

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2012 APR 19 P 4: 58

1. Minutes of the City Council Meeting, April 9, 2012.
2. PUBLIC HEARING On the Application for Special Permit from Xcellerex Inc., 150-170 Locke Dr., as a requirement to operate in compliance with specific Zoning Ordinance (Water Supply Protection District), Order No. 12-1005011.
3. Communication from the Mayor re: Fire Department transfer request in the amount of \$99,568.14 which moves funds as noted on the attached spreadsheet to fund the remaining balance of the recently signed contract with the International Association of Firefighters Local 1714, AFL-CIO for Fiscal Years 2010, 2011 and 2012.
4. Communication from City Solicitor, Donald Rider, re: Special Permit, Marlborough Savings Bank, 81 Granger Blvd., in proper legal form, Order No. 12-1004081B.
5. Communication from Attorney Sem Aykanian re: Marlborough Savings Bank Special Permit, Order No. 12-1004081B.
6. Communication from Brian Falk and Arthur Bergeron, Associate and Attorney with Mirick, O'Connell, DeMallie and Lougee, LLP, filing disclosure statements as special municipal employees.
7. Application, Junk Dealer's License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald Lynch Blvd.
8. Application, Junk Dealer's License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main St.
9. Department of Public Utilities, Condensed Financial Return for Yearend December 31, 2011, NSTAR Gas Company.
10. Minutes, Planning Board, March 26, 2012.
11. CLAIMS:
 - A. Kathleen Thompson, 244 Simpson Rd., residential mailbox claim 2(b)

REPORTS OF COMMITTEES:

12. ORDERED: That Mayor Vigeant and representatives from the Department of Public Works meet with the Operations and Oversight Committee to give the committee and the public more information about the new containerized trash system that is being implemented July 1, 2012. This is for informational purposes, to educate the Council and the public about details of the new system to help make the transition to the new system.Submitted by President Pope and Councilor Elder

UNFINISHED BUSINESS:

From Finance Committee

13. **Order No. 12-1005006 – Public Facilities Electricity Transfers Totaling \$150,000.00.** The Finance Committee reviewed the Mayor's letter dated March 22, 2012 requesting the approval of the following two transfers to fund higher than anticipated electricity costs:

- Transfer \$100,000.00 from Sewer Multi Purpose Bond to Public Facilities Electricity account
- Transfer \$50,000.00 from the Natural Gas account to the Public Facilities Electricity account

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

14. **Order No. 12-1005010 – Transfer \$15,000.00 Fund Summer Employment Initiative.** The Finance Committee reviewed the Mayor’s letter dated March 22, 2012 requesting the approval of a transfer of \$15,000.00 from the Short Term Interest Account to the Summer Employment Initiative account. The Finance Committee voted 5 - 0 to approve the transfer. **Recommendation of the Finance Committee is to recommend the Mayor fund the program in the FY13 budget for \$25,000.00 to cover anticipated program expenditures in July and August 2012. The Mayor will report back to the City Council the results of the program for consideration of funding for 2013.**

From Urban Affairs Committee

15. **Order No. 12-1004081B** - Urban Affairs met on Tuesday, April 2nd to discuss Order # 12-1004081, application to amend Special Permit Order 09-1002152C Special Permit of Marlborough Savings Bank to expand the hours of operation of their drive-thru ATM to 24 hours, and change the hours of operation of their drive-thru teller from 8:00 AM to 8:00 PM seven days a week

Attorney Sem Aykanian and Rick Bennett, CEO of Marlborough Savings Bank, spoke to the Committee about the proposed changes.

Mr. Bennett told the Committee about the competition of many national banks in Marlborough and said he wanted to make the changes in the hours of operation to give his bank the same hours of the other banks in the area. Mr. Bennett told the Committee that he wasn’t sure he was going to change the hours of the drive thru teller, but wanted the option depending on what his competition was doing.

Councilor Clancy asked Mr. Bennett about the concerns that local downtown businesses have with some of MSB’s employees parking illegally at their businesses. Mr. Bennett said he would make sure his employees park where they’re supposed to park.

President Pope thanked Mr. Bennett for removing a sign on his current drive-thru ATM at MSB referencing the Council for the restricted hours of operation. President Pope told Mr. Bennett she’s received calls from constituents about the sign.

Chairman Elder told Mr. Bennett he wanted to make sure that MSB remained vigilant in adhering to the conditions of the current Special Permit, such as the times the Bank is allowed to plow and remove trash. Chairman Elder said he didn’t want the Bank to become more lax on these, if the Committee and Council approved the permit.

Vice Chairman Clancy made a motion to approve and it was seconded by the Chair. The committee voted 5-0 to approve. Vice Chairman Clancy asked for a suspension of the rules at the Council’s 4/9/12 meeting to send the Permit to the Solicitor to put in proper legal form.

Recommendation of the Urban Affairs Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form.



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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APRIL 9, 2012

Regular meeting of the City Council held on Monday, APRIL 9, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:00 PM.

ORDERED: That the City Council President recognized Boy Scout Troop 41 for the Citizenship and Community Merit Badges, and moment of silence in memory of three employees who have passed, **FILE**; adopted.

ORDERED: That the Minutes of the City Council Meeting, MARCH 26, 2012, **FILE**; adopted.

ORDERED: That the Communication from the Mayor Addressing City Council on the occasion of the Mayor's 100th day in office, **APPROVED**; adopted.

ORDERED: That the DPW transfer request for funding of Marlborough Public Works Equipment Operators Association (MPWEOA) Contract as itemized on the attached spreadsheets, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH --BUDGET TRANSFERS --								
DEPT:	PUBLIC WORKS				FISCAL YEAR:	2012		
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$23,812	11990006	57820	Reserve for Salaries & Benefits	\$23,812	14001303	50740	Equipment Operators (Sts.)	\$184,174
Reason: Funding needed for DPW Laborers MOA								
\$6,117	11990006	57820	Reserve for Salaries & Benefits	\$6,117	14001303	50790	Dispatcher	\$8,756
Reason: Funding needed for DPW Laborers MOA								
\$1,642	11990006	57820	Reserve for Salaries & Benefits	\$1,642	14001303	51310	Overtime - Regular	\$11,366
Reason: Funding needed for DPW Laborers MOA								
\$1,018	11990006	57820	Reserve for Salaries & Benefits	\$1,018	14001303	51430	Longevity Pay	\$2,438
Reason: Funding needed for DPW Laborers MOA								
\$238	11990006	57820	Reserve for Salaries & Benefits	\$238	14001303	51470	Interim Foreman	\$0
Reason: Funding needed for DPW Laborers MOA								
\$6,663	11990006	57820	Reserve for Salaries & Benefits	\$6,663	14001303	51920	Sick Leave Buyback	\$6,662
Reason: Funding needed for DPW Laborers MOA								
\$9,592	11990006	57820	Reserve for Salaries & Benefits	\$9,592	14001403	50745	Motor Equipment Repairman	\$33,278
Reason: Funding needed for DPW Laborers MOA								
\$2,318	11990006	57820	Reserve for Salaries & Benefits	\$2,318	14001403	50760	Working Foreman	\$11,970
Reason: Funding needed for DPW Laborers MOA								
\$140	11990006	57820	Reserve for Salaries & Benefits	\$140	14001403	51310	Overtime - Regular	978
Reason: Funding needed for DPW Laborers MOA								

CITY OF MARLBOROUGH --BUDGET TRANSFERS --											
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012			
Available Balance	Amount	FROM ACCOUNT:	Org Code	Object	Account Description:	Amount	TO ACCOUNT:	Org Code	Object	Account Description:	Available Balance
\$416,172	\$139	11990006	57820		Reserve for Salaries & Benefits	\$139	14001403	51470		Interim Foreman	\$0
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$28,851	11990006	57820		Reserve for Salaries & Benefits	\$28,851	14001503	50740		Equipment Operators (FP&C)	\$172,452
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$1,050	11990006	57820		Reserve for Salaries & Benefits	\$1,050	14001503	51310		Overtime - Regular	\$8,570
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$406	11990006	57820		Reserve for Salaries & Benefits	\$406	14001503	51430		Longevity Pay	\$0
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$692	11990006	57820		Reserve for Salaries & Benefits	\$692	14001503	51470		Interim Foreman	\$0
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$406	11990006	57820		Reserve for Salaries & Benefits	\$406	14001503	51920		Sick Leave Buyback	\$2,875
		Reason:	Funding needed for DPW Laborers MOA								

Available Balance	Amount	FROM ACCOUNT:	Org Code	Object	Account Description:	Amount	TO ACCOUNT:	Org Code	Object	Account Description:	Available Balance
\$416,172	\$1,466	11990006	57820		Reserve for Salaries & Benefits	\$1,466	60081001	50750		Equipment Operator (EP)	\$12,950
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$4	11990006	57820		Reserve for Salaries & Benefits	\$4	60081003	51310		Overtime	\$5,046
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$2,990	11990006	57820		Reserve for Salaries & Benefits	\$2,990	60085001	50750		Equipment Operator (WP)	\$11,426
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$21	11990006	57820		Reserve for Salaries & Benefits	\$21	60085003	51310		Overtime	\$3,065
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$149	11990006	57820		Reserve for Salaries & Benefits	\$149	60085003	51430		Longevity Pay	\$2,783
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$2,990	11990006	57820		Reserve for Salaries & Benefits	\$2,990	61090001	50460		Water Meter Readers	\$11,426
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$23,196	11990006	57820		Reserve for Salaries & Benefits	\$23,196	61090001	50740		Equipment Operator (W)	\$174,021
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$4,720	11990006	57820		Reserve for Salaries & Benefits	\$4,720	61090003	51310		Overtime - Regular	\$39,910
		Reason:	Funding needed for DPW Laborers MOA								
\$416,172	\$569	11990006	57820		Reserve for Salaries & Benefits	\$569	61090003	51430		Longevity Pay	\$3,395
		Reason:	Funding needed for DPW Laborers MOA								

CITY OF MARLBOROUGH --BUDGET TRANSFERS --									
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012	
FROM ACCOUNT:		TO ACCOUNT:							
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$416,172	\$17	11990006	57820	Reserve for Salaries & Benefits	\$17	61090003	51470	Interim Foreman	\$4,540
	Reason:	Funding needed for DPW Laborers MOA							
\$416,172	\$542	11990006	57820	Reserve for Salaries & Benefits	\$542	61090003	51920	Sick Leave Buyback	\$1,296
	Reason:	Funding needed for DPW Laborers MOA							
\$416,172	\$8,720	11990006	57820	Reserve for Salaries & Benefits	\$8,720	14001203	51390	S&I Overtime	-\$6,078
	Reason:	Funding needed for DPW Laborers MOA							

ORDERED: That the Worker's Compensation Trust Fund transfer request in the amount of \$165,000.00 to move funds from Undesignated to Workers Compensation to fund a projected deficit in the Workers Compensation Fund, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$165,000.00
Undesignated Fund

TO:

Acct. # 11960006-51710 \$165,000.00
Workers Compensation

ORDERED: That the Fire Department transfer request in the amounts of \$18,859.75 and \$43,244.60 which moves funds from Deputy Chief to Overtime and Firefighter to Overtime to fund overtime expenses due to work related injuries, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12200001-50335 \$18,859.75
Deputy Chief

Acct. # 12200001-50450 \$43,244.60
Firefighter

TO:

Acct. # 12200003-51300 \$18,859.75
Overtime

Acct. # 12200003-51300 \$43,244.60
Overtime

ORDERED: That the Police Department transfer request in the amount of \$58,741.60 which moves funds from Fringes to Sergeant, Sick Leave and Clothing to fund benefits associated with the retirement of an employee, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11990006-51500 \$58,741.60
Fringes

TO:

Acct. # 12100001-50820

\$14,450.40

Sergeant

Acct. # 12100003-51920

\$43,351.20

Sick Leave

Acct. # 12100003-51940

\$940.00

Clothing

ORDERED: That the Building Department transfer request in the amount of \$10,501.05 which moves funds from Undesignated to Assistant Building Inspector to fund costs associated with a retiring employee, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900

\$10,501.05

Undesignated Fund

TO:

Acct. # 12410001-50260

\$10,501.05

Assistant Building Inspector

ORDERED: That the Mayor's Office transfer request in the amount of \$9,100.00 which moves funds from Multi-Purpose Bond to Executive Secretary to cover the salary of the Executive Secretary position for the remainder of this fiscal year, **APPROVED**; adopted.

FROM:

Acct. # 60071106-59963

\$9,100.00

2011 Multi Purpose Bond

TO:

Acct. # 11210002-50590

\$9,100.00

Executive Secretary

ORDERED: That the Personnel transfer request in the amount of \$2,000.00 which moves funds from Conference and Training to Advertising and Medical Exams to fund higher than anticipated costs relating to recruitment activity for open position, **APPROVED**; adopted.

FROM:

Acct. # 11520006-57380

\$2,000.00

Conference and Training

TO:

Acct. # 11520004-53150

\$1,000.00

Advertising

Acct. # 11520004-53010

\$1,000.00

Medical Exams

ORDERED: That the City of Marlborough (the "City") hereby approves the \$62,434,488 borrowing of the Assabet Valley Regional Vocational School District (the "District"), authorized by said District, for the purpose of paying costs of repairs and renovations to the Assabet Valley Regional Technical High School, located at 215 Fitchburg St., Marlborough, MA 01752, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the district may be eligible for a school construction grant from the Massachusetts School Building Authority (the "MSBA"), said amount to be expended at the direction of the Assabet Valley Regional Vocational School District Building Committee; that the City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of (1) fifty-three and forty-eight one-hundredths percent (53.48%) of eligible approved Project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; and that the amount of borrowing authorized by the District shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Communication from the Mayor re: Senior Center Facility Report, **FILE**; adopted.

ORDERED: That the Special Permit from Sprint, 450-460 Boston Post Rd. East in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 2 Mount Royal Ave. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 115 Onamog St. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 445 Simarano Dr. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Special Permit from Sprint, 157 Union St. in proper legal form, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Communication from Brian Falk and Arthur Bergeron, Associate and Attorney with Mirick, O'Connell, DeMallie and Lougee, LLP, filing disclosure statements as special employee, **FILE**; adopted.

ORDERED: That the application for Taxi License, Angel Santiago, d/b/a Marlboro Metro Taxi, 160 West Main St. #1, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Planning Board, March 12, and April 9, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, March 13, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, February 28, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Community Development Authority, March 29, 2012, **FILE**; adopted.

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Seymour, Delano, Jenkins and Oram. Councilors Pope, Landers, and Robey were also in attendance. The meeting convened at 7:02 PM.

Order No. 12-1005006 – Public Facilities Electricity Transfers Totaling \$150,000.00. The Finance Committee reviewed the Mayor's letter dated March 22, 2012 requesting the approval of the following two transfers to fund higher than anticipated electricity costs:

- Transfer \$100,000.00 from Sewer Multi Purpose Bond to Public Facilities Electricity account
- Transfer \$50,000.00 from the Natural Gas account to the Public Facilities Electricity account

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

Order No. 12-1005010 – Transfer \$15,000.00 Fund Summer Employment Initiative. The Finance Committee reviewed the Mayor's letter dated March 22, 2012 requesting the approval of a transfer of \$15,000.00 from the Short Term Interest Account to the Summer Employment Initiative account. The Finance Committee voted 5 - 0 to approve the transfer. **Recommendation of the Finance Committee is to recommend the Mayor fund the program in the FY13 budget for \$25,000.00 to cover anticipated program expenditures in July and August 2012. The Mayor will report back to the City Council the results of the program for consideration of funding for 2013.**

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

Voting Members present: Chairman Elder, Vice Chairman Clancy, Councilor Tunnera, Councilor Robey and Councilor Landers. Councilor Pope was also in attendance

Urban Affairs met on Tuesday, April 2nd to discuss Order # 12-1004081, application to amend Special Permit Order 09-1002152C Special Permit of Marlborough Savings Bank to expand the hours of operation of their drive-thru ATM to 24 hours, and change the hours of operation of their drive-thru teller from 8:00 AM to 8:00 PM seven days a week

Attorney Sem Aykanian and Rick Bennett, CEO of Marlborough Savings Bank, spoke to the Committee about the proposed changes.

Mr. Bennett told the Committee about the competition of many national banks in Marlborough and said he wanted to make the changes in the hours of operation to give his bank the same hours of the other banks in the area. Mr. Bennett told the Committee that he wasn't sure he was going to change the hours of the drive thru teller, but wanted the option depending on what his competition was doing.

Councilor Clancy asked Mr. Bennett about the concerns that local downtown businesses have with some of MSB's employees parking illegally at their businesses. Mr. Bennett said he would make sure his employees park where they're supposed to park.

President Pope thanked Mr. Bennett for removing a sign on his current drive-thru ATM at MSB referencing the Council for the restricted hours of operation. President Pope told Mr. Bennett she's received calls from constituents about the sign.

Chairman Elder told Mr. Bennett he wanted to make sure that MSB remained vigilant in adhering to the conditions of the current Special Permit, such as the times the Bank is allowed to plow and remove trash. Chairman Elder said he didn't want the Bank to become more lax on these, if the Committee and Council approved the permit.

Vice Chairman Clancy made a motion to approve and it was seconded by the Chair. The committee voted 5-0 to approve. Vice Chairman Clancy asked for a suspension of the rules at the Council's 4/9/12 meeting to send the Permit to the Solicitor to put in proper legal form.

Recommendation of the Urban Affairs Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form.

Suspension of Rules requested – granted

ORDERED: That the following transfer request to fund the recently signed contract between the City and the International Association of Firefighters Local 1714, AFL-CIO for fiscal years 2010, 2011 and 2012, **APPROVED**; adopted.

Available	From Account				TO Account				
	General Gov't	ORG	OBJECT	Account Disc	FIRE DEPARTMENT				
\$	Amount				Amount	Description	Org	Object	Available
\$ 416,172.00	\$ 238,322.84	11990006	57820	Reserve for Salaries	\$ 11,777.47	Dpty Chiefs	12200001	50335	104056
					\$ 120,707.43	Firefighter	12200001	50450	973486
					\$ 10,373.89	Fire Capitan	12200001	50800	82161
					\$ 19,015.97	Fire Lieutenan	12200001	50810	156300
					\$ 3,291.82	First Respond	12200003	51226	12653
					\$ 15,869.41	Fire OT	12200003	51300	84011
					\$ 1,341.72	Fire OT Veh	12200003	51324	7134
					\$ 2,775.80	Fire Call OT	12200003	51328	23098
					\$ 6,766.53	Longevity	12200003	51430	23494
					\$ 12,129.52	Educ Inct	12200003	51440	72682
					\$ 4,695.41	Night Shift	12200003	51450	18620
					\$ 7,869.68	EMT	12200003	51480	31946
					\$ 15,071.01	Holiday	12200003	51490	101048
					\$ 6,637.20	Sick Leave	12200003	51920	5.58
					\$ 238,322.84				
Reason: To fund Firefighters Labor Contract.									

Suspension of Rules requested – granted

ORDERED: That the Public Works transfer request from and to various accounts as noted on the spreadsheets to cover several expenses related to contractual obligations, equipment repair and upgrades, building maintenance, and higher than anticipated disposal costs due to weather related events, **APPROVED;** adopted.

CITY OF MARLBOROUGH -BUDGET TRANSFERS -									
DEPT: PUBLIC WORKS					FISCAL YEAR: 2012				
Available Balance	Amount	FROM ACCOUNT: Org Code	Object	Account Description:	Amount	TO ACCOUNT: Org Code	Object	Account Description:	Available Balance
\$34,665	\$1,327	14001101	50700	Grade 2 Engineer	\$1,327	14001101	50108	GIS Administrator	\$18,506
		Reason: Funds available due to prior vacancy				Increase needed to fund MOA			
\$34,665	\$1,578	14001101	50700	Grade 2 Engineer	\$1,578	14001301	50660	Assistant City Engineer	\$22,085
		Reason: Funds available due to prior vacancy				Increase needed to fund MOA			
\$34,665	\$1,400	14001101	50700	Grade 2 Engineer	\$1,400	14001403	51470	Interim Foreman-Fleet	\$0
		Reason: Funds available due to prior vacancy				Funds needed for contractual coverage for remainder of FY 12			
\$67,060	\$5,000	14001101	50710	Junior Civil Engineer	\$5,000	14001303	51310	Overtime-regular	\$12,431
		Reason: Funds available due to prior vacancy				Based on historical data to complete FY 12			
\$67,060	\$4,021	14001101	50710	Junior Civil Engineer	\$4,021	14001503	51470	Interim Foreman-F/P/C	\$0
		Reason: Funds available due to prior vacancy				Funds needed for contractual coverage for remainder of FY 12			
\$35,797	\$9,071	14001101	50705	Asst Civil Engineer	\$9,071	14001305	55310	Highway Constr Mater-Sfs	\$7,295
		Reason: Funds available due to prior vacancy				Repair of roadway deficiencies throughout city			
\$35,797	\$3,726	14001101	50705	Asst Civil Engineer	\$3,726	61090001	50780	Chief Pumping Station Operator	\$15,612
		Reason: Funds available due to prior vacancy				Increase needed to fund MOA			
\$35,797	\$1,603	14001101	50705	Asst Civil Engineer	\$1,603	61090001	50680	General Foreman	\$22,039
		Reason: Funds available due to prior vacancy				Increase needed to fund MOA			
\$46,091	\$10,000	60080001	50570	Chemist	\$10,000	14001406	54810	Rep/Maint Supplies -Fleet	\$5,998
		Reason: Money available due to retirement				Additional parts and supplies needed for remainder of FY 12			
\$46,091	\$4,200	60080001	50570	Chemist	\$4,200	60080001	50580	Assistant Chemist	\$11,988
		Reason: Money available due to retirement				Increase needed to fund MOA			
\$46,091	\$500	60080001	50570	Chemist	\$500	60081003	51470	Interim Foreman-EWTP	\$404
		Reason: Money available due to retirement				Funds needed for contractual coverage for remainder of FY 12			
\$46,091	\$125	60080001	50570	Chemist	\$125	60085003	51470	Interim Foreman-WWTP	\$830
		Reason: Money available due to retirement				Funds needed for contractual coverage for remainder of FY 12			

CITY OF MARLBOROUGH -BUDGET TRANSFERS -										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012		
Available Balance	Amount	FROM ACCOUNT:	Object	Account Description:	Amount	TO ACCOUNT:	Object	Account Description:	Available Balance	
\$114,850	\$7,000	60085001 (West)	50850	Sewer Tr Pft Operators	\$7,000	60080006	55640	Sewer Service Const.	\$622	
		Reason: Money available due to WC case				Additional funds needed to cover emergency repair/upgrades				
\$224,187	\$5,000	14001303	50740	Equipment Operators	\$5,000	14001303	51470	Interim Foreman-Sts	\$103	
		Reason: Money available due to WC case				Funds needed for contractual coverage				
\$224,187	\$300	14001303	50740	Equipment Operators	\$300	61090005	54220	Office Supply/Expense	\$138	
		Reason: Money available due to WC case				Additional office supplies needed to get through FY 12				
\$208,978	\$1,578	14001503	50740	Equipment Operators	\$1,578	14001401	50692	Supt. Of Auto Maintenance	\$22,004	
		Reason: Money available due to WC case				Increase needed to fund MOA				
\$208,978	\$3,200	14001503	50740	Equipment Operators	\$3,200	14001403	51240	Temp. Part-time/Co-op.-Fleet	\$1,120	
		Reason: Money available due to WC case				Additional funds needed to complete Co-op Program with				
\$208,978	\$1,578	14001503	50740	Equipment Operators	\$1,578	14001501	50680	General Foreman-F/PIC	\$22,004	
		Reason: Money available due to WC case				Increase needed to fund MOA				
\$208,978	\$2,800	14001503	50740	Equipment Operators	\$2,800	14001503	51470	Interim Foreman-F/PIC	\$0	
		Reason: Money available due to WC case				Funds needed for contractual coverage for remainder of FY 12				
\$208,978	\$190	14001503	50740	Equipment Operators	\$190	14001503	51940	Clothing Allowance-F/PIC	\$0	
		Reason: Money available due to WC case				New employee				
\$208,978	\$150	14001503	50740	Equipment Operators	\$150	14001506	57340	Dues and Subscriptions	\$45	
		Reason: Money available due to WC case				Funds needed to cover increase of state license renewals				
\$208,978	\$5,000	14001503	50740	Equipment Operators	\$5,000	61090006	55710	Water Maintenance	\$0	
		Reason: Money available due to WC case				Higher than normal water main breaks				

CITY OF MARLBOROUGH -BUDGET TRANSFERS -										
DEPT:		PUBLIC WORKS				FISCAL YEAR:		2012		
FROM ACCOUNT:	Amount	FROM ACCOUNT:	Object	Account Description:	Amount	TO ACCOUNT:	Object	Account Description:	Available Balance	
\$202,728	\$10,000	61090001	50740	Equipment Operators	\$10,000	60085006	55980	West Waste Water Treat	\$7,872	
		Reason: Money available due to WC case				Funds needed due to increase in chemical costs				
\$202,728	\$4,000	61090001	50740	Equipment Operators	\$4,000	61090006	55750	Water Service Constr.	\$450	
		Reason: Money available due to WC case				Anticipated funds needed to cover materials/breaks				
\$202,728	\$1,000	61090001	50740	Equipment Operators	\$1,000	61090006	55750	Water Service Constr.	\$450	
		Reason: Money available due to WC case				Anticipated funds needed to cover materials/breaks				
\$3,380	\$1,803	61090003	51940	Clothing Allowance	\$1,803	14001101	50660	Assistant City Engineer	\$22,103	
		Reason: Funds available due to prior vacancy				Increase needed to fund MOA				
\$3,380	\$400	61090003	51940	Clothing Allowance	\$400	61090006	55750	Water Service Constr.	\$450	
		Reason: Money available due to WC case				Anticipated funds needed to cover materials/breaks				
\$40,977	\$30,000	60081006	55950	East Waste Water Treatment	\$30,000	60086006	52935	Solid Waste Disposal	\$89,989	
		Reason: Money available due to lower than anticipated use of additional chemicals				Unusually high disposal volumes due to major weather events				

Suspension of Rules requested – granted

ORDERED: That the Application for Special Permit from Attorney Sem Aykanian, on behalf of Marlborough Savings Bank, to modify Special Permit, Order No.09-1002152C, to allow operation of the drive-through teller from 8:00 AM to 8:00 PM seven days per week, and operation of the drive-through ATM 24 hours per day, seven days per week., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 9, 2012 CITY COUNCIL MEETING.**

Councilor Delano abstained

ORDERED: That the Rules Committee convene a meeting to review the operating rules adopted at the organizational meeting on January 2, 2012 and recommend changes that may be appropriate to promote the effective operation of the City Council in the conduct of its business, refer to **RULES COMMITTEE**; adopted.

ORDERED: That the City Council's opinion of Line Item Budget presentation, **TABLED**; adopted.

ORDERED: That the Council on Aging transfer request in the amount of \$4,000.00 which moves funds from Program Manager to Program Funding for the purpose of adding classes and programs, **APPROVED**; adopted.

FROM:

Acct. # 15410001-50191 \$4,000.00

Program Manager

TO:

Acct. # 15410006-57072 \$4,000.00

Program Funding

ORDERED: That Building Department transfer request in the amount of \$4,000.00 which moves funds from Custodian to Gross OT due to a vacancy in the custodial staff, **APPROVED**; adopted.

FROM:

Acct. # 11920003-50560 \$4,000.00

Custodian

TO:

Acct. # 11920003-51300 \$4,000.00

Gross OT

ORDERED: That the Legal Services transfer request in the amount of \$45,000.00 which moves funds from Long Term Debt Principal-Multi Purpose Bond to Legal Services to fund contracted legal services for the remainder of FY2012, **APPROVED**; adopted.

FROM:

Acct. # 60071106-59963 \$45,000.00

2011 Multi Purpose Bond

TO:

Acct. # 11510004-53110 \$45,000.00

Legal Services

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 11/12-1003071D

Re: 450-460 Boston Post Road East

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 06100-1305B, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").
2. On March 26, 2007, the City Council granted to the Applicant a Special Permit to locate its wireless communications facility (3 canister antennas and associated equipment shelter) on the roof at the existing building located at 450-460 Boston Post Road East, Marlborough, MA (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 73, Lot 31 (hereinafter "Site"). The owner of record for the Site is Trinity Countryside Limited Partnership.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility rooftop; six (6) remote radio heads onto an existing wireless communication facility rooftop; replace one (1) GPS mounted to the rooftop; replace two (2) cabinets with three (3)MM equipment cabinets on the existing steel dunnage on the rooftop; as well as remove all existing coax cables and replace with three (3) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS03XC082, Countryside Village Apartments, 450-460 Boston Post Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 8/23/11 and last revised 3/19/12, a copy of which were provided in the Special Permit Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.

5. The Site is located partially in the Business B Zoning District and partially in the Residential A-1 Zoning District. The Proposed WCF is located in the portion of the Site located in the Business B Zoning District. Wireless communication devices are allowed by grant of Special Permit in Business B Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 WCF Project on January 23, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) 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 Applicant's WCF.
- 4) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 5) The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by the Applicant.
- 6) Applicant shall comply with all local regulations regarding the use of a crane or lifting device at the Site. If any crane or lifting device is used at the Site, Applicant must notify the owner and/or the operator of the Marlborough Airport at least 24 hours prior to such use.

- 7) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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.
- 8) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 9) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying

that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 10) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 12-1004064C

Re: 2 Mount Royal Avenue

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 97-7270, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter "Applicant").
2. On December 9, 1997, the City Council granted to Sprint Spectrum L.P., d/b/a Sprint PCS, a Special Permit to locate a wireless communications facility on the roof of the building at 2 Mount Royal Avenue, Marlborough, MA (hereinafter, "the Original Special Permit"). The Original Special Permit allows up to nine (9) antennas and additional equipment to be installed. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 79, Lots 33 and 33B (hereinafter, "the Site"). The owner of record for the Site is Mount Royal Associates, a Massachusetts limited partnership.

3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter "Application"), as amended by the Applicant at the Marlborough City Council's March 12, 2012 public hearing so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to replace three (3) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; six (6) remote radio heads; replace one (1) GPS mounted to the rooftop; replace one (1) cabinet with two (2) MM equipment cabinets within the existing lease area; remove all existing CDMA coax cables and replace with three (3) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS03XC081, Sligo Hill, 2 Mount Royal Avenue, Marlborough, MA 01752 " by Salient Architects, LLC, dated 1/24/2012, a copy of which were provided in the Special Permit Application (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Business Zoning District. Wireless communication devices are allowed by grant of Special Permit in the Business Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on March 12, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) Applicant agrees to 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 Applicant's Proposed WCF Project.
- 2) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 3) The antennae shall comply with all Federal Aviation Administration rules and regulations, as applicable.
- 4) No portion of any antenna will be more than fifteen feet (15') in height above the roof line of the building.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.

- 6) The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by the Applicant.
- 7) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 shall constitute a violation of the Modified 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.
- 8) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 9) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades.

The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 10) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 12-1004032E

Re: 115 Onamog Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 02-9506B to Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").

2. On June 10, 2002, the City Council granted to Sprint Spectrum L.P. a Special Permit to locate a wireless communications facility on the outside face of the Fairmount Hill water tank located at 115 Onamog Street, Marlborough, MA at a height of approximately eighty-three (83) feet (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 81, Parcel 238 (hereinafter, "the Site"). The owner of record for the Site is the City of Marlborough.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, "Application"), as amended by the Applicant at the Marlborough City Council's March 12, 2012 public hearing so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to replace three (3) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility watertank; six (6) remote radio heads onto the watertank; replace one (1) GPS mounted to the watertank; replace two (2) cabinets with three (3) MM equipment cabinets within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS54XC930, Fairmount Water Tank, 115 Onamog Street, Marlborough, MA 01752 " by Salient Architects, LLC, dated 10/25/11 and last revised 2/15/12, a copy of which were provided in the Special Permit Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Residence A Zoning District. Wireless communication devices are allowed by grant of Special Permit in Residence A Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council opened a public hearing on the Proposed WCF Project on February 13, 2012, continued it to February 27, 2012, and closed it on March 12, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 14:**
 - 1) Applicant agrees to 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 Applicant's Proposed WCF Project.

- 2) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
- 3) The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
- 4) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application, and as may be required by Site Plan Review.
- 5) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 shall constitute a violation of the Modified 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.
- 6) No installation work shall be performed by Applicant or its contractors without the supervision of an appropriate individual designated by the Commissioner of the City of Marlborough's Department of Public Works. Additionally, the MDPW will conduct a final inspection of the installation work within fifteen (15) days of completion of the installation.
- 7) Pursuant to Chapter 650-25F of the Marlborough Zoning Ordinance, Applicant shall indemnify the City of Marlborough regarding the installation, maintenance and operation of Applicant's equipment at the Site, and Applicant shall provide the City's Legal Department with a certificate of liability insurance naming the City as an additional insured.
- 8) Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.
- 9) Applicant shall not install any asphalt on the Site or the adjacent City-owned premises.

- 10) Applicant shall install a switch, if not already installed, for the light that was to have been installed, pursuant to the Original Special Permit, to illuminate the equipment area.
- 11) Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
- 12) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 13) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all

hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 14) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

SPRINT

CITY COUNCIL ORDER NO. 11/12-1003096C

Re: 445 Simarano Drive (a/k/a 40 Crane Meadow Road)

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 00-8772B, submitted by Sprint, LLC, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint, LLC (hereinafter, "Applicant").

2. On July 19, 2000 the City Council granted to Crown Castle International/Nextel Communications a Special Permit to install and operate a wireless communications facility at 445 Simarano Drive, which is also known as, and is referred to in that Special Permit as, 40 Crane Meadow Road, Marlborough, MA (hereinafter, "the Original Special Permit"). In 2005, Nextel Communications was acquired by Sprint PCS. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116, Lot 1 (hereinafter "Site"). The owner of record for the Site is 445 Simarano Drive Marlborough LLC.
3. Through its Application for Modification of a Special Permit for an Existing Wireless Communications Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to modify the Original Special Permit referenced above to allow the consolidation of three (3) Iden antennae to two (2) dual pole antenna, remove three (3) CDMA antenna and replace with three (3) Sprint Vision antenna. The new antennae are substantially the same size and weight as the current antenna. Additionally, Sprint is proposing to install six (6) RRH behind or below the antennas, replace one (1) CDMA cabinet with two (2) new BBU cabinets and one (1) MM cabinet within the existing lease area, replace the GPS antenna, and remove all existing CDMA coax cable and replace with three (3) hyperflex cables (hereinafter "WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS73XC031, Cedar Hill, 40 Crane Meadow Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 8/16/11 and last revised 3/12/12, a copy of which were provided in the Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The Site is zoned Industrial (I). Wireless communication devices are allowed by grant of a special permit in Industrial (I) Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 23, 2012, 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 WCF Project meets all the applicable special permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 9:**

1. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
2. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of this Modified Special Permit are herein incorporated into and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

3. 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 Applicant's Proposed WCF Project.
4. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
5. Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application, and as may be required by Site Plan Review.
6. Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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 WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in the operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.

8. As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed Modification; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.
9. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

**SPRINT PCS (NEXTEL COMMUNICATION)
BY AT&T MOBILITY CORPORATION, ITS MANAGER**

CITY COUNCIL ORDER NO. 11/12-1003072D

Re: 157 Union Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 99-8205B, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").
2. On December 6, 1999, the City Council granted to Nextel Communications a Special Permit to locate and operate a wireless communications facility at the existing building located at 157 Union Street, Marlborough, MA (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 43, Lot 56 (hereinafter, "the Site"). The owner of record for the Site is Marlborough Hospital.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to allow the replacement of six (6) CDMA antenna with three (3) Network Vision antenna and install six (6) RRH; install two (2) new BBU cabinets and replace one (1) existing CDMA cabinet with one (1) MM-BTS cabinet, replace existing GPS with a new GPS, remove existing coax cable and install three (3) hyperflex cables (hereinafter, "the Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS13XC625, Marlborough Hospital, 157 Union Street, Marlborough, MA 01752" by Salient Architects, LLC, dated 10/20/11 and last revised 3/15/12, a copy of which was provided in the Special Permit Application and later revised (hereinafter "Plans").

4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Residential (A-3) Zoning District. Wireless communication devices are allowed by grant of Special Permit in the Residential (A-3) Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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 and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 23, 2012, 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 WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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 WCF Project and the Proposed WCF 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 9:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) 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 Applicant's WCF.
- 4) The issuance of this Modified Special Permit may be further subject to Site Plan Review, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 6) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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 WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.

- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 9 - Nay: 0 – Abstained: 2

Yea: Delano, Jenkins, Elder, Tunnera, Clancy, Landers, Ossing, Pope, & Oram

Abstain: Seymour & Robey

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

From PERRY LANE To Terminus

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

DESCRIPTION

Plan entitled "Definitive Plan of Fiddlehead Subdivision of Land in Marlborough, Mass.: Owned by High Ground Realty Trust, 2 Harrison Street, Maynard, Mass. 01754; Scale 1"=40'; Date: May 26, 1993; Revised: November 3, 1993; Highland Land Surveyors, Inc., 69 Maple Street, Marlboro, Mass.", recorded with Middlesex County South Registry of Deeds in Book 24220, Page 421 ("Definitive Plan").

Plan entitled "Acceptance Plan of Perry Lane and Municipal Easements; Marlborough, MA; Middlesex South County; Date: 03/23/2010; Scale: 1"=30'; Inland Survey, Inc., 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01175", recorded herewith ("Acceptance Plan").

Title to the roadway known as PERRY LANE and title to all of the easements, including sewer, drainage, and municipal utilities, as shown on said plans have been granted to the City of Marlborough in a Quitclaim Deed from Summer Sudbury Limited Partnership, 63 Franklin Street, Boston, Massachusetts, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

PERRY LANE be accepted as a public way and its associated easements be accepted as municipal easements in the City of Marlborough; adopted.

ORDERED: That the Operations and Oversight Committee invite Police Chief Leonard to attend a committee meeting affording him the opportunity to publicly discuss the details leading to the voluntary separation from employment with the City of Marlborough by former Police Detective Derek Johnson, **FILE**; adopted.

ORDERED: That the sum of \$3,043,833.00 (three million forty three thousand eight hundred thirty three) dollars be and is hereby appropriated for street 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 \$3,043,833.00.

Pursuant to the provisions of Chapter 44, Section 7 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue, **APPROVED**; adopted.

Yea: 10 - Nay: 1

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Pope, Oram & Robey

Nay: Ossing

ORDERED: That the sum of \$5,030,000.00 (five million thirty thousand) dollars be and is hereby appropriated for sewer 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 \$5,030,000.00.

Pursuant to the provisions of Chapter 44, Section 8 (15) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from its date of issue, **APPROVED**; adopted.

Yea: 9 - Nay: 2

Yea: Delano, Jenkins, Elder, Tunnera, Clancy, Landers, Pope, Oram & Robey

Nay: Ossing & Seymour

ORDERED: That the sum of \$3,172,600.00 (three million one hundred seventy two thousand six hundred) dollars be and is hereby appropriated for water main 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 \$3,172,600.00.

Pursuant to the provisions of Chapter 44, Section 8 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than forty (40) years from its date of issue, **APPROVED**; adopted.

Yea: 9 - Nay: 2

Yea: Delano, Jenkins, Elder, Tunnera, Clancy, Landers, Pope, Oram & Robey

Nay: Ossing & Seymour

ORDERED: That the sum of \$1,835,000.00 (one million eight hundred thirty five thousand) dollars be and is hereby appropriated for water meters.

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 \$1,835,000.00.

Pursuant to the provisions of Chapter 44, Section 8 (7A) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue, **APPROVED**; adopted.

Yea: 11 - Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:00 PM.



IN CITY COUNCIL

Marlborough, Mass., MARCH 26, 2012

ORDERED:

That there being no objection thereto set **MONDAY, APRIL 23, 2012**, as date for a **PUBLIC HEARING** for the Application for Special Permit from Xcellerex Inc., 150-170 Locke Dr., as a requirement to operate in compliance with specific Zoning Ordinance (Water Supply Protection District), be and is herewith refer to **URBAN AFFAIRS COMMITTEE, CONSERVATION COMMISSION AND ADVERTISE.**

ADOPTED

ORDER NO. 12-1005011



City of Marlborough

Arthur G. Vigeant
MAYOR

Office of the Mayor

RECEIVED
CITY CLERK'S OFFICE
OF MARLBOROUGH

Michael C. Berry
EXECUTIVE AIDE

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

www.marlborough-ma.gov

2012 APR 19 P 2:17

Patricia Bernard
EXECUTIVE SECRETARY

April 19, 2012

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Fire Department

Honorable President Pope and Councilors:

I am submitting for your approval the attached transfer request of \$99,468.14 for the Fire Department. This transfer is needed to fund the remaining balance of the recently signed contract with International Association of Firefighters Local 1714, AFL-CIO for Fiscal Years 2010, 2011, and 2012.

The complexity of funding contracts retroactively over a three year period is significant and was aided in part by the recent transition in department leadership. Nonetheless, I regret the miscalculation and am appreciative of your understanding.

Please do not hesitate to contact me with any questions.

Sincerely,

Arthur G. Vigeant
Mayor

From Account
General Gov't

TO Account
FIRE DEPARTMENT

Available	Amount	ORG	OBJECT	Account Disc
\$ 177,849.36	\$ 49,381.00	11990006	57820	Reserve for Salaries
\$ 245,553.00	\$ 50,105.14	11990006	51500	Fringe

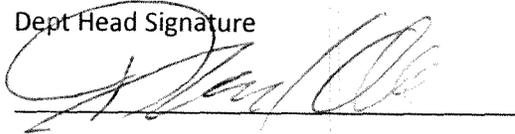
Amount	Description	Org	Object	Available
\$ 5,184.53	Dpty Chiefs	12200001	50335	89498
\$ 56,481.57	Firefighter	12200001	50450	751808
\$ 3,386.11	Fire Capitan	12200001	50800	54570
\$ 10,645.03	Fire Lieutenant	12200001	50810	118226
\$ 793.18	First Respond	12200003	51226	12390
\$ 4,854.59	Fire OT	12200003	51300	72684
\$ 450.28	Fire OT Veh	12200003	51324	4836
\$ 1,532.20	Fire Call OT	12200003	51328	20194
\$ 1,542.47	Longevity	12200003	51430	21376
\$ 1,276.48	Educ Inct	12200003	51440	67464
\$ 1,260.59	Night Shift	12200003	51450	18045
\$ 604.32	EMT	12200003	51480	30788
\$ 3,130.99	Holiday	12200003	51490	116106
\$ 8,325.80	Sick Leave	12200003	51920	6642

\$ 99,486.14

\$ 99,468.14

Reason: To fund Firefighters Labor Contract.

Dept Head Signature



Date:

4/19/12



City of Marlborough Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

April 18, 2012

Patricia Pope
President
Marlborough City Council

RE: Order No. 12-1004081C
Application to Modify Special Permit
Marlborough Savings Bank
81 Granger Boulevard

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2012 APR 19 P 1:05

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by Marlborough Savings Bank to modify its existing special permit at 81 Granger Boulevard. The application is to extend the hours of operation of both the drive-through teller as well as the drive-through ATM.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Sem Aykanian, Esquire

DECISION ON AN APPLICATION TO MODIFY A SPECIAL PERMIT

**MARLBOROUGH SAVINGS BANK
81 GRANGER BOULEVARD
MARLBOROUGH, MA**

CITY COUNCIL ORDER NO. 12-1004081C

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 09-1002152C submitted by Marlborough Savings Bank, 81 Granger Boulevard, Marlborough, Massachusetts, as provided in this Decision and subject to the following Evidence, Findings of Fact, and Conditions.

EVIDENCE

1. Marlborough Savings Bank is hereinafter referred to as “Applicant.”
2. Applicant is the lessee of the premises known and numbered as 81 Granger Boulevard, Marlborough, Massachusetts, as further described on Marlborough Assessor’s Map 70, Parcel 152 (hereinafter the “Site”), and maintains a stand-alone bank facility with drive-through ATM and teller services. The Site’s owner is Stephen M. Fitzpatrick, Trustee of Fitzgerald Family Investment Trust, u/d/t December 4, 2007 and recorded with the Middlesex South District Registry of Deeds in Book 50587, Page 296.
3. The Applicant, by and through its attorney, Sem Aykanian, Esq., has filed with the City Clerk of the City of Marlborough an application for a modification of a special permit (hereinafter, the “Application”), to wit, A Notice of Decision Grant of Special Permit issued by the City Council for the City of Marlborough dated June 22, 2009 by Council Order No. 09-1002152C (hereinafter, the “Original Special Permit”). In the Application, the Applicant seeks to extend the hours of operation of both the drive-through teller as well as the drive-through ATM.
4. The Site is located in a Business zone as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Application to modify the Original Special Permit, the Applicant has submitted a certified list of abutters, all appropriate filing fees, and provided copies of the Application to all appropriate parties in accordance with Rules and Regulations promulgated by the City Council for the issuance of a special permit.
6. The Application was certified by the Building Inspector for the City of Marlborough, acting for and on behalf of the City Planner for the City of Marlborough, as having complied

with Rule 4, items (a) through (m) of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.

7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the application to modify the Original Special Permit, and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Mass. Gen. Laws c. 40A, held a public hearing on the Application on March 26, 2012.

9. The Applicant presented testimony at the public hearing detailing the Application, and describing the projected impact of the extended hours upon municipal services, the neighborhood, and traffic.

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

A. The City Council finds that the Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council, Chapter 650 (Zoning Code) of the City of Marlborough, and Mass. Gen. Laws c. 40A, §§ 9 and 11, as they pertain to modification of the Original Special Permit.

B. The City Council finds that the proposed modified use of the Site does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough or Mass. Gen. Laws c. 40A.

C. The City Council finds that the proposed modified use of the Site is an appropriate use and 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 as provided below.

D. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS the Applicant the modification of the Original Special Permit to extend the hours of operation of both the drive-through ATM as well as the drive-through teller (hereinafter, the "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 3**, which conditions shall be binding on Applicant, its successors and/or assigns:

1. The Original Special Permit (No. 09-1002152C) is hereby affirmed, is deemed to be in full force and effect, and applies to the Site without change or modification, except as provided for herein.

2. Condition 19 of the Original Special Permit shall be deleted in its entirety, and in place thereof the following shall be inserted:

19. (a) The hours of operation of the drive-through teller at the Site shall not exceed the following times: Monday through Saturday, 8:00 AM to 8:00 PM; Sunday, 8:00 AM to 6:00 PM.

(b) The hours of operation of the drive-through ATM at the Site shall be 24 hours per day, seven days per week.

3. In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed. Upon said recording, Applicant shall forthwith provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.

Yea Votes: _____ Nay Votes: _____ Absent: _____ Abstain Votes: _____

ADOPTED
In City Council
Order No. 12-1004081C

A TRUE COPY
ATTEST: _____
City Clerk

Sem Aykanian
Attorney at Law

Tel: (508) 485-4882
Fax: (508) 624-4110
E-mail: sem.aykanian@verizon.net

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

John Cotting House
74 Main Street
Marlborough, MA 01752

2012 APR 19 P 2:15

April 19, 2012

Office of the City Clerk
ATT: MS. LISA THOMAS
140 Main Street
Marlborough, MA 01752

RE: MARLBOROUGH SAVINGS BANK – MODIFICATION OF SPECIAL
PERMIT (81 GRANGER BOULEVARD)

Dear Ms. Thomas:

You will recall that I represent Marlborough Savings Bank relative to the above referenced.

It is my understanding that the modification is tentatively scheduled for a full City Council vote at the meeting scheduled for April 23, 2012. In anticipation thereof, I have reviewed and approved the modified findings presented to your office by City Solicitor, Donald Rider, Esq..

It has come to my attention that one or more of the city councilors eligible to vote on this matter are going to be absent from the meeting of April 23. Accordingly, so the matter be acted upon by the council, I would request the regular scheduled meeting rather than on April 23rd.

Very truly yours,



Sem Aykanian

/sal

MIRICK O'CONNELL

A T T O R N E Y S A T L A W

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2012 APR 12 P 4: 10

Brian R. Falk
Mirick O'Connell
100 Front Street
Worcester, MA 01608-1477
bfalk@mirickoconnell.com
t 508.929.1678
f 508.983.6256

April 13, 2012

HAND DELIVERED

Lisa M. Thomas, City Clerk
City of Marlborough
140 Main Street
Marlborough, MA 01752

Re: Notice of Representation (City Council Order No. 91-3822A), Xcellerex Inc.

Dear Ms. Thomas:

I am employed as an Associate Attorney with the law firm of Mirick, O'Connell, DeMallie & Lougee, LLP (the "Firm"). The Firm serves as outside legal counsel for the City of Marlborough for labor services.

Outside legal counsel has been designated by the City Council as special municipal employees. The City Council requires that all such employees file a disclosure with the City Clerk's office when they are representing a non-City of Marlborough client before a City board, commission, department, etc.

I hereby provide notice that I will be the attorney representing Xcellerex Inc. in a matter involving the City Council and the Urban Affairs Subcommittee relative to the property at 150-170 Locke Drive.

Very truly yours,



Brian R. Falk

BRF/aer

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

WORCESTER | WESTBOROUGH | BOSTON

www.mirickoconnell.com

MIRICK O'CONNELL

A T T O R N E Y S A T L A W

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2012 APR 12 P 4: 10

Arthur P. Bergeron
Mirick O'Connell
100 Front Street
Worcester, MA 01608-1477
abergeron@mirickoconnell.com
t 508.929.1652
f 508.463.1385

April 13, 2012

HAND DELIVERED

Lisa M. Thomas, City Clerk
City of Marlborough
140 Main Street
Marlborough, MA 01752

Re: Notice of Representation (City Council Order No. 91-3822A), Xcellerex Inc.

Dear Ms. Thomas:

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Outside legal counsel has been designated by the City Council as special municipal employees. The City Council requires that all such employees file a disclosure with the City Clerk's office when they are representing a non-City of Marlborough client before a City board, commission, department, etc.

I hereby provide notice that I will be the attorney representing Xcellerex Inc. in a matter involving the City Council and the Urban Affairs Subcommittee relative to the property at 150-170 Locke Drive.

Very truly yours,



Arthur P. Bergeron

APB/alm

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

WORCESTER | WESTBOROUGH | BOSTON

www.mirickoconnell.com



\$25.00

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

2012 APR 12 P 2:42

**Lisa M. Thomas
City Clerk**

MARLBOROUGH, MA

DATE: 4-17-12

To the City Council:

Owner Name: Tony BITAR

Residential Address: 5 Rolling Ridge Lane, Paxton, MA 01612

Telephone Number: (508) 981-5080

Business Name: Hannoush Jewelers

Business Address: 601 Donald Lynch Blvd. 01752

Business Telephone Number: (508) 303-6595

Owner Signature: Tony Bitar

The above signed Tony BITAR respectfully requests that he/she be granted a Junk Dealers License license.

In City Council

\$2500 pd



**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2012 APR 19 P 1:35

**Lisa M. Thomas
City Clerk**

MARLBOROUGH, MA

DATE: APRIL, 19, 2012

To the City Council:

Owner Name: Roman Kimyagarov

Residential Address: 15 Edmonds RD Framingham MA 01701

Telephone Number: (508) 877-02-07 Home

Business Name: ARTHUR & SONS SHOE REPAIR

Business Address: 107 MAIN STREET MARLBOROUGH, MA.

Business Telephone Number: (508) 624-7066

Owner Signature: Roman Kimyagarov

The above-signed ROMAN KIMYAGAROV respectfully requests that he/she be

granted a Junk Dealer's license.

In City Council

DEPARTMENT OF Public Utilities

This statement is filed in accordance with Chapter 164, Section 84A

CONDENSED FINANCIAL RETURN

FOR YEAR ENDED DECEMBER 31, 2011

NSTAR GAS COMPANY

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2012 APR 12 P 1:19

FULL NAME OF COMPANY

800 BOYLSTON STREET

LOCATION OF PRINCIPAL BUSINESS OFFICE

BOSTON, MA 02199

STATEMENT OF INCOME FOR THE YEAR

Item	Current Year	Increase or (Decrease) from Preceding Year
OPERATING INCOME		
Operating Revenues	425,869,182	(\$1,875,954)
Operating Expenses		
Operation Expense	329,309,294	(1,520,090)
Maintenance Expense	10,164,871	597,086
Depreciation Expense	23,440,372	1,566,956
Amortization of Utility Plant	1,403,065	(670,207)
Amortization of Regulatoru Debits	2,851,512	-
Amortization of Investment Tax Credit	(186,736)	0
Taxes other than Income Taxes	15,303,613	1,207,850
Income Taxes	(4,297,793)	(4,049,634)
Provisions for Deferred Federal Income Taxes	15,234,075	3,166,485
Federal Income Taxes Deferred In Prior Years..(Credit)	-	-
Total Operating Expenses	393,222,273	298,447
Net Operating Revenues	32,646,909	(2,174,401)
Income from Utility Plant Leased to Others	-	-
Other Utility Operating Income	-	-
Total Utility Operating Income	32,646,909	(2,174,401)
OTHER INCOME		
Income from Mdse. Jobbing & Contract Work	-	-
Income from Nonutility Operations	32,745	(94,141)
Nonoperating Rental Income	249,324	(5,148)
Interest and Dividend Income	14,437	60,989
Miscellaneous Nonoperating Income	15,102	(210,478)
Total Other Income	311,607	(248,778)
Total Income	32,958,516	(2,423,178)
MISCELLANEOUS INCOME DEDUCTIONS		
Miscellaneous Amortization	-	-
Other Income Deductions	342,577	(290,374)
Total Income Deductions	342,577	(290,374)
Income Before Interest Charges	32,615,939	(2,132,804)
INTEREST CHARGES		
Interest on Long-Term Debt	12,311,000	418,125
Amortization of Debt Discount and Expense	103,753	6,093
Amortization of Premium on Debt-Credit	-	-
Interest on Debt to Associated Companies	123,116	(177,293)
Other Interest Expense	244,438	155,852
Interest Charged to Construction-Credit	(1,667)	32,032
Total Interest Charges	12,780,641	434,809
Net Income	\$19,835,299	(2,567,613)

BALANCE SHEET

Title of Account	Balance End of Year	Title of Account	Balance End of Year
UTILITY PLANT		PROPRIETARY CAPITAL	
Utility Plant.....	816,771,280	CAPITAL STOCK	
OTHER PROPERTY AND INVESTMENTS		Common Stock Issued.....	71,425,000
Nonutility Property.....	4,243,352	Preferred Stock Issued.....	-
Investment in Associated Companies.....	-	Capital Stock Subscribed.....	-
Other Investments.....	6,000	Premium on Capital Stock.....	118,569,287
Special Funds.....	-	Total.....	189,994,287
Total Other Property and Investments	4,249,352	SURPLUS	
CURRENT AND ACCRUED ASSETS		Other Paid-In Capital.....	-
Cash.....	1,530,981	Earned Surplus.....	91,219,472
Special Deposits.....	-	Surplus Invested in Plant.....	-
Working Funds.....	-	Total.....	91,219,472
Temporary Cash Investments.....	-	Total Propriety Capital.....	281,213,759
Notes and Accounts Receivable.....	44,596,765	LONG-TERM DEBT	
Receivables from Associated Companies.....	22,852,246	Bonds.....	210,000,000
Materials and Supplies.....	36,267,360	Advances from Associated Companies.....	-
Prepayments.....	-	Other Long-Term Debt.....	-
Interest and Dividends Receivable.....	-	Total Long-Term Debt.....	210,000,000
Rents Receivable.....	(15,051)	CURRENT AND ACCRUED LIABILITIES	
Accrued Utility Revenues.....	19,253,777	Notes Payable.....	79,100,000
Misc. Current and Accrued Assets.....	-	Accounts Payable.....	21,878,852
Total Current and Accrued Assets.....	124,486,078	Payables to Associated Companies.....	1,591,310
DEFERRED DEBITS		Customer Deposits.....	1,139,924
Unamortized Debt Discount and Expense.....	890,954	Taxes Accrued.....	13,703,706
Extraordinary Property Losses.....	-	Interest Accrued.....	3,471,095
Preliminary Survey and Investigation Charges.....	78,364	Dividends Declared.....	-
Clearing Accounts.....	-	Matured Long-Term Debt.....	-
Temporary Facilities.....	-	Matured Interest.....	-
Miscellaneous Deferred Debits.....	152,501,072	Tax Collections Payable.....	303,683
Total Deferred Debits.....	153,470,389	Misc. Current and Accrued Liabilities.....	6,169,011
CAPITAL STOCK DISCOUNT AND EXPENSE		Total Current and Accrued Liabilities.....	127,357,580
Discount on Capital Stock.....	-	DEFERRED CREDITS	
Capital Stock Expense.....	-	Unamortized Premium on Debt.....	-
Total Capital Stock Discount and Expense.....	-	Customer Advances for Construction.....	3,011,875
REACQUIRED SECURITIES		Other Deferred Credits.....	72,622,655
Reacquired Capital Stock.....	-	Total Deferred Credits.....	75,634,530
Reacquired Bonds.....	-	RESERVES	
Total Reacquired Securities.....	-	Reserves for Depreciation.....	280,781,801
Total Assets and Other Debits.....	\$ 1,098,977,099	Reserves for Amortization.....	8,255,873
		Reserves for Uncollectible Accounts.....	4,911,004
		Operating Reserves.....	11,962,226
		Reserve for Depreciation and Amortization of Nonutility Property.....	(3,197)
		Reserves for Deferred Income Taxes.....	98,863,523
		Total Reserves.....	404,771,230
		CONTRIBUTIONS IN AID OF CONSTRUCTION	
		Contributions in Aid of Construction.....	-
		Total Liabilities and Other Credits.....	\$ 1,098,977,099

STATEMENT OF EARNED SURPLUS

Account	Amount for Year	Inc/(Dec) from Preceding Year
Unappropriated Earned Surplus (at beginning of period)	\$ 87,384,173	\$ (64,597,089)
Balance Transferred from Income	19,835,299	(2,567,612)
Miscellaneous Credits to Surplus	-	-
Miscellaneous Debits to Surplus	-	-
Appropriations of Surplus	-	-
Net Additions to Earned Surplus	19,835,299	(2,567,612)
Dividends Declared-Preferred Stock	-	-
Dividends Declared-Common Stock	16,000,000	(71,000,000)
Unappropriated Earned Surplus (at end of period)	91,219,472	3,835,299

ELECTRIC OPERATING REVENUES

Account	Operating Revenues	
	Amount for Year	Inc/(Dec) from Preceding Year
SALES OF ELECTRICITY		
Residential Sales	\$	
Commercial and Industrial Sales		
Small (or Commercial)		
Large (or Industrial)		
Public Street and Highway Lighting		
Other Sales to Public Authorities		
Sales to Railroad and Railways		
Interdepartmental Sales		
Miscellaneous Electric Sales		
Total Sales to Ultimate Consumers		
Sales for Resale		
Less: Provision for Rate Refunds		
Total Sales of Electricity		
OTHER OPERATING REVENUES		
Forfeited Discounts		
Miscellaneous Service Revenues		
Sales of Water and Water Power		
Rent from Electric Property		
Interdepartmental Rents		
Other Electric Revenues		
Total Other Operating Revenues		
Total Electric Operating Revenues	None	None

SUMMARY OF ELECTRIC OPERATION AND MAINTENANCE EXPENSES

Functional Classification	Operation	Maintenance	Total
Power Production Expenses		\$	\$
Electric Generation			
Steam Power			
Nuclear Power			
Hydraulic Power			
Other Power			
Other Power Supply Expenses			
Total Power Production Expenses			
Transmission Expenses			
Distribution Expenses			
Customer Accounts Expenses			
Sales Expenses			
Administrative and General Expenses			
Total Electric Operation and Maintenance Expenses	None	None	None

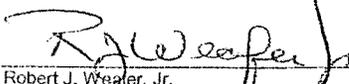
GAS OPERATING REVENUES

Account	Operating Revenues	
	Amount for Year	Increase or (Decrease) from Preceding Year
SALES OF GAS		
Residential Sales.....	\$ 268,138,669	\$ 24,654,827
Commercial and Industrial Sales		
Small (or Commercial).....	97,926,928	7,877,402
Large (or Industrial).....	8,272,492	1,027,402
Other Sales to Public Authorities.....	7,590,969	618,970
Interdepartmental Sales.....	-	-
Miscellaneous Gas Sales.....	(28,581,952)	(53,052,799)
Total Sales to Ultimate Consumers.....	353,347,106	(18,874,197)
Sales for Resale.....	21,275,274	7,748,226
Total Sales of Gas.....	374,622,380	(11,125,970)
OTHER OPERATING REVENUES		
Forfeited Discounts-Late Payment Charges.....	388,976	82,169
Miscellaneous Service Revenues.....	7,254,978	7,200,462
Revenues from Transportation of Gas to Others.....	41,473,792	9,143,182
Sales of Products Extracted from Natural Gas.....	-	-
Revenues from Natural Gas Processed by Others.....	-	-
Rent from Gas Property.....	724,107	88,114
Interdepartmental Rents.....	-	-
Other Gas Revenues.....	1,404,947	(7,263,909)
Total Other Operating Revenues.....	51,246,802	9,250,018
Total Gas Operating Revenues.....	425,869,182	(1,875,953)

SUMMARY OF GAS OPERATION AND MAINTENANCE EXPENSES

Functional Classification	Operation	Maintenance	Total
Steam Production.....	-	-	-
Manufactured Gas Production.....	-	-	-
Other Gas Supply Expenses.....	251,683,574	-	251,683,574
Total Production Expenses.....	251,683,574	-	251,683,574
Local Storage Expenses.....	868,535	166,386	1,034,921
Transmission and Distribution Expense.....	25,199,119	9,998,485	35,197,604
Customer Accounts Expense.....	16,410,861	-	16,410,861
Sales Expense.....	3,068,832	-	3,068,832
Administrative and General Expenses.....	32,078,372	-	32,078,372
Total Gas Operation and Maintenance Expenses....	329,309,294	10,164,871	339,474,165

March 31, 2012, I hereby certify that the foregoing statements are full, just and true to the best of my knowledge and belief. This statement is signed under the penalties of perjury.


 Robert J. Wealer, Jr.
 Vice President, Controller and Chief Accounting Officer

City of Marlborough
RECEIVED
CITY CLERK'S OFFICE
Commonwealth of Massachusetts

2012 APR 10 A 9:51



March 26, 2012
7:00 PM

PLANNING BOARD

Barbara L. Fenby, Chair
Colleen M. Hughes, Clerk
Philip J. Hodge
Edward F. Coveney
Clyde L. Johnson
Sean N. Fay

Carrie Lizotte, Board Secretary

Phone: (508) 460-3769

Fax: (508) 460-3736

Email: CLizotte@marlborough-ma.gov

The Planning Board for the City of Marlborough met on Monday, March 26, 2012 in Memorial Hall, 3rd Floor, City Hall 140 Main Street, Marlborough, MA 01752. Members present: Barbara Fenby, Sean Fay, Colleen Hughes, Philip Hodge, Edward Coveney and Clyde Johnson. Also present: City Engineer Thomas Cullen.

MINUTES

March 12, 2012

On a motion by Ms. Hughes, seconded by Mr. Hodge, it was duly voted:

To accept and file the meeting minutes.

CHAIRS BUSINESS

43 Kinder Circle

Fence permit

The Building Department received an application for a fence along the rear of this property which abuts Jean Road. This parcel is part of an open space subdivision; however the owners state that with amount of debris that "dumped" along Jean Road, they would like to install a fence to omit that issue, however that fence would lie within the natural vegetation state and over several City Easements. After some review, the Board Members wanted to review the site before they could make a decision.

On a motion by Ms. Hughes, Seconded by Mr. Hodge, with Mr. Fay abstaining:

To table the motion.

APPROVAL NOT REQUIRED PLAN

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

City Engineer Update

Mr. Cullen provided a new status report. He stated that a few of the subdivisions have been removed since they were completed and he stated that the Fiddlehead subdivision was before the Public Services Committee.

Cider Mill Estates Extension Request

Mr. Collins, Assistant City Engineer, has reviewed the subdivision completion schedule. In his review, he stated that the past extensions and schedules have not been adhered too. Mr. Collins also stated that they have roughly 72 days left of work that needs to be completed. He has suggested to the Planning Board to only grant an 8 month extension.

On a motion by Mr. Fay, seconded by Mr. Johnson, it was duly voted:

To accept and file correspondence.

Taxes

Ms. Puleo stated that they are current on their tax payments.

On a motion by Ms. Hughes, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

Extension

On a motion by Mr. Fay, seconded by Mr. Johnson, it was duly voted:

To extend the subdivision known as Cider Mill Estates until December 10, 2012.

Mauro Farm Extension Request (Mr. Fay noted his conflict that is on record with the Mayor's Office.)

Mr. Cullen has reviewed the subdivision completion schedule for a two year subdivision extension request. He noted that this would be an appropriate extension however they only discussed the roadway completion of Nolan Way and Spenser Circle and not Regan Lane. Also noted there is no as-built information to date, he could not comment on the utility placement. He also noted that a new subdivision completion schedule was received late in the afternoon and it also included the completion dates for Regan Way. He is suggesting the Planning Board extend the subdivision until May 2014.

On a motion by Mr. Fay, seconded by Mr. Coveney, it was duly voted:

To accept and file the correspondence; and extend the approval of the subdivision known as Mauro Farms until June 1, 2014.

Meadowbrook Village Covenant Approval Release

Mr. Donald Rider, the City Solicitor, and Mr. Andrew Stempler of Smith, Duggan, Buell & Rufo LLO have researched the covenants for Meadowbrook Village. In Mr. Rider's findings, the original

request of releasing lots 13A, 14A & 15 A were actually ANR lots. After some discussion between the two Attorneys, they drafted another covenant approval release of lots 13, 15 which would cover all of lot of 14A.

On a motion by Ms. Hughes, seconded by Mr. Hodge, it was duly voted:

To allow Ms. Fenby to sign the covenant approval release.

PENDING SUBDIVISION PLANS: Updates and Discussion

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SIGNS

Directional Signs, MASS DOT Marlborough Airport

Mr. Thomas Mahoney of MASSDOT/Aeronautics Division is requesting that the Planning Board review the off-premise airport signs. In Ms. Wilderman's letter to the Planning Board stated that all 38 communities with airports are installing the regulatory directional signs. In the City most signs will be on state roadways, however 5 of them will be in the city's roadways which will require relief from the sign ordinance.

Mr. Stetson, the owner of Marlborough Airport, spoke on the importance of installing these signs. He stated that unless you know where the airport is located, one tends to get lost, which he cited a gas tanker truck took a wrong turn by the downtown Walgreens.

After review of the signs and their locations, it was discussed that some of the signs will be a hazard to the pedestrians due to the height and sign crowding on the existing poles. Mr. Mahoney stated he will take that into consideration with the sign shop. The Planning Board would like to see if there can be any relief to the size on several locations.

On a motion by Ms. Hughes, seconded by Mr. Johnson, it was duly voted:

To table any decision until the next meeting.

Sign Violations

Both Mr. Fay and Ms. Hughes prepared a list of sign violations throughout the City. The list will be compiled and given to the Code Enforcement Office.

Emergency Management Signs

The Planning Board was alerted that the portable Emergency Signs would be in use not for the emergency purpose it was intended for. The Board members sent correspondence to the Mayor, the Commissioner of Public Works and the MEMA Coordinator that the intention of those signs was for just emergencies.

On a motion by Mr. Johnson, seconded by Mr. Fay with Ms. Hughes opposing, it was duly voted:
To send a reminder notice to the Mayor of the use of the portable Emergency Signs are for emergencies only.

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

On a motion by Ms. Hughes, seconded by Mr. Hodge, it was duly voted:

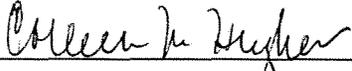
To accept all of the items listed under communications and/or correspondence.

On a motion by Mr. Johnson, seconded by Mr. Coveney was duly voted:

To adjourn at 8:00 p.m.

A TRUE COPY

ATTEST:



Colleen Hughes, Clerk