason:	Funding required for Engineers MOA							
\$516,499	\$ 89.24	11990006	57820	Reserve for Salaries & Ben.	\$ 89.24	14001503	51430	Longevity, FP&C	\$25,287.00
	Reason:	Funding required for Engineers MOA							
\$516,499	\$ 31.12	11990006	57820	Reserve for Salaries & Ben.	\$ 31.12	14001403	51430	Longevity, Fleet	\$1,556.00
	Reason:	Funding required for Engineers MOA							
\$516,499	\$ 83.25	11990006	57820	Reserve for Salaries & Ben.	\$ 83.25	14001303	51430	Longevity, Streets	\$45,592.00
	Reason:	Funding required for Engineers MOA							

CITY OF MARLBOROUGH									
--BUDGET TRANSFERS --									
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$516,499	\$2,742.97	11990006	57820	Reserve for Salaries and Ben.	\$2,742.97	60085001	50910	Chief Plant Operator	\$51,203.80
	Reason:	Funding required for Engineers MOA							
\$516,499	\$1,835.87	11990006	57820	Reserve for Salaries and Ben.	\$1,835.87	60080001	50580	Assistant Chemist	\$77,946.39
	Reason:	Funding required for Engineers MOA							
\$516,499	\$2,493.76	11990006	57820	Reserve for Salaries and Ben.	\$2,493.76	14001101	50108	GIS Administrator	\$46,552.60
	Reason:	Funding required for Engineers MOA							
\$516,499	\$6,882.09	11990006	57820	Reserve for Salaries and Ben.	\$6,882.09	14001101	50710	Junior Civil Engineer	\$134,021.90
	Reason:	Funding required for Engineers MOA							
\$516,499	\$3,734.95	11990006	57820	Reserve for Salaries and Ben.	\$3,734.95	14001101	50700	Senior Engineering Aide	\$70,128.20
	Reason:	Funding required for Engineers MOA							

CITY OF MARLBOROUGH									
--BUDGET TRANSFERS --									
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$516,499	\$2,965.11	11990006	57820	Reserve for Salaries & Ben.	\$2,965.11	14001501	50680	General Foreman, FP&C	\$55,350.75
	Reason:	Funding required for Engineers MOA							
\$516,499	\$2,965.11	11990006	57820	Reserve for Salaries & Ben.	\$2,965.11	14001401	50692	Supt. Of Automotive Maint.	\$55,350.91
	Reason:	Funding required for Engineers MOA							
\$516,499	\$2,965.11	11990006	57820	Reserve for Salaries & Ben.	\$2,965.11	14001301	50660	General Foreman, Streets	\$55,350.74
	Reason:	Funding required for Engineers MOA							
\$516,499	\$2,835.84	11990006	57820	Reserve for Salaries & Ben.	\$2,835.84	61090001	50680	General Foreman, W&S	\$54,086.10
	Reason:	Funding required for Engineers MOA							
\$516,499	\$3,599.00	11990006	57820	Reserve for Salaries & Ben.	\$3,599.00	14001101	50660	Asst. City Engineer	\$54,213.10
	Reason:	Funding required for Engineers MOA							

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012			
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$ 150.57	11990006	57820	Reserve for Salaries & Ben.	\$ 150.57	14001503	51920	SLBB, FP&C	\$13,615.00	
Reason:		Funding required for Engineers MOA								
\$516,499	\$ 150.57	11990006	57820	Reserve for Salaries & Ben.	\$ 150.57	14001403	51920	SLBB, Fleet	\$2,992.00	
Reason:		Funding required for Engineers MOA								
\$516,499	\$ 148.26	11990006	57820	Reserve for Salaries & Ben.	\$ 148.26	14001303	51920	SLBB, Streets	\$33,763.00	
Reason:		Funding required for Engineers MOA								
\$516,499	\$ 252.26	11990006	57820	Reserve for Salaries & Ben.	\$ 252.26	60085003	51920	SLBB, West Plant	\$5,013.00	
Reason:		Funding required for Engineers MOA								
\$516,499	\$ 256.92	11990006	57820	Reserve for Salaries & Ben.	\$ 256.92	60081003	51920	SLBB, East Plant	\$5,515.00	
Reason:		Funding required for Engineers MOA								

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012			
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$1,000	11990006	57820	Reserve for Salaries & Ben.	\$1,000	60085003	51440	Educational Inc. West Plant	\$4,600.00	

CITY OF MARLBOROUGH --BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS			FISCAL YEAR:		2012			
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$516,499	\$ 38.63	11990006	57820	Reserve for Salaries & Ben.	\$ 38.63	60080003	51310	Overtime, Sewer Service	\$2,469.50	
Reason:		Funding for Engineers MOA								
\$516,499	\$ 146.11	11990006	57820	Reserve for Salaries & Ben.	\$ 146.11	14001103	51310	Overtime, Engineering	\$1,175.54	
Reason:		Funding for Engineers MOA								
\$516,499	\$ 569.17	11990006	57820	Reserve for Salaries & Ben.	\$ 569.17	60081003	51310	Overtime, East Plant	\$16,674.22	
Reason:		Funding for Engineers MOA								
\$516,499	\$ 701.88	11990006	57820	Reserve for Salaries & Ben.	\$ 701.88	60085003	51310	Overtime, West Plant	\$15,888.57	
Reason:		Funding for Engineers MOA								

CITY OF MARLBOROUGH										
--BUDGET TRANSFERS --										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$66,891	\$60,263	60080001	50890	Senior Treatment Chemist	\$60,263	60080001	50570	Chemist	\$0	
Reason:		Reorganization of West Plant/MOA				Reorganization of West Plant/MOA				
\$66,891	\$6,628	60080001	50890	Senior Treatment Chemist	\$6,628	60085001	50850	Treatment Plant Operator	\$124,577	
Reason:		Reorganization of West Plant/MOA				Reorganization of West Plant/MOA				
\$77,946	\$48,584	60080001	50580	Assistant Chemist	\$48,584	60085001	50850	Treatment Plant Operator	\$124,577	
Reason:		Reorganization of West Plant/MOA				Reorganization of West Plant/MOA				

**ORDERED:** That the intra-departmental Fire Department transfer request in the amount of \$30,000.00 and \$27,267.04 which moves funds from Firefighter to OT., **APPROVED;** adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS										
DEPT: FIRE						FISCAL YEAR: 2012				
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$2,033,075.70	\$30,000.00	12200001	50450	FIREFIGHTER	\$30,000.00	12200003	51300	OVERTIME	\$74,753.38	
Reason:		Transfer is available due to a resignation								
\$2,033,075.70	\$27,267.04	12200001	50450	FIREFIGHTER	\$27,267.04	12200003	51300	OVERTIME	\$74,753.38	
Reason:		Transfer is available due to 111F payments being made to Firefighters								

**MOTION** made by Councilor Ferro to reduce the Marlborough Economic Development Corporation transfer from \$150,000.00 to \$146,837.00 and to FURTHER AMEND MOTION to transfer \$3,163.00 from the Economic Development Special Revenue account to the Undesignated account – **DOES NOT CARRY**

**MOTION** made by Councilor Ossing to reduce the Marlborough Economic Development Corporation transfer from \$150,000.00 to \$146,837.00 and request that the Mayor submit a Communication for the next City Council meeting to request a transfer in the amount of \$3,163.00 from the Economic Development Special Revenue account to Undesignated Funds - **CARRIES**

ORDERED: That the Marlborough Economic Development Corporation (MEDC) transfer request in the amount of \$146,837.00 which moves funds from Economic Development Special Revenue to MEDC funding as Bill H1452-An Act Establishing a Business and Economic Development Special Revenue Fund is now law, **APPROVED**; adopted.  
**Councilor Seymour requested to be recorded in opposition.**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:30 p.m.