



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

**Lisa M. Thomas
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OCTOBER 6, 2008

Regular meeting of the City Council held on Monday OCTOBER 6, 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 9:20 p.m.

Suspension of the Rules requested-granted to allow the Mayor to present Certificates of Recognition to Christie Cavalcanti, Amandalyn Lehman, and Jacklyn Potter for their prize-winning ribbons decorated for the contest sponsored by the Mayor's Crusade Against Cancer for Breast Cancer Awareness Month, **FILE**; adopted.

The City Clerk recognized the students participating in the City Clerk Mentoring Program, Zachary Saunders, Casey Taillacq, Kaila Harpin, and Lacey Lemanski, **FILE**; adopted.

ORDERED: Minutes, City Council Meeting, September 29, 2008, **FILE**; adopted.

ORDERED: Now being the time set for the **PUBLIC HEARING** on the petition by NSTAR to install 115' of 2.00" plastic gas main as a system improvement to supply 397 Stow Rd., all were heard who wish to be heard, hearing adjourned at 8:10 p.m.

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 Telecommunications Facility onto the existing water tank located at 97 Arnold St. Ext., all were heard who wish to be heard, hearing adjourned at 8:25 p.m.

ORDERED: That the transfer request in the amount of \$33,000 which moves \$22,000.00 from Motor Equipment Repairman to Temporary Part-Time Help which would provide coverage for employee injury situation as well as part-time co-op help, and \$11,000.00 from Assistant City Engineer-Streets to Interim Foreman which will move funds from current vacant position to provide coverage by Acting Division Supervisor and Interim Foreman, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 14001403-50745 \$22,000.00
Motor Equipment Repairman

TO:

Acct. # 14001403-51240 \$22,000.00
Temporary Part Time Help

AND

FROM:

Acct. # 14001301-50660 \$11,000.00
Assistant City Engineer Streets

TO:

Acct. # 14001303-51470 \$11,000.00
Interim Foreman

ORDERED: That the Grant in the amount of \$350.00 from Allied Waste Management be awarded to the Marlborough Fire Department to purchase consumable rescue truck supplies such as masks, rubber gloves and various medical supplies as outlined in MGL, Chapter 44 Section 53A ½, **APPROVED**; adopted.

ORDERED: That the reappointment of James Natale to the Zoning Board of Appeals from May 5, 2008 to May 5, 2013, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Municipal Aggregation Plan refer back to **MAYOR TO AUTHORIZE HER TO EXECUTE THE CONTRACT, WITH THE CAVEAT THAT COLONIAL POWER GROUP MAKE A SPECIAL EFFORT TO NOTIFY ELIGIBLE CUSTOMERS WHO OPTED OUT FROM THE 1ST CONTRACT TO GIVE THEM THE OPPORTUNITY TO OPT OUT AGAIN**; adopted.

(Councilor Schafer and Councilor Ossing abstained)

ORDERED: That agenda #8, communication from the City Solicitor regarding Special Permit Application from MetroPCS Massachusetts, LLC for 445 Simarano Dr, in proper form, be moved Agenda #21 from Wireless Communication Committee, **APPROVED**; adopted.

ORDERED: That the following notification from the City Clerk re: the **STATE 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 ELECTION** will be held in the polling locations as noted below on **November 4, 2008** as follows: **President/Vice-President, Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court and Register of Probate**, be and is herewith accepted and placed on **FILE**.

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., gymnasium
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.

The Information for Voters booklet is available in the City Clerk's Office which explains the three ballot questions or you may type the following URL via your Internet browser to access the PDF file to print: http://www.sec.state.ma.us/ele/elepdf/IFV_2008.pdf

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 10, 2008** as date for a **PUBLIC HEARING** on the Petition from NSTAR to install 375' of 2.00" plastic gas main as a system improvement to supply 56 & 58 Framingham Rd, **REFER TO PUBLIC SERVICES COMMITTEE**; adopted.

- ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 10, 2008** as date for a **PUBLIC HEARING** on the Petition from NSTAR to install 320' of 2.00" plastic gas main as a system improvement to supply 491 Northboro Rd., **REFER TO PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 10, 2008** as date for a **PUBLIC HEARING** on the petition by Petition from National Grid to relocate pole #90 & #91 on Robin Hill St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 10, 2008** as date for a **PUBLIC HEARING** on Application for a Special Permit from Omnipoint Communications Inc. to install, operate and maintain of a wireless communications facility including without limitation, a 100' flagpole style tower, antennas, coaxial cables and radio communication equipment within a proposed fenced compound at 249 Miles Standish Dr., **REFER TO WIRELESS COMMUNICATION COMMITTEE AND ADVERTISE AND SET DATE FOR A BALOON TEST**; adopted.
NOTE: Applicant will conduct a balloon test of at least (3) feet in diameter at the maximum height of the proposed Tower at 249 Miles Standish Dr., Marlborough, MA on November 1, 2008 from 9:00 AM-2:00 PM.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Gary White, Trustee of 566 and 574 Lincoln St. Realty Trust to construct 19 new townhouse condominium units on Lincoln St., Map 80, parcels 47, 48 & 51, until 5:00 PM on December 15, 2008, **APPROVED**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations 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 on Crowley Drive. Map 29, Parcel 1, and to revise current permit conditions accordingly, until 5:00 PM on December 15, 2008, **APPROVED**; adopted.
- ORDERED: That the City Council grant Richard and Kathleen Hureau a right of way easement to pass and repossess over City property shown on the Assessor's map as Map 48, Parcel 32, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the minutes, Planning Board, September 8, 2008, **FILE**; adopted.

Suspension of Rules requested - granted

- ORDERED: That the Grant in the amount of \$43,000.00 from the Metro/South West Regional Employment Board be awarded to the Human Services Department to pay for two contracted positions-Partnership Director and Career Specialist as well as associated administration expenses to provide job development programs for those between the ages of 16 and 24, as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, **APPROVED**; adopted.

Suspension of Rules requested - granted

- ORDERED: That the petition by NSTAR to install 115' of 2.00" plastic gas main as a system improvement to supply 397 Stow Rd., **APPROVED**; adopted

RESOLVED: That the Marlborough City Council stands in support of the freeze by Mayor Stevens on all discretionary spending; and further, that the City Council expresses its concern for the current status of state revenues, anticipated to be running approximately \$200 million less than anticipated. Given the financial state of the Commonwealth, the City Council hereby issues its unanimous support for any and all options available to reduce spending through the end of FY2009, including but not limited to a hiring freeze, and applauds Mayor Stevens for her steady handling of the fiscal reins, **APPROVED**; adopted.

ORDERED: That the Mayor be requested to work with departmental managers to determine potential areas where they could cut their budgets should cuts in the FY2009 budget become necessary due to the financial situation facing the Commonwealth; and further, that the Mayor provide the City Council a report detailing those cuts on department-by-department basis by the City Council's November 10, 2008 meeting, refer to **MAYOR**; adopted.

ORDERED: Application for Special Permit from Ming Wang for conversion of former State Armory building into twelve residential condominiums in a Business B/Residence C zoned lot at 358-364 Lincoln St., **DENIED**; adopted.

The following roll call vote was to deny the Special Permit.

(Councilor Seymour abstained)

Yea: 10 – Nay: 0

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

ORDERED: The City Council of the City of Marlborough hereby **GRANTS** the Application of MetroPCS Massachusetts, LLC. having a usual place of business at 285 Billerica Rd, Chelmsford, MA as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

EVIDENCE

1. The Applicant is METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd, Chelmsford, MA 01824(hereinafter "Applicant").
2. Through its Application for a Special Permit, the Applicant seeks permission to allow co-location of six (6) wireless communications panel antennas on an existing telecommunications tower, and one (1) GPS antenna mounted on a proposed ice bridge, and supporting equipment on the ground within an existing compound (hereinafter "Proposed WCD Project"), substantially as depicted on a set of plans entitled "CROWN MARLBOROUGH" Chappell Engineering Associates, dated 1/15/08, revised 1/28/08, as submitted with the Special Permit Application, and as further revised 9/16/08 (hereinafter "Plans").
3. The location of the Proposed WCD Project is 445 Simarano Dr. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116 of Lot 1. The owner of record for the site is 445 Simarano Dr Marlborough, LLC.
4. The Applicant is a sub-lessee of Crown Castle International, which owns the existing telecommunications tower at the site and leases the underlying compound area.

5. The Site is zoned I (Industrial). Wireless communication devices are allowed by grant of Special Permit in I (Industrial) Zoning Districts.
6. The Special Permit is being sought pursuant to Article VI, Section 200-25 and Article VIII, Section 200-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the City Planner certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCD Project on August 18th, 2008, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCD Project meets all the applicable Special Permit criteria of Article VI, Section 200-25 and Article VIII, Section 200-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCD Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Applicant's Special Permit application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, applicable to the proposed Wireless Communications Device.

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

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCD Project and the Proposed WCD Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this Approval.

- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its proposed WCD Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant its Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 11:**
- 1) The Proposed WCD Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended during the application/hearing process, and in compliance with the Conditions of the Grant of Special Permit as well as with the conditions set forth in Chapter 200-25F of the Marlborough Zoning Ordinance.
 - 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCD Project.
 - 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.
 - 5) Applicant shall minimize the visual impacts of the Proposed WCD Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application for Special Permit.
 - 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCD referenced in this Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.

- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCD Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCD Project only in cases of power outages to the Proposed WCD Project and for purposes of routine testing and maintenance. The noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 134 of the City Code.
- 8) No operation of this WCD shall commence until the Applicant has received written approval from the Building Inspector that all the above conditions have been satisfied.
- 9) Applicant shall be subject to site plan review if applicable.
- 10) Applicant shall securely attach cables to the outside of the tower in such a manner as to prevent noise and/or other disturbance that would be obtrusive to the neighborhood.
- 11) In accordance with the provisions of Mass. Gen. Laws c.40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.

**MOTION MADE BY COUNCILOR FERRO TO DELETE ITEM #6
REGARDING MITIGATION FEES – DOES NOT CARRY**

Yea: 10 – Nay: 1

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

Nay: Ferro

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:20 p.m.