



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

**Lisa M. Thomas**

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**Marlborough, MA 01752**

**(508) 460-3775 FAX (508) 460-3723**

**MARCH 8, 2010**

Regular meeting of the City Council held on Monday, MARCH 8, 2010 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Elder, Juaira, Seymour, Clancy and Landers. Meeting adjourned at 9:45 p.m.

ORDERED: That the minutes of the City Council Meeting February 22, 2010, **FILE**; adopted.

ORDERED: Now being the time set for the PUBLIC HEARING on the On the Application for Revised Special Permit from Attorney Gadbois, Sports Management Corp., to amend Special Permit to add a sixth rink, all were heard who wish to be heard, hearing recessed at 9:00 p.m.; adopted.

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

**Councilor Juaira read a disclosure statement.**

ORDERED: At President Vigeant's request to recess at 9:00 PM and returned to open meeting at 9:02 PM, **APPROVED**; adopted.

ORDERED: That, in order to reduce interest costs, the Treasurer with the approval of the Mayor is authorized to issue refunding bonds pursuant to Chapter 44, Section 21A of the Massachusetts General Laws to refund all or a portion of the outstanding amounts of the City's Municipal Purpose Loan of 1999 Bonds and Municipal Purpose Loan of 2001 Bonds, dated June 15, 1999 and June 15, 2001, respectively; that the refunding bonds shall be issued in an amount not to exceed \$18,000,000, in order to pay principal of, redemption premium, if any, and interest on the bonds to be refunded, and costs of issuance of the refunding bonds; and that the Treasurer is authorized to execute such documents, including, without limitation, a refunding trust agreement or escrow agreement with a bank or trust company, and to take any action as may be necessary or desirable to carry out this transaction. Further, the amount authorized by this loan order shall be reduced by any lump sum grant payment from the Massachusetts School Building Authority, refer to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Capital Bond Request for FY2010, refer to **BACK TO MAYOR FOR RECALCULATION & PRIORITIZATION**; adopted.

ORDERED: That the Bond request in the amount of \$4,000,000.00 for partial construction of the new sewer services in the Sudbury St. area, refer to **BACK TO MAYOR TO PRIORITIZE WITH THE FORTY-EIGHT STREETS IN THE CAPITAL BOND PACKAGE**; adopted.

ORDERED: That the DPW Equipment Bond Authorization in the amount of \$1,236,280.00 to fund much needed equipment for DPW as an alternative to the transfer request of same, cross-reference Order No. 10-1002414, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, upon the recommendation of the Mayor, approves expenditures of \$1,200,000.00 in excess of available appropriation for snow and ice removal for fiscal year 2010, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the transfer request in the amount of \$92,907.39 which moves funds from Insurance Proceeds Over 20K to Public Facilities Capital Outlay pertinent to damage to the Marlborough High School chillers, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 2700099-48470 \$92,907.39  
Insurance Over 20K

TO:

Acct. # 19300006-58467 \$92,907.39  
Public Facilities

ORDERED: That the Fire Department transfer request in the amount of \$51,003.96 which moves funds for sick leave buy back associated with an employee's retirement as follows:  
\$13,790.40 from Fringes to Fire Chief  
\$13,137.60 from Fringes to SLBB  
\$12,364.26 from Interest Ban to SLBB  
\$11,711.70 from Undesignated Fund to SLBB  
refer to **FINANCE COMMITTEE**; adopted.

TRANSFER REQUEST										
FROM ACCOUNT					TO ACCOUNT					
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL	
			General Government				Fire			
\$ 154,750.95	\$ 13,790.40	11990006	51500	Fringes	\$ 13,790.40	12200001	50130	Fire Chief	\$ 36,983.72	
	\$ 13,137.60	11990006	51500	Fringes	\$ 13,137.60	12200003	51920	Sick Leave BB	\$ 22,039.74	
\$ 378,123.00	\$ 12,364.26	17520006	59254	Interest Ban	\$ 12,364.26	12200003	51920	Sick Leave BB	\$ -	
\$ 2,569,650.00	\$ 11,711.70	10000	35900	Undesignated Fund	\$ 11,711.70	12200003	51920	Sick Leave BB		
					\$ 51,003.96					
Reason: To fund benefits associated with employees retirement.										

ORDERED: That the transfer request in the amount of \$37,500.00 which moves funds from Undesignated to Open Space Stabilization for the purpose of moving the City's wireless antennae receipts for FY2009, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$37,500.00  
Undesignated Funds

TO:

Acct. # 83600-32918 \$37,500.00  
Stabilization – Open Space

ORDERED: That the transfer request in the amount of \$12,239.06 which moves funds from Firefighter to Gross OT to fund coverage for an injured employee, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12200001-50450 \$12,239.06  
 Firefighter

TO:

Acct. # 12200003-51300 \$12,239.06  
 Gross Overtime

ORDERED: That the Weights and Measures transfer request in the amount of \$300.00 which moves funds from Contract Services to Instate Travel to fund the cost of projected travel, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12440004-53140 \$300.00  
 Contract Services

TO:

Acct. # 12440006-57100 \$300.00  
 Instate Travel

ORDERED: That the DPW transfer request in the amount of \$43,000.00 which moves funds from Undesignated for multiple emergency repair incidents as detailed in the attached documentation, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT: PUBLIC WORKS					FISCAL YEAR: 2010				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$2,569,650	\$18,000.00	10000	35900	Undesignated Fund	\$18,000	61090003	51310	Overtime - W & S	\$27,419
	Reason:							Emergency incidents have stressed this account to the point where additional funds are needed. Note: This account was heavily impacted by the Bolton St. and Hosmer St. main breaks.	
\$2,569,650	\$3,500.00	10000	35900	Undesignated Fund	\$3,500	60080003	51380	OT W/S Police	\$0
	Reason:							Heavy demand placed on account due to numerous main and service leaks. Note: account is used in conjunction with Water Police OT account.	
\$2,569,650	\$10,000.00	10000	35900	Undesignated Fund	\$10,000	61090006	54620	Maint. Trench	\$508
	Reason:							Needed to resurface numerous W&S trenches. Extensive water main and service breaks over winter.	
\$2,569,650	\$5,000.00	10000	35900	Undesignated Fund	\$5,000	61090006	55710	Water Maint.	\$1,946
	Reason:							Extensive number of service/main break repairs	
\$2,569,650	\$1,500.00	10000	35900	Undesignated Fund	\$1,500	61090006	52467	R & M Water	\$1,454
	Reason:							Extensive number of service/main break repairs	
\$2,569,650	\$5,000.00	10000	35900	Undesignated Fund	\$5,000	61090006	55750	Water Service Const.	\$110
	Reason:							Extensive number of service/main breaks repairs	
Totals	\$43,000.00				\$43,000				

ORDERED: That the DPW transfer request in the amount of \$44,450.00 to supplement funding in certain accounts out of other accounts that have anticipated surplus funding as detailed in the attached documentation, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT: PUBLIC WORKS					FISCAL YEAR: 2010				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$58,882	\$2,200.00	60080001	50890	Sr. Chemist	\$2,200	14001303	51470	Interim Foreman-Streets	\$1,159
	Reason:	Funds available due to retirement				Higher than expected use of this line item due to early retirement.			
\$232,368	\$2,000.00	61090001	50740	Equipment Operator	\$2,000	14001305	55310	Highway Constr. Mater.-Streets	\$1,752
	Reason:	Funds available due to Workman's Comp injuries				Estimated additional funding needed to address post-winter repairs to streets city wide.			
\$58,882	\$1,800.00	60080001	50890	Sr. Chemist	\$1,800	14001305	55310	Highway Constr. Mater.-Streets	\$1,752
	Reason:	Funds available due to retirement				Estimated additional funding needed to address post-winter repairs to streets city wide.			
\$232,368	\$10,000.00	61090001	50740	Equipment Operator	\$10,000	14001306	55440	Drain Maint.-Streets	\$13,617
	Reason:	Funds available due to Workman's Comp injuries				Estimated additional funding needed to address a number of drainage system repairs.			
\$29,096	\$1,500.00	61090001	50680	General Foreman	\$1,500	14001503	51470	Interim Foreman - Forestry, Parks & Cemeteries	\$4,332
	Reason:	Funds available due to resignation				Higher than expected use of this line item due to extended recuperation from surgery.			
\$77,494	\$10,000.00	14001101	50710	Engin.-Junior Civil Engin.	\$10,000	14001303	51310	Overtime - Streets	\$5,685
	Reason:	Funds available due to resignation				Projected cost to complete FY-10			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$232,368	\$3,000.00	61090001	50740	Equipment Operator	\$3,000	14001503	51310	Overtime-Forestry, Parks & Cemeteries	\$2,104
	Reason:	Funds available due to Workman's Comp injuries				Projected cost to complete FY-10			
\$58,882	\$2,000.00	60080001	50890	Sr. Chemist	\$2,000	14001503	51310	Overtime-Forestry, Parks & Cemeteries	\$2,104
	Reason:	Funds available due to retirement				Projected cost to complete FY-10			
\$232,368	\$5,000.00	61090001	50740	Equipment Operator	\$5,000	14001305	55310	Highway Constr. Mater.-Streets	\$1,752
	Reason:	Funds available due to Workman's Comp injuries				Repair of roadway deficiencies in various wards			
	Reason:								
\$29,096	\$1,200.00	61090001	50680	General Foreman	\$1,200	14001305	55310	Highway Constr. Mater.-Streets	\$1,752
	Reason:	Funds available due to resignation				Repair of roadway deficiencies in various wards			
\$29,096	\$4,000.00	61090001	50680	General Foreman	\$4,000	61090006	55720	Hydrant Maint.	\$2,124
	Reason:	Funds available due to resignation				Additional monies needed to maintain hydrants			

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT: PUBLIC WORKS					FISCAL YEAR: 2010				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$77,494	\$1,500.00	14001101	50710	Engin.-Junior Civil Engin.	\$1,500	14001103	51310	Engin.-Overtime Regular	\$76
Reason: Funds available due to resignation					Multiple roadway and water replacement contracts will be active Spring 2010 - \$1,500 equates to 34 hours at the inspectors overtime rate				
\$77,494	\$250.00	14001101	50710	Engin.- Junior Civil Engin.	\$250	14001104	53150	Advertising	\$0
Reason: Funds available due to resignation					Additional funding equates to two (2) newspaper advertisements for roadway and water projects.				

ORDERED: That the DPW transfer in the amount of \$14,000.00 which moves funds from Undesignated to OT-Forestry, Parks and Cemeteries to meet the projected OT costs for the remainder of FY2010, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$14,000.00  
Undesignated Funds

TO:

Acct. # 14001503-51310 \$14,000.00  
Overtime-Forestry, Parks, & Cemeteries

ORDERED: That the Water Conservation Grant awarded to DPW in the amount of \$38,000.00 from the Department of Environmental Protection which provides funding for the purchase of a data-logger as noted in MGL, Chapter 44, Section 53A, funds are to be used for the purposes outlined, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the FY2010 State 911 Department Training Grant awarded to the Police Department in the amount of \$14,574.00 from the Executive Office of Public Safety and Security which provides funding for training expenses as noted in MGL, Chapter 44, Section 53A, funds are to be used for the purposes outlined, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the FY2010 State 911 Department Support and Incentive Program Grant awarded to the Police Department in the amount of \$84,195.00 from the Commonwealth of Massachusetts which provides funding for the purchase of a new fire alarm receiving and alerting system, equipment integration costs and public safety dispatcher salaries as noted in MGL, Chapter 44, Section 53A, funds are to be used for the purposes outlined, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Traffic Enforcement and Equipment Grant awarded to the Police Department in the amount of \$13,000.00 from the Office of Public Safety and Security for the purpose of traffic enforcement OT as well as the purchase of traffic enforcement equipment as noted in MGL, Chapter 44, Section 53A, funds are to be used for the purposes outlined, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the appointment of George Stein to the Planning Board to serve the remainder of Mr. Hanson's term which expires February 6, 2012, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from Council President Vigeant re: Special Election – Ward Four Council Seat, **TABLED UNTIL MARCH 22, 2010**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: Special Permit, Verizon Wireless, 303 Boundary St. in proper legal form, Order No. 09/10-1002161E, be moved to **REPORTS OF COMMITTEE**; adopted.

ORDERED: That the communication from the Planning Board re: amendment to the Sign Ordinance, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the minutes, Board of Assessors meeting, February 25, 2010, **FILE**; adopted.

ORDERED: That the minutes, Planning Board, January 25 & February 8, 2010, **FILE**; adopted.

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

- A. Frida Silva, 72 Millham St., residential mailbox claim 2(b)
- B. Heather Flaherty, 2 Hayden Ln., Shrewsbury., pothole or other road defect
- C. Carmelo Echevarria, 165 Collins Dr., pothole or other road defect
- D. Sandra DeOliveira, 60 Mosher Ln., additional documentation re: Claim Number M09GL55896
- E. Krishna Ramachandra, 480 Farm Rd., other property damage and/or personal injury

#### Reports of Committees:

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

**Order No. 0910-1002396A – Designation of a City Liaison to the Ethics Commission as required under MGL Chapter 268A, Section 29 which was referred back to Committee on February 22, 2010.** The Legislative and Legal Affairs Committee reviewed the letter from the Division of Local Mandates of the State Auditor's Office to the Town of Westborough dated January 20, 2010 and the letter from the State Auditor to the State Ethics Commission dated January 21, 2010. Further, the Committee reviewed several state statutes pertinent to the Ethics Reform Law. **Recommendation of the Legislative and Legal Affairs Committee is to approve 2-1, the designation of the Personnel Director as the City's liaison to the State Ethics Commission and to authorize President Vigeant to send a letter to the Ethics Commission in support of the State Auditor's correspondence dated January 21, 2010 for consideration of proposed changes to the Ethics Reform Law and implementation of the same. Councilor Ossing opposed.**

**Order No. 10-1002445 – Transfer of a Portion of Municipal Property at the Westerly Wastewater Treatment Plant from Sewerage Purposes to Telecommunication Leasing and Construction Purposes.** The Legislative and Legal Affairs Committee reviewed the letter dated February 4, 2010 from the City Solicitor, and the letter dated February 4, 2010 from Commissioner LaFreniere. The Committee also reviewed a revised version of the language for the order submitted by the Solicitor. **Recommendation of the Legislative and Legal Affairs Committee is to approve 3-0 the orders as provided by the City Solicitor (see below). In summary, this requires two separate votes. The first vote to approve the transfer of the property to the control of the DPW for the purpose of leasing said property to Verizon Wireless for the construction of a cell tower. The second vote to authorize the Mayor to negotiate and enter into a lease with Verizon Wireless.**

1. That the City Council of the City of Marlborough, having received the attached determination, page 10-3 of the February 8, 2010 agenda packet, made by the Commissioner of the Department of Public Works (“DPW”) pursuant to MGL c. 40, §15A that a portion of municipal property located in the vicinity of the Westerly Wastewater Treatment Plant at 303 Boundary Street, currently under the DPW’s care, custody, management and control for sewerage purposes, is no longer needed for such sewerage purposes, said portion of property being limited to a 50’ by 50’ compound area along with a 20’ wide access and utility road connecting from Boundary Street and running thereto (“the Property”), all as depicted by Verizon Wireless on plans entitled, “Verizon Wireless, 400 Friberg Parkway, Westborough, MA 01581, Proposed 150’ Monopole and Equipment Shelter with Cable Tray, Marlborough West, 303 Boundary Street, Marlborough, Massachusetts (Middlesex County),” most recently revised on February 23, 2010 and as may be further revised through the special permit process for the water supply protection district, NOW THEREFORE, said Property is hereby transferred, by a two-thirds vote of the City Council, to the DPW’s care, custody, management and control for the municipal purposes of 1) a lease of the Property to Verizon Wireless, its parents, subsidiaries, affiliates, successors and assigns; and 2) the construction by Verizon Wireless, its parents, subsidiaries, affiliates, successors and assigns, of a telecommunications tower and associated equipment shelter, as well as the access and utility road from Boundary Street.
2. That the City Council of the City of Marlborough, having voted to transfer the Property from sewerage purposes to the DPW’s care, custody, management and control for telecommunications leasing and construction purposes, does hereby declare the Property to be available for disposition by lease pursuant to the provisions of M.G.L. c. 30B, §16(a), and further, does hereby authorize the Mayor, pursuant to MGL c. 40, § 3, to negotiate and enter into a lease with Verizon Wireless, its parents, subsidiaries, affiliates, successors and assigns, regarding the Property.

Councilor Ossing reported the following out of the Finance Committee:

**Order No. 10-1002442 — Transfers \$22,082.00 from Fringes to DPW Streets Sick Leave Buy Back:** The Finance Committee reviewed the Mayor's letter dated February 4, 2010 requesting the transfer of \$22,082.00 from the Fringes account to the DPW Streets sick leave buy back to cover an employee's retirement. **Recommendation of the Finance Committee is to approve 5-0.**

**Order No. 10-1002458 — Intra-Department Transfers in the DPW totaling \$57,390.00:** The Finance Committee reviewed the Mayor's letter dated February 13, 2010 requesting four intra-department transfers listed below:

- \$4,000.00 from Water Meter Reader to Water Department Interim Foreman
- \$390.00 from Water Department Equipment Operator to Water Department Clothing Allowance
- \$31,000.00 from Sewer Department Senior Chemist to Water Plant
- \$22,000.00 from Water Department Equipment Operator to Water Plant

**Recommendation of the Finance Committee is to approve 5-0.**

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

**Order No. 10-1002161E - The request by Verizon Wireless, 400 Friberg Prkwy. Westborough, MA, for a Special Permit to install a monopole with a wireless communication facility at 303 boundary St., which is on land owned by the City of Marlborough adjacent to the Westerly Waste Water Treatment Plant.**

Councilors present: Clancy, Pope

Other Councilors present: Delano and Vigeant; Also present: City Solicitor Rider

Applicants present: Atty. James Valeriani, Jeff Benway and Steve Russell

Councilor Pope entered into the record a communication from Atty. Valeriani which had been sent to members of the Committee and Council. The communication responded to the concerns of the previous Wireless Communications Committee meeting. It was agreed that a temporary easement would be sought NGrid for the driveway access. It was agreed that the plan, as presented, would be subject to Site Plan review approval. Analysis of the Flood Plain elevations were determined to be of no consequence to the project as proposed. Question concerning the burial of the utilities or the allowing of overhead wires entering the Site would be determined by the Site Plan Review Committee. The Mitigation Clause in the Conditions was stricken. The Viewshed Analysis for the new monopole location was entered into to the record. The coverage map, existing and proposed, for the new location of the monopole was entered into the record. Lengthy discussion was held about the inclusion of the "Reporting Clause" in the conditions. The Applicant agreed that he would confer with his client and would be in communication with Solicitor Rider if there were to be changes. The entire Notice of Decision for Grant of Special Permit was read and minor changes, as determined during the reading, were agreed upon by all parties. **Recommendation of the Wireless Communication Committee is to approve the Permit as amended 2-0. Further, a motion by Councilor Pope to request a "Suspension of the Rules to refer the matter to the City Solicitor to be place in Proper Form" at the 3/8/2010 City Council meeting was made and seconded by the Chair 2-0.**

ORDERED: That the appointment of Mr. Ricky Plummer to the position of Fire Chief, **APPROVED**; adopted.

**Yea: 11 -Nay: 0**

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:45 p.m.; adopted.