

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 SEP -5 P 1:06

1. Minutes of the City Council Meeting, August 26, 2013.
2. Update/Discussion with Building Inspector regarding his interpretation of the zoning requirements governing recreational facilities, specifically the requirement for a special permit for certain uses.
3. Communication from the Mayor re: Fire Department transfer request in the amount of \$45,279.00 which moves funds from Fringe to Sick Leave and Firefighter accounts to fund costs associated with the retirement of a member of the Fire Department.
4. Communication from the Mayor re: Appointment of Leslie Biggs to the Council on Aging who will fill the balance of the term of Lynn Anderson which is due to expire on May 2, 2016.
5. Communication from the Mayor re: Appointment of Thomas Golden to the Zoning Board of Appeals to fill the balance of the term of John Sahagian which is due to expire on May 5, 2017.
6. Communication from the Mayor re: Zoning Board of Appeals Process and Notification of resignation from James Natale and Jay Whitaker. Mr. Whitaker's resignation will be effective September 18, 2013.
7. Communication from Assistant City Solicitor Cynthia Panagore Griffin re: Motion to Approve Application of TVI, Inc. d/b/a Savers for a Secondhand Dealer's License which has been placed in final legal form.
8. Application for Special Permit from Attorney Bergeron on behalf of 54 Main St., LLC to install a drive-thru service window which would be part of a new structure on the property for Dunkin Donuts restaurant, replacing the existing Dunkin Donuts restaurant structure, which does not have a drive-thru service window.
9. Application for Second Hand Article License, Mary Giorgi, Giorgi's Consignment Boutique, 266 Main St.
10. Communication from Central Mass. Mosquito Control Project re: Mosquito Control Update.
11. Minutes, Traffic Commission Minutes, June 25 and July 23, 2013.

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From Operations and Oversight Committee

12. **Order No. 13-1005494A – Communication from DPW Commissioner, Ronald LaFreniere**
Proposed Amendment to Chapter 510, which governs the City's Sewer system.

The Chair began by reading the amendments to Chapter 510 of the City Code pertaining to water treatment plants and requested the Commissioner explain the changes.

Commissioner LaFreniere stated that there were five points that were required to be amended which would allow the City of Marlborough to take advantage of zero percent financing instead of two percent. He added that Marlborough has already completed four of the five points within the legislation, the incomplete requirement involved land-use controls, and the state is using the

legislation to get communities to commit to the flow allocations the State planned for in their long term planning documents. He continued stating the DPW was seeking a new permit for the West plant, it was originally designed to treat 2.9 million gallons a day as according to the CWMP planning documents, and DPW was trying to increase the Water Treatment Facility's capacity to 4.15 million gallons per day. While explaining further, he stated, the 1.25 million gallons per day increase was a combination of additional flow the city needed to facilitate all of its growth in the West over the next twenty year planning period and the additional growth that the town of Northborough needed.

President Pope questioned whether this change was being required to force Marlborough into an agreement with Northborough regarding the Water Treatment Facility, and why Northborough was mentioned frequently if this was not the case.

Commissioner LaFreniere explained that it had been three years since the IMA agreement with Northborough, their sewage system is built with Marlborough's West treatment facility as an integral part, and it would take three to four years to plan and construct a water treatment facility. He continued stating currently the treatment facility is being allocated enough water for Marlborough the 2.9 million gallons per day and Northborough. Explaining further he stated that receiving this new permit allows Marlborough to have a West side treatment facility with a 4.15 million gallons per day capacity, which is more than Marlborough needs, to allow for future growth and a lower insurance rate. He then elaborates on the other possibility, not being granted the permit, stating that Marlborough would still have a permit allocating 2.9 million gallons per day meaning nothing changes for Marlborough, however Northborough would be forced start the planning process for the construction of their own facility so the facilities full capacity could be allocated to Marlborough's developing west side.

Councilor Ossing requested a ballpark estimation of the cost of the plan to which the Commissioner answered about \$40 million dollars. He then asked what this permit was restricting Marlborough to.

The Commissioner answered the flow allocations that are identified in the CWMP and subsequently the secretary's certificate which validated the findings and conclusions in the CWMP that stated the City of Marlborough was allocated 2.9 million gallons per day at the west plant in addition to that 1.25 million gallons per day that will be allocated to the town of Northborough. He clarifies that Marlborough is limited to 2.9 million gallons per day as identified in our own planning document that the city and its experts prepared for a twenty year outlook plan for the West side.

Councilor Delano clarified that the update to the facility is driven from State regulators requiring more nutrients and phosphorus removal in the facilities rather than incorrect estimates of capacity by the DPW during their last thirty year projection plan as some had suggested.

The Commissioner answered a question from Councilor Ossing about how the rate will go from 2% to 0% financing stating that it will essentially be an interest forgiveness situation.

Councilor Ossing expressed his concerns that the Council did not have any reports, number values on money saved from the project, and that the project was being rushed.

Commissioner LaFreniere explained that with thirty year bonds at 2% interest the East Facility would have a \$52 million dollar bond incurring \$17.8 million dollars in interest and the West Facility would have a \$24 million dollar bond incurring \$8.15 million dollars in interest; assuming the State grants Marlborough's request in full, there would be \$26 million dollars in savings associated with the shift from 2% to 0% financing. The Commissioner continued, even if request was not granted in full, in the East Facility 68% of the improvements could be allocated to the nutrient removal aspect of the changes reducing the interest savings from \$17 million dollars to \$12.2 million dollars and in the West Facility nutrient removal is 43% of the improvements resulting in \$3.5 million dollars of savings; for both facilities this results in a total of \$15.66 million dollars in interest savings. He then added that there was no risk to making these changes, because if the legislation did not go through nothing would change for Marlborough and it would not impact Marlborough's ability to apply for a permit modification to ask for an increased water flow in the future.

The Chair noted that he would like all the Councilors to receive a copy of the documents illustrating savings, figures, and anything else the Commissioner deemed important about the request.

Councilor Clancy asked how much water the City used in a day on average out of the West Facility which has a maximum capacity of 2.9 million gallons per day. The Commissioner answered it fluctuates from lows of 1.9 to highs of 3.5 million gallons per day and the average is roughly 2.5 million gallons per day; the East Facility, with a maximum capacity of 5.5 million gallons per day, used 3.1 million gallons per day on average.

The Chair requested a letter from CDM certifying that approval of the proposed ordinance will not restrict the City from increasing its water treatment capacity in the future.

Councilor Landers inquired of the deadline for approval of the ordinance. Commissioner LaFreniere replied that the City received a 30-day extension to implement the required land use controls; the new deadline to respond to Mass DEP is September 16, 2013.

Motion made by Councilor Elder, seconded by Councilor Landers to approve Proposed Amendment to Chapter 510, Code of the City of Marlborough, which in part governs the City's Sewerage System. Adopted 3-0.

Motion made by Councilor Elder, seconded by Councilor Landers to suspend the rules at the next City Council Meeting to advertise. Adopted 3-0.

From Public Services Committee

13. **Order No. 13-1005448A** - Application by Robert Hoglund, CFO TVI, Inc. d/b/a Savers, 222A East Main St. for Junk Dealer's License.

The Chair opened discussion re: Order #13-1005448 regarding the application of Savers for a second hand dealer's license tabled on July 16, 2013. The Chair then asked for a motion to remove the order from its tabled status and requested an update from the Savers representatives.

Motion made by Councilor Clancy, seconded by Councilor Jenkins to remove the order from its tabled status. Adopted 3-0.

Mr. Connors detailed many improvements, including pediment towers, castle towers, painting, awnings, lighting, and more, he would make to the outside of the entirety of the plaza to improve its architecture to a more modern style.

Councilor Delano stated that he was very pleased to see the plaza being upgraded, but personally did not think that Savers' instillation there would be good for economic development. The Councilor also expressed concerns for a lack of consistency with regards to Savers' request for certain waivers to sections of the City Code.

The Chair agreed with Councilor Delano that the waivers concerned him once, as well; however, the conditions they requested be waived pertain to limiting Pawn Shops, which Savers is not, and to prevent the fencing of stolen goods, which Savers cannot do because it only accepts donations.

The Chair proceeded to addressing the Sections of the City Ordinance that Savers requested be waived. The Committee found it necessary to waive Section 377-6, 377-7, and 377-9 as well as the last sentence of Section 377-5 with the legal advisement of the City Solicitor.

The Solicitor then suggested that the Council create a condition that stated Savers license would be subject to revocation if it were ever discovered that they were accepting money.

The Chair began reading the conditions proposed by the Committee.

Condition No. 1 stated that the license will not be transferred without prior review and approval from the City Council.

Condition No. 2 stated the license would only be granted to the Savers at the 222A East Main Street, Marlborough MA location.

Condition No. 3 stated there would be no outside storage or displays. Atty. Manoogian agreed to the condition as long as it is not interpreted so broadly as to include a shipment that may remain out behind the building for a few days.

Condition No. 4 stated donations would take place only during hours of operation.

The Chair inquired about Savers hours of operation. Mr. Vargas stated his hours were 9AM-9:30PM Monday through Saturday and 10AM- 7PM on Sundays, but for the month of October their hours are 9AM- 10PM Monday through Saturday and 10AM- 10PM on Sundays.

Condition No. 5 stated no Savers donation boxes will be permitted outside the building.

Condition No. 6 stated noncompliance with the above conditions will result in the revocation or suspension of the license.

Condition No. 7 stated the license shall be subject to revocation or suspension if Savers business model changes to include the exchange of money with the general public for goods or merchandise sold, without first obtaining City Council approval of the exchange of money with the general public for goods and merchandise sold.

Councilor Clancy expressed concerns about Savers sign being too bright or having a constantly changing message that would be distracting to drivers. Councilor Clancy asked that Savers agree to comply with the requirements of the sign ordinance without variance.

Atty. Manoogian agreed to a condition detailing the prohibition of scrolling or rotating message boards.

Councilor Robey suggested that this new condition be made condition number six so it is included under the offenses that are punishable by revocation or suspension of the license, and the current conditions number six and seven would change to conditions seven and eight.

Motion made by Councilor Jenkins, seconded by Councilor Clancy to approve the Council's outlined conditions and integrate them into the Junk Dealer license. Adopted 3-0.

Motion made by Councilor Clancy, seconded by Councilor Jenkins to approve the Junk Dealer license as subject to all conditions and waivers as amended. Adopted 3-0.

Motion made by Councilor Clancy, seconded by Councilor Jenkins to adjourn. Adopted 3-0.

Motion in order to seek a suspension of the rules to refer to the City Solicitor to place the waivers and conditions in proper legal form on the City Council September 9, 2013 agenda.

From City Council

14. **Order No. 13-1005520** - Proposed Order to Amend Chapter 526 of the City Code to Regulate Digital Electronic and LED Signs and Message Boards was ordered **ADVERTISED AND PLACE ON THE NEXT AGENDA.**
15. **PUBLIC HEARING** On the Proposed Amendment to the Code of the City of Marlborough, Zoning, Section 650-17, entitled "Table of Uses," by regulating the business uses entitled "Power laundries and dry cleaning" so as to separate into independent categories said uses and allow Dry Cleaning establishments as of right in the Business (B) district and in the Commercial Automotive (CA) district,

in proper legal form from Assistant City Solicitor Panagore Griffin for advertising and referral, Order No. 13-1005481, all were heard who wish to be heard ,hearing recessed at 8:06 p.m.

MOTION made by President Pope to table until the next City Council meeting as Council awaits the Planning Board's recommendation – **Carries**; adopted.

Councilors Present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.