



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752
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December 7, 2009**

Regular meeting of the City Council held on Monday, December 7, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juairé, Clancy and Landers. Absent: Seymour. Meeting adjourned at 10:10 p.m.

ORDERED: That the minutes of the City Council Meeting November 23, 2009, **FILE**; adopted.

ORDERED: Now being the time set for the **JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, December 7, 2009 at 8:00 p.m. in Council Chambers, 2nd 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 2009. 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 9:07 p.m.; adopted.

Councilors Present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Schafer, Juairé, Clancy, & Landers.

Absent: Seymour

The City Clerk read a statement by Councilor Seymour regarding the tax classification hearing as he was not present.

ORDERED: That the following transfer of \$1,200,000.00 (one million, two hundred thousand dollars) from Undesignated Funds to reduce the FY2010 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$1,200,000.00
Undesignated Fund	

TO:

To Reduce Tax Levy	\$1,200,000.00
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ORDERED: That the following transfer of \$215,468.00 from Sale of Graves, Aquifer Protection, Traffic Enforcement, Sale of Land and Sale of Real Estate to reduce the FY2010 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 27000-33020	\$16,225.00
Sale of Graves	

Acct. # 61000-31200	\$186,252.00
Aquifer Protection	

Acct. # 27000-33080	\$580.00
Traffic Enforcement	

Acct. # 27000-33040	\$9,725.00
Sale of Land	

Acct. # 27000-33060 \$2,686.00

Sale of Land

TO:

To Reduce Tax Levy \$215,468.00

ORDERED: That the following percentage of FY2010 tax levy, **APPROVED**; adopted.

Residential 51.1549

C.I.P. 48.8451

Yea: 10 – Nay: 0

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

Absent: Seymour

ORDERED: That the residential tax exemption for owner-occupied, residential properties for Fiscal Year 2010 be and is herewith three percent (3%), **APPROVED**; adopted.

ORDERED: That the transfer request in the amount of \$39,850.24 which moves funds from Undesignated Fund to Open Space per City's annual payment agreement with Ward Mountain LLC, **APPROVED**; adopted.

FROM:

Acct. # 83600-11520 \$39,850.24

Open Space Stabilization

TO:

Acct. # 19300006-58170 \$39,850.24

Open Space

ORDERED: That the transfer request in the amount of \$12,000.00 which moves funds from Custodian to Gross Overtime relevant to costs associated with coverage for an employee who is out on worker's compensation, **APPROVED**; adopted.

FROM:

Acct. # 11920003-50560 \$12,000.00

Custodian

TO:

Acct. # 11920003-51300 \$12,000.00

Gross Overtime

ORDERED: That the reappointment of Tony Trodella as Chief Assessor for a term of five years effective February 1, 2010, refer to **PERSONNEL COMMITTEE AND TO SUSPEND THE RULES TO CARRY REAPPOINTMENT OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That the reappointment of Debra Puleo as City Collector effective February 1, 2010, refer to **PERSONNEL COMMITTEE AND TO SUSPEND THE RULES TO CARRY REAPPOINTMENT OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That the reappointment of Cynthia Panagore Griffin as Assistant City Solicitor for term of three years from date of confirmation as her current term expires on January 7, 2010, refer to **PERSONNEL COMMITTEE AND TO SUSPEND THE RULES TO CARRY REAPPOINTMENT OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

ORDERED: That item #9, communication from City Solicitor, Donald Rider, re: Acceptance of Blake Circle as a Public Way, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That item #10, communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Order of Acceptance/Danjou Drive and Associated Easements, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Department of Public Works be authorized to plow and remove snow from the following way, in accordance with the provisions of Massachusetts General Law Chapter 40, Section 6-C, provided, that said way be of such construction and condition that, in the opinion of the Commissioner of Public Works, said plowing can be safely and conveniently accomplished, refer to **PUBLIC SERVICES COMMITTEE AND TO SUSPEND THE RULES TO CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR**; adopted.

Boivin Drive – Davis Estates Subdivision, off Farm Road

ORDERED: The communication from Attorney Flood, on behalf of Cherag Patel, requesting to **WITHDRAW WITHOUT PREJUDICE** Special Permit application to construct a 104 room hotel at 257 Simarano Dr., **APPROVED**; adopted.

ORDERED: That the communication from Attorney Hoyt, on behalf of Clear Wireless LLC, requesting to **WITHDRAW WITHOUT PREJUDICE** Special Permit application to modify a wireless communications facility located at 115/109 Onamog St., **APPROVED**; adopted.

ORDERED: That the communication from Attorney Valeriani, on behalf of Verizon Wireless, re: request to extend time limitations to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., to March 31, 2010 at 5:00 PM, **APPROVED**; adopted.

ORDERED: That the communication from Attorney Hoyt, on behalf of Clear Wireless LLC, re: request to extend time limitations to modify a wireless communications facility at 2 Mount Royal Ave. to March 31, 2010 at 5:00 PM, **APPROVED**; adopted.

Communication from Attorney Hoyt, on behalf of Clear Wireless LLC, re: request to extend time limitations to modify a wireless communications facility at 157 Union St. to March 31, 2010 at 5:00 PM, **APPROVED**; adopted.

ORDERED: That the communication from Attorney Hoyt, on behalf of Clear Wireless LLC, re: request to extend time limitations to modify a wireless communications facility at 460 Boston Post Rd. East to March 31, 2010 at 5:00 PM, **APPROVED**; adopted.

ORDERED: That the minutes, Planning Board, November 9, 2009, **FILE**; adopted.

ORDERED: That the minutes, Traffic Commission, October 27, 2009, **FILE**; adopted.

Reports of Committees:

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

Order No. 08/09-1001923A – Communication from DPW Commissioner, Ronald LaFreniere, regarding response to the City’s solid waste and recycles disposal program. Recommendation of the Operations and Oversight Committee is to Suspend the Rules to carry item over to the 2010 legislative year. Councilor Schafer opposed.

Order No. 09-1002351 – Review effectiveness and cost savings in connection with the reorganization of the Legal Department. Recommendation of the Operations and Oversight Committee is to Suspend the Rules to carry item over to the 2010 legislative year. Councilor Schafer opposed.

Councilor Ossing reported the following out of Finance Committee:

Order No. 09-1002372 – Transfers for Fire Department Overtime. The Finance Committee reviewed the Mayor's letter dated November 18, 2009 requesting the following transfers for fire department overtime:

- \$30,000.00 from Undesignated to Gross Overtime
- \$9,215.69 from Firefighter to Gross Overtime
- \$699.60 from Fire Lieutenant to Gross Overtime

Recommendation of the Finance Committee is to approve the following two transfers 4-1 (Councilor Landers opposed).

- \$9,215.69 from Firefighter to Gross Overtime
- \$699.60 from Fire Lieutenant to Gross Overtime

Order No. 09-1002374 – Transfer \$1620.00 from DPW Junior Civil Engineer to Sick Leave Buy Back: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$1620.00 from DPW Junior Civil Engineers to Sick Leave Buy Back. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002375 – Transfer \$5,000.00 from Undesignated Funds to High School Library: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$5,000.00 from Undesignated Funds to the High School Library account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002376 – Transfer \$600.00 from Undesignated Funds to City Collector Advertising: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$600.00 from Undesignated Funds to the City Collector Advertising account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 09-1002377 – Transfer \$1,000,000.00 from Undesignated Funds to Other Post Employment Benefits (OPEB) Stabilization account: The Finance Committee reviewed the Mayor's letter dated November 19, 2009 requesting the transfer of \$1,000,000.00 from Undesignated Funds to the OPEB Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 08-1002035 – Establish the Other Post Employment Benefits (OPEB) Trust Fund: **Recommendation of the Finance Committee is to approve 5 – 0 to recommend to the full City Council to continue this order into the 2010-2011 City Council Session.**

Order No. 08-1002058 – Personnel Director Salary: **Recommendation of the Finance Committee is to table 5-0.**

Councilor Pope reported the following out of the Urban Affairs Committee:

Order No. 08/09-10001821 – Request from Old Marlborough Inc. to make a presentation on a “Public Art Program” for the Downtown/Central Business Area. Recommendation of the Urban Affairs Committee is to recommend to the full City Council to continue this order into the 2010-2011 City Council Session.

Councilor Juaire reported the following out of the Public Services Committee:

Order No.09-1002362 - Communication from Linda Fossile, Crystal Ridge Community Trust requesting Street Acceptance for Danjou Drive.

- By letter dated November 30, 2009, the Planning Board voted to send a favorable recommendation regarding the acceptance of Crystal Ridge, Danjou Drive.

Recommendation of the Public Services Committee is to approve 3-0, subject to receipt of acceptance documents in legal form on the December 7, 2009 agenda.

Order No.09-100-2348: Communication from Steve Garofalo requesting Street Acceptance for Blake Circle.

- By letter dated November 16, 2009, the Planning Board voted to send a favorable recommendation to the City Council to accept the subdivision known as Acre Bridge Estates, Blake Circle.

Recommendation of the Public Services Committee is to approve 3-0, subject to receipt of acceptance documents in legal form on the December 7, 2009 agenda.

Order No. 09100-2360 - Application for Junk Dealer’s License by Gerald Dumais, d/b/a Dumais and Sons at 67 Mechanic Street

- Police Chief Leonard is without objection to the issuance of a Junk Dealer License for Gerald Dumais as requested.

Recommendation of the Public Services Committee is to approve 3-0.

Order No.09-100-2349 - Application for Junk Dealer’s License by Sylvia Jahns at 461 South Street.

The Building Inspector has recommended that the license be subject to the following four (4) conditions:

1. No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;
2. No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;
3. There shall be no outdoor storage of merchandise, wares, inventory or items for sale;
4. All signage shall comply with the City of Marlborough Sign Ordinance without variance.

Recommendation from Chief of Police:

- The Chief of Police is without objection to the opening of a thrift store by Sylvia Jahns, provided she meets any/all zoning and parking requirements.

Recommendation of the Public Services Committee is to approve 3-0 with following conditions as requested by Building Inspector Reid:

- 1. No license shall issue until Applicant has verified compliance with handicapped access with the Building Department to be attached to said license;**
- 2. No license shall issue until Applicant has submitted proof of a valid occupancy permit to be attached to said license;**
- 3. There shall be no outdoor storage of merchandise, wares, inventory or items for sale;**
- 4. All signage shall comply with the City of Marlborough Sign Ordinance without variance.**

Suspension of the Rules requested – granted

ORDERED: That the communication from DPW Commissioner, Ronald LaFreniere, regarding response to the City’s solid waste and recycles disposal program, **CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR;** adopted.
Councilor Schafer opposed.

Suspension of the Rules requested – granted

ORDERED: That the Operations and Oversight Committee review effectiveness and cost savings in connection with the reorganization of the Legal Department, be and is herewith **CARRY ITEM OVER TO THE 2010 LEGISLATIVE YEAR;** adopted.
Councilor Schafer opposed.

Suspension of the Rules requested – granted

ORDERED: That the budget transfer request in the amount of \$24,340.00 from Undesignated Fund of which \$8,840.00 be transferred to Constables at Polls & \$15,500.00 to Pollworkers for the purpose of covering anticipated deficits relative to upcoming Special Elections, **APPROVED;** adopted.

FROM:

Acct. # 10000-35900	\$24,340.00
Undesignated Fund	

TO:

Acct. # 11620003-51460	\$8,840.00
Constables at Polls	
Acct. #11620006-53871	\$15,500.00
Pollworkers	

Suspension of the Rules requested – granted

ORDERED: That the budget transfer request in the amount of \$38,000.00 from Undesignated Fund to Rep/Maint. Supplies be reduced to **\$5,000** for the purpose of repairing older fleet vehicles, **APPROVED;** adopted.

FROM:

Acct. # 10000-35900	\$5,000.00
Undesignated Fund	

TO:

Acct. # 14001406-54810

\$5,000.00

Rep/Main Supplies-Vehicles

Suspension of the Rules requested-granted to allow the Mayor to speak.

ORDERED: That the City Council and Mayor hold an Executive Session on December 7, 2009 for an update on the investigation of the DPW incident of December 2008, **DOES NOT CARRY**; adopted.

ORDERED: That the budget transfer request in the amount of \$100,000.00 from Undesignated Fund to Water Meters accounts which will fund approximately one year's worth of replacement meters and hand-held meter readers, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900

\$100,000.00

Undesignated Fund

TO:

Acct. # 61090006-55740

\$100,000.00

Water Meters

ORDERED: That the following budget transfer requests in the amount of \$30,000.00 from Water MWRA to Water Plant, \$9,500.00 from Foreman to Contract Services and \$19,911.40 from Equipment Operator to a different Equipment Operator account to supplement funding in said accounts, **APPROVED**; adopted.

FROM:

Acct. # 61090006-52320

\$30,000.00

Water MWRA

TO:

Acct. # 61090006-52322

\$30,000.00

Water-Plant

FROM:

Acct. # 14001301-50690

\$9,500.00

Foreman

TO:

Acct. # 14001304-53140

\$9,500.00

Contract Services

FROM:

Acct. # 14001503-50740

\$19,911.40

Equipment Operator

TO:

Acct. # 14001303-50740

\$19,911.40

Equipment Operator

ORDERED: That the two budget transfer requests in the amount of \$15,000.00 from Water Meter Reader to Overtime-Water accounts and \$5,500.00 from Equipment Operator-Water to Overtime-Water accounts for the purpose of funding anticipated shortfalls and to meet additional demands placed on the account following an employee's retirement, **APPROVED**; adopted.

FROM:

Acct. # 61090001-50460

\$15,000.00

Water Meter Reader

IN CITY COUNCIL

8

DECEMBER 7, 2009

TO:

Acct. # 61090003-51310

\$15,000.00

Overtime (Water)

FROM:

Acct. # 61090001-50740

\$5,500.00

Equipment Operator (Water)

TO:

Acct. # 61090003-51310

\$5,500.00

Overtime (Water)

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:10 p.m.