



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
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MARCH 23, 2009**

Regular meeting of the City Council held on Monday March 23, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juairé, Seymour, Clancy and Landers. Meeting adjourned at 9:12 p.m.

ORDERED: Minutes, City Council Meeting, March 9, 2009, **FILE AS AMENDED**; adopted.

ORDERED: That the temporary appointment of Karen Kisty as Personnel Director, refer to **RULES COMMITTEE AND THE ATTORNEY GENERAL'S OFFICE**; adopted.

**Councilor Schafer abstained**

ORDERED: That the re-advertising process for position of Personnel Director and permanent appointment of Karen Kisty as Personnel Director per statutory deadline of March 9, 2009 to submit another permanent appointment, **TABLED**; adopted.

**Councilor Schafer abstained**

ORDERED: That the budget transfer request in the amount of \$10,000.00 which moves funds from Undesignated to Public Safety which represents the first installment by Genzyme in satisfaction of condition #12 of the First Student Special Permit #07-1001650B, **REFER TO FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 100-35900	\$10,000.00
Undesignated Fund	

TO:

Acct. # 83600-32701	\$10,000.00
Public Safety	

ORDERED: That the SFY2009 Mass Decontamination Unit (MDU) grant awarded to the Marlborough Fire Department from the Commonwealth of Massachusetts Executive Office of Health and Human Services Department of Public Health in the amount of \$3,000.00 which will facilitate the field deployment, training and operational readiness of a mobile Mass Decontamination Unit, and in accordance with MGL, Chapter 44, Section 53A for purposes outlined, **APPROVED**; adopted.

ORDERED: That the communication from the Planning Board regarding request to amend Marlborough's Sign Ordinance, Section 163-2 and Section 163-12 which is enumerated Chapters 526-2 and 526-12(D) in the new City of Marlborough General Code, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the communication from DPW Commissioner, Ronald LaFreniere, re: response to the City's solid waste and recyclables disposal program, Order No. 08-1001923, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, May 11, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Valeriani, on behalf of Verizon Wireless, to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., be and is herewith refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the minutes, Board of Assessors, March 16, 2009, **FILE**; adopted.

ORDERED: That the minutes, Conservation Commission, February 5, 2009, **FILE**; adopted.

ORDERED: That the minutes, Planning Board, February 23, 2009, **FILE**; adopted.

ORDERED: That the minutes, MetroWest Regional Transit Authority, January 26, 2009, **FILE**; adopted.

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

- A. Vivienne Foster-Erlandson, 99 Wilson St., residential mailbox
- B. John Kovach, 47 McNeil Cir., residential mailbox
- C. Joseph Biggs, 142 Beach St., other property damage
- D. Donald Armstrong, 371 Stow Rd., residential mailbox

Reports of Committees:

Councilor Clancy reported the following out of the Personnel Committee:

**Order No. 09-1002148 – Communication from the Mayor with the appointment of James Confrey to the Board of the Council on Aging with a term to expire May 1, 2010. Recommendation of the Personnel Committee is to recommend approval 2-0. Councilor Delano was absent.**

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

**Order No. 098-1002123 – Communication from Council President Vigeant re: One-Man, One-Vote, Assabet Valley Regional Vocational School.**

The committee heard from Superintendent Mary Jo Nawrocki regarding the history of the One-Man, One-Vote court ruling and the need to adopt one of five options identified to bring Assabet Valley into compliance with respect to the composition and election of their school committee. The Assabet Valley School Committee recommended Option 3, Electing members with residency requirements in a district-wide election.

The committee also received a communication from Mayor Stevens laying out the several reasons she believed Option 3 was not in the best interest of the City. The Mayor further recommended that Option 4, Weighing the votes of elected committee members according to the population they represented, was a more practical and equitable method.

The committee concurred with the Mayor's opinion.

**Recommendation of the Legislative and Legal Affairs Committee is to recommend that representation on the Assabet Valley Regional Vocational High School District Committee be amended by adoption of Option #4 – Weighing the votes of elected committee members according to the population represented, approved 2-0. Councilor Clancy was absent.**

Councilor Ferro reported the following out of the Finance Committee:

**Order No. 09-1002147** - Communication from the Mayor regarding the grant awarded to the Marlborough Police Department from the Commonwealth of Massachusetts Executive Office of Public Safety and Security in the amount of \$69,262.00 to be used for Emergency Telecommunications expenses (including dispatcher salaries) and furniture replacement for dispatch center in accordance with MGL, Chapter 44, Section 53A for purposes outlined. **Recommendation of the Finance Committee is to recommend approval 3-0. Councilor Ossing and Landers were absent.**

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

**Order No. 08/09-1002083A-1 - Application of New Cingular Wireless PCS for a Special Permit for co-location, construction and operation of a wireless communications facility on and next to the existing multi-carrier monopole located at 860 Boston Post Rd. East. Recommendation of the Wireless Communication Committee is to recommend approval, per draft decision submitted by Petitioner, as amended, and to be further amended by the City Solicitor for final action by the City Council on April 6, 2009 & to Suspend the Rules to refer to City Solicitor to be put in proper form and place item on the April 6, 2009 agenda 2-0. Councilor Schafer was absent.**

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

ORDERED: That the application for Special Permit from New Cingular Wireless PCS. for a Special Permit for co-location, construction and operation of a wireless communications facility on and next to the existing multi-carrier monopole located at 860 Boston Post Rd. East, refer to **CITY SOLICITOR TO BE PUT IN PROPER FORM FOR APRIL 6, 2009 CITY COUNCIL MEETING**; adopted.

ORDERED: That the DPW Commissioner take the following steps in connection with budgetary issues previously discussed by the City Council and in keeping with other municipal departments in the City:

- Prepare the DPW 2010 Operating Budget, to include a three percent reduction from the FY2009 budget, similar to the request made of the School Department;
- Reduce the number of DPW employees by four (4) which is the number of vacant positions in the Commissioner's report, "DPW OPERATIONS REVIEW: FORESTRY, PARKS AND CEMETERIES," delivered to the City Council in October 2008 and discussed with the Operations & Oversight Committee in subsequent hearings;
- Take steps to privatize minimal lawn maintenance functions as discussed with the Operations & Oversight Committee, **DOES NOT CARRY**; adopted.

ORDERED: That Thomas Abel's successful renewal certification from the Massachusetts Collectors and Treasurers Association for an additional five years through December 31, 2013, **FILE**; adopted.

ORDERED: That the reappointment of Thomas Abel as the City Comptroller/Treasurer for a term of two years expiring August 29, 2011, **TABLED**; adopted.

**Councilor Seymour abstained**

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that EAGER COURT be accepted as a public way

From EAGER COURT To Terminus

and the associated easement be accepted as a municipal easement as shown on plans thereof and as hereinafter described:

DESCRIPTION

Plan entitled "PLAN OF ACCEPTANCE OF EAGER COURT AND MUNICIPAL FLOWAGE EASEMENT IN MARLBOROUGH, MA, DATED OCT. 10, 2008, LAST REVISED 11/10/08, PREPARED BY THOMAS LAND SURVEYORS & ENGINEERING CONSULTANTS, INC., 265 WASHINGTON STREET, HUDSON, MA 01749, RECORDED WITH MIDDLESEX SOUTH REGISTRY OF DEEDS AS PLAN \_\_\_\_\_ OF 2009" attached hereto as Exhibit A, said plan to be recorded herewith at the Middlesex County South Registry of Deeds;

Title to the roadway known as EAGER COURT and title to the municipal flowage easement as shown on said plan has been granted to the City of Marlborough in a Quitclaim Deed from NRN Realty Group, LLC, 30 Bradford Road, Hudson, MA 01748, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

EAGER COURT be accepted as a public way and its associated easement be accepted as a municipal easement in the City of Marlborough, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

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

ORDERED: Application for Special Permit from Omnipoint Communications to install, operate and maintain a wireless communications facility, including a 100-foot flagpole-style tower, antennas, coaxial cables and radio communication equipment cabinets within a proposed fenced compound, at 249 Miles Standish Drive in Marlborough, because Omnipoint declined to provide the City Council, acting by and through its Wireless Communications Committee, with additional information on various issues of relevant concern, including:

- As to coverage –
  - No propagation maps for Omnipoint's nearby Hudson sites;
- As to drainage –
  - No clarification of Omnipoint's confusing first report, and no drainage mitigation plan;
- As to a potential tower collapse on the City's water tank –

- No report as to the likelihood of collapse, nor as to an emergency plan either for catastrophic damage to the tank or for the safety of the residents;
- As to environmental impact –
  - No study of impact on the area's flora and fauna, nor on the ability of the residents to access the area; and
- As to aesthetic or visual impact –
  - No crane test was performed, nor any photo simulations provided as had been promised at the public hearing, in order to give the Council and the residents any reasonable idea of the tower's visual impact on the neighborhood.

Accordingly, given the lack of information provided by Omnipoint concerning its proposed facility, the City Council voted to **DENY** Omnipoint's Special Permit application; adopted.

**Yea Votes: 2 - Nay Votes: 8 - Absent: 0 - Abstain Votes: 1**

**Yea: Ossing, Ferro**

**Nay: Clancy, Seymour, Juairé, Schaefer, Pope, Delano, Levy, Landers**

**Abstain: Vigeant**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:12 p.m.