



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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AUGUST 25, 2014

Regular meeting of the City Council held on Monday, AUGUST 25, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Tunnera, Clancy, Irish, and Landers. Meeting adjourned at 9:11 PM.

ORDERED: That the minutes of the City Council meeting JULY 21, 2014, **FILE**; adopted.

ORDERED: That the DPW transfer request in the amount of \$34,000.000 which moves funds from Parks and Fields Capital to Capital Outlay-DPW Projects to fund preliminary master planning and conceptual design of future turf field projects, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 27000099-42445 \$34,000.00
Parks & Fields Capital

TO:

Acct. # 19300006-58514 \$34,000.00
Capital Outlay-DPW Projects

ORDERED: That along with the City Council's approval of the FY 15 operating budget, a recommendation of adopting Section 4, Chapter 73 of the Acts of 1986 which allows for the doubling of all exemptions offered in the City to qualified residents (i.e. the Elderly, the Blind, Disabled Vets etc.) as provided by Massachusetts law in which the City would absorb any associated costs through the overlay account, **APPROVED**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Executive Office of Public Safety and Security's 2015 State 911 Department Training and Regulatory grant and Health and Human Services grant in the amounts of \$58,199.32 and \$45,000.00 awarded to the Police Department to help offset personnel costs associated with training and diversion of people who have committed minor crimes who would be better served with appropriate mental health services; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the BayPath Elder Services grants in the amounts of \$7,500.00 & \$5,000.00 to support a part-time transportation coordinator and related costs associated with transporting seniors and to support multicultural outreach programs for Latino and Portuguese residents; adopted.

ORDERED: That the Communication from the Comptroller/Treasurer Brian Doheny to authorize him to increase the demand fees for past due taxes, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the GE Healthcare Economic Development Incentive Program (EDIP) Application Creating a North American Headquarters, refer to **FINANCE COMMITTEE**; adopted.

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, ACTING UPON A RECOMMENDATION OF THE MAYOR, THAT THE CODE OF THE CITY OF MARLBOROUGH (HEREINAFTER, THE "CITY CODE"), AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- A. Except where the words "Building Inspector" are preceded by the word "Assistant", the City Code is hereby amended in its entirety by deleting the words "Building Inspector" and "Inspector of Buildings" wherever they appear throughout the City Code, and inserting in place thereof the words "Building Commissioner."
- B. Section 7-75, entitled "Appointment of Assistant Building Inspector", is hereby amended by deleting the words "Assistant Building Inspector" from said title and inserting in place thereof the words "Local Inspectors."
- C. Section 7-75, entitled "Appointment of Assistant Building Inspector", is hereby further amended by deleting the following words:

The Mayor shall appoint two full-time Assistant Building Inspectors, who shall meet the requirements and qualifications set forth for local building inspectors in Section 107.4 of the Commonwealth's Building Code

and inserting in place thereof the following words:

The Mayor shall employ Local Inspectors as necessary to support mission and duties of the Building Department, which Local Inspectors shall be under the direction of the Building Commissioner. Local Inspectors shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards and as defined by Section 3 of Chapter 143, of Massachusetts General Laws.

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE AND ORDERED ADVERTISED**; adopted.

ORDERED: That the Reappointment of Deborah Fox as City Collector to serve a term of one year to take effect on the first Monday following her appointment, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: IPG Photonics Corporation's TIF Proposal, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: Proposed Easements to Massachusetts Electric Company for Senior Center, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: Proposed Acquisition of Indian Hill and Callahan State Park Access Easement, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Special Permit from Robert Stauber of Gensler, on behalf of Bank of America, to modify existing bank drive-thru from the existing condition of 1 ATM lane 1 VAT drive-up teller lane and 1 by-pass lane to 2 ATM lanes and 1 by-pass lane, 223 East Main St. in proper legal form, Order No. 14-1005785B, **MOVED TO ITEM 35**; adopted.

Councilor Delano recused.

ORDERED: That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **STATE PRIMARY ELECTION** will be held in the polling locations as noted below on **SEPTEMBER 9, 2014** as follows: Senator in Congress, Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Auditor, Representative in Congress, Councillor, Senator in General Court, Representative in General Court, District Attorney & Registrar of Probate,

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

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St. (corner of
Main/Newton Sts.), rear	
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., Room
103	
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St. (corner of
Main/Newton Sts.), rear	
WARD SIX: Prec. 1 and 2	1LT Charles W. Whitcomb School, 25 Union St.,
Library	
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St.

FILE; adopted.

ORDERED: That the Application of Yan Chun Zhang d/b/a Japan Car Service for renewal of Livery License at 197 Boston Post Road West, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That Communication from Attorney Falk of Mirick O'Connell re: Notice of Representation (City Council Order No. 91-3822A), refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That Communication from Central MA Mosquito Control Board re: Investigating Resident's Complaints on following dates: August 6, 13, 20 & 27, **FILE**; adopted.

ORDERED: That Communication from Central MA Mosquito Control Board re: Mosquito Control Update, **FILE**; adopted.

ORDERED: Communication from USAA on behalf of Marshall Falk, refer to **LEGAL DEPARTMENT**; adopted.

ORDERED: Communication from USAA on behalf of Robert Pierce, refer to **LEGAL DEPARTMENT**; adopted.

ORDERED: Communication from Amica on behalf of John Farias, refer to **LEGAL DEPARTMENT**; adopted.

ORDERED: Communication from Hanover Insurance Group on behalf of Skinner Inc., refer to **LEGAL DEPARTMENT**; adopted.

ORDERED: That the Minutes, License Board, June 25, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, June 19, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission June 24, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, July 7 & 21, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Youth Commission, April 15, May 6, & June 18, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Fort Meadow Commission, June 19, 2014, **FILE**; adopted.

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

- A. Colleen Dalton-Petillo, 11 Cobblestone Ln., Worcester, MA, pothole or other road defect
- B. Francis Poulin, 42 Blanchette Dr., residential mailbox claim 2(a)
- C. Arthur Oliveira, 14 Susan Rd. pothole or other road defect
- D. Brian Cox, 355 Bolton St., other property damage and/or personal injury
- E. Robert Michaud, 16 Brook Meadow Cir., Framingham, MA, pothole or other road defect
- F. Kavi Siegel, 1 James St., Milford, MA, pothole or other road defect claim
- G. Anna Clarke, 21 Tremont St., pothole or other road defect claim & other property damage and/or personal injury
- H. Charles Daniels, 59 Kosmas St., pothole or other road defect
- I. Kristin Ohanian, 23 Prospect St., Watertown, MA, pothole or other road defect
- J. Ricardo Goncalves, 85 Broad St., pothole or other road defect

Reports of Committees:

Councilor Clancy reported the following out of the Legislative and Legal Affairs Committee:

Meeting Name: City Council Legislative & Legal Affairs Committee

Date: August 19, 2014

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 5:32 PM

Adjourned: 6:23 PM

Present: Chairman Clancy; Legislative & Legal Affairs Committee Members Councilor Delano and Councilor Robey. Also present: City Council President Pope

Also Present: Mayor Arthur Vigeant; City Solicitor Rider; School Committee Member Denise Ryan

Communication from the Mayor requesting approval of following two City Council Orders:

- 1) **Order No.14-1005908A: That the City Council of the City of Marlborough, for the purposes of the Conflict of Interest Law set forth in MGL c.268A, hereby designates Marlborough School Committee positions as special municipal employees.**
- 2) **Order No.14-1005908B: That the City Council of the City of Marlborough, having designated for purposes of the Conflict of Interest Law set forth in MGL c.268A that Marlborough School Committee positions are special municipal employees, hereby declares, pursuant to MGL c.268A s.20(d), that the financial interests of School Committee members Heidi Matthews and Denise Ryan, as set forth in their attached disclosure forms, are exempt from MGL c.268A, s.20.**

Chairman Clancy read the letter from the Mayor requesting the designation of special municipal employee for School Committee members and explaining the needs of the Cambridge Institute of International Education program for host families that lead to the request for the SME designation.

Solicitor Rider stated that the second order should be amended to remove reference to School Committee member Heidi Matthews as only School Committee member Ryan will be participating at this point.

Motion made by Councilor Robey, seconded by Councilor Delano, to deny the request for designation of Special Municipal Employee status to elected members of the School Committee.

Vote 2-1 Clancy opposed

Request by Chairman Clancy to vote on the second order – Councilor Robey asked if there was a need to vote as the first order was denied. Solicitor Rider confirmed that the second order would now be moot.

Motion made and seconded to adjourn;

Meeting adjourned: 6:23PM

***Reported by: Chairman Edward Clancy
For Agenda: August 25, 2014***

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

Meeting Name: City Council Urban Affairs Committee

Date: July 29, 2014

Time: 5:00 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 5:20 PM

Adjourned: 5:51 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Clancy, Landers, and Page; Councilors Pope, Robey, and Elder

Absent: Councilor Tunnera

Also Present: Attorney David Gadbois; William Park, SMMA; Joseph Zink, Developer

Reports of Committees cont'd:

Order No. 14-1005727B: Communication from Attorney Gadbois re: Site Plan Approval, Hilton Garden Inn, at 170 Forest Street. (Hilton Garden Plans are available for viewing in City Clerk's Office).

Chairman Delano explains the designs presented to City Council for the new Hilton Hotel have changed significantly in regards to the appearance of the hotel along with several other minor changes. Attorney Gadbois states there are no significant engineering changes but there is a change in the look of the hotel which includes the change to a flat roof from a gable roof, an increase in the guest room count, a decrease in the seating for the restaurant, and the relocation of the restaurant terrace. Due to the City Council being the approving authority as Site Plan Review for this project, any significant changes required approval of the City Council before continuation of the project.

Motion made by Councilor Clancy, seconded by Chair, to approve the changes presented to the City Council in their capacity as Site Plan Review. The changes require no further changes to the Site Plan Review Conditions however conditions set forth by the Site Plan Review Committee will become part of the conditions for the site. Carries 4-0.

Motion made by Councilor Clancy, seconded by Chair, to adjourn. Carries 4-0. Adjourned at 5:51 PM.

***Reported: Chairman Delano
For Agenda: August 25, 2014***

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

Meeting Name: City Council Public Services Committee

Date: August 5, 2014

Time: 7:30 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 7:31 PM

Adjourned: 8:07 PM

Present: Chairman Landers; Public Services Committee Members Councilors Clancy and Irish

Order No.14-1005848: Petition of NStar Gas to install 105 ' of 4" plastic gas main as a system improvement to 31 Wellington Street in Marlborough. Joanne O'Leary, Community Relations Representative for NSTAR Gas, indicates the petition is a request from the homeowners for gas service. The homeowners are willing to pay for service to extend the gas main to their residence. **Recommendation of the Public Services Committee is to approve the petition of NStar Gas to install 105 ' of 4" plastic gas main as a system improvement to 31 Wellington Street. Motion made by Councilor Clancy, seconded by Councilor Irish, to approve. Carries 3 - 0.**

Order No.1005884: Petition of NGrid and Verizon to relocate Pole 42 on Church Street and install a new guy Pole 42-84 on Plymouth Street. Crystal Tognazzi, National Grid Representative, explains the project is to relocate Pole 42 seven feet east due to a road widening project requested by the City. **Recommendation of the Public Services Committee is to approve the petition of NGrid and Verizon to relocate Pole 42 on Church Street and install a new guy Pole 42-84 on Plymouth Street. Motion made by Councilor Clancy, seconded by Councilor Irish, to approve. Carries 3 - 0.**

Reports of Committees cont'd:

Order No.1005885: Application for Renewal of Junk Dealer's License, Sergey Yeghiyan d/b/a CTC Gold Refinery, 149 Main Street. Police Chief Leonard has received the CORI report for Sergey Yeghiyan and has no objection to the renewal of the Junk Dealer's License. Mr. Yeghiyan explains his business as cash for gold, buying from the public. They also have a new project of a manufacturing facility in Auburn for the designing and casting of new jewelry. This new jewelry will be in their stores to provide their own designs to the public. It will be wholesale and therefore cheaper for the customers. **Recommendation of the Public Services Committee is to approve the application for renewal of Junk Dealer's License to Sergey Yeghiyan d/b/a CTC Gold Refinery, 149 Main Street. Motion made by Councilor Clancy, seconded by Councilor Irish, to approve. Carries 3 - 0.**

Order No.14-1005849: Petition of NGrid and Verizon re: 479 Hosmer Street for installation of new joint owned stub Pole #55-84 on public property. Pole will be set approximately 42' from existing joint owned Pole #33. NGrid proposes installation of new joint owned anchor to be set in back of new Pole #55-84 to help support stub pole. Pole 55 currently has tree guy attached from Pole 55 to tree at 479 Hosmer Street that is to be removed. Customer requested to remove the tree guy. Crystal Tognazzi, National Grid Representative, explains the tree is in terrible shape and there is no other option but to remove it. The pole does need an anchor as it has three phase primary going through it and because of the height of the pole, they tend to lean. The only way to prevent that is to move the stub pole across the road, forty-two feet. The guy is placed on City property so as to not cause any more damage to the customer's property. **Recommendation of the Public Services Committee is to approve the petition of NGrid and Verizon re: 479 Hosmer Street for installation of new joint owned stub Pole #55-84 on public property. Motion made by Councilor Clancy, seconded by Councilor Irish, to approve. Carries 3 - 0.**

Order No.14-1005850: Petition of NGrid and Verizon to relocate Pole 1,2,3,4 and 12 on Simarano Drive to accommodate City of Marlborough road widening project. Chairman Landers states this project is the desire of the City of Marlborough for the Simarano Drive road widening project which will be starting soon. Crystal Tognazzi, National Grid Representative, explains the poles are on the side of the paved area so the City Engineer and Nation Grid Engineer handling the job are in coordination with each other. Chairman Landers reads standard conditions for road openings. **Recommendation of the Public Services Committee is to approve the petition of NGrid and Verizon to relocate Pole 1,2,3,4 and 12 on Simarano Drive to accommodate City of Marlborough road widening project. Motion made by Councilor Clancy, seconded by Councilor Irish, to approve. Carries 3 - 0.**

Order No.14-1005851: Petition of NGrid and Verizon to relocate Pole 22 on Simarano Drive and install new Guy Pole 21-84 to accommodate City of Marlborough road widening project. Chairman Landers states this part of the project is by Forest Street. Crystal Tognazzi, National Grid Representative, states it is all part of the same project but they were submitted separately because the distance between Poles 1, 2, 3, 4 and 12 is quite a distance from Pole 22 so they provided two plans. **Recommendation of the Public Services Committee is to approve the petition of NGrid and Verizon to relocate Pole 22 on Simarano Drive and install new Guy Pole 21-84 to accommodate City of Marlborough road widening project. Motion made by Councilor Clancy, seconded by Councilor Irish, to approve. Carries 3 - 0.**

*Reported by: Chairman Landers
For Agenda: August 25, 2014*

Reports of Committees cont'd:

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Robey, Elder, and Irish. Councilors Pope, Landers and Delano were also in attendance. The meeting convened at 6:41 PM.

1. Order #14-1005907 – IPG Photonics Corporation Tax Increment Financing (TIF): The Finance Committee reviewed the Mayor's letter dated July 17, 2014 requesting the approval of the TIF proposal from IPG Photonics. The Finance Committee voted 4 - 0 to approve the following:

- The economic opportunity area
- The TIF plan and zone
- The TIF agreement
- Economic Development Incentive Program (EDIP) Preliminary Application
- The City Council Resolution

The Finance Committee requested the Solicitor place the IPG Photonics Corporation TIF in proper format for the August 25, 2014 City Council meeting. The Finance Committee acknowledged that if the buildings are used for a warehouse (versus research and manufacturing), the TIF would not apply.

The Finance Committee adjourned at 7:41 PM.

Councilor Tunnera reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: August 5, 2014

Time: 6:30 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 6:37 PM

Adjourned: 7:12 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Elder and Irish, Councilors Pope, Page, Clancy, and Landers

Also Present: Mayor Vigeant

Order No. 14-1005846: The Appointments of Ryan Wambolt and Santiago Vergas as youth appointees to the Youth Commission for terms of one year from date of approval. Ryan Wambolt is entering his senior year at Marlborough High School and during his time there he has provided reports to the School Committee on various school activities and has been treasurer. He would like to get fellow students involved and active in the community. **Recommendation of the Personnel Committee is to approve the Appointment of Ryan Wambolt as a youth appointee to the Youth Commission. Motion by Councilor Elder, seconded by the Chair, to approve the appointment. Carries 3 – 0. [Santiago Vergas unable to attend and remains in committee. The Mayor will review the City Code to determine the required term prior to City Council approval.]**

Order No. 14-1005864: The Appointment of Renee Perdicaro to the Cultural Council for a term to expire three years from date of City Council approval. Renee Perdicaro has been a Marlborough resident for six years and through her job and personal life she likes to give back to the community. **Recommendation of the Personnel Committee is to approve the Appointment of Renee Perdicaro to the Cultural Council. Motion made by Councilor Elder, seconded by the Chair, to approve the appointment. Carries 3 - 0.**

Order No. 14-1005876: The Appointments of Anthony Arruda and Ellen Silverstein to the Board of Assessors for terms of three years to expire from date of City Council approval and Bradford Dunn as the City's Principal Assessor for a three year term. Ellen Silverstein has been a Marlborough resident for fifteen years and is a certified appraiser in Massachusetts and has an interest in being a member of the Board of Assessors. Bradford Dunn is a West Boylston resident and has been acting as the Principal Assessor for the past 2.5 – 3 years for the City of Marlborough.

Recommendation of the Personnel Committee is to approve the appointments of Ellen Silverstein to the Board of Assessors and Bradford Dunn as Principal Assessor for three-year terms. Motion made by Councilor Elder, seconded by the Chair, to approve the appointments. Carries 3 - 0. [Anthony Arruda unable to attend and remains in committee.]

Order No. 14-1005877: The following Reappointments to the Recreation Commission for the following terms: Robert Kays for a term to expire three years from date of City Council approval; Dennis Zilembo for a term to expire two years from date of City Council approval; Thomas Evangelous for a term to expire two years from date of City Council approval; and Brenda Calder for a term to expire three years from date of City Council approval. Brenda Calder has been a resident of Marlborough for forty-six years and wants to give back to the community by continuing to serve on the Recreation Commission. Dennis Zilembo has been a resident of Marlborough for all of his 62 years and has enjoyed serving on the Recreation Commission. Robert Kays has been the Chairman of the Recreation Commission and has enjoyed his time serving on the commission as it is very active and engaged with the community. **Recommendation of the Personnel Committee is to approve the Reappointments of Robert Kays, Dennis Zilembo, and Brenda Calder to the Recreation Commission. Motion made by Councilor Elder, seconded by the Chair, to approve the reappointments. Carries 3 - 0. [Thomas Evangelous unable to attend and remains in committee.]**

Order No. 14-1005906: The Appointment of Robin Williams to the Board of Health for a term to expire January 5, 2015. Robin Williams is an eleven year resident of Marlborough and an eight year veteran of the Army. She works full-time for the City of Newton as a Senior Environmental Health Specialist and is a registered Sanitarian. She would like to be a member of the Board of Health to give back to the community and help with new ideas. **Recommendation of the Personnel Committee is to approve the Appointment of Robin Williams to the Board of Health. Motion made by Councilor Irish, seconded by the Chair, to approve the appointment. Carries 2 - 1. (Elder opposed.)**

Order No. 14-1005687: Reappointment of Pat Winske to Disabilities Commission for a term of three years. Note: McManus, Usinas and Towle reported out of committee on February 25, 2014. [Pat Winske unable to attend and remains in committee.]

Reports of Committee cont'd:

Order No. 14-1005704: Reappointments to the Conservation Commission: Edward Clancy ex. 3/6/17; John Skarin ex. 3/7/16; and Larry Roy ex. 3/7/16. Note: Alan White, David Williams and Dennis Demers reported out of committee on April 23, 2014. John Skarin is a lifelong resident of Marlborough and has served on the Conservation Commission for fourteen years. His background is in trees, landscaping and light construction. Edward Clancy is a seventy-four year resident of the City of Marlborough and a forty-six year member of the Conservation Commission of uninterrupted service and has been the chairman for many years. It is a very important organization because much of the construction within the City is involved near wetlands which are overseen by the Conservation Commission. **Recommendation of the Personnel Committee is to approve the Reappointments of Edward Clancy and John Skarin to the Conservation Commission. Motion made by Councilor Elder, seconded by the Chair, to approve the reappointments. Carries 3 - 0. [Larry Roy unable to attend and remains in committee.]**

Order No. 14-1005667: Reappointment of Susan Laufer to Library Board of Trustees 2/6/17

Note: Ray Hale, Ray Johnson, Robyn Ripley, Janice Merk and Tom Abel reported out of committee on February 11, 2014. [Susan Laufer unable to attend and remains in committee.]

Motion made by Councilor Elder, seconded by the Chair, to adjourn.

Adjourned at 7:12 PM.

***Reported: Chairman Tunnera
For Agenda: August 25, 2014***

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

Meeting Name: City Council Operations & Oversight Committee

Date: July 29, 2014

Time: 5:30 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 5:50 PM

Adjourned: 6:35 PM

Present: Chairman Elder; Operations & Oversight Committee Members Councilors Delano and Landers; Councilors Pope, Robey, Clancy and Page

Also Present: John Ghiloni, DPW Commissioner

Order No. 14-1005657: The DPW Commissioner and Mayor review the hours of operation of the resident drop-off facility (Transfer Station) to possibly extend the hours until 5PM on Saturdays (currently closes at 3PM sharp), and potentially to explore some Sunday hours as well.

Councilor Delano explains this was placed on the City Council agenda since he received many complaints about the Transfer Station closing 15-20 minutes earlier than the posted 3:00 PM time on Saturdays and he would like its hours extended until 5:00 PM on Saturdays and examine the possibility of opening for a half day on Sundays. Commissioner Ghiloni does not disagree with the extended hours until 5:00 PM on Saturdays and even hours on Sunday however he would prefer to not have Sunday hours until the renovations to the Transfer Station are complete in January of 2015. Chairman Landers would prefer to review this issue once the renovations of the Transfer Station are complete and not change the hours until that time.

Motion made by Councilor Delano, seconded by Chair, to extend the hours of operation of the resident drop-off facility until 5:00 PM on Saturdays. Carries 2-1 (Landers opposed).

Motion made by Councilor Delano, seconded by Chair, to adjourn.
Adjourned at 6:35 PM.

*Reported by: Chairman Elder
August 25, 2014*

Suspension of the Rules requested – granted

ORDERED: That the Communication from Mark Donahue of Fletcher Tilton on behalf of Chick-Fil-A, Inc., re: to extend time limitations on application for Special Permit, to construct and operate an approximate 4,876 square foot single story building with drive-thru service restaurant at 230 Boston Post Road West, to October 31, 2014 until 5:00 PM, Order No. 14-1005761C, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Petition of NGrid and Verizon to relocate Pole 1, 2, 3, 4, and 12 on Simarano Dr. to accommodate City of Marlborough widening project, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Petition of NGrid and Verizon to relocate Pole 22 Simarano Drive and install new guy P21-84 to accommodate City of Marlborough widening project, **APPROVED**; adopted.

ORDERED: That the City Council Legislative and Legal Affairs Committee review the list of Special Municipal Employees so designated by vote of the City Council to determine if changes are in order. More specifically, some positions may no longer be in existence and others may have changed to make the designation inappropriate and/or inconsistent with the conflict of interest statute, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED:

MOTION made by Councilor Elder to amend the Order to read “furnish to **Operations and Oversight Committee – Carries**

That the Marlborough Economic Development (MEDC) Corporation develop a plan for a part-time Events Manager position to lead and coordinate city-wide cultural events and activities including, but not limited to, the Labor Day Parade, Home for the Holidays, Heritage Day, Festival, Mayor’s Summer Concert Series, and Halloween Horribles’ Parade, as well as the creation of a seasonal Farmers’ Market. And, Further Ordered, That the MEDC is directed to craft a proposed job description for such position along with salary range and furnish to the Public Services Committee for consideration accompanied by a transfer request from the Mayor, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED:

MOTION made by Councilor Delano to address Item 32 along with Item 33 – **Carries**

That the Communication from the Planning Board re: Favorable Recommendation Pertinent to Proposed Zoning Amendment Section 650-5, New Section 650-32 Concerning Medical Marijuana Treatment Centers, Order No. 12/13/14-1005247G, **FILE**; adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

1. Section 650-17, entitled “Table of Uses,” is hereby amended by adding to said section a new business use entitled, “Medical Marijuana Treatment Center,” which shall be regulated, as follows:

RR	A1	A2	A3	RB	RC	B	CA	LI	I
N	N	N	N	N	N	N	N	N	SP

2. A new Section 650-32, entitled “MEDICAL MARIJUANA TREATMENT CENTERS,” is hereby added, as follows:

§ 650-32 MEDICAL MARIJUANA TREATMENT CENTERS

A. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws and 105 CMR 725.000 as promulgated by the Commonwealth of Massachusetts Department of Public Health, the City of Marlborough Zoning Ordinance will not prohibit the location of a center for medical marijuana treatment within the City of Marlborough, but will instead regulate such centers. A Medical Marijuana Treatment Center should provide medical support, security, oversight by a physician, and standards that meet or exceed 105 CMR 725.000. These Centers should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these Centers are located in such a way as to not pose a direct threat to the health or safety of either qualifying patients or the public at large, the provisions of this section will apply to all such Centers.

B. For purposes of this chapter, the following definitions shall apply:

1. **CERTIFYING PHYSICIAN** means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy) who certifies that, in his or her professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for a qualifying patient.
2. **DEBILITATING** means causing weakness, cachexia, wasting syndrome, intractable pain, or nausea, or impairing strength or ability, and progressing to such an extent that one or more of a patient's major life activities is substantially limited.
3. **DEBILITATING MEDICAL CONDITION** shall mean cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, and multiple sclerosis (MS), when such diseases are debilitating, and other debilitating conditions as determined in writing by a qualifying patient's certifying physician.
4. **HARDSHIP CULTIVATION REGISTRATION** means a registration issued to a registered qualifying patient under the requirements of 105 CMR 725.035.
5. **MARIJUANA** shall mean all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes MIPs except where the context clearly indicates otherwise.
6. **MARIJUANA-INFUSED PRODUCT (MIP)** means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Medical Marijuana Treatment Center, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

7. **MEDICAL MARIJUANA TREATMENT CENTER** shall refer to the site(s) of dispensing, cultivation, and preparation of marijuana; shall mean a not-for-profit entity registered under 105 CMR 725.100 and known thereunder as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (MIPs), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers; and shall be subject to the regulations under Section 650-32 of this ordinance.
8. **MEDICAL USE OF MARIJUANA** shall mean the acquisition, cultivation, possession, processing (including development of related products such as Marijuana-Infused Products (MIPs) that are to be consumed by eating or drinking, tinctures, aerosols, oils, or ointments), transfer, transport, sale, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.
9. **PERSON** shall mean an individual or a non-profit entity.
10. **PERSONAL CAREGIVER** shall mean a person, registered by the Commonwealth of Massachusetts Department of Public Health, who is at least 21 years old, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients under 18 years of age as a second caregiver.
11. **QUALIFYING PATIENT** shall mean a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).
12. **REGISTERED QUALIFYING PATIENT** means a qualifying patient who has applied for and received a registration card from the Commonwealth of Massachusetts Department of Public Health.

13. REGISTRATION CARD means an identification card issued by the Commonwealth of Massachusetts Department of Public Health to a registered qualifying patient, personal caregiver, or dispensary agent. The registration card verifies either that a certifying physician has provided a written certification to the qualifying patient and the patient has been registered with the Department; that a patient has designated the individual as a personal caregiver; that a patient has been granted a hardship cultivation registration; or that a dispensary agent has been registered with the Department and is authorized to work at a Medical Marijuana Treatment Center.
- C. In such zoning districts where a Special Permit is required for a Medical Marijuana Treatment Center, upon application, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include, but is not limited to, consideration of each of the following:
1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment;
 6. Potential fiscal impact, including impact on City services, tax base, and employment;
 7. Hours of operation;
 8. Prohibiting the smoking or consumption of marijuana on the premises;
 9. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority;
 10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health;
 11. Requiring regular inspections by City officials or their agents, and access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health;
 12. Requiring employees to undergo a criminal background check, including but not limited to CORI, by the Police Chief who shall have the authority to disapprove the employment of any person(s) as a result of said background check;
 13. Requiring surveillance cameras in, on, or at the premises;
 14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health, including, without limitation, tobacco products, clove cigarettes or e-cigarettes;
 15. The ability for the Center to:
 - a. meet a demonstrated need;
 - b. provide a secure indoor waiting area for clients;

- c. provide an adequate pick-up/drop-off area;
- d. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
- e. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Center, and its impact on neighboring uses.

The Special Permit Granting Authority may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.

D. A Medical Marijuana Treatment Center shall not be located:

1. within five thousand (5,000) feet of another Medical Marijuana Treatment Center, as measured in a straight line from the nearest point of the property line of the proposed Center to the nearest point of the property line of the existing Center; or
2. within five thousand (5,000) feet of a Narcotic Detoxification and/or Maintenance Facility, as defined in and regulated by the Zoning Ordinance of the City of Marlborough, and as measured in a straight line from the nearest point of the property line of the proposed Center to the nearest point of the property line of the existing Facility; or
3. within one thousand (1,000) feet of:
 - a. a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough; or
 - b. a recreational facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - c. a park (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - d. an elderly housing facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - e. a retirement community (as defined in § 650-5 of the Zoning Ordinance of the City of Marlborough, as amended) located within the City of Marlborough; or
 - f. any residential zoning district.

E. Nothing contained in Chapter 412 of the Code of the City of Marlborough, as amended, prohibiting the smoking, ingesting, or other use or consumption of marijuana in any place accessible to the public, shall be construed as applying to the medical use of marijuana inside a Medical Marijuana Treatment Center.

3. The effective date of these amendments shall be the date of their passage.

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

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 526, ENTITLED "SIGNS," WHICH AMENDMENTS SHALL SUPERCEDE SECTION 526-7N AS PROMULGATED UNDER ORDER NO. 13-1005520A, AS FOLLOWS:

1. § 526-2, entitled "Definitions," is amended by inserting the following definitions:
DIGITAL DISPLAY SIGN: A sign or portion thereof that incorporates light-emitting diode (LED), fiber optic or similar technology to allow messages to change or stay static.

ELECTRONIC MESSAGE CENTER (EMC) SIGN: An on-premises electronically-activated changeable sign or portion thereof whose variable message and/or graphic presentation capability can be electronically programmed and have the capability of changing or staying static. EMCs typically use light-emitting diodes (LEDs) as a lighting source or similar technology.

2. Chapter 526 is further amended by inserting after § 526-12 a new section, entitled "Electronic Message Center and Digital Display Signs," as follows:

§ 526-13. Electronic Message Center Signs and Digital Display Signs.

A. Applicability.

Notwithstanding any general ordinance or special law to the contrary, the following regulations governing Electronic Message Center ("EMC") Signs and Digital Display Signs shall be in effect.

The regulations in § 526-13 permit Digital Display signs and Electronic Message Center ("EMC") signs in all zoning districts except for Rural Residence ("RR") Districts, Residence ("A-1") Districts, Residential ("A-2") Districts, Residential ("A-3") Districts, Residential B ("RB") Districts, Residential C ("RC") Districts, Retirement Community Residential ("RCR") Districts, and the Downtown Business District outlined in § 526-9L., in which districts such signs are strictly prohibited. Digital Display signs and EMC signs shall be permitted with the approval of the Building Inspector, shall be subject to all other provisions governing signs in Chapter 526 of the City's sign ordinance, and shall require a special permit.

The special permit granting authority shall be the City Council. In the event of a conflict between these provisions and other provisions governing signs in Chapter 526, these provisions shall prevail.

This § 526-13 shall apply to all exterior Digital Display signs and all exterior EMC signs, and also to all such signs that are within 3 feet of the interior of a business window and that are visible from the outside of the business window. It shall not otherwise apply to signs or displays located within a commercial structure.

B. Standards.

EMC signs and Digital Display signs shall be allowed by special permit, but only pursuant to the following standards:

1. Sign Type: EMC signs shall only be permitted as part of a freestanding sign and shall comply with all of the requirements of § 526-9.
2. Number of Signs: There shall only be one (1) EMC sign permitted on each nonresidential-zoned parcel.
3. Display Area: No more than twenty-five percent (25%) of the allowable sign face shall be dedicated to the EMC portion of said sign. The EMC display portion of said sign is not to exceed a maximum of twenty-four (24) square feet.
4. Design: The EMC area must be integral to the design of the sign and shall not be the dominant element. The EMC portion of the sign face shall not be the uppermost element, but shall instead be located in the bottom one-half ($1/2$) of the sign face. Digital Display signs may be located on free standing signs and wall signs, but are prohibited on portable, temporary, awning, marquee or canopy, projecting banner, window sign, and suspended signs.
5. Automatic Dimming: No Digital Display sign or EMC sign shall be erected without an automatic light sensing device such as a light detector or photocell by which the sign's brightness can be dimmed when ambient light conditions darken.
6. Brightness and Color: The Digital Display sign or EMC sign must not display light of such intensity or brilliance so as to cause glare or otherwise impair the vision of any driver, result in a nuisance to any driver or interfere with traffic signals. From sunrise to sunset, the background or field shall be a single color and the message shall be a single contrasting color. From sunset to sunrise, the background or field shall be a single dark color and the message shall be a single contrasting color. The light intensity for all accessory and non-accessory EMC signs shall not exceed maximum luminance intensity levels of 350 (cd/m²) nits from sunset to sunrise and 6,000 (cd/m²) nits from sunrise to sunset. A photoelectric sensor shall be installed on the sign structure and set to register the ambient light produced at sunset on any given day. The ambient light level shall determine the cutoff between the two (2) maximum luminance intensity levels, measured in nits, set forth above. Upon installation of the sign, an employee or agent of the Building Department shall confirm compliance with the above nit levels. EMC and Digital Display signs are subject to inspection at the discretion of the Building Inspector. All lighting used to illuminate signs shall be installed so that neither direct nor reflected illumination from such lighting shall cause a public nuisance to adjacent lots or abutting streets. In addition to the maximum luminosity intensity levels set forth above, all displays should adjust brightness intensity according to ambient light conditions to ensure optimum legibility.

- a. A 100 hour break-in period for new signs, if absolutely required, shall be allowed under a special permit.
7. Inspections: Luminosity levels shall be inspected as needed by the City's zoning enforcement officer, or an agent of the City's zoning enforcement officer, using standard industry best practices for such measurement.
 8. Effects: The EMC message or the digital display shall not grow, melt, X-ray, scroll, write on, travel, inverse, roll, twinkle, snow, rotate, flash, blink, move, spin, wave, rumble or present pictorials or other animation and/or intermittent illumination. Subject to the foregoing restrictions, temperature and time may change as necessary. The message shall be limited to alphanumeric characters, one color per message.
 9. Operational Limitations: Such displays shall contain static messages only, and shall not have movement of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the slashing, scintillating or varying of light intensity.
 - a. Sequential messages are prohibited. Only complete messages shall be allowed.
 10. Minimum Display Time: Except for time and temperature, each message on the EMC sign must be displayed for a minimum of 60 seconds.
 11. Message Change Sequence: The change of messages on an EMC sign must be accomplished with a maximum interval of no more than 0.3 seconds of time between messages.
 12. Setbacks from Residential Zoned Areas: The sign must be set back a minimum distance of two hundred feet (200') from the nearest point of any abutting residentially zoned district. If, because of the shape, size and/or proximity of a commercial lot to a residentially zoned district it is not possible to place the sign more than 200 feet from the nearest point of an abutting residentially-zoned district, then the Planning Board may grant a variance for closer placement, provided that when located within 200 feet of a residentially- zoned district, all digital display portions of the sign shall be oriented so that no portion of the sign is visible from an existing primary residential structure in that district.
 13. Hours of Operation: EMC signs which have an undue negative impact on pre-existing residential areas may be required to be turned off after posted business hours.
 14. Malfunctioning Signs: Signs that malfunction shall be turned off immediately.

15. *Spacing*: Digital Display signs and EMC signs shall be at least one hundred feet (100') apart. If, because of the shape and size of a commercial lot it is not possible to place a new sign more than 100 feet from an existing EMC sign or Digital Display sign, then the Planning Board may grant a variance for closer placement. Coordinated messages between or among EMC signs and/or Digital Display signs are strictly prohibited.
16. *Special Permit Criteria*: Criteria for approval by the City Council of a special permit shall include, but are not limited to, the following:
- a. All other signage on-site is in compliance with zoning requirements.
 - b. In addition to other signs on-site, the proposed sign does not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street.
 - c. The proposed sign does not substantially block visibility of signs on abutting lots.
 - d. The proposed sign does not substantially block solar access of, or the view from, windows of residential dwellings on abutting lots.
 - e. The proposed illumination is appropriate to the site and is appropriately located with respect to the character of the surrounding neighborhood.
 - f. Whether the scale and/or location of a proposed Digital Display sign or EMC sign is appropriate.
 - g. Whether the dimensions of the proposed sign exceed the area limitations of this Chapter.

C. Legally Pre-Existing Non-Conforming EMC And Digital Display Signs.

Legally pre-existing non-conforming EMC signs and Digital Display signs, to the extent they have the technical capability to do so, shall be operated in conformance with the operational standards set forth in this § 526-13. In the absence of a light sensing device, sign owners shall ensure either that the signs are dimmed to meet brightness standards set forth in § 526-13 B(6.) above or that the signs are turned off from sunset to sunrise. All legally pre-existing non-conforming signs shall be brought into compliance with this amendment upon being significantly updated or replaced, as determined by the Building Inspector or a designee of the Building Inspector, or at the end of 10 years from the date of approval of this amendment, whichever is sooner.

D. Governmental Exemption.

Governmental entities are exempt from the above provisions and regulations.

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

ORDERED:

**DECISION ON A SPECIAL PERMIT
IN CITY COUNCIL**

Special Permit
Bank of America Corporation
Order No. 14-1005785C

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 14-1005785C**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to 223 East Main Street LLC (the “Applicant Landlord”) and Bank of America Corporation (hereinafter “Applicant Tenant”), for an existing drive-through facility at the existing bank at 223 East Main Street, Marlborough, MA, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant Landlord is a duly organized and existing Limited Liability Company with its principle address at P.O. Box 2158 Natick, MA 01760. The Applicant Tenant is a duly organized corporation with a principle place of business at 100 North Tryon Street, Charlotte, NC 28255, which operates locally at 223 East Main Street, Marlborough, MA and has duly filed with the City Clerk of Marlborough to operate at the subject location.
2. The Applicant Landlord owns the premises known and numbered as 223 East Main Street, Marlborough, Massachusetts and further described on Marlborough Assessor’s Maps as Map 58, Lot 94 (hereinafter, the “Site”). As the operator of the existing bank and drive-through located at the Site, the Applicant Tenant proposes to modify the existing drive-through at the Site (hereinafter, the “Project”).
3. Applicant Tenant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the “Application”). Pursuant to Section 650-17 of the Zoning Ordinance of the City of Marlborough, Applicant Tenant is seeking permission for a drive-through, since they are proposing to modify the existing drive-through, and the original construction pre-dated the need to obtain a special permit.
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Application, Applicant Tenant has submitted a certified list of abutters, filing fees, site plan, proposed elevations, demolition and construction plans titled “Bank of America Drive-up ATM – 223 East Main Street, Existing Site Conditions”, prepared for Bank of America by Gensler, One Beacon Street, 3rd Floor, Boston, MA 02108 and dated 4/23/2014 (hereinafter, the “Plans”).

6. The Plans were certified by the Building Inspector of the City of Marlborough, acting 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 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 Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, June 16th, 2014.
9. Applicant Tenant, through its architectural consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic. No individual in attendance at the public hearing spoke in opposition to the project.
10. The Applicant Tenant intends the proposed drive-through modification to incur no change to the existing site and building beyond the drive-through as indicated on the Plans. The existing vehicle circulation around the building will remain. The drive-through modifications will include lane striping to improve vehicle circulation and safety. Under the proposed conditions, the same number of drive-through lanes will remain.

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

- A. Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed 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 herein. The City Council makes these findings subject to the completion and adherence by Applicant Tenant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS Applicant Landlord and Applicant Tenant a Special Permit to modify and operate the drive-through lanes as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on Applicant Landlord and Applicant Tenant, its successors and/or assigns:

1. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.
2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until Applicant Tenant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority. Any changes to the Plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.
3. Applicant Tenant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant Landlord's facility.
4. The locations and design of any future signage shall be reviewed and approved by the City of Marlborough in accordance with the sign ordinance of the City of Marlborough without variance therefrom.
5. On both sides of the exit driveway, the Applicant Tenant shall install 24" x 24" signs which prohibit a left turn, said signs to be compliant with the most recent version of the Manual on Uniform Traffic Control Devices. In addition, the Applicant Tenant shall, on the pavement of the exit driveway, paint a large "right turn only" arrow, which arrow shall thereafter be repainted by the Applicant Tenant prior to June 1 of each year and as necessary in the determination of the City.
6. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant Tenant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
7. Notwithstanding condition #1 above, the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow or increase the size of the drive-through facility shown on the Plans.
8. The hours of operation for the drive-through will continue to be 24 hours per day, 7 days per week.
9. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.

- 10. During construction, no vehicles shall be staged on public ways.
- 11. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant Tenant, its successors and/or assigns at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before Applicant Tenant, its successors and/or assigns has applied to the Building Inspector for a building permit concerning the Project. Applicant Tenant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor’s Office and the City Council immediately subsequent to recording.

Yea: 9 – Abstained: 2

Yea: Page, Elder, Tunnera, Irish, Landers, Ossing, Pope Robey & Oram

Abstained: Delano & Clancy

ORDERED: That the Building Department transfer request in the amount of \$33,580.00 which moves funds from Contract Services to various accounts as noted on the attached spreadsheet to fulfill obligation to Avalon Bay, **APPROVED;** adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Building Department				FISCAL YEAR:		2015		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$75,000.00	\$33,580.00	12410004	53140	Contract Services	\$10,400.00	12410001	50970	Assistant Wiring Insp.	\$3,750.00	
	Reason:	Funds available through Avalon Bay mitigation payment				Necessary to complete add'l inspections for Avalon Bay				
					\$16,000.00	12410001	50250	Deputy Inspector	\$10,000.00	
	\$33,580.00	Total						Necessary to complete add'l inspections for Avalon Bay		
					\$6,250.00	12410001	50960	Assistant Plumb Insp	\$5,000.00	
								Necessary to complete add'l inspections for Avalon Bay		
					\$930.00	12410006	57100	Instate Travel	\$4,420.00	
								Necessary to reimburse inspectors for use of personal vehicle		
					\$33,580.00	Total				

ORDERED: That the recommendation **AGAINST** the reduction of the approved \$6,500,000.00 Bond and the approved Partners Healthcare gift in the amount of \$750,000.00 be available towards the expenses of the Senior Center, **APPROVED;** adopted.

ORDERED: That the Informational Letter Concerning City Towing Contracts, **FILE;** adopted

ORDERED: That the Communication from Jean & Michael Morrissey, 43 Sonia Drive re: Baby Safe Haven Signs, **TABLED UNTIL NEXT CITY COUNCIL MEETING;** adopted.

ORDERED: That the following Order of Acceptance of Deeds in the area known as Deer Foot Park, **APPROVED**; adopted.

That pursuant to Section 14 of Chapter 40 of the General Laws of Massachusetts, the City does hereby accept for conservation purposes title, by deeds of conveyance, to certain parcels of land located within the area known as Deer Foot Park, which is located off of Concord Road, said deeds to be recorded herewith at the Middlesex County South Registry of Deeds, an appropriation of money for said purposes having been heretofore approved and presently available in Account No. 30046006-58160 and in Account No. 11510006-57600.

GRANTOR: Deborah Schreiber Rodriguez

Those certain lots numbered 624, 625, 646, and 647, being approximately 0.23124426 acres, as shown on "Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass." recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 28 on the Assessors' Map of the City of Marlborough.

GRANTOR: Steven J. King

Those certain lots numbered 519 and 520, being approximately 0.11478421 acres, as shown on "Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass." recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 25 on the Assessors' Map of the City of Marlborough.

GRANTORS: Robert A. Barden and Alice C. Barden

That certain lot numbered 384, being approximately 0.07805326 acres, as shown on "Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass." recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 21 on the Assessors' Map of the City of Marlborough.

GRANTOR: Robert A. Barden

That certain lot numbered 385, being approximately 0.0573921 acres, as shown on "Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass." recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 22 on the Assessors' Map of the City of Marlborough.

GRANTOR: George Lohmiller

Those certain lots numbered 292, 293, and 294, being approximately 0.17217631 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 19 on the Assessors’ Map of the City of Marlborough.

GRANTOR: Bernard Collins

Those certain lots numbered 176 and 177, being approximately 0.11478421 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909. Said lots numbered 176 and 177 are also known and numbered as Map 3, Parcel 17 on the Assessors’ Map of the City of Marlborough.

GRANTOR: Gerard Coolbrith

Those certain lots numbered 115, 116, and 117, being approximately 0.12913223 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 13 on the Assessors’ Map of the City of Marlborough.

Yea: 10 – Abstain: 1

Yea: Delano, Page, Elder, Tunnera, Irish, Landers, Ossing, Pope Robey & Oram

Abstained: & Clancy

ORDERED: That the following Order of Taking by Eminent Domain in the area known as Deer Foot Park, **APPROVED**; adopted.

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that certain portions of land located off of Concord Road in the area known as “Deer Foot Park” as more particularly described herein, be taken in fee for conservation purposes and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain for the aforementioned purposes the fee interest in the following described land, including and all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN

OWNER: Deborah Schreiber Rodriguez
11942 St. Francis Way
Michelleville, MD 20721

Those certain lots numbered 624, 625, 646, and 647 being approximately 0.23124426 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 28 on the Assessors’ Map of the City of Marlborough.

See also Deed In Lieu of Foreclosure conveying title to said lots to the City of Marlborough recorded herewith at the Middlesex South County Registry of Deeds in Book_____, Page _____.

OWNER: Bernard Collins
4 Gigante Drive
Stoneham, MA

Those certain lots numbered 176 and 177 being approximately 0.11478421 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909. Said lots numbered 176 and 177 are also known and numbered as Map 3, Parcel 17 on the Assessors’ Map of the City of Marlborough.

See also Deed In Lieu of Foreclosure conveying title to said lots to the City of Marlborough recorded herewith at the Middlesex South County Registry of Deeds in Book _____, Page _____.

OWNER: Gerard Coolbrith
56 William Ward Street
Uxbridge, MA

Those certain lots numbered 115, 116, and 117 being approximately 0.12913223 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 13 on the Assessors’ Map of the City of Marlborough.

See also Deed In Lieu of Foreclosure conveying title to said lots to the City of Marlborough recorded herewith at the Middlesex South County Registry of Deeds in Book _____, Page _____.

OWNER: Raymond Perkins
720 California Street
Tallahassee, FL

That certain lot number 87 being approximately 0.06473829 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 10 on the Assessors’ Map of the City of Marlborough.

OWNER: Charles E. Elliot
65 Mechanics Street
Camden, ME

Those certain lots numbered 49 and 50 being approximately 0.08482553 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 6 on the Assessors’ Map of the City of Marlborough.

OWNER: Amy Demerse
P.O. Box 1052
Eagle River, AK

Those certain lots numbered 69 and 70 being approximately 0.10927456 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 6A on the Assessors’ Map of the City of Marlborough.

OWNER: Joseph Hayes
13 Blake Street
Beverly, MA

That certain lot number 21 being approximately 0.02066116 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 16 on the Assessors’ Map of the City of Marlborough.

<u>OWNER</u>	<u>MARLBOROUGH ASSESSORS MAP/PARCEL</u>	<u>AREA (+/- Acres)</u>	<u>AWARD</u>
Deborah Schreiber Rodriguez	3/28	0.23124426	\$0.00
Bernard Collins	3/17	0.11478421	\$0.00
Gerard Coolbrith	3/13	0.12913223	\$0.00
Raymond Perkins	3/10	0.06473829	\$1,000.00
Charles E. Elliot	3/6	0.08482553	\$1,000.00
Amy Demerse	3/6A	0.10927456	\$1,000.00
Joseph Hayes	3/16	0.02066116	\$1,000.00

Yea: 10 – Abstain: 1

Yea: Delano, Page, Elder, Tunnera, Irish, Landers, Ossing, Pope Robey & Oram

Abstained: & Clancy

ORDERED: That the following Order Transferring Care, Management and Control to the Conservation Commission in area known as Deer Foot Park, **APPROVED**; adopted.

That the City Council of the City of Marlborough, by two-thirds vote pursuant to Mass. Gen. Laws c. 40, § 15A, hereby transfers to the Conservation Commission of the City of Marlborough for conservation purposes, including increasing open space, preserving vistas, providing wildlife habitat, and enabling future passive recreational opportunities in conjunction with existing and proposed public passive recreational amenities, the care, custody, management, and control of the following lots in the area known as Deer Foot Park, pursuant to Mass. Gen. Laws c. 40, § 8C, for incorporation into the surrounding Desert Natural Conservation Area:

1. Those certain lots numbered 624, 625, 646, and 647, being approximately 0.23124426 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 28 on the Assessors’ Map of the City of Marlborough.
2. Those certain lots numbered 519 and 520, being approximately 0.11478421 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 25 on the Assessors’ Map of the City of Marlborough.
3. That certain lot numbered 384, being approximately 0.07805326 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 21 on the Assessors’ Map of the City of Marlborough.
4. That certain lot numbered 385, being approximately 0.0573921 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 22 on the Assessors’ Map of the City of Marlborough.

5. Those certain lots numbered 292, 293, and 294, being approximately 0.17217631 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 19 on the Assessors’ Map of the City of Marlborough.
6. Those certain lots numbered 176 and 177, being approximately 0.11478421 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909. Said lots numbered 176 and 177 are also known and numbered as Map 3, Parcel 17 on the Assessors’ Map of the City of Marlborough.
7. Those certain lots numbered 115, 116, and 117, being approximately 0.12913223 acres, as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 13 on the Assessors’ Map of the City of Marlborough.
8. That certain lot number 87 being approximately 0.06473829 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 10 on the Assessors’ Map of the City of Marlborough.
9. Those certain lots numbered 49 and 50 being approximately 0.08482553 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 6 on the Assessors’ Map of the City of Marlborough.

10. Those certain lots numbered 69 and 70 being approximately 0.10927456 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 6A on the Assessors’ Map of the City of Marlborough.
11. That certain lot number 21 being approximately 0.02066116 acres as shown on “Plan of Lots Of Deer Foot Park Town of Hudson and Marlboro, Middlesex County, Mass., Belonging To W.M.A. Connelly of Boston, Mass.; Scale 50 Feet To An Inch; June 1909; N.W. Daley Surveyor, Salem, Mass.” recorded in the Middlesex South Registry of Deeds at Plan Book 180 as Plan 42 (A of 2) of August 26, 1909, and also known and numbered as Map 3, Parcel 16 on the Assessors’ Map of the City of Marlborough.

Yea: 10 – Abstain: 1

Yea: Delano, Page, Elder, Tunnera, Irish, Landers, Ossing, Pope Robey & Oram

Abstained: & Clancy

ORDERED: Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that the easement interests in certain portions of land located on Simarano Drive and Ames Street, as more particularly described herein, be taken for the purpose of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the easement interests in the following described land, including all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN**1. Street address: 200 Forest Street, Marlborough, MA 01752**

Permanent easements: Being portions of the property located on Simarano Drive, with a street address of 200 Forest Street, Marlborough, MA, known and numbered as Map 101, Parcel 2 on the Assessors' Map of the City of Marlborough, and described as follows, all parcel references being to Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc.":

- (1) Parcel E-01: 1,010 S.F. for sidewalk purposes;
- (2) Parcel E-02: 3,335 S.F. for sidewalk and guardrail purposes;
- (3) Parcel D-01: 540 S.F. for drainage improvements purposes; and
- (4) Parcel D-02: 864 S.F. for drainage improvements purposes.

Temporary easement for grading purposes: Being a 12,000 S.F portion of the property located off Simarano Drive and of Ames Street, Marlborough, MA, known and numbered as Map 101, Parcel 2A on the Assessors' Map of the City of Marlborough, and shown as Parcel TE-03 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 13,630 S.F portion of the property located on Simarano Drive, with a street address of 200 Forest Street, Marlborough, MA, known and numbered as Map 101, Parcel 2 on the Assessors' Map of the City of Marlborough, and shown as Parcel TE-06 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 225 S.F portion of the property located off Simarano Drive and of Ames Street, Marlborough, MA, known and numbered as Map 101, Parcel 2A on the Assessors' Map of the City of Marlborough, and shown as Parcel TE-19 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easements shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: Atlantic-Marlboro Realty LLC
205 Newbury Street
Framingham, MA 01701

2. Street Address: 257 Simarano Drive, Marlborough, MA

Temporary easement for grading purposes: Being a 1,185 S.F. portion of the property located at 257 Simarano Drive, Marlborough, MA, known and numbered as Map 112, Parcel 4 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-09 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being an 1,465 S.F. portion of the property located at 257 Simarano Drive, Marlborough, MA, known and numbered as Map 112, Parcel 4 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-10 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easements shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: 257 Simarano LLC
5 Mount Royal Avenue, Suite 200
Marlborough, MA 01752

3. Street Address: 377 Simarano Drive, Marlborough, MA 01752

Temporary easement for grading purposes: Being a 470 S.F. portion of the property located at 377 Simarano Drive, Marlborough, MA, known and numbered as Map 116, Parcel 10 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-13 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 675 S.F. portion of a parcel located at 377 Simarano Drive, Marlborough, MA, known and numbered as Map 116, Parcel 10 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-14 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easements shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: 377 Simarano Drive LLC
377 Simarano Drive
Marlborough, MA 01752

4. Street Address: 445 Simarano Drive, Marlborough, MA 01752

Permanent easement for drainage purposes: Being a 799 S.F. portion of the property located at 445 Simarano Drive, Marlborough, MA, known and numbered as Map 116, Parcel 1 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel D-03 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Permanent easement for sidewalk purposes: Being a 200 S.F. portion of the property located at 445 Simarano Drive, Marlborough, MA, known and numbered as Map 116, Parcel 1 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel E-05 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 1,080 S.F. portion of the property located at 200 Forest Street, Marlborough, MA, known and numbered as Map 116, Parcel 1 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-15 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 2,275 S.F. portion of the property located at 200 Forest Street, Marlborough, MA, known and numbered as Map 116, Parcel 1 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-16 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 730 S.F. portion of the property located at 200 Forest Street, Marlborough, MA, known and numbered as Map 116, Parcel 1 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-17 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easements shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: 445 Simarano Drive Marlborough LLC
c/o RAM Management Co., Inc.
200 U.S. Route One, Suite 200
Scarborough, ME 04074

5. Street Address: 107 Simarano Drive, Marlborough, MA 01752

Temporary easement for grading purposes: Being a 2,930 S.F. portion of the property located at 107 Simarano Drive, Marlborough, MA, known and numbered as Map 116, Parcel 12 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-12 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: BP Crane Meadow LLC
c/o Boston Properties
800 Boylston Street
Boston, MA 02199

6. Street Address: 400 Value Way, Marlborough, MA 01752

Permanent easement for roadway, sidewalk and guardrail purposes: Being a 8,390 S.F. portion of the property located on Simarano Drive with a street address of 400 Value Way, Marlborough, MA, known and numbered as Map 112, Parcel 6A on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel E-04 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 6,950 S.F. portion of the property located on Simarano Drive with a street address of 400 Value Way, Marlborough, MA, known and numbered as Map 112, Parcel 6A on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-08 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: The TJX Companies, Inc.
770 Cochituate Road
Framingham, MA 01701

7. Street Address: 300-350 Value Way, Marlborough, MA 01752

Permanent easement for roadway, sidewalk and guardrail purposes: Being a 2,325 S.F. portion of the property located on Simarano Drive with a street address of 300-350 Value Way, Marlborough, MA, known and numbered as Map 112, Parcel 6 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel E-03 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being an 8,235 S.F. portion of the property located on Simarano Drive with a street address of 300-350 Value Way, Marlborough, MA, known and numbered as Map 112, Parcel 6 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-07 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: The TJX Companies, Inc.
770 Cochituate Road
Framingham, MA 01701

8. Street Address: 292 Ames Street, Marlborough, MA 01752

Temporary easement for grading purposes: Being a 920 S.F. portion of the property located at 229 Ames Street, Marlborough, MA, known and numbered as Map 89, Parcel 99 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-02 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: Marlborough/Northborough Land Realty Trust
1 Wall Street
Burlington, MA 01803

9. Street Address: 11 Atkinson Drive

Temporary easement for grading purposes: Being a 910 S.F. portion of the property located on Ames Street with a street address of 11 Atkinson Drive, Marlborough, MA, known and numbered as Map 89, Parcel 80 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-01 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: Marlborough/Northborough Land Realty Trust
1 Wall Street
Burlington, MA 01803

10. Street Address: 100 Campus Drive, Marlborough, MA 01752

Temporary easement for grading purposes: Being a 2,420 S.F. portion of the property located on Simarano Drive with a street address of 100 Campus Drive, Marlborough, MA, known and numbered as Map 100, Parcel 19 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-04 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 5,520 S.F. portion of the property located on Simarano Drive with a street address of 100 Campus Drive, Marlborough, MA, known and numbered as Map 100, Parcel 19 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-05 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easements shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: Hines Global REIT Marlborough Campus II LLC
2800 Post Oak Boulevard, Suite 800
Houston, TX 77056

11. Street Address: 377 Simarano Drive, Marlborough, MA 01752

Temporary easement for grading purposes: Being a 3,200 S.F. portion of the property located on Simarano Drive with a street address of 377 Simarano Drive, Marlborough, MA, known and numbered as Map 112, Parcel 10A on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-11 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: Synopsys, Inc.
700 East Middleford Road
Mountain View, CA 94043

12. Street Address: Off Simarano Drive

Temporary easement for grading purposes: Being a 21,850 S.F portion of the property located off Simarano Drive, Marlborough, MA, known and numbered as Map 101, Parcel 2A on the Assessors' Map of the City of Marlborough, and shown as Parcel TE-18 on Sheet 4 of 17 of a set of plans dated June 18, 2014, revised August 19, 2014, and entitled "Simarano Drive Road Improvements in the City of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Simarano Drive and Ames Street.

OWNER: Avalon Marlborough LLC
51 Sleeper Street, Suite 750
Boston, MA 0221

Yea: 11 – Abstain: 0

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope Robey & Oram

ORDERED: That the Application for Renewal of Junk Dealer's License by Best Buy Stores, LP #820, 769 Donald Lynch Blvd., **TABLED UNTIL NEXT CITY COUNCIL MEETING**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer's License by Best Buy Stores, LP #1966, 601 Donald Lynch Blvd., **TABLED UNTIL NEXT CITY COUNCIL MEETING**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:11 PM.