



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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

**Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723  
AUGUST 18, 2008**

Regular meeting of the City Council held on Monday AUGUST 18, at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juare, Seymour, Clancy and Landers. Meeting adjourned at 9:42 p.m.

ORDERED: Minutes, City Council Meeting, July 14, 2008, **FILE**; adopted. (**Councilor Schafer abstained**)

MOTION: Councilor Pope requested that Item 2, Application to amend Special Permit of Toll MA Land Limited Partnership to construct 80 units on less than 14 acres and to revise current permit conditions accordingly be moved to Item 3 and Item 3, Application for Special Permit from MetroPCS, LLC for proposed installation of a Telecommunication Facility onto existing Telecommunication Tower located at 445 Simarano Dr. be moved to Item 2, **APPROVED**; adopted.

ORDERED: Now being the time set for the PUBLIC HEARING On the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 445 Simarano Dr. , all were heard who wish to be heard, hearing adjourned at 8:04 p.m.

ORDERED: Now being the time set for the PUBLIC HEARING On the Application to amend Special Permit from Attorney Bergeron, on behalf of Toll MA Land Limited Partnership, to construct 80 units on less than 14 acres and to revise current permit conditions accordingly, all were heard who wish to be heard, hearing adjourned at 8:40 p.m.

ORDERED: Now being the time set for the PUBLIC HEARING On the Petition from Attorney Gadbois, on behalf of Lewis Clark, Jr., to amend the Zoning Ordinance so that the Retirement Community Overlay Districts be abolished and that Retirement Communities can be an allowable use in all districts with a Special Permit in accordance with a new Section 200-22 of the Zoning Ordinance, all were heard who wish to be heard, hearing adjourned at 9:06 p.m. (**Councilor Ferro filed a disclosure statement with the City Clerk's Office**)

ORDERED: That the following budget transfer request in the amount of \$91,355.88 which would move funds from Public Safety Stabilization to Police Officer to continue to meet the payroll charges for the two recently added police officers, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 83600-32701

\$91,355.88

Fringes

TO:

Acct. # 12100001-50420

\$91,355.88

Police Officer - Salary

ORDERED: That the revision to the Council on Aging's recently received FY09 formula grant has been increased by \$2,732.00 to \$38,255.00 as the result of a per elder allotment increase and in accordance with MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined in the grant application, **APPROVED**; adopted.

ORDERED: That the Student Awareness of Fire Education Grant in the amount of \$5,800.00 from the Commonwealth of Massachusetts Executive Office of Public Safety be awarded to the Marlborough Fire Department for the purchase of a variety of educational materials as well as programs including lectures, school visits, and open house as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, **APPROVED**; adopted.

ORDERED: That the reserve of funds through the Fairmont Hill Revolving Account and the Capital Outlay Accounts to provide for replacement of sidewalks along Liberty Street and the associated guardrail and retaining wall along Ward Park be dissected as follows according to a new total estimate of \$257,000.00:

Total Estimated project cost:	\$257,000.00
Existing funding from Capital Outlay Account:	\$60,000.00
Proposed funding from Fairmont Hill Revolving Account:	\$121,200.00
Additional funding required:	\$75,800.00

The deadline for contract execution would be September 18, 2008. Authorization for use of Fairmont Hill Revolving Account funds in excess of \$100,000.00, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the reserve of funds through the Fairmont Hill Revolving Account and the Capital Outlay Accounts to provide for replacement of sidewalks along Liberty Street and the associated guardrail and retaining wall along Ward Park be dissected as follows according to a new total estimate of \$257,000.00:

Total Estimated project cost:	\$257,000.00
Existing funding from Capital Outlay Account:	\$60,000.00
Proposed funding from Fairmont Hill Revolving Account:	\$121,200.00
Additional funding required:	\$75,800.00

The deadline for contract execution would be September 18, 2008.

That the following budget transfer request in the amount of \$75,800.00 which would move funds from Stabilization to DPW projects to cover the cost of the remaining shortfall, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 836000-11515	\$75,800.00
Stabilization	

TO:

Acct. # 19300006-58514	\$75,800.00
DPW Projects	

ORDERED: That the drainage project in the Glenbrook neighborhood that is aimed at improving the entrance characteristics of the inlet control structure where Millham Brook enters the closed drainage system for the development be financed either by a \$130,000.00 transfer request from Stabilization to Drainage **OR** via a new bond request, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 836000-11515 \$130,000.00  
Stabilization

TO:

Acct. # 19300006-58315 \$130,000.00  
Drainage

**OR**

That the sum of \$130,000.00 (one hundred thirty thousand) dollars be and is hereby appropriated for drain construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$130,000.00.

Pursuant to the provisions of Chapter 44, Section 7 (1) the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from date of issue.

ORDERED: That the City's adoption of Section 4, Chapter 73 of the Acts of 1986 which allows for the doubling of all exemptions offered in the City to qualified residents (i.e. elderly, Blind, Disabled Vets) as provided by Massachusetts Law and in which the City would absorb any associated costs through the Overlay Account , **APPROVED**; adopted.

ORDERED: That the reappointment of Lawrence Wenzell to the Arts Lottery Council whose two term expires on May 1, 2010, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the following notification from the City Clerk re: the **STATE PRIMARY ELECTION CALL**, be and is herewith accepted and placed on **FILE**.

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **STATE PRIMARY ELECTION** will be held in the polling locations as noted below on **SEPTEMBER 16, 2008** as follows: Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court and Register of Probate.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

- WARD ONE: Prec. 1 and 2 Francis J. Kane School, 520 Farm Rd,
- WARD TWO: Prec. 1 and 2 Francis J. Kane School, 520 Farm Rd,
- WARD THREE: Prec. 1 Masonic Hall, 8 Newton St (corner of Main/Newton Sts), rear
- WARD THREE: Prec. 2 Raymond J. Richer School, 80 Foley Rd,
- WARD FOUR: Prec. 1 and 2 Boys & Girls Club, 169 Pleasant St,
- WARD FIVE: Prec. 1 Senior Center, 250 Main St,
- WARD FIVE: Prec. 2 Masonic Hall, 8 Newton St (corner of Main/Newton Sts), rear
- WARD SIX: Prec. 1 and 2 Marlborough Middle (Intermediate) School,
- 25 Union St, Library
- WARD SEVEN: Prec. 1 and 2 Hildreth School Gymnasium, 85 Sawin St

- ORDERED: That the communication from director of Public Facilities, John Ghiloni and City Clerk, Lisa Thomas regarding an alternate polling location for Ward 4, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the communication from the Planning Board recommending approval of the Zoning Ordinance change for the New Car Dealership Overlay District, refer to **URBAN AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Andrew Candiello on behalf of MetroPCS Massachusetts LLC for proposed installation of a Telecommunication Facility onto existing Telecommunications Tower located at 75 Donald Lynch Blvd., until 5:00 PM on September 30, 2008, **APPROVED**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Attorney Bergeron on behalf of Boston Post 355 LLC to construct and operate a car wash at 355 Boston Post Rd. West, until 5:00 PM on September 30, 2008, **APPROVED**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Attorney Bergeron on behalf of Boston Post 355 LLC to construct and operate a car wash at 355 Boston Post Rd. West as it is also located in the Water Supply Protection District, until 5:00 PM on September 30, 2008, **APPROVED**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 6, 2008** as date for a **PUBLIC HEARING** on the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunications Facility onto the existing water tank located at 97 Arnold St. Ext., **REFER TO WIRELESS COMMUNICATION COMMITTEE AND ADVERTISE**; adopted.
- ORDERED: That the application for a Taxi License by Cleonice Goncalves, 19 Ruth Dr., Marlborough, MA , Marlboro City Taxi, refer to the **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the request to accept Joseph North Road as a public way refer to **PUBLIC SERVICES**; adopted.
- MOTION: That agenda #20, Communication from Michael Meagher, Esq., regarding Gulbankian's Mobile Home Park be moved to item #25, That Donald and Levon Gulbankian as officers in Gulbankian's Mobile Home Village, Inc. appear before the Urban Affairs Committee to review the status of City Council Special Permit #89/2851C, the subsequent agreement for judgment that modified that special permit, together with a written status report on the status of each condition contained in the special permit, with specific attention to the requirement for providing 6 affordable housing units. ....Submitted by Councilors Pope and Ferro, **APPROVED**; adopted.
- ORDERED: That the communication from Keegan Werlin LLP regarding Notice of Filing and Public Hearing by NSTAR Gas Company, **FILE**; adopted.
- ORDERED: That the minutes, Planning Board, June 23, 2008, **FILE**; adopted.
- ORDERED: That the minutes, MetroWest Regional Transit Authority, June 23, 2008 **FILE**; adopted.

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

- A. Anthony Vellante, 236 Bridge Rd., vehicle damage
- B. Lori Ebb, 11 Carver Hill Rd., vehicle damage
- C. Marianne Haroian, 218 South St., Auburn, vehicle damage
- D. Edwin Tiru, 9 Springhill Ave., property damage
- E. James Dowling, 52 Country Club Blvd., #1301, vehicle damage

Reports of Committees:

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

**Order No. 08-1001875 – Application of Richard Roach d/b/a Hudmar Ltd. for renewal of Junk Dealer’s license.** Chief Leonard is without objection to this renewal. **Recommendation of the Public Services Committee is to approve 3-0.**

**Order No. 08-1001897 - Application, renew Pool Table (2) licenses, Marlboro Cozy Café, 487A Lincoln St.** Chief Leonard is without objection to this renewal. **Recommendation of the Public Services Committee is to approve 3-0.**

**Order No. 08-1001896 – Application for Fuel Storage License, Ayoub Engineering on behalf of ExxonMobile Corp., 260 West Main St. – Hunt's Mobile.** Work to upgrade underground piping to the tanks and the overhead fire suppression system has been inspected. Inspection of pipes converting gasoline to diesel scheduled on Wednesday, July 30, - report will be forwarded forthwith. **Recommendation of the Public Services Committee is to refer back to City Council without recommendation, pending report of final inspection from the Fire Chief and further recommending issuance of an amended Fuel Storage License upon receipt of final inspection reports.**

**Suspension of the Rules requested – granted**

ORDERED: That the resubmission on the application for Special Permit by Attorney Bergeron, on behalf of Boston Post 355, LLC for permission to construct and operate a car wash at 355 Boston Post Rd. West, refer to the **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

**Suspension of the Rules requested – granted**

ORDERED: That the application for Second Special Permit by Attorney Bergeron, on behalf of Boston Post 355, LLC for permission to construct and operate a car wash at 355 Boston Post Rd. West, as it is also located in the Water Supply Protection District, refer to the **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

**Suspension of the Rules requested – granted**

ORDERED: That the application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 75 Donald Lynch Blvd, refer to the **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

ORDERED: That Donald and Levon Gulbankian as officers in Gulbankian's Mobile Home Village, Inc. appear before the Urban Affairs Committee to review the status of City Council Special Permit #89/2851C, the subsequent agreement for judgment that modified that special permit, together with a written status report on the status of each condition contained in the special permit, with specific attention to the requirement for providing 6 affordable housing units, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Michael Meagher, Esq, on behalf of Gulbankian's Mobile Home Park, re: remaining building and occupancy permits for the manufactured housing community of Broadmeadow Rd., refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING TO SECTION 3-13 OF CHAPTER 3 OF ARTICLE II THE FOLLOWING NEW PARAGRAPHS:

It shall be deemed to be within the proper discharge of the official duties of the employees in the Legal Department for said employees to contact private contractors and/or their insurers in an effort to assist, or attempt to assist, those claimants whose claims against the City of Marlborough have been denied based upon a determination by the Legal Department or the City's insurer that said private contractors are responsible for satisfying those claimants' claims; provided however, that nothing contained herein shall be construed to create an attorney-client relationship between any claimant so assisted, or attempted to be assisted, and either the Solicitor or the Assistant Solicitor, whose sole client is and shall remain the City of Marlborough; and provided, further, that nothing contained herein shall be construed so as to interfere, in the sole determination of the Solicitor or the Assistant Solicitor, with the proper discharge of any other official duties of the employees in the Legal Department. This paragraph shall be applicable to only those claims received by the City of Marlborough on or after the date when this paragraph is approved.

Notwithstanding the immediately preceding paragraph, any written claim presented to the City of Marlborough alleging that a residential mailbox has been damaged by the operation of a snow plow shall be granted upon written confirmation provided by the Department of Public Works to the Legal Department that City of Marlborough snow plow operations were in effect during the date when, and on the street where, the claimed mailbox damage occurred; provided, however, that such claim must be accompanied both by an auto-dated photograph(s) of the damaged mailbox as well as by a paid receipt showing the actual cost of the mailbox's repair or replacement; and provided, further, the maximum amount of reimbursement shall be set at Seventy-Five and 00/100 (\$75.00) Dollars, except that in the absence of such photograph(s) and/or such paid receipt, the maximum amount of reimbursement shall be set at Thirty and 00/100 (\$30.00) Dollars. This paragraph shall be applicable to only those mailbox claims received by the City of Marlborough on or after November 1, 2008.

The foregoing amendment to Section 3-13 of Chapter 3 of Article II of the Code of the City of Marlborough shall expire on June 30, 2009 unless prior to expiration the City Council determines it is appropriate to extend this amendment beyond June 30, 2009, **APPROVED**; adopted.

**First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.**

ORDERED: That the request to extend time in which to complete condition #21 of Special Permit granted for residential conversion of 175 Maple St in which City Council voted on June 9, 2008 to extend deadline for 45 days. That the new expiration date is October 6, 2008, **FILE**; adopted.

**NOTE: Councilor Pope noted that the City received a check in the amount of \$190,000.00 and requested that the Mayor transfer the monies from the General Fund to the Affordable Housing Fund.**

ORDERED: Pursuant to § 5 of Chapter 40A of the General Laws, the City Council of the City of Marlborough, having received a submission from the Planning Board of the City of Marlborough to amend the zoning ordinance of the city of Marlborough, as amended, by further amending Chapter 200, Article VI, Section 200-30, entitled "Limited Development Subdivisions," now ordains that the Zoning Ordinance of the City of Marlborough, as amended, be further amended by adding thereto, as follows:

1. The introductory preamble to § 200-30 is hereby deleted in its entirety and replaced with the following:

A parcel located in a residence district with frontage on a public way may be subdivided, subject to a special permit from the Planning Board, into Limited Development Subdivision lots for the use only as single-family dwellings under the alternative lot area, frontage and dimensional criteria set forth below; provided, however, that the special permit applicant must clearly demonstrate to the Board that the parcel which is the subject of the special permit application could be subdivided by right under conventional subdivision requirements, as set forth in the applicable ordinances of the City of Marlborough, the Subdivision Control Law and the Board's Rules and Regulations, into at least two and one-half times as many building lots as the number of building lots proposed in the special permit application.

2. The caption of Section 200-30A is hereby amended by deleting the word, "Dimensional."
3. Section 200-30A(8) is hereby deleted in its entirety and replaced with the following:

(8) The applicant for a special permit hereunder shall file with the Planning Board a preliminary plan that must clearly demonstrate to the Board that the parcel which is the subject of the special permit application is capable, as of right, of conventional subdivision, pursuant to the applicable ordinances of the City of Marlborough, the Subdivision Control Law and the Board's Rules and Regulations, into at least two and one-half building lots for each building lot proposed under the Limited Development Subdivision criteria, **APPROVED**; adopted.

**First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:42 p.m.