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CITY OF MARLBOROUGH

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## CITY OF MARLBOROUGH

### City Council Agenda

Monday, January 8, 2024

8:00 PM

This meeting of the City Council will be held in City Council Chambers, City Hall, 140 Main Street. **PUBLIC ATTENDANCE IS PERMITTED.** This meeting will be televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34), or you can view the meeting using the link under the Meeting Videos tab on the city website ([www.marlborough-ma.gov](http://www.marlborough-ma.gov)).

1. Minutes, City Council Meeting, December 18, 2023.
2. Minutes, Special City Council Meeting, December 28, 2023.
3. Minutes, City Council Organizational Meeting, January 1, 2024.
4. From Council President Ossing: 2024 City Council Regular Meeting Schedule.
5. Communication from Councilors Ossing & Wagner, re: Municipal Aggregation – December 2023 Update.
6. Communication from the Mayor, re: Reappointment of Jason D. Grossfield as City Solicitor effective January 1, 2024.
7. Communication from the Mayor, re: Appointment of Ryan Egan as Chief of Staff to the Mayor effective January 1, 2024.
8. Communication from the Mayor, re: Appointment of Heather H. Gutierrez as Executive Administrator to the Mayor, effective January 1, 2024.
9. Communication from the Mayor, re: Reappointment of Police Chief David Giorgi as Keeper of the Lock-Up for a term of 1-year.
10. Communication from Attorney Brian Falk, on behalf of the Red Spring Road Homeowners Association, Inc., re: Request to Carry Over the Proposed Zoning Ordinance Amendment to Chapter 650 “Zoning” of the Code to add a new section to create the “Red Spring Road Overlay District” (RSR), Order No. 23-1008951.
11. Communication from Attorney Brian Falk, on behalf of the Red Spring Road Homeowners Association, Inc., re: Request to Withdraw without Prejudice the Proposed Zoning Ordinance Amendment to Chapter 650 “Zoning” of the Code to add a new section to create the “Red Spring Road Overlay District” (RSR), Order No. 23-1008951.
12. Communication from Department of Public Utilities, re: Petition of MA Electric and Nantucket Electric d/b/a National Grid for Approval of a General Increase in Base Distribution Rates for Electric Service, a Performance-Based Ratemaking Plan, and a Capital Recovery Mechanism.
13. Communication from Diane Plummer, re: Resignation as Chair of the City Scholarship Committee.

**Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.**

14. Minutes of Boards, Commissions and Committees:

- a) Conservation Commission, February 2, 2023, May 18, 2023, July 6, 2023, October 5, 2023, November 16, 2023 & December 7, 2023.
- b) Historical Commission, October 19, 2023.
- c) Planning Board, November 13, 2023 & November 27, 2023.

15. CLAIMS:

- a) Horacio Castro, 25 Magnolia Lane, other property damage and/or personal injury.
- b) Anthony Pellegrini III, 69 Westernview Drive, other property damage and/or personal injury.

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

**Councilors-at-Large**

Mark A. Oram  
Michael H. Ossing  
Samantha Perlman  
Kathleen D. Robey



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MARLBOROUGH  
JAN -3 AM 8:00

**Ward Councilors**

Ward 1 – Laura J. Wagner  
Ward 2 – David Doucette  
Ward 3 – J. Christian Dumais  
Ward 4 – Teona C. Brown  
Ward 5 – John J. Irish  
Ward 6 – Sean A. Navin  
Ward 7 – Donald R. Landers, Sr.

**Council President**

Michael H. Ossing

**Council Vice-President**

Kathleen D. Robey

**CITY OF MARLBOROUGH  
CITY COUNCIL  
MEETING MINUTES  
MONDAY, DECEMBER 18, 2023**

The regular meeting of the City Council was held on Monday, December 18, 2023, at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 8:25 PM.

Council President Ossing expressed his sorrow on the passing of former Ward 3 City Councilor and Assessor Anthony “Tony” Arruda” and a moment of silence was observed in his memory.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, DECEMBER 4, 2023, **FILE**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Council President Ossing, re: Appointment of Councilor Robey as City Council Representative on the Richer School Building Committee, **APPROVED**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$19,800.00 from the MA Department of Environmental Protection, Sustainable Materials Recovery Program, awarded to the Department of Public Works to be used to offset the rising costs of processing recyclable materials; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$5,063.00 from the Brigham Family Trust, awarded to the Police Department to be used to assist in funding the Youth Police Academy; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$5,000.00 from the Estate of Ernest Ginnetti awarded to the Council on Aging to be used to assist seniors with unanticipated expenses this winter season; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Mayor, re: Notification of Extension of Temporary Appointment pursuant to MGL Chapter 41 §61A of David Williams as Interim Comptroller/Treasurer for an additional 60-day term to expire February 2, 2024, **FILE**, adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Mayor, re: Notification of Temporary Appointment pursuant to MGL Chapter 41 §61A of Louis J. Turieo as Interim Parking Clerk for a period of 60-days to expire on February 1, 2024, **FILE**, adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Mayor, re: Accomplishments and Initiatives, **FILE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Mayoral Veto of City Council Order 22/23-1008691A, Acceptance of Gikas Lane as a Public Way, **TABLED UNTIL THE NEXT CITY COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Opinion on the Application for Special Permit from SUCIU LLC d/b/a Exela Storage, 846 Boston Post Road East, Order No. 23-1008823, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Proposed Zoning Ordinance Amendment to Chapter 650 "Zoning" of the Code to add a new section to create the "Red Spring Road Overlay District" (RSR), in proper legal form, Order No. 23-1008951, **MOVED TO REPORT OF COMMITTEE & FILE**; adopted.

**Councilor Oram Recused.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **THE FIRST MEETING IN FEBRUARY 2024**, as the **DATE FOR PUBLIC HEARING**, on the Application from ViewPoint Sign and Awning on behalf of Best Western Royal Plaza Hotel for replacement of a Free-Standing EMC Sign at 181 Boston Post Road West, referred to the **URBAN AFFAIRS COMMITTEE & CARRY OVER TO THE 2024/2025 LEGISLATIVE SESSION**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **THE FIRST MEETING IN FEBRUARY 2024**, as the **DATE FOR PUBLIC HEARING**, on the Application from Barlo Signs on behalf of Kennedys Restaurant and Market for installation of a Free-Standing EMC Sign at 247 Maple Street, referred to the **URBAN AFFAIRS COMMITTEE & CARRY OVER TO THE 2024/2025 LEGISLATIVE SESSION**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

**ORDERED:** That the Communication from Attorney Sem Aykanian, on behalf of SUCIU LLC, d/b/a Exela Storage re: Request to Withdraw without Prejudice, the Application for a Special Permit to add additional storage units to a nonconforming storage facility, to be located at 846 Boston Post Road East within the Wayside District, Order No. 23-1008823, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

**ORDERED:** That the Communication from Attorney Brian Falk, on behalf of the Red Spring Road Homeowners Association, Inc., re: Proposed Agreement Right of First Refusal, Red Spring Road 10-acre parcel, referred to the **CITY SOLICITOR & CARRY OVER TO THE 2024/2025 LEGISLATIVE SESSION**; adopted.

**Councilor Oram Recused.**

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the Communication from the Public Employee Retirement Administration Commission (PERAC) re: Required FY25 Appropriation in the amount of \$11,219,878.00, **FILE**; adopted.

Motion by Councilor Oram, seconded by the Chair to adopt the following:

**ORDERED:** That the Communication from Central MA Mosquito Control Project, re: Notice of 2024 Commission meeting dates, **FILE**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

**ORDERED:** That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) Commission on Disabilities, June 12, 2023.
- b) Cultural Council, November 15, 2023.
- c) Library Trustees, September 5, 2023 & October 3, 2023.

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

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

- a) Nanci Buchan, 65 Country Lane, other property damage and/or personal injury.
- b) Johanna Haagens, 29 Violetwood Circle, pothole or other road defect.
- c) Lynn Hubbard, 149 Main Street, #11, other property damage and/or personal injury.

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

**City Council Urban Affairs Committee  
December 5, 2023  
Minutes and Report**

This meeting convened at 7:30 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city's website, home page ([www.marlborough-ma.gov](http://www.marlborough-ma.gov)).

Urban Affairs & Housing Committee voting members present were Chairman Katie Robey, Councilor Doucette, Councilor Landers, Councilor Navin, and Councilor Wagner.

Also present were Councilors Perlman and Ossing.

**Order No. 21-1008823: Application for Special Permit from Attorney Sem Aykanian on behalf of SUCIU, LLC D/B/A Excelsa Storage to add additional units to a nonconforming storage facility to be located at 846 Boston Post Road East, in the Wayside District.**

Present for petitioner were Attorney Aykanian; Alexe Suci, owner Excelsa Storage; and Dan Bremser, Hancock Associates.

The public hearing for this was held on April 10, 2023, with an extension approved until December 31, 2023 as the petitioner worked with department heads on issues with the site. Councilors received a new site plan (dates as last revised 11/17/2023) as well as a revised Special Permit Decision. The chair read the communication from Commissioner Htway stating in his opinion the changes made to the site do not constitute significant changes to the original proposal and would not require a new filing. Also read was communication from David Giorgi, Marlborough Police Chief stating he did not recall issues pertaining to traffic flow or vehicle movement but understood that there was discussion regarding the aesthetics of design with the city engineer addressing it in his response; communication from Kevin Breen, Fire Chief stating the draft special permit was reviewed and he agreed the changes were minor with respect to changing the foundational support and overall scope of the project; and a communication from Thomas DiPersio, City Engineer offering the following recommendations-1.) adding to 5. Storm Water and Erosion Control Management: "Stormwater from new impervious surfaces such as the proposed walkway shall be managed through new infiltration structure(s). Stormwater from the gravel parking area shall be managed through new vegetated swale, buffer strip, or equivalent. These measures shall be approved during detailed Site Plan Review." 2.) Adding an additional condition be added: "Screening: The site shall be screened from view from Boston Post Road with fence and/or vegetation. The applicant shall request permission from MassDOT to plant vegetation within the roadway layout in front of the proposed fence. He also questioned whether the structure encroachments into the city layout of Old Boston Post Road had been corrected. Attorney Aykanian indicated that the new plans show the revised structure is not in the city's layout.

Discussion was held on the lack of any drawings showing what the new site would look like as well as concerns about using storage containers which would be stacked 2 high. The petitioner explained there would a 6 ft high vinyl fence in front of the units running horizontally along Rt. 20 and with the drop on the site from the roadway, very little of the units would be visible.

There was consensus to add the two recommendations from the city engineer as well as adding language suggested by Councilor Wagner-"The containers used must be new and be the same color."

Reports of Committee Continued:

**Councilor Wagner moved to approve Order No. 21-1008823, with the revised Special Permit Decision for Excelsa Storage, seconded by the chair; the vote carried 3-2 (Navin, Robey).**

With this special permit requiring eight votes and there being only one more council meeting, it was agreed the petitioner would work with the city solicitor to have this in proper form for the December 18th council meeting so this can be voted on by the current council. This will be reported out at the December 18th meeting with a request to suspend the rules. (Note the revised decision has the Plan's last revision date of November 6, 2023, but should read November 17, 2023).

**Order No. 23-1008951: Proposed Zoning Amendment to Chapter 650 Zoning to add a new section to create the "Red Spring Overlay District."**

Present were Attorney Brian Falk, attorney for petitioner; Mr. Robert Durand, President, Red Spring Road Homeowners Assn.Inc., Trustee of the Red Spring Shores Condominium; and Robert Parente, Central Mass Engineering, Inc. Also present were Tin Htway, Building Commissioner; Priscilla Ryder, Conservation/Sustainability Officer; and Thomas DiPersio, City Engineer.

This was tabled in committee from November 30, 2023, meeting. Councilors received a new copy of the language for the order, a Condominium Site Plan and a 2-page draft Plan of Building Envelope Areas marked in red which was a request from the November 30th meeting. This document will show 15 ft and 20 ft separation between exclusive use areas and when completed to include all the properties, would become Exhibit B.

Attorney Falk discussed the most recent revisions to the order. Commissioner Htway was asked to comment on the Plan marking exclusive use areas. He stated when he received a building permit for this site, it would include the portion of the Exclusive Use Plan for the homeowner as a reference on where the building would occur, and this document will help his office as they review the permit. Councilor Landers asked where the 10 acres of land that is now excluded from the overlay maps and if it could be developed. The response was it could be developed by extending Cullinane Drive but the Condo Association has not entered any sales agreement. Attorney Falk discussed the Agreement of First Refusal that councilors were given. The condo association needs to vote and sign the document and then it would be brought to the council to be accepted which would give the city an opportunity to purchase the land.

Mr. Durand stated he had been in conversation with Priscilla Ryder about adding this to the Open Space Plan and ways to find funds to purchase the property. Ms. Ryder stated there had been informal conversation on purchasing the property and having the right of first refusal would help keep option open.

The chair went through the latest version of order to cover the changes and offered a further change, to add *twenty-nine* in D1(a) which reads "Single-family dwellings" to then read "Twenty-nine single-family dwellings." Consensus was to add this. Councilor Doucette asked for clarification on how the Right of First Refusal would be incorporated into the order. Attorney Falk said it wouldn't be, but the two separate documents could be voted on at same time. It was noted again that the condo association has to approve this first.

**Councilor Wagner moved to approve Order No. 23-1008951 Red Spring Road Overlay District as amended; it was seconded, and the motion carried 4-1 (Landers).**

Attorney Falk will work with petitioner to finalize the Plan showing the Exclusive Use Areas and fill in the missing date for Plan in E.1 and work with the solicitor to have this in final form for the December 18 council agenda. He will also work with the solicitor on the Right of First Refusal. The chair would report this out and ask for suspension.

Reports of Committee Continued:

Councilor Doucette moved to adjourn, seconded and carried 5-0. Meeting adjourned at 9:08 PM.

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

**City Council Finance Committee  
December 11, 2023  
Minutes and Report**

This meeting convened at 7:00 PM in the Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8/Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city's home page, [www.marlborough-ma.gov](http://www.marlborough-ma.gov).

Voting Members Present: Chair Irish, Councilors Dumais, Perlman, Oram, and Brown.

Non-Voting Members Present: Councilors Ossing, Robey, and Doucette

School Superintendent Mary Murphy and Director of Finance & Operations Thomas LaFleur addressed the Mayor's transfer request.

**Order No. 23-1009021: Communication from Mayor Vigeant together with Order in proper legal form and request for a Transfer in the amount of \$2 Million Dollars for the feasibility study phase of the Massachusetts School Building Authority (MSBA) process for the Raymond C. Richer Elementary School project.**

The proposed Order has been reviewed by the Legal Department and MSBA to ensure that the vote conforms to all requirements.

Chair Irish read the Mayor's letter, dated December 4, 2023, into the record. The superintendent and Director of Finance and Operations addressed the transfer and answered questions from councilors.

**On motion by Councilor Perlman, seconded by Chair, the committee voted 5-0 to approve the order and transfer.**

Motion made and seconded to adjourn; meeting adjourned at 7:39 PM

**Suspension of the Rules requested – granted.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS 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 AMENDING AND ADDING THERETO AS FOLLOWS:

- I. Chapter 650, Article VI, entitled “Special Districts, Overlays and Special Requirements” is hereby amended by inserting a new Section 650-39A, entitled “Red Spring Road Overlay District”, which shall read as follows:

**§650-39A – RED SPRING ROAD OVERLAY DISTRICT**

- A. Purpose and Objectives. The Red Spring Road Overlay District (“RSR”) allows the application of supplemental land use controls within the boundaries of a certain overlay district as an alternative to land use controls that exist in the underlying districts. The establishment goals of the RSR are to incorporate an existing condominium neighborhood within the Zoning Ordinance, to encourage improvements to existing structures, and to regulate modifications to a unique lakeside residential community. The RSR regulates land use and not form of ownership.
- B. Location of RSR; Underlying Zoning.
  1. For the purposes of this Section (§650-39A et. seq.), the RSR is located on the southerly side of Fort Meadow Reservoir along Red Spring Road between Reservoir Street and Cullinane Drive containing approximately 40 acres as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.
  2. Except as specifically provided herein, the provisions of the Zoning Ordinance relating to the underlying zoning districts not otherwise impacted by this Section (§650-39A et. seq.) shall continue to remain in full force and effect. In the event of any conflict between the provisions of this Section (§650-39A et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-39A et. seq.) shall govern and control.
- C. Authority of Permit Granting Authorities.
  1. The Zoning Board of Appeals shall be the special permit granting authority in the RSR for: (a) single-family dwelling uses for purposes of §650-12 and §650-58B(3); and (b) condominium common areas, substantially as shown on Exhibit B annexed hereto as referenced below, which may not be developed except for common facilities accessible only to the condominium unit owners as authorized by special permit from the Zoning Board of Appeals.
  2. The City Council shall be the special permit granting authority in the RSR for other uses allowed by special permit.
  3. At the request of an applicant, the City Council may elect to vary the dimensional, parking, design, and landscaping requirements applicable to a use or structure by special permit upon finding that such change shall result in an improved design and will not nullify or substantially derogate from the intent or purpose of this Section (§650-39A et. seq.).

D. Use Regulations.

1. The following uses are permitted as of right in the RSR:
  - a. Up to 29 single-family dwellings.
  - b. Uses allowed as of right in the underlying zoning district, as set forth in the Table of Use Regulations, §650-17 of the Zoning Ordinance.
  - c. Accessory buildings and accessory uses.
2. Uses allowed by special permit in the underlying zoning district may be allowed by special permit in the RSR.
3. All uses not specified in Section 650-39A.D.1 and Section 650-39A.D.2 above shall be deemed prohibited in the RSR.

E. Dimensional Regulations for Lots in a Condominium Form of Ownership.

1. Within the RSR, multiple principal and accessory buildings and uses may be located on the same lot under a condominium form of ownership, provided that: (i) each principal building shall be located within an exclusive use area of at least 8,000 square feet and only one principal building shall be located in each exclusive use area, (ii) there shall be no yard setbacks or landscaped strips required as to exclusive use areas or minimum distances between structures, except for a building envelope within each exclusive use area set 20 feet from Red Spring Road and 15 feet from the side and rear boundaries of each exclusive use area, substantially as shown on a plan entitled "Building Setback Plan Red Spring Road Condominiums" by Chappell Engineering Associates LLC, last revised December 8, 2023, annexed hereto as Exhibit "B", and a principal or accessory building shall only be located within the building envelope, (iii) any building permit application for a new structure or expansion of an existing structure shall be accompanied by evidence that such work is authorized by the governing condominium organization, and (iv) the maximum number of exclusive use areas in the RSR shall be 29, laid out substantially as shown on Exhibit B.
2. Notwithstanding any provisions of the Zoning Ordinance to the contrary, a lot under a condominium form of ownership in the RSR shall be subject to the following dimensional requirements:
  - a. Minimum Lot Area: 18,000 square feet.
  - b. Minimum Lot Frontage: none.
  - c. Minimum Front, Side, and Rear Yards: none (See Section 650-39A.E.3).
  - d. Maximum Building Height: 2 ½ stories.
  - e. Maximum Lot Coverage: 30%, over the entire RSR.
  - f. Maximum Gross Floor Area of a Single-Family Dwelling: 3,000 square feet.
  - g. Maximum Accessory Building Floor Area: for all accessory buildings in a single exclusive use area, the greater of (i) 50% of the gross floor area of the principal building, or (ii) 1,500 square feet, except as authorized by special permit from the Zoning Board of Appeals.
3. With the exception of structures erected prior to July 1, 2023, all structures on a lot under a condominium form of ownership in the RSR shall be set back a minimum of 15 feet from the RSR district boundary line.
4. Parking for single-family dwellings on a lot under a condominium form of ownership in the RSR shall be provided as feasible. Parking for other uses within the RSR shall conform with the provisions of §650-48.A of the Zoning Ordinance.

5. Driveways and roadways serving a lot under a condominium form of ownership in the RSR shall be maintained to provide safe access and egress for vehicular and pedestrian traffic and emergency services but shall not be subject to the design standards set forth in §650-49 of the Zoning Ordinance or subdivision standards.
- F. Dimensional Regulations for Other Lots. Lots not under a condominium form of ownership in the RSR and lots created after the effective date of this Section 650-39A shall be subject to the dimensional requirements of the underlying zoning district.
- II. The Zoning Map described in § 650-8 is amended as stated herein and in Exhibit “A” annexed hereto. The newly established “Red Spring Road Overlay District” shall include portions of the property shown on the Assessors Map as existing at the passage of this Ordinance, which property includes the following parcel of land (herein identified by the Assessors’ Map and Parcel Number): 30-10, with the exception of a portion of said parcel with an area of approximately 10 acres as shown on the plan entitled “Plan of Land to be Excluded from ‘The Red Spring Road Overlay District’” dated November 8, 2023 annexed hereto as part of Exhibit “A”.
- III. The City Clerk is authorized to assign other numbering for the new section 650-39A as deemed appropriate for sequential ordering in the Zoning Ordinance.
- IV. The effective date of these amendments shall be the date of their passage.

**First Reading, suspended; Second Reading, adopted; DOES NOT CARRY**

**President Ossing declared the hand count vote of seven Councilors in favor.**

**Councilor Oram Recused.**

**Suspension of the Rules requested – granted.**

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the William Camuso on behalf of Leigh Enterprises, Ltd., re: Request to continue the exemption to the hours of operation under City Code Chapter 342, Article 1, Section 342-2, allowing the Shell Gas Station at 431 Lincoln Street to be open for business from 5:00 AM to 11:00 PM for one additional year, **FILE**; adopted.

**Suspension of the Rules requested – granted.**

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the request of William Camuso on behalf of Leigh Enterprises, Ltd. to continue the exemption to the hours of operation under City Code Chapter 342, Article 1, Section 342-2, allowing the Shell Gas Station at 431 Lincoln Street to be open for business from 5:00 AM to 11:00 PM for one additional year, along with original conditions. **APPROVED**; adopted.

**Suspension of the Rules requested – granted.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the “Vision for Donald Lynch Boulevard” document which includes a Proposed Zoning Ordinance Amendment to Chapter 650 “Zoning” to create the new Donald Lynch Boulevard Overlay District as submitted by President Ossing, **CARRIED OVER TO THE 2024/2025 LEGISLATIVE SESSION**; adopted.

**Suspension of the Rules requested – granted.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Zoning Amendments to Chapter 650 “Zoning” to add a new §37A “Multi-Family MBTA Housing Overlay District” relative to Multi-Family Zoning Requirements for MBTA Communities, as submitted by the Mayor **CARRIED OVER TO THE 2024/2025 LEGISLATIVE SESSION**; adopted.

**Suspension of the Rules requested – granted.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Mayoral Veto of City Council Order 22/23-10088721M, Zoning Ordinance Amendment to Chapter 650 “Zoning” of the Code relative to Definitions, Affordable Housing, and the Marlborough Village District (MV), **TABLED UNTIL THE NEXT CITY COUNCIL MEETING**; adopted.

City Council President Ossing read a proclamation from the City Council and presented it to outgoing Councilor-At-Large Samantha Perlman.

City Councilor Perlman spoke and thanked her family, the residents of Marlborough and the current and former members of the Council.

City Council President Ossing turned the podium over to Councilor Perlman to adjourn the meeting.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 8:25 PM; adopted.

**Councilors-at-Large**

Mark A. Oram  
 Michael H. Ossing  
 Samantha Perlman  
 Kathleen D. Robey



RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH  
 JAN -3 AM 8:33

**Ward Councilors**

Ward 1 – Laura J. Wagner  
 Ward 2 – David Doucette  
 Ward 3 – J. Christian Dumais  
 Ward 4 – Teona C. Brown  
 Ward 5 – John J. Irish  
 Ward 6 – Sean A. Navin  
 Ward 7 – Donald R. Landers, Sr.

**Council President**

Michael H. Ossing

**Council Vice-President**

Kathleen D. Robey

**CITY OF MARLBOROUGH  
 CITY COUNCIL  
 MEETING MINUTES  
 MONDAY, DECEMBER 28, 2023**

The special meeting of the City Council was held on Thursday, December 28, 2023, at 7:30 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, & Robey. Absent: Perlman. Meeting adjourned at 7:44 PM.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the Transfer Request in the amount of \$2,000,000.00 (two million dollars) which moves funds from Undesignated Fund (Free Cash) to Richer School Feasibility Study Fund to be used for the feasibility study phase of the MA School Building Authority's (MSBA) process, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS -									
DEPT:		Mayor				FISCAL YEAR:		2024	
FROM ACCOUNT:					TO ACCOUNT:				
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available
Balance									Balance
\$9,602,846.40	\$2,000,000.00	10000	35900	Undesignated Fund	\$2,000,000.00	19300006	52690	Feasibility Study-Richer	\$0.00
Reason:		Feasibility study for Richer School							
\$2,000,000.00	Total					\$2,000,000.00	Total		

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the City of Marlborough appropriate the amount of two-million (\$2,000,000.00) dollars for the purpose of paying costs of the feasibility study for the Raymond C. Richer Elementary School, 80 Foley Road, Marlborough, MA, including the payment of all costs incidental or related thereto, and for which the City of Marlborough may be eligible for a grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended under the direction of the School Building Committee. To meet this appropriation the City Council hereby approves the transfer of said amount from the Undesignated Fund Account into the Feasibility Study – Richer Account. The City of Marlborough acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the City of Marlborough incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City of Marlborough, **APPROVED**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

**ORDERED:** That the City Council hereby **OVERRIDES** by two thirds vote, pursuant to Section 55 of Division 1 of the City Charter the Mayor’s veto of Council Order 22/23-1008691B, as set forth in the Mayor’s letter dated December 8, 2023 (copy attached hereto), relative to the Acceptance of Gikas Lane as a Public Way; adopted.

**Yea: 10 – Nay: 0 – Absent – 1**

**Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, & Robey.**

**Absent: Perlman.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

**ORDERED:** That the City Council hereby **OVERRIDES** by two thirds vote, pursuant to Section 55 of Division 1 of the City Charter the Mayor’s veto of Council Order 22/23-1008721M, as set forth in the Mayor’s letter dated December 15, 2023 (copy attached hereto), regarding to the Zoning Amendment to Chapter 650 “Zoning” relative to Definitions, Affordable Housing, and Marlborough Village District (MV) Zoning; adopted.

**Yea: 9 – Nay: 1 – Absent – 1**

**Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Oram, Ossing, & Robey.**

**Nay: Landers.**

**Absent: Perlman.**

City Council President Ossing read proclamations from the City Council and presented it to outgoing Councilor-Ward 1 Laura J. Wagner and Councilor-Ward 3 J. Christian Dumais.

City Councilors Wagner & Dumais spoke and thanked their families, the residents of Marlborough and the current and former members of the Council.

City Council President Ossing turned the podium over to Councilor Wagner to adjourn the meeting.

Motion by Councilor Navin, seconded by the Chair to adopt the following:

**ORDERED** There being no further business, the regular meeting of the City Council is herewith adjourned at 7:44 PM; adopted.

**Councilors-at-Large**

Sean A. Navin  
Mark A. Oram  
Michael H. Ossing  
Kathleen D. Robey



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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
JAN -3 AM 8:02

**Ward Councilors**

Ward 1 – Mark A. Vital  
Ward 2 – David Doucette  
Ward 3 – Robert Preciado  
Ward 4 – Teona C. Brown  
Ward 5 – John J. Irish  
Ward 6 – A. Trey Fuccillo  
Ward 7 – Donald R. Landers, Sr.

**Council President**

Michael H. Ossing

**Council Vice-President**

Kathleen D. Robey

**CITY OF MARLBOROUGH  
CITY COUNCIL  
MEETING MINUTES  
MONDAY, JANUARY 1, 2024**

Organizational meeting of the City Council held on Monday, January 1, 2024, in City Council Chambers, City Hall. City Councilors Present: Navin, Oram, Ossing, Robey, Vital, Doucette, Preciado, Brown, Irish, Fuccillo, and Landers.

The City Clerk called the meeting to order at 11:35 AM. The City Clerk then opened the floor for nominations for the election of a City Council President Pro-Tempore of the City Council for 2024.

The name of Councilor Sean A. Navin to be President Pro-Tempore of the City Council for 2024, was placed in nomination by Councilor Michael H. Ossing and seconded by Councilor Kathleen D. Robey. There were no other nominations.

Assistant City Clerk Wilson Chu called the roll for the election of Councilor Sean A. Navin as President Pro-Tempore of the City Council for the year 2024.

**VITAL** – Councilor Navin .  
**PRECIADO** – Councilor Navin.  
**IRISH** – Councilor Navin .  
**LANDERS** – Councilor Navin.  
**ORAM** – Councilor Navin.  
**ROBEY** – Councilor Navin.

**DOUCETTE** – Councilor Navin.  
**BROWN** – Councilor Navin.  
**FUCCILLO** – Councilor Navin.  
**NAVIN** – Councilor Navin.  
**OSSING** – Councilor Navin.

Councilor Navin received 11 votes is elected President Pro-Tempore of the City Council.

Councilor Robey escorted President Pro Tempore Dumais to the podium.

President Pro-Tempore Navin opened the floor for nominations for the office of President of the City Council for the year 2024. The name of Councilor Michael H. Ossing was placed in nomination by Councilor Donald R. Landers, Sr, and seconded by Councilor Kathleen D. Robey. There were no other nominations.

The City Clerk called the roll for the election of Michael H. Ossing as President of the City Council for the year 2024.

**VITAL** – Councilor Ossing.  
**PRECIADO** – Councilor Ossing.  
**IRISH** – Councilor Ossing.  
**LANDERS** – Councilor Ossing.  
**ORAM** – Councilor Ossing.  
**ROBEY** – Councilor Ossing.

**DOUCETTE** – Councilor Ossing.  
**BROWN** – Councilor Ossing.  
**FUCCILLO** – Councilor Ossing.  
**NAVIN** – Councilor Ossing.  
**OSSING** – Councilor Ossing.

Councilor Ossing received 11 votes is elected President of the City Council.

Councilor Brown escorted President Ossing to the podium.

President Ossing opened the floor for nominations for the office of Vice-President of the City Council for the year 2024. The name of Councilor Kathleen D. Robey was placed in nomination by Councilor Teona C. Brown and seconded by Councilor Sean A. Navin. There were no other nominations.

The City Clerk called the roll for the election of Kathleen D. Robey as Vice-President of the City Council for the year 2024.

**VITAL** – Councilor Robey.  
**PRECIADO** – Councilor Robey.  
**IRISH** – Councilor Robey.  
**LANDERS** – Councilor Robey.  
**ORAM** – Councilor Robey.  
**ROBEY** – Councilor Robey.

**DOUCETTE** – Councilor Robey.  
**BROWN** – Councilor Robey.  
**FUCCILLO** – Councilor Robey.  
**NAVIN** – Councilor Robey.  
**OSSING** – Councilor Robey.

Councilor Robey received 11 votes is elected Vice-President of the City Council.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

**ORDERED:** That the 2023 City Council Rules be adopted for operation of the Council in 2024, until such time as they may be reviewed and amended, **APPROVED**; adopted.

Council President Ossing thanked Councilor Navin for his service as President Pro-Tempore of the City Council for 2024. He also congratulated Councilor Robey on her election as Vice-President of the City Council for 2024. He also thanked the members of the Council for their support and confidence in electing him to lead the City Council for 2024. The Council President looks forward to working with all Councilors in the coming year to help move Marlborough forward. He announced the first meeting of the Council would be held on Monday, January 8, 2024, and he will work on the Committee Assignments and 2024 Council meeting schedule to have it ready for the next meeting.

Motion by Councilor Navin, seconded by the Chair to adopt the following:

**ORDERED:** That that there being no further business, the organizational meeting of the City Council be adjourned at 11:47 AM, **APPROVED**; adopted.

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2024 JAN -3 PM 4:40

**CITY COUNCIL REGULAR MEETING SCHEDULE 2024**

January 1  
**(Organizational Meeting)**

January 8

January 22

February 12

February 26

March 11

March 25

April 8

April 22

May 6

May 20

June 3

June 17

July 22

August 19

September 9

September 23

October 7

October 21

November 4

November 18

December 2  
**(Agenda closes 5:00 PM Tuesday November 26<sup>th</sup>)  
(Tax Classification Public Hearing)**

December 16



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2023 DEC 29 AM 8:26

**Marlborough City Council**  
**Laura J. Wagner**  
**Michael H. Ossing**  
140 Main Street  
Marlborough, Massachusetts 01752  
(508) 460-3711 TDD (508) 460-3610

December 27, 2023

Honorable Members  
Marlborough City Council  
City Hall  
Marlborough, MA 01752

Re: Municipal Aggregation – December 2023 Update

Dear Honorable Members:

In accordance with Order No.19-1007578B, this correspondence informs the City Council of the third quarter 2023 savings from the approved fixed price contract with Inspire that will provide stability and predictability and on a yearly average be lower than the National Grid Fixed Basic Service Rates during the same period. The contract with Inspire runs through the January 2024 meter reads.

Colonial Power has compiled the third quarter 2023 data and the City residents saved \$1,055,838 in their electricity bills compared to the National Grid Basic Service rate. Refer to the table in Attachment 1 and the graph in Attachment 2.

As a reminder, the City contract with Inspire is 100% National Wind Renewable Energy Credits (RECs). The savings are even greater when compared to the National Grid Green options.

Looking ahead to the fourth quarter 2023, the City rate is lower than the National Grid Winter Basic Service rate of 0.18213 \$/kWh. This is significant as the City residents will continue to see savings over the National Grid Basic Service rate and the requirements in order 19-1007578B will be satisfied by “on a yearly average be lower than the National Grid Basic Service rates during the same time period.”

City Councilors should be aware of the following two items:

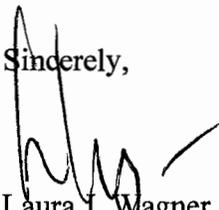
First, National Grid has issued their winter rate which will be effective in November 2023. The National Grid Basic Service winter rate is 0.18213 \$/kWh. This winter rate will be in effect through July 2024.

Second, City Councilors should be aware that the contract with Inspire ends in January 2024. The City has entered into a new contract with First Point Power. The new contract is a 22-month contract from February 2024 to November 2025 and is 100% National Wind Renewable Energy Credits (RECs). The new rate will be 0.14150 \$/kWh. Notification to municipal aggregation participants took place earlier in December 2023 per program requirements. Attachment 3 illustrates the projected 22-month residential savings of over \$3,000,000 with the First Point Power contract over the National Grid Basic Service rate.

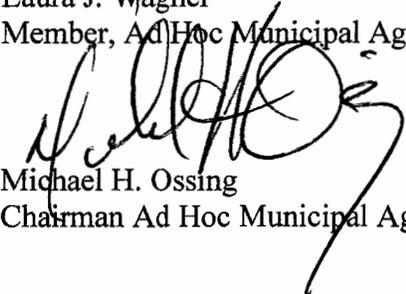
This information will be updated periodically and forwarded to the Councilors in accordance with Order 19-1007578B.

As Councilors, you can take pride in your decision to support Municipal Aggregation as we are saving our residents money on their electricity bills. Since November 2019, City residents have saved over \$18,128,000 on their electric bills with Inspire.

Sincerely,



Laura J. Wagner  
Member, Ad Hoc Municipal Aggregation Committee



Michael H. Ossing  
Chairman Ad Hoc Municipal Aggregation Committee

Attachment 1: Table showing Residential Savings with Inspire (2 pages)

Attachment 2: 3rd quarter 2023 status report – Graph illustrating Marlboro aggregation savings

Attachment 3: Projected 2024 Savings with First Point Power

## Attachment 1 (Page 1 of 2)

Table Showing Residential Savings with Inspire

<b>Date</b>	<b>NGrid Basic Service Rate (\$/kW-hr)</b>	<b>City Rate (\$/kW-hr)</b>	<b>City Residential User Savings</b>	<b>City Residential Commercial Industrial Savings</b>
<b>Fourth Quarter 2019</b>	Nov - .13957 Dec - .13957	Nov - .09690 Dec - .09690	\$550,815	\$693,006
<b>First Quarter 2020</b>	Jan - Mar .13957	Jan - Mar .09690	\$812,433	\$1,034,746
<b>Second Quarter 2020</b>	Apr - .13957 May - .09898 Jun - .09898	Apr - Jun .09690	\$250,320	\$196,841
<b>Third Quarter 2020</b>	Jul - Sept .09898	Jul - .09690 Aug - .09390 Sept - .09390	\$78,989	(-\$148,635)*
<b>Fourth Quarter 2020</b>	Oct - .09898 Nov - .12388 Dec - .12388	Oct - Dec .09390	\$482,513	\$564,251
<b>First Quarter 2021</b>	Jan - Mar .12388	Jan - Mar .09390	\$624,406	\$762,385
<b>Second Quarter 2021</b>	Apr - .12388 May - .09707 Jun - .09707	Apr - Jun .09390	\$187,609	\$129,809
<b>Third Quarter 2021</b>	Jul - Sept .09707	Jul - Sept .09390	\$64,802	(-\$60,875)*
<b>Fourth Quarter 2021</b>	Oct - .09707 Nov - .14821 Dec - .14821	Oct - Dec .09390	\$835,904	\$1,445,446
<b>First Quarter 2022</b>	Jan - Mar .14821	Jan - Mar .09390	\$1,101,166	\$1,818,032
<b>Second Quarter 2022</b>	Apr - .14821 May - .11491 Jun - .11491	Apr - Jun .09390	\$582,369	\$877,142
<b>Third Quarter 2022</b>	Jul - Sept .11491	Jul - Sept .09390	\$455,311	\$1,119,793
<b>Fourth Quarter 2022</b>	Oct - .11491 Nov - .33891 Dec - .33891	Oct - Dec .09390	\$3,875,920	\$6,309,554

Table Showing Residential Savings with Inspire

Date	NGrid Basic Service Rate (\$/kW-hr)	City Rate (\$/kW-hr)	City Residential User Savings	City Residential Commercial Industrial Savings
<b>First Quarter 2023</b>	Jan – Mar 0.33891	Jan – Mar .09390	\$5,118,314	\$8,349,311
<b>Second Quarter 2023</b>	Apr – 0.33891 May – 0.14115 Jun – 0.14115	Apr – Jun .09390	\$2,086,804	\$3,265,640
<b>Third Quarter 2023</b>	Jul – Sept 0.14115	Jul – Sept .09390	\$1,055,838	\$1,550,328
<b>Fourth Quarter 2023</b>	Oct – 0.14115 Nov – 0.18213 Dec – 0.18213	Oct – Dec .09390		
<b>First Quarter 2024</b>	Jan - 0.18213	Jan - .09390		

- \*National Grid sets different rates for commercial/industrial users that are not associated with the National Grid residential fixed Basic Service rate.
- Total residential savings from Inspire (November 2019 to June 2023) is over **\$18,128,000.**
- Total program savings (all rate classes) since inception in 2007 is over **\$31,726,000.**

**CITY OF MARLBOROUGH COMMUNITY CHOICE POWER SUPPLY PROGRAM  
STATUS REPORT Q3 2023**

**Attachment 2**

Prepared December 2023

This report has been prepared by Colonial Power Group with information/data being provided by the Competitive Supplier and National Grid. The purpose of the report is to provide information about the City of Marlborough's Community Choice Power Supply Program, which currently provides competitive power supply to approximately 14,000 customers in the City. The data provided by the Competitive Supplier is not available until three months after the month it is used. For example, power is *Used* in January, *Invoiced* in February, *Paid* in March and *Reported* in April.

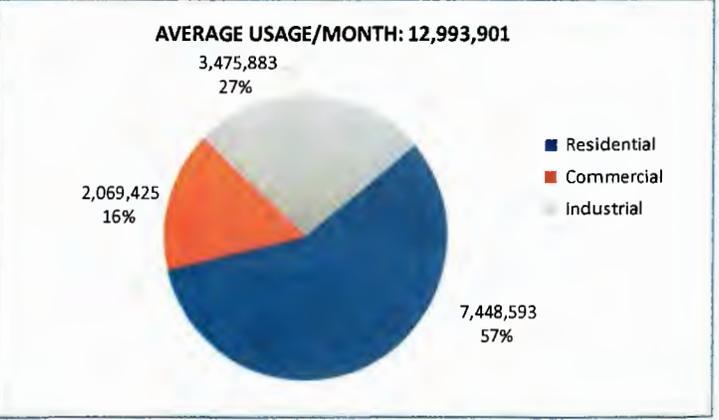
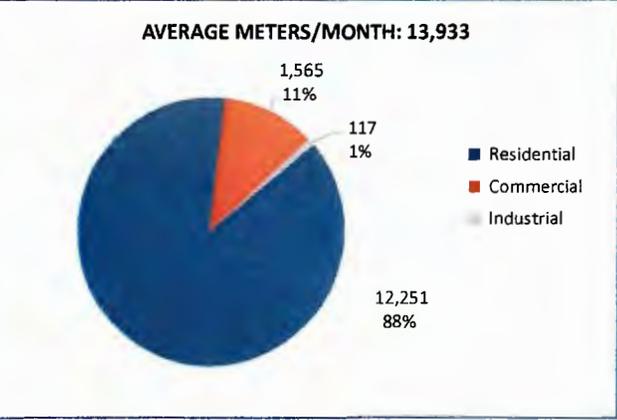
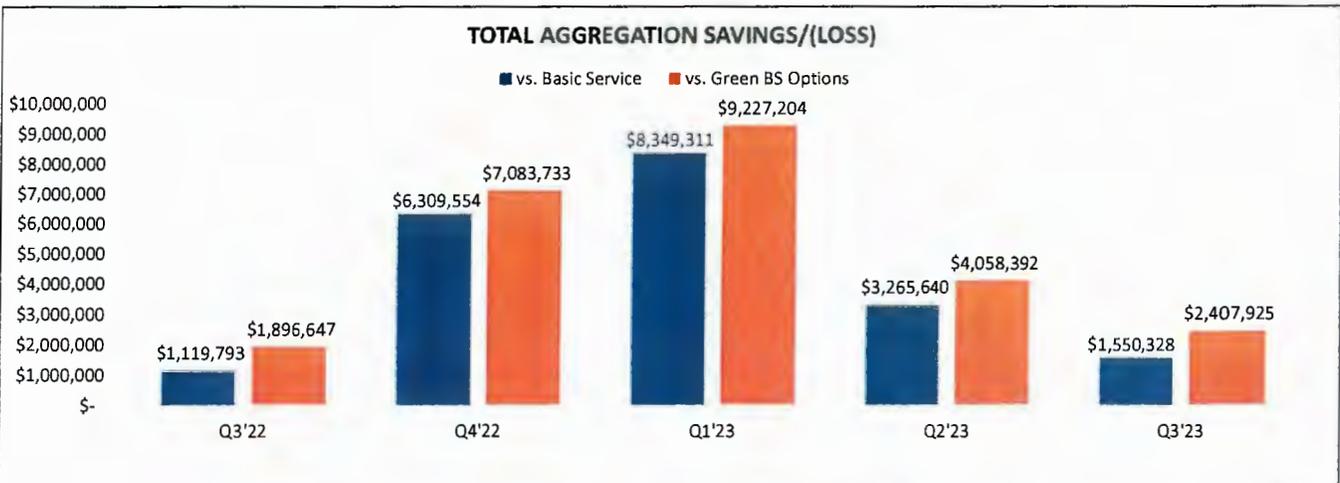
[Click here for more information about the Program](#)

PROGRAM RATES		
Term	August 2020 - January 2024	January 2024 - November 2025
Competitive Supplier	Inspire	First Point Power
Standard	\$0.09390 / kWh	\$0.14150 / kWh

**COMPARISON TO NATIONAL GRID RATES**

[Click here for NGRID GreenUp Info](#)

The City's aggregation savings are directly tied to the margin of savings between the Program's rates and National Grid's corresponding Basic Service rates as well as the level of consumption by participating consumers. Basic Service rates change twice a year or more, depending on utility and rate class. As a result, the aggregation rate may not always be lower than the Basic Service rate. The goal of the aggregation is to deliver savings over the life of the Program against the Basic Service rate. However, such savings and future savings cannot be guaranteed.



**Projected Savings for 2024**  
**Inspire Rate For January – 0.09390**  
**First Point Power Rate for February to December – 0.14150**  
**NGrid 23/24 winter rate of 0.18213 (through July)**  
**NGrid 2024 projected summer rate of 0.17900 (Aug - Dec)**  
**This is for illustration purposes only.**

<b>Date</b>	<b>NGrid Basic Service Rate (\$/kW-hr) NOTE 3</b>	<b>City Rate (\$/kW-hr)</b>	<b>City Residential Electricity Usage NOTE 1 (kW)</b>	<b>City Residential User Savings NOTE 2</b>	<b>Actual Savings</b>
<b>First Quarter 2024</b>	Jan - Mar 0.18213	Jan 0.0939 Feb- Mar 0.14150	Jan – 7,186,870 Feb – 7,713,217 Mar – 5,942,818	1,188,942	TBD
<b>Second Quarter 2024</b>	Apr – Jun 0.18213	Apr – Jun 0.14150	Apr – 5,343,832 May – 6,516,541 Jun – 7,384,633	781,925	TBD
<b>Third Quarter 2024</b>	Jul – 0.18213 Aug – 0.1790 Sept – 0.1790	Jul – Sept 0.14150	Jul – 9,686,355 Aug – 7,138,983 Sept – 4,833,167	842,512	TBD
<b>Fourth Quarter 2024</b>	Oct – Dec 0.17900	Oct – Dec 0.14150	Oct – 4,964,166 Nov – 7,165,325 Dec – 8,210,861	762,763	TBD
<b>Total Savings</b>				3,576,142	

**NOTE 1: Jan to Mar electricity usage based on 2023 usage. Apr – Dec based on 2022 usage. Data from March 2023 Colonial Power report.**

**NOTE 2: Residential User Savings are estimates. Actual savings will vary.**

**NOTE 3: NGrid basic service rates from August to December 2024 based on Colonial Power projection.**

**December 2023 Insights:**

- The first 7 months (Jan – Jul) are projected to save \$2,364,424.
- The last 5 months (Aug – Dec) are projected to save \$1,211,718 (NOTE: the 0.17900 rate is an estimate)
- The Inspire and First Point Energy contracts continue to save residents money over NGrid basic service rates.
- Continue to meet Council Order for savings over NGrid on an yearly average while providing predictability and stability.



# City of Marlborough

*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2024 JAN -4 AM 11:50

J. Christian Dumais, Mayor

140 Main Street  
Marlborough, MA 01752  
(508) 460-3770  
[Mayor@marlborough-ma.gov](mailto:Mayor@marlborough-ma.gov)

January 4, 2024

Council President Ossing  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**RE: Reappointment of Jason Grossfield as City Solicitor**

Dear Honorable President Ossing and Councilors,

I am pleased to provide the City Council notification of my reappointment of Jason Grossfield as City Solicitor effective Monday, January 1, 2024 in accordance with the powers vested in me by the City Charter, Division 1 §60.

Solicitor Grossfield has been with the City of Marlborough since 2019 and has been a tremendous asset to the City Solicitor's Office and the city.

Please do not hesitate to contact me or my office with any questions.

Sincerely,

**J. Christian Dumais**  
Mayor

cc:

John Harmon, Human Resources  
Jason Grossfield, City Solicitor



# City of Marlborough

*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2024 JAN -4 AM 11:50

J. Christian Dumais, Mayor

140 Main Street  
Marlborough, MA 01752  
(508) 460-3770  
[Mayor@marlborough-ma.gov](mailto:Mayor@marlborough-ma.gov)

January 4, 2024

Council President Ossing  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**RE: Appointment of Ryan Egan as Chief of Staff**

Dear Honorable President Ossing and Councilors,

I am pleased to provide the City Council notification of my appointment of Ryan Egan as Chief of Staff to the Mayor effective Monday, January 1, 2024.

Ryan returns to Marlborough after previously working in the Office of Mayor Arthur Vigeant and as Public Information Officer for the City of Framingham. Ryan has also served as a Town Councilor for the Town of Randolph for the past six years. During his time working for Mayor Vigeant's Office, Ryan established many important partnerships and relationships with internal and external stakeholders that will serve my office well through our transition and beyond. His years of experience in both the executive and legislative ends of municipal government will also assist my office greatly. We are excited to have him return.

Please do not hesitate to contact me or my office with any questions.

Sincerely,

**J. Christian Dumais**  
*Mayor*

cc:

John Harmon, Human Resources



# City of Marlborough

*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

J. Christian Dumais, Mayor

2024 JAN -4 AM 11:50

140 Main Street  
Marlborough, MA 01752  
(508) 460-3770  
[Mayor@marlborough-ma.gov](mailto:Mayor@marlborough-ma.gov)

January 4, 2024

Council President Ossing  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**RE: Appointment of Heather H. Gutierrez as Executive Administrator**

Dear Honorable President Ossing and Councilors,

I am pleased to provide the City Council notification of my appointment of Heather H. Gutierrez as Executive Administrator to the Mayor effective January 1, 2024.

Heather returns to Marlborough after previously working as the Paralegal in the Marlborough City Solicitor's Office. She also served as Paralegal for the Division of Local Services Municipal Finance Law Bureau and as Citizen Participation Officer for the City of Framingham. Heather comes with several years of municipal experience as well as over a decade as a small business owner and paralegal, working closely with local, state, and federal government agencies.

In her role in Framingham, she oversaw constituent services for the Mayor's Office. We look forward to her taking on that responsibility here as we expand our constituent services programs. In addition, Heather is bilingual in Spanish and will be assisting with outreach within the Latin/Spanish speaking community.

Heather will make a great addition to the Mayor's Office team, and we are excited to have her return.

Please do not hesitate to contact me or my office with any questions.

Sincerely,

**J. Christian Dumais**  
Mayor

cc:

John Harmon, Human Resources



# City of Marlborough

*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

J. Christian Dumais, Mayor

140 Main Street  
Marlborough, MA 01752  
(508) 460-3770

[Mayor@marlborough-ma.gov](mailto:Mayor@marlborough-ma.gov)

2024 JAN -4 AM 11:50

January 4, 2024

Council President Ossing  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**RE: Reappointment of Police Chief David Giorgi as Keeper of the Lockup**

Dear Honorable President Ossing and Councilors,

I am pleased to provide notification to the City Council of the reappointment of Police Chief David Giorgi as Keeper of the Lockup for the City of Marlborough. The appointment is for a term of one year, in accordance with Massachusetts General Laws, Ch. 40, §35.

Please do not hesitate to contact me or my office with any questions.

*Sincerely,*

**J. Christian Dumais**  
*Mayor*

cc:

David Girogi, Police Chief  
John Harmon, Human Resources

---

**MIRICK O'CONNELL**


---

ATTORNEYS AT LAW

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2023 DEC 22 PM 3:36

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

December 22, 2023

**BY EMAIL**

Councilor Michael Ossing, President  
Marlborough City Council  
City Hall  
Marlborough, MA 01752

Re: Red Spring Road Overlay District

Dear Councilor Ossing:

The Council's 90<sup>th</sup> day to act on the proposed Red Spring Road Overlay District is January 21, 2024. As the first reading of that proposed ordinance was not suspended at the Council's meeting on December 18<sup>th</sup>, and given the statutory timeframe for the Council to act on a zoning amendment petition, it is my understanding that no action is necessary for this matter carry forward to the 2024-2025 Council Session.

However, to the extent that a request from the petitioner or action from the Council is deemed necessary for this matter to carry forward to the next session, I respectfully submit that request on behalf of the petitioner, the Red Spring Road Homeowners Association, Inc., and request that the Council take action on that request.

Thank you and Happy Holidays.

Sincerely,



Brian R. Falk

BRF/

Encl.

cc: City Solicitor  
Client

---

**MIRICK O'CONNELL**  
ATTORNEYS AT LAW

---

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
.....  
2023 DEC 28 PM 4:23

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

December 28, 2023

**BY EMAIL**

Councilor Michael Ossing, President  
Marlborough City Council  
City Hall  
Marlborough, MA 01752

Re: Red Spring Road Overlay District

Dear Councilor Ossing:

On behalf of my client, the Red Spring Road Homeowners Association, Inc., I hereby request leave to withdraw without prejudice the zoning amendment petition for the Red Spring Road Overlay District filed with the City Council on August 17, 2023. The Red Spring Road Homeowners Association, Inc. is the governing body of the Red Spring Shores Condominium, whose residents are unit owners of the land subject to the zoning amendment petition.

Thank you and Happy Holidays.

Sincerely,



Brian R. Falk

BRF/

Encl.

cc: City Solicitor  
Client

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH



# The Commonwealth of Massachusetts

DEC 15 2023 PM 1:45

## DEPARTMENT OF PUBLIC UTILITIES

### NOTICE OF FILING AND PUBLIC HEARINGS

D.P.U. 23-150

December 15, 2023

Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, pursuant to G.L. c. 164, § 94 and 220 CMR 5.00, for Approval of a General Increase in Base Distribution Rates for Electric Service, a Performance-Based Ratemaking Plan, and a Capital Recovery Mechanism.

On November 16, 2023, Massachusetts Electric Company (“MECo”) and Nantucket Electric Company (“Nantucket Electric”), each doing business as National Grid (“National Grid” or “Company”), filed a petition with the Department of Public Utilities (“Department”) for an increase in electric base distribution rates. The Department has docketed this matter as D.P.U. 23-150 and has suspended the effective date of the proposed rate increase until October 1, 2024, to investigate the propriety of the Company’s request. The Company was last granted an increase in base distribution rates in Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 18-150 (2019).

National Grid seeks to increase its electric base distribution rates to generate \$131,232,856 in additional base distribution revenues. The Company also proposes to transfer costs recovered through certain reconciling mechanisms, along with associated income taxes, which results in an increase of \$389,766 to distribution revenues, effective October 1, 2024. Based on these proposals, the proposed overall increase to distribution revenues is \$131,622,621, which represents an approximately 12.7 percent increase in distribution revenue. The proposed base distribution rate increase is in addition to changes to other rates, such as supply rates and reconciling mechanisms, that occur during the year.

As part of its filing, National Grid proposes a Comprehensive Performance and Investment (“CPI”) Plan that includes two main features. First, the Company seeks to implement a performance-based ratemaking (“PBR”) mechanism for operation and maintenance (“O&M”) costs only, which would allow the Company to adjust its base distribution rates on an annual basis through the application of a revenue-cap mathematical formula. The Company proposes to implement the PBR mechanism for a term of five years. During the PBR term, the proposed revenue-cap formula increases base distribution revenues according to an O&M, utility-specific, inflation factor. The PBR plan also contains a component to aid in the recovery of certain operating costs related to capital investments, a component to recover or return exogenous costs outside of the Company’s control, a component to share excessive earnings, and an incurred debt

recovery factor to request adjustments to revenues to reflect increases or decreases in interest rates during the five-year term.

Second, as part of the proposed CPI Plan, the Company seeks to implement an Infrastructure, Safety, Reliability, and Electrification (“ISRE”) reconciling mechanism. According to National Grid, the ISRE reconciling mechanism would recover: (1) the Company’s investments in core capital projects necessary to provide safe and reliable electric distribution service to customers; (2) National Grid’s investments in capital projects necessary to execute the Company’s Electric Sector Modernization Plan (“ESMP”); and (3) expenses that fall under the ESMP. The Company’s ESMP will be filed on January 29, 2024, and will be subject to investigation in docket Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 24-11. In the instant proceeding, the Company is not requesting that the Department review or approve any ESMP investments. Stakeholders who seek to participate in the instant proceeding should recognize that the Department does not intend for this docket to be a second venue for adjudicating issues that may be more appropriately reviewable in docket D.P.U. 24-11.

As part of its filing, National Grid also proposes a series of incentives and penalties associated with the Company’s progress and performance under the PBR mechanism and with respect to the core capital projects under the ISRE reconciling mechanism. Further, the Company proposes a set of scorecard metrics to enable tracking and transparency of the Company’s operating performance in additional areas.

In addition to these proposals, National Grid makes proposals regarding the continuation of full revenue decoupling, which is a rate mechanism that decouples the Company’s revenues from its sales. The Company also makes proposals regarding the recovery of costs related to its vegetation management program and the continuation and expansion of the enhanced vegetation management pilot program. These programs are intended to reduce costs and maintain or improve safety and reliability by providing for the reduction of vegetation-related safety hazards, service interruptions, and disturbances, including through the strengthening of the distribution system. The Company also seeks to modify certain provisions of its storm fund, which is designed to maintain revenue support to address larger-scale weather events. National Grid also proposes adjustments to certain revenue and expense categories; the recovery of certain capital investments made through 2023; a temporary modification of the service quality guidelines; the accelerated depreciation of certain meters; and to transfer recovery of existing meter-related capital costs to the annual advanced meter infrastructure (“AMI”) reconciling mechanism.

National Grid’s filing also contains various rate design proposals, including changes to the customer and demand charges; an electrification pricing option for residential customers on rate class R-1 using high throughput technologies, such as electric heat pumps and at-home electric vehicle chargers; a multi-tiered low-income discount based on income levels for customers on rate class R-2; revised streetlighting pricing proposals; and a variety of tariff changes.

The foregoing is not intended to be an exhaustive list of proposals set forth in the Company's filing. Additional information regarding the foregoing proposals, and all other proposals set forth by National Grid, can be found in the Company's filing, which is located on the Department's website as noted below.

National Grid states that if its petition is approved as requested, customers can expect the bill impacts set forth below. The following bill impacts do not include potential rate changes resulting from the Company's proposal to transfer meter-related capital costs to the AMI reconciling mechanism, as noted above:

For MECo customers:

- A residential basic service customer receiving service under Rate R-1 that uses on average 600 kWh of electricity per month will experience a monthly bill increase of \$7.86 (3.7 percent).
- A residential basic service customer receiving service under Rate R-1, with the electrification pricing option, that uses on average 1,000 kWh of electricity per month will experience a monthly bill decrease of \$17.88 (5.1 percent).
- A residential basic service customer receiving service under Rate R-2 that uses on average 600 kWh of electricity per month can expect bill impacts to vary depending on the applicable low-income discount percentage:
  - Customers with a 32 percent discount will experience a monthly bill increase of \$5.35 (3.9 percent);
  - Customers with a 36 percent discount will experience a monthly bill decrease of \$2.99 (2.2 percent);
  - Customers with a 44 percent discount will experience a monthly bill decrease of \$19.66 (14.4 percent);
  - Customers with a 49 percent discount will experience a monthly bill decrease of \$30.08 (22.1 percent); and
  - Customers with a 55 percent discount will experience a monthly bill decrease of \$42.59 (31.2 percent).
- Commercial and industrial ("C&I") basic service customers can expect bill impacts to vary depending on usage and rate class. The Company states that the average monthly bill impact for C&I customers at each class's average use will range from an increase of 0.7 percent to an increase of 16.4 percent. C&I customers should contact the Company, as indicated below, for specific bill impacts.

For Nantucket Electric customers:

- A residential basic service customer receiving service under Rate R-1 that uses on average 600 kWh of electricity per month will experience a monthly bill increase of \$7.86 (3.7 percent).
- A residential basic service customer receiving service under Rate R-1, with the electrification pricing option, that uses on average 1,000 kWh of electricity per month will experience a monthly bill decrease of \$17.88 (5.1 percent).
- A residential basic service customer receiving service under Rate R-2 that uses on average 600 kWh of electricity per month can expect bill impacts to vary depending on the applicable low-income discount percentage:
  - Customers with a 32 percent discount will experience a monthly bill increase of \$5.35 (3.9 percent);
  - Customers with a 36 percent discount will experience a monthly bill decrease of \$3.03 (2.2 percent);
  - Customers with a 44 percent discount will experience a monthly bill decrease of \$19.77 (14.4 percent);
  - Customers with a 49 percent discount will experience a monthly bill decrease of \$30.24 (22.1 percent); and
  - Customers with a 55 percent discount will experience a monthly bill decrease of \$42.80 (31.2 percent).
- C&I basic service customers can expect bill impacts to vary depending on usage and rate class. The Company states that the average monthly bill impact for C&I customers at each class's average use will range from an increase of 0.7 percent to an increase of 16.2 percent. C&I customers should contact the Company, as indicated below, for specific bill impacts.

Additional bill impact information and additional detail about the Company's filing can be found at: <https://www.mass.gov/info-details/dpu-23-150-national-grid-electric-base-distribution-rate-case>.

The Attorney General of the Commonwealth of Massachusetts ("Attorney General") has filed a notice of intervention in this matter pursuant to G.L. c. 12, § 11E(a). Further, pursuant to G.L. c. 12, § 11E(b), the Attorney General has filed a notice of retention of experts and consultants to assist in her investigation of the Company's filing and has requested Department approval to spend up to \$550,000 in this regard. Pursuant to G.L. c. 12, § 11E(b), the costs

D.P.U. 23-150

Page 5

incurred by the Attorney General relative to her retention of experts and consultants may be recovered in the Company's rates.

The Department will conduct six in-person public hearings to receive comments on the Company's petition as follows:

**March 12, 2024, at 7:00 p.m.**

South Lawrence East Elementary School Auditorium  
165 Crawford Street, Lawrence, MA 01843  
(Spanish interpretation available)

**March 14, 2024, at 7:00 p.m.**

Shaw's Center  
1 Feinberg Way, Brockton, MA 02301  
(Spanish, Portuguese, Haitian-Creole interpretation available)

**March 19, 2024, at 7:00 p.m.**

North Quincy High School  
316 Hancock Street, Quincy, MA 02171  
(Mandarin interpretation available)

**April 3, 2024, at 7:00 p.m.**

Worcester Technical High School, Auditorium  
1 Officer Manny Familia Way, Worcester, MA 01605  
(Spanish, Portuguese interpretation available)

**April 4, 2024, at 7:00 p.m.**

PSF Community Room  
4 Fairgrounds Road, Nantucket, MA 02554  
(Spanish interpretation available)

**April 9, 2024, at 7:00 p.m.**

Monument Mountain Regional High School  
600 Stockbridge Road, Great Barrington, MA 01230  
(Spanish interpretation available)

The Department also will conduct two virtual public hearings using Zoom videoconferencing on **March 21, 2024**. **The first session will begin at 2:00 p.m., and the second session will begin at 7:00 p.m.** Attendees can join either session by entering the link, <https://us06web.zoom.us/j/86918048614>, from a computer, smartphone, or tablet. No prior software download is required. For audio-only access to the public hearing, attendees can dial in at +1 309 205 3325 (not toll free) and then enter the Webinar ID: 869 1804 8614. Interpretation services (Spanish, Portuguese, Haitian-Creole, Mandarin, and Khmer) will be available over the Zoom platform by clicking the "Interpretation" button on the menu at the bottom of the Zoom application screen and selecting your language (i.e., English, Spanish, Portuguese, Haitian-Creole, Mandarin, or Khmer).

The Department will accept written comments on the Company's filing until the close of business (**5:00 p.m.**) on **April 30, 2024**. Written comments from the public may be sent by email to [dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov), the Hearing Officer at [marc.tassone@mass.gov](mailto:marc.tassone@mass.gov), and the Company's attorney, Robert J. Humm, Esq. at [rhumm@keeganwerlin.com](mailto:rhumm@keeganwerlin.com). **Please note that in the interest of transparency any comments will be posted to our website as received and without redacting personal information, such as addresses, telephone numbers, or email addresses. As such, consider the extent of information you wish to share when submitting comments.** The Department strongly encourages public comments to be submitted by email. If, however, a member of the public is unable to send written comments by email, a paper copy may be sent to Mark D. Marini, Secretary, Department of Public Utilities, One South Station, Boston, Massachusetts, 02110.

Any person who desires to participate otherwise in the evidentiary phase of this proceeding shall file a petition for leave to intervene no later than **5:00 p.m. on January 12, 2024**. A petition for leave to intervene must satisfy the timing and substantive requirements of 220 CMR 1.03. Receipt by the Department constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 CMR 1.01(4). To be allowed, a petition under 220 CMR 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10. All responses to petitions to intervene must be filed by 5:00 p.m. on the second business day after the petition to intervene was filed. Any person who seeks to intervene in this matter and desires to comment on the Attorney General's notice of retention of experts and consultants must file the comments no later than **5:00 p.m. on January 12, 2024**.

All documents should be submitted to the Department in **.pdf format** by e-mail attachment to [dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov), and to the Hearing Officer and Company's attorneys at the above email addresses. The text of the e-mail must specify: (1) the docket number of the proceeding (D.P.U. 23-150); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document.

All documents submitted in electronic format will be posted on the Department's website through our online File Room as soon as practicable (enter "23-150") at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber>. To the extent a person or entity wishes to submit comments or intervene in accordance with this Notice, electronic submission, as detailed above, is sufficient. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), please contact the Department's ADA coordinator at [Gabriella.Knight@mass.gov](mailto:Gabriella.Knight@mass.gov) by **March 1, 2024**.

For further information regarding the Company's filing, please contact the Company's attorney, identified above. For further information regarding this Notice, please contact Marc J. Tassone, Hearing Officer, Department of Public Utilities, at [marc.tassone@mass.gov](mailto:marc.tassone@mass.gov) or visit: <https://www.mass.gov/info-details/dpu-23-150-national-grid-electric-base-distribution-rate-case>.

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CITY OF MARLBOROUGH

**Mayor**

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**From:** Dianne Plummer <plummerd63@gmail.com>  
**Sent:** Wednesday, November 29, 2023 4:50 PM  
**To:** Mayor; mayorvigeant01752@gmail.com; Patricia Bernard  
**Subject:** Resigning as Chari of the Marlborough City Scholarship

2024 JAN -4 AM 10:43

Dear Mayor Vigeant,

I am writing to resign from my position as Chair of the Marlborough City Scholarship Committee. Effective immediately I will no longer be a member or chair this committee.

It has been an honor to manage the City Scholarship since its inception. It has been a point of pride for me to review the hundreds of applications from our high school seniors and financially gift those students based on a fair and equitable rubrik. Thousands of dollars have been awarded to many deserving Marlborough families and that is always something to feel good about.

I appreciate your support and trust in allowing me to engage in this rewarding endeavor.

My Best,

Dianne Plummer

Approved Feb. 16, 2023

RECEIVED  
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CITY OF MARLBOROUGH  
2024 JAN -4 AM 10:43

Conservation Commission  
Minutes  
February 2, 2023 - 7:00 PM  
140 Main St. – Marlborough City Hall – 3<sup>rd</sup> Floor (Memorial Hall)

**Present:** Edward Clancy-Chairman, Allan White, David Williams, William Dunbar, Dennis Demers, John Skarin, and Karin Paquin. Also present was Priscilla Ryder-Conservation officer

**Absent:** None

The hearing was recorded using Microsoft Teams.

**Approval of Minutes:** The minutes of January 12, 2022, were reviewed and on a motion by Mr. White second by Mr. Clancy, the Commission voted unanimously to approved 7-0.

**Public hearings**

**Request for Determination of Applicability**

**Red Spring Rd. - Red Spring Road Homeowners Association**

Peter Engle, PE of McClure Engineering, Inc. as well as Robert Parente P.E. were present. Mr. Engle explained that he designed the E-One pump sewer connection design for 10 additional houses on Red Spring Rd. These are house #'s 3, 5, 7, 9, 15, 17, 21, 23, 43, and 55. The proposal for each is to abandon the existing septic system and install a new E-one pump system and piping up to the new sewer force main in the roadway. The Commission went through each of these plans individually starting with #3- Intercolonial Club.

The Commission asked how the E-one system would be protected. Mr. Engle indicated boulders could be used where the systems are close to the driveway. One or two trees are to be removed to install this sewer hookup. Mr. Demers asked if these plans showed cleanouts near the home as we saw on the last set of connections. Mr. Engle indicated this could be added. Ms. Ryder asked if the trench dam as shown on the plans can be up closer to the road to keep groundwater from traveling to the homes. Mr. Engle indicated that can be adjusted.

The Commission reviewed the other plans and had similar comments on each about cleanouts and trench dams and in areas where trees would be removed. In most cases the sewer line would be next to the driveway or cleared area. In a few locations the sewer stub did require some tree removal.

When discussing #17 Red Spring Rd. Mr. PARENTE noted that the installation of the main sewer line has exacerbated an existing groundwater problem in the basement of this house (#17). He proposes to install a pipe to intercept the groundwater in the sewer line bedding and direct it through a pipe away from the road to the lake. The Commission agreed this plan should work.

Mr. Clancy asked if any trench dams had been installed along the sewer force main in the street. Mr. Engle and Mr. Parente indicated that was not part of the original design so has not been done. There were questions about velocity and volume. It was agreed that rip rap would be added to the end of the pipe as well to prevent erosion. Tree removal was anticipated on #3 and #43.

When discussing #55, it was noted that the bend in the pipe is severe and if this was an issue, which lead to a discussion about pipe size and thickness to ensure cheap pipe is not used, to protect the residents in the future. It was determined that the pipe materials to be used must meet with the City Engineers requirements and should be heavy duty pipe.

On #23 there was discussion about tying into the existing piping for the new septic system, this is a decision for the Board of Health.

After much discussion about pipe materials and no further questions from the audience or the Commission, the hearing was closed. On a motion by Mr. Skarin second by Mr. Clancy to issue a negative determination with standard conditions and those noted above allowing the project. The Commission voted unanimously 7-0 to approve the motion.

### **Notice of Intent**

#### **Red Spring Rd. – Red Spring Road Homeowners Association**

Peter Engle, P.E. of McClure Engineering Inc was present representing the Homeowner's Association for the final lots needing sewer connections. All these 6 homes have connections from the house and the roadway that fall within the Commission's 30' no disturb zone which is why they are being filed under a Notice of Intent (NOI). The proposal is to abandon the existing septic system and install E-One pump chambers and connect to new sewer force main at house #'s 12, 13, 35, 37, 41, and 47 Red Spring Rd. Overall, the same comments as the previous RDA were noted: Cleanouts need to be added near the house, erosion controls as shown, #41 will have trees removed with a condition to replace if there is no canopy should be included. Trench dams should be moved to be up near the roadway.

#13 is proposed to be replaced with a new house, so this plan may be superseded by a new NOI for this lot which would show a new sewer location, if this is done before this connection is made. All plans should be updated to reflect these changes.

The Commission has not received a DEP # for these lots yet. The Commission asked Ms. Ryder to draft a set of conditions for the next meeting for review. The hearing was continued to the Feb. 16<sup>th</sup> meeting.

### **Notice of Intent (continued from Jan. 12, 2023)**

#### **230-266 East Main St. - Karnak Realty**

Mr. Matthew Millon was present representing Harbor Freight. He noted that after review of the plans and the utilities they will need to have the manhole moved before the loading dock they propose can be installed. Instead in the interim, they would like to add a temporary metal ramp to accommodate material loading and unloading into the building. No ground disturbance is proposed with this temporary measure. Therefore, they would like to withdraw their Notice of Intent (NOI) permit and just come back in a year or two when they can figure out the utility relocation. After some discussion, the Commission voted 7-0 to accept the withdrawal of this NOI.

### **Amend Order of Conditions – 212-1218 (continued from Jan. 12, 2023)**

#### **339 Boston Post Rd. – Walcott Heritage**

Chairman Clancy noted that there are no further changes to the plans, and as there was no further discussion on the proposal the hearing was closed. A set of draft amended conditions have been prepared for this project for review as requested at the last meeting. The Commission reviewed the changes to this amended Order of Conditions and made a few comments for clarification and reorganization. On a motion by Mr. Skarin second by Mr. Clancy to approve the amended Order of Conditions as drafted and amended. The Commission voted 5-2 to approve. Voting was as follows: Yea, Clancy, Skarin, Williams, Paquin and Dunbar; Nay- White and Demers. Mr. Demers and Mr. White noted that their objection to the project stems from the fact that the project is too close to the wetland and a few years down the road, the project will be an enforcement concern because there is no

room behind the buildings for recreation and encroachments will likely occur which won't be easily seen as it is behind the meeting.

**Abbreviated Notice of Intent (continued from Jan. 12, 2023)**

**21 Blaiswood Ave. - Helvecio Carvalho**

Helvecio Carvalho, the homeowner was present. He explained that since he received the violation notice he has filed the Notice of Intent (NOI) and has recently received a surveyed plan which he presented (this took several months to get, thus the delay). The survey shows the floodplain at the base of the wall except for one corner where the tree exists. The Commission discussed the plans and noted that the section of the wall in the floodplain would certainly need to be removed. Mr. Dunbar expressed his concern that allowing the wall and grading/fill to remain in the 30' buffer zone would set a precedent which he hoped would not be set. Some discussion on mitigation with plantings was considered. Chairman Clancy noted that he would like to see the site and do a site visit and have the 30' wetland buffer zone marked out. A site visit will be set up for the week of March 6<sup>th</sup> and the hearing was continued to the March 16<sup>th</sup> meeting.

**Notice of Intent**

**335 South Street Mass Electric**

Michael Toohill from Coneco was present representing Mass Electric Co. He explained that Mass Electric Company proposes to install a new 45-foot class 2 utility Pole at the substation at 335 South Street in Marlborough. The location is just off the entrance to CMS off the roadway. The pole will be installed using an auger to create the hole and then lift in the new poll. All work and machines will be from the existing parking area over the guardrails. The pole will be installed within riverfront area and near inland bank of Marlborough Brook which has been flagged. The area is steep. Erosion controls will be added near the hole area compost sock/straw wattles to be used. Discussion about how the installation will be performed and concerns that they might hit ledge. Overall, no one had any issues as presented. Because a DEP # is not yet issued, the hearing was continued to the March 2, 2023 meeting. Ms. Ryder was asked to draft some conditions for review.

**Extension Permit:**

- DEP 212-1146 Letter from Ft. Meadow Commission – RE: Ft. Meadow weed permit - Mr. Thomson of the Ft. Meadow Commission was present and asked that the Commission extend the Ft. Meadow Weed Treatment permit for another 3 years. He is also making the same request in Hudson. A three-year extension would allow for ongoing treatment as needed. The Commission noted that no changes to the Order of Conditions is needed at this time and on a motion by Mr. White and second by the Mr. Clancy to approve a three-year extension to this permit, the Commission voted unanimously 7-0.

**Discussion:**

- Floodplain and Wetland Protection District - Chapter 650-23 Zoning – Article VI. Special Districts, Overlays and Special Requirements – Review and comment for Climate Change Ordinance updates- The Commission will review at the next meeting
- 541 Pleasant St. – No information has been submitted since the Dec. 1<sup>st</sup> meeting as required in the violation follow-up. Ms. Ryder will reach out to the applicant to get a status report.
- Ft. Meadow - Annual report 2022 - the Commission reviewed the annual report on the treatment provided this past year. Fanwort invasive plant is now beginning to be a problem and will need to

be dealt with. More discussion on this will happen in the spring when determining what and how to treat this plant.

- Ratify Beaver permit for Beebe Pond-beaver dam at Callahan State Park - Ms. Ryder noted that she had issued an Emergency Certificate to the Office of Dam Safety to allow for beaver dam removal and beaver deceiver installation. They are concerned that too much water is being dammed and the original dam could fail. The Commission voted unanimously 7-0 to ratify the Emergency Certificate.
- Haying agreement- Felton Conservation land – As discussed at the last meeting the Commission agreed to have ADDA farms mow the Felton Conservation Land fields. On a motion by Mr. Skarin second by Mr. Clancy to issue a one-year License agreement to ADDA Farm for the haying of the Felton Conservation Land fields. The Commission voted unanimously 7-0 to approve.
- Violations:
  - 47 Red Spring Rd. - Ms. Ryder, Mr. Dunbar and Ms. Paquin met with Mr. White to discuss the clearing and stone addition to an area across the street from his house that contains wetland. Mr. White won't do any further work until he receives direction from the Commission. The Commission asked that he attend the next meeting on Feb. 16, 2023. Ms. Ryder will inform him.
  - 55 Red Spring Rd. - Mr. Neil Vigeant was also in attendance and Ms. Ryder noted that he has been pulling material out of the wetland area which had been dumped there when the forestry harvest occurred many years ago. He asked for direction on how to restore this buffer zone. The Commission suggested that Ms. Ryder put together a buffer zone restoration plan that could apply to Mr. Vigeant property and several others along Red Spring Rd. where vegetation was mistakenly cleared when the Homeowners' Association owned the property. Ms. Ryder will provide for the next meeting.

**Correspondence:**

- Letter to Planning Board dated Jan. 19, 2023, RE: Stow Rd. Subdivision Plan – Open Space Development - The Commission approved and placed this correspondence on file.

**Next Conservation Commission meetings:** February 16<sup>th</sup> and March 2, 2023

**Adjournment** - There being no further business the meeting was adjourned at 9:42 PM

Respectfully submitted,

Priscilla Ryder  
Conservation Officer

RECEIVED  
 Approved 6/1/2023  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH  
 2024 JAN -4 AM 10:44

Conservation Commission  
 Minutes  
 May 18, 2023 - 7:00 PM  
 140 Main St. – Marlborough City Hall – 3<sup>rd</sup> Floor (Memorial Hall)

**Present:** Edward Clancy-Chairman, Allan White, David Williams, Dennis Demers, William Dunbar, John Skarin, and Karin Paquin. Priscilla Ryder-Conservation officer was also present.

**Absent:** None

The hearing was recorded using Microsoft Teams

**Approval of Minutes:** The minutes of May 4, 2023, were reviewed and on a motion by Mr. White and second by Mr. Clancy, the Commission voted unanimously to approved 7-0.

**Public hearings:**

**Notice of Intent (212-1261)**

**61 Chase Rd – Michele Soares**

Proposal to construct an inground pool and fence near wetlands.

Mark Arnold, Consultant from Goddard Consulting presented a summary on 2 components of this Notice of Intent: 1. After the fact Fence, 2. Inground pool. Ms. Ryder, along with Ms. Paquin and Mr. Dunbar had visited the site with the wetland consultant. Mr. Arnold felt there were no changes needed to be made based on the commission's current 30' no disturb wetland setback policy, since there is no changes to sloping, altering of the buffer zone, no impact to the wetland, no habitat inside the fence. Therefore, he believes the fence is allowable under the current policy. Mr. Dunbar, and Ms. Paquin noted that criteria #8 of the policy requires providing a practical alternative if it's available, hence the request for a redesign be available. Mr. Arnold stated again, the lawn has been in existence for decades, so it should be allowed to stay. Everything outside the fence could be left to naturalize. Ms. Paquin also spoke about the old pile of dirt, covered with debris, behind the fence to which Mr. Arnold said they could be removed, seeded, and revegetated. The applicant is more than willing to add vegetation outside of the fence, but would like to keep the inside of the fence, as a lawn for her children to play in. Mr. Dunbar also spoke about what to do if the shed was to fall, with an answer to relocate the shed within the fenced in area and outside the 30' buffer zone which would be a reasonable condition. After some additional discussion it was agreed that Mr. Arnold will put together buffer zone restoration plan for the area behind the fence with removal of debris and planting plan described. This will be provided to and reviewed by the Commission at the next meeting. With the applicants consent the hearing was continued to the next meeting on June 1<sup>st</sup>, 2023.

**Request for Determination (continued from May 4, 2023)**

**15 Ahern Rd. – Brian Lewis**

Proposes to repair and replace an existing retaining wall near wetlands.

Brian Lewis of The Natural Landscape represented the owners. He explained that a 8 ft wall is to be constructed to replace existing wall in the same location. It will be a gravity wall (no geogrid). Mr. Lewis presented diagrams on how replacement of wall would be constructed. Will generate approx. 47 yards of fill. A bigger/small excavator to be used. Getting around shed will be assessed and can be discussed at the preconstruction meeting. They will build the wall and then repair the patio and fireplace that exist now. There was discussion about the whether the RDA is acceptable or if an NOI should be filed. What will they be doing with the railroad ties, which will be properly disposed of. Cannot be buried. Mr. Lewis

Approved 6/1/2023

will be responsible and on site most days. He proposes to use hay bales and silt fencing as erosion controls. Goal will be to prep whole base at once and put in the first layers which will help control runoff from the start. The Commission agreed that if he followed the sequence provided the RDA should be adequate, but warned that if there are any issues during construction an NOI would need to be filed. There being no further questions the hearing was closed hearing. On a motion by Mr. White, second by chair to issue a Negative Determination with standard conditions, and those noted above, the commission voted unanimously 7-0 to approve.

**Abbreviated Notice of Intent (continued from May 4, 2023)**

**21 Blaiswood Ave. – Helvecio Carvalho**

Proposes to build a patio, firepit, and retaining wall on the shore of Ft. Meadow Reservoir.

Mr. Helvecio presented a planting plan showing the species of shrubs and trees. The Commission asked for clarification on quantities of each, the species chosen were considered appropriate. Mr. Helvecio said he could provide this for the next meeting. The Commission asked Ms. Ryder to draft some conditions for review at the next meeting as well. With the applicants consent the hearing was continued to June 1<sup>st</sup>, 2023, meeting

**Request for Determination of Applicability**

**107 Simarano Dr. – Post Road Residential, Inc**

David Cowell from Hancock Associates was present representing the owner. He explained that he is requesting a jurisdictional determination of a vegetated wetland to determine whether it is non-jurisdictional isolated vegetated wetland or a jurisdictional boarding vegetated wetland on this property. Site walk was done with Ms. Ryder. Hydrologic connection was discussed. Mr. Cowell explained that he has shown on the plans the Wetland I (Isolated), and Wetland B which was approved when the larger, Green District plan was approved. His observation is that there is no channel flow although a line of water-stained leaves was seen, however it does overflow with no continuity of jurisdiction. Ms. Ryder indicated she wasn't convinced and believes the two wetland areas are connected and the wetland considered isolated is in fact a part of the large BVW. She recommended that the Commission do a site walk so the Commission can determine its jurisdiction. A site walk was set for Wednesday, May 24<sup>th</sup> at 4:00. With the applicants consent the hearing was continued to the meeting on June 1, 2023.

**Abbreviated Notice of Resource Area Delineation**

**279 South St. including map-parcels 92-19; 92-32; and 103-19 – Martin Reilly Real Estate Inc**

Dave Cowell of Hancock Associates was speaking on of the owner and has submitted this ANRAD which requests the Conservation Commission review and verify the wetland resource areas delineated on this property. He explained it is an 88-acre parcel of land on Shoestring Hill, a stream runs through the entire site the site contains, a stream, isolated wetlands and small wetland pockets that are all connected with channels and vegetation. Many of these have vernal pool species and characteristics. Two smaller pools are isolated, and the volume measurements still need to be provided. As there were many abutters in the audience the Commission explained that most developers will first define the wetland boundaries, so they know what restrictions fall on the land before any design/development concept is proposed. This current review requires the Commission to verifies where the wetlands are, then that line cannot be changed for 3 years. Several commission members have noted that they have walked the site in the past and there are abundant wetlands and section where the topography is quite steep, it is a challenging site.

Chairman Clancy opened the floor to the audience. Jeff Kristi, an abutter, asked how the peer review process worked. The Commission explained that they choose the consultant, to represent best interest

Approved 6/1/2023

of the commission, which the applicant pays for. Abutter, Dan Bier (?) asked the site to be physically walked by the Peer Review Consultant? Answer was a profound yes! Evan Lunter asks how long does the delineation last? Ms. Ryder explained that once delineated, the wetland boundaries approved are good for 3 years, but can be extended. Abutter Monique Duras, asked if copies of the plans can be obtained electronically? Yes Ms. Ryder can e-mail to anyone interested. Mark Pollack, asked about the overall process for this starting point to any future development. Ms. Ryder explained that any development would need to be reviewed by either the Planning Board for a subdivision, or City Council for a special permit. So, abutters will be notified for either of these boards if things move forward. The hearing was continued to the next meeting on June 1, 2023, meeting.

**Notice of Intent – 212-1254 (continued from May 4, 2023)**

**846 & 850 Boston Post Rd. East – Exela Movers**

Proposes to make site improvements to an existing storage facility near wetlands. At the request of the applicant's consultant David Cowell of Hancock Associates the hearing was Continued to July 20, 2023.

**Certificates of Compliance**

DEP 212-1203 28 Littlefield Ln – signed certificate, which was voted at last meeting- the Commission signed the certificate.

**Discussion**

**RDA 41 Boivin Dr. – Planting Plan** -Ms. Ryder noted a revised planting plan has been submitted for those members who would like to review it.

**Green District DEP 212-1215 – 107 Simarano Dr** – minor changes to grading and tree removal, will provide a plan prior to approval. Ms. Ryder noted that they will be providing a planting plan to replace the trees that need to be removed and to create a nice thick vegetated buffer been the site and the adjacent Stonegate development.

**Adjournment:** There being no further business on a motion by Mr. White, second by chairman to adjourn the commission voted unanimously to adjourn at 8:59

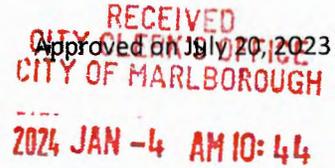
**Respectfully submitted,**

Priscilla Ryder

Priscilla Ryder

Conservation/ Sustainability Officer

PR/dp



Conservation Commission  
Minutes  
July 6, 2023 - 7:00 PM  
140 Main St. – Marlborough City Hall – 3<sup>rd</sup> Floor (Memorial Hall)

**Present:** Edward Clancy-Chairman, Allan White, David Williams, Dennis Demers, John Skarin, Karin Paquin. Priscilla Ryder-Conservation officer was also present.

**Absent:** William Dunbar

The hearing was recorded using Microsoft Teams

**Approval of Minutes:** The minutes of June 1<sup>st</sup> & June 15<sup>th</sup>, 2023, were approved with a motion by Mr. White with a second by Mr. Clancy. A 6-0 vote approval.

**Public hearings:**

**Notice of Intent – Continued from June 15, 2023**

**402 Hudson St. – DPW**

Proposes improvement to existing landfill cap, recap of existing landfill. Some work near wetlands. This was continued to July 20<sup>th</sup> at the applicants request before the meeting.

**Notice of Intent**

**Russell St. – DPW**

Tree clearing, drainage pipe replacement and new drainage. A portion of the work near wetlands. This was continued to July 20<sup>th</sup> at the applicants request before the meeting.

**Notice of Intent**

**Cedar Hill St – DPW**

Reclaim existing roadway, addition of sidewalk, signal upgrade, tree clearing and drainage near wetlands. This was continued to July 20<sup>th</sup> at the applicants request before the meeting.

**Abbreviated Notice of Resource Area Delineation**

**279 South St including map-parcels 92-19; 92-32; and 103-19- Martin Reilly Real Estate Inc**

Requests the Conservation Commission review and verify the wetland resource areas delineated on this property. Waiting to finalize the hiring of a wetland consultant to do the peer review. This was continued to the July 20<sup>th</sup> meeting.

**The following were taken out of order on the agenda:**

**Discussion**

**Lot K & L Hayes Memorial Dr. Impacted topsoil management plan. Sanborn Head report June 2023.**

Israel Lopes & Dan Dedinsky for Gutierrez, Matt Heil, LSP with Sanborn Head & Assoc. were present. Mr. Lopez said they are looking to develop Lot L, now with Moderna at 149 Hayes Memorial Dr. this should help with marketing. In getting ready for that work, they did soil testing because it was an old apple orchard and found contaminated soil which needs to be removed. They hired their LSP from Sanborn Head, Matt Heil to do a soil management plan. As outlined in the plan they would like to move orchard impacted soil from Lot L to Lot K, both of which have active Order of conditions. Tonight, they

Approved on July 20, 2023

just want to explain this management plan and determine how they should proceed. Mr. Heil explained that approximately 15,000 yards of soil needs to be removed. They tested soil both inside & outside of old orchard footprint to determine the extent of soil that needs to be removed, which was shown on the plans.

Ms. Ryder noted that the project is technically exempt from Mass Contingency Plan (for hazardous waste cleanup) reporting to DEP however, they still need to manage the risk which can be overseen by BOH and Con. Com. Mr. Heil explained that it is expensive to send to the landfill to be buried, so they have decided to move it to lot K where it will be capped with a clean cap, approximately 12,000 yards. He explained that the contaminated materials will be stockpiled in lifts as shown on the contour map. The top crest will not be raised higher than existing high point of the lot. He reviewed the erosion control plan and explained where the truck entrance and draining swales will be located. The proposed contours were discussed and with the clean cap it will total 15,000 yards. Mr. Clancy noted that when removing material from Lot L to K, dust control will be needed along with strong form of erosion control. He also asked what the plans were to develop lot K? Mr. Demers asked why the stumps were not being removed on Lot K, with 10' – 12' of fill this should be done. Mr. Lopes explained that the final grades on lot K will be 3:1 slope, vegetated and terraced to help control runoff. The swale to remain in place 20' inboard of existing limit of work. Mr. Clancy noted that the Commission is concerned with burying stumps and asked Mr. Lopez to figure out what the actual rules are in city and DEP requirements. There was extensive discussion about how long the materials would be on Lot K, when it would be removed, how it will be controlled etc. Ms. Ryder noted that an Activity and Use Limitation- (AUL) document would need to be provided and recorded with the deed to ensure full disclosure and notification to future users. The soil is contaminated with Arsenic, Lead, DDT derivative which are not water soluble but pose health concerns when airborne or washed into sediments. It was determined that they should file for an amendment to the Order of Conditions for Lot K which is 378 Hayes Memorial Dr. which requires the Commission to reopen the hearing and have abutters notified. Mr. Lopez agreed to file a letter requesting same.

#### **Extension Permits**

It was determined that the following requests for extension permits would be considered at a later date as they don't expire until October, and further discussion about earth moving must be resolved first. (discussed above). This was tentatively continued to Aug. 17<sup>th</sup>.

- **387 Hayes Memorial Drive. Lot K – DEP – 212-1228 – Gutierrez Company**
- **242 Hayes Memorial Drive. Lot M – DEP – 212-1230 – Gutierrez Company**
- **322 Hayes Memorial Drive. Lot L – DEP – 2121229 – Gutierrez Company**

#### **Discussion:**

791 Boston Post Road – PRTR Waste Management – Solid Waste Transfer Station request for long-term monitoring plan. Ms. Ryder explained that this property has been monitored for the past 10 years. Waste Management would like to modify the monitoring requirements and get a Certificate of Compliance for this project. The Commission noted that a site visit would be in order prior to considering this request and suggested Monday July 10, 2023, at 4:00pm. Ms. Ryder will confirm with owners and get back to the Commission. The applicants will be asked to attend the next meeting if warranted by the site visit.

#### **Notice of Intent**

Approved on July 20, 2023

**689 Pleasant St. Subdivision Roadway – Tim Beauchemin****Mr. Demers abstained from these discussions due to a conflict of interest.**

David Crossman of B&C associates was present along with owner Tim Beauchemin. Mr. Crossman explained that the next 4 hearings relate to the new proposed subdivision on Pleasant St. The roadway work, lot 1, lot 5 & Lot 6 all fall within the 100' buffer zone and they have requested separate permits for each. An overview was given by Dave Crossman. He noted that the Commission walked the property when reviewing the ANRAD, all lots are on the north side of the road. It is an Open space development and used to be a property that contained the old trolley line. The project will set aside 2 acres of open space ½ acre is wet. The two-detention basin are part of the roadway filing. It was asked if basin to be managed by homeowner association or City, Mr. Crossman will check on this. The Commission discussed construction sequencing, cut and fill requirements, utilities, and E-1 pumps for sewer systems, they discussed he E-1 system on lot 6 to determine if it could be relocated. After some discussion and expression of frustration from the Commission that the plans were too small to read and understand, it was agreed to continue the hearing to July 20<sup>th</sup> to allow applicant to provide better plans to review.

**Notice of Intent****689 Pleasant St. Lot 6 -Dave Crossman B & C Assoc.- Tim Beauchemin – present**

Construct a single-family home. Work is within Buffer zone of Boarding Vegetated Wetlands. (see notes under 689 Pleasant St. Subdivision Roadway) (see above discussion)

**Request for Determination of Applicability****689 Pleasant St. Lot 1 – Tim Beauchemin**

Construct a single-family house, part of the front lawn and driveway and utilities are located within the 100-foot Buffer Zone. (see above discussion)

**Request for Determination of Applicability****689 Pleasant St. Lot 5 – Tim Beauchemin**

Construct a single-family home. The entire driveway, and part of the front lawn and proposed house are located within the 100-foot Buffer Zone (see above discussion)

**Request for Determination of Applicability****41 Bergeron Road –Ruth Bautz**

Nathaniel Bautz (son) for Ruth Bautz explained that they would like to remove the old pool and surrounding concrete area and fill in the area. They also want to install a new retaining wall in the same location of the existing timber wood retaining wall. Work is within 100' buffer zone of this ½ acre parcel, and work is 50' from the wetland. The method of removal was discussed and stabilization. No work is to be done beyond the existing chain-link fence. It was noted that the new retaining wall if it is 4' high or higher will need a building permit. Mr. Dennis received confirmation that the railroad ties would be removed from site and not buried. A motion was made by Mr. White with a second by Mr. Clancy to issue a Negative determination with standard conditions and a condition that the chain link will mark the limit of work and railroad ties removed from the site. The commission voted unanimously 6-0 to approve.

**Notice of Intent****68 River St. – Ron Strohsahl, Oxbow Associate for Louis Frate**

Mr. Ron Strohsahl from Oxbow Associates was present representing the owner. He explained that they want to raise and reconstruct of a single-family home within riverfront area, bordering land subject to flooding, and 100' buffer into inland bank. As proposed within the flood storage area, some grading

Approved on July 20, 2023

needed so floodplain replication is provided. The adjacent stream channel is a cement trough 4.5' high 6' wide – on DCR property. Top of bank is marked with 3 flags reflective of the mean annual high water – stream starts confirming perennial, flood plain. This is a new project, not redevelopment, and a new home is proposed. House will be built on helical piles which will allow for a crawl space to allow flood waters to reach under the building, it will contain and break away panels within the floodplain. They would like to eliminate the invasive plants in the back yard and get a waiver from the 30' no touch buffer zone. They are willing to let it naturalize. Ms. Ryder suggested they may want to provide a plan showing this work and follow the Buffer Zone restoration guidelines. The Commission discussed the floodplain impacts, and the need to file with ZBA for special permit for work within Flood plain, wetlands, protection district. They wanted more details on the house cross section and the floodplain location on the proposed plans. Mr. Strohsahl indicated they could provide these changes to the plans. Ms. Ryder will have City Engineer review and comment before the next meeting as well. The Commission agreed to continue this hearing to the July 20, 2023, meeting.

**Notice of Intent - Continued from June 15, 2023****114 Concord Rd. – Kimberly Rice**

The applicant was not able to attend, and no abutters were present. Ms. Ryder summarized the discussion from the last meeting that the owner wanted to add a 3-season room, deck, patio, and spa within 100' buffer zone. The existing deck is within the 30' buffer but no additional encroachment will occur. There being no further discussion the hearing was closed. The Commission reviewed the draft order, added findings of fact. On a motion by Mr. Demers with a second by Mr. Clancy to approve the order of conditions as drafted and amended, the Commission voted unanimously 6-0 to approve.

**Correspondence/Other Business**

CSX – YOP, - The commission voted to accept and place on file.

**Next Conservation Commission meetings:** July 20<sup>th</sup>, 2023, August 3<sup>rd</sup>, 2023

**Adjournment**

On a Motion to adjourn by Mr. Williams, second by Mr. White, the commission voted 6/0 to approve. The meeting adjourned @ 9:15pm.

Respectfully submitted:

*Priscilla Ryder*

Priscilla Ryder  
Conservation Officer  
PR/dp

**Conservation Commission  
Minutes  
October 5, 2023- 7:00 PM  
140 Main St. – Marlborough City Hall- 3<sup>rd</sup> Floor (Memorial Hall)**

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CITY OF MARLBOROUGH  
Approved on Oct. 19, 2023  
2024 JAN -3 AM 11:48

**Members Present:** Edward Clancy-Chairman, Allan White, William Dunbar, John Skarin, Dennis Demers, Dave Williams. Priscilla Ryder-Conservation Officer was also present.

**Members Absent:** Karin Paquin

The hearing was recorded using Microsoft Teams

**Approval of Minutes:** The minutes of September 21, 2023, were reviewed and on a motion by Mr. White and Second by Mr. Clancy, the Commission voted unanimously to approved 6-0.

### Public Hearings

#### Notice of Intent DEP #212-1270 – continued from September 21, 2023

#### 402 Hudson St. - DPW

*Proposes improvement to existing landfill cap, recap of existing landfill. Work near wetlands*

Priscilla Ryder presented comments received from DEP which began with the drainage route and confirming that it would be controlled. The second being that the erosion controls needed to be more robust. The engineers responded explaining hat they have carefully calculated for runoff and hat they have no concerns about a lack of flow control occurring. Additional erosion controls were added as per DEP's request. Mr. Dunbar asked about the detention pond area, and it is overgrown. It is overgrown but they have not started work yet. Mr. Clancy mentioned they have not maintained the cap at all this year. Ms. Ryder presented the Special conditions, Mr. Clancy explained that they should have ab erosion control expert on site for the project and this should be added to the control regulations. An additiona condition added will specify that they do not block the designated overlook. On a motion made by Allan White, seconded by Mr. Clancy to approve the Order of Conditions as drafted and amended, the Commission voted 6-0 to approve.

### Order of Conditions

- **689 Pleasant St. Lot 5- Tim Beauchemin**  
(Mr. Demers abstained from this discussion due to conflict of interest)  
*Review Draft Conditions* - Ms. Ryder presented the draft conditions. Mr. Clancy asked if anyone had any discussion in regards to the conditions as presented. Hearing none, a motion was made by Mr. Skarin second by Mr. Clancy to approve the Order of Conditions as drafted, the Commission voted unanimously 5-0 to approve (Mr. Demers abstained).
- Hayes Memorial Dr. Lot K  
The board signed the corrected signature sheet which was voted at the previous meeting.

### Certificate of Compliance

- **DEP 212-1060 Certificate of Compliance – 791 Boston Post Rd. Waste Management-** review ongoing conditions. Ms. Ryder advised that a full certificate with the required attachments be issued explaining ongoing testing requirements be issued. A motion was made by Mr. Skarin, second by Mr. Clancy to issue a full certificate of Compliance with attachments, the commission voted unanimously to approve 6-0

### Discussion

- **541 Pleasant St. wetland violation – update – David Cowell –** Ms. Ryder explained that she had spoken to Mr. Cowell today, he has been unable to get in touch with the applicant to finalize NOI filing. Ms. Ryder noted to him

Approved on Oct. 19, 2023

on the phone that fines may begin again depending on what the Commission wants to do. The Commission – indicated they would wait and see what is filed and to keep this item on the agenda.

- **Emergency Certificate – Farm Rd. Culvert** – Ms. Ryder explained that she issued an emergency certificate for the work to repair the failed culvert on Farm Rd. which was damaged by the last storm. The culvert collapsed and the western side of the culvert has been undermined by 6 feet. They have added steel plates on the road over the arch that collapsed. Upon dewatering they discovered that the sewer line was leaking as well. They have a bypass for the sewer for now, uncertain when exactly the sewer line was damaged. The emergency certificate allows the sewer bypass install, dewatering stream channel as needed with sandbags, pump and dam to create dry conditions. Flowable fill is being placed to be placed under culvert wall, replace damages sewer line, place flowable fill and concrete cap to underside of culvert, stabilize work area and restore stream flow when completed. Predicted to be completed by October 13<sup>th</sup>. A motion was made by Mr. Skarin to approve the Emergency Certificate, second by Mr. Clancy, the Commission voted unanimously 6-0 to approve. The Commission discussed the chronic flooding and climate issues which caused the damage, and the need to assess culverts to make sure repairs are properly sized. Other flooding problems around the city were also discussed.
- **Logging proposal for the Desert Natural Area winter 2023-2024-** Ms. Ryder a grant was given for logging; the forester has been asked to flag trees in two sections shown as 2c and 8 on the forestry plan at the Desert. Section 8 will be harvested 50% of trees, 2C will be 33% of trees, Plans are in the works to administer a prescribed burn in 8 in the future. There is a stream crossing, matting will be put in to prevent damage. DCR and a state forester has to approve the cutting plan as well. Mr. Clancy asked what they intend to do with the trees when they are harvested. Mr. Ryder explained it is whole tree harvest, much will be lumber, but some will be chips, it all depends on the market. Work can only be done when the ground is frozen. If a hard freeze doesn't not occur or it is not dry conditions, the work cannot be done. On a motion by Mr. White, second by Mr. Clancy the Commission voted unanimously 6-0 to proceed with the project.

**Correspondence/Other Business-** none

**Next Conservation Commission meetings,** October 19 & November 2, 2023

**Adjournment:** there being no further business, on a motion by Mr. White second by Mr. Clancy to adjourn the Commission voted unanimously 6-0. The meeting was adjourned at 7:50 PM

Respectfully Submitted,

Priscilla Ryder  
 Conservation/ Sustainability Officer  
 PR/ag

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CITY OF MARLBOROUGH  
2023 DEC 14 PM 3:30

Approved Dec. 7, 2023 meeting  
Conservation Commission Minutes 11-16-23

14-14

Conservation Commission  
Minutes

November 16, 2023 - 7:00 PM

140 Main St. – Marlborough City Hall – 3<sup>rd</sup> Floor (Memorial Hall)

**Members Present:** Edward Clancy-Chairman, Allan White, William Dunbar, John Skarin, Karin Paquin, Dennis Demers, Dave Williams; Priscilla Ryder-Conservation officer was also present.

**Members Absent:** None

The hearing was recorded using Microsoft Teams

**Approval of Minutes:** The minutes of November 2, 2023, were reviewed and on a motion by Mr. White and second by Mr. Clancy, the Commission voted unanimously to approved 7-0.

**Public hearings**

**Notice of Intent**

**110-116 Boston Post Rd. – Michael Beyranevand – Continued from November 2<sup>nd</sup> meeting.**

*Proposes to replace existing failing retaining wall supporting a parking lot and repave the parking lot. Work near wetlands.*

Ms. Ryder noted that the applicant will not be attending tonight as they only today got comments from City Engineer and need to make adjustments to the plan. John Skarin indicated that he'd seen the site and will be clarifying with the applicant at the next meeting what vegetation must be removed, because by his observation some will need to be removed and restored. The hearing was continued to December 7<sup>th</sup> to allow applicant to address City Engineer comments.

**Notice of Intent**

**686 Forest St. – Charles Doty**

*Construction of a 60,000 square foot commercial use building. Work near wetlands.*

Charles Doty of Crowe Engineering introduced himself and James Bond, applicant/owner and Brian Joans, P.E. from Allan and Major. Mr. Bond explained that pads were constructed in the 80's. Utilities and drainage still exists today. He proposes 45000 sq ft footprint for the main building plus a 15000 sq ft mezzanine. The project would comply with the Zoning Ordinance. Informal Site Plan Review will address utilities and drainage. Mr. Doty explained that he originally worked on this site in the late 1980's. The site was originally Cedar Hill Business park and the site in question is the last remaining vacant area. Municipal and private utilities were installed along with the business park and as buildings were constructed, they would tie into these utilities. This site has 2 intermittent streams, one on the Forest St side, and one on the opposing side. This was at one point the staging area for the entire office park, then the site was utilized for line/pole climbing training for a utility company. The topsoil was removed to level the park. The back side wetland was delineated. Mr. Joans performed some test pits to target areas for stormwater management. Compact glacial till was found, the water table was low due to 6-8 feet of fill being found. Mr. Doty added that the shallow wet soils with heavy gravel content was found.

As proposed, the construction plans show tire scrubbing stations at all exists of the work area. Sediment and erosion control barriers will be around the perimeter of the work area. Catch basins on site will be replaced with new basins equipped with deep sumps. The grading/utility plan shows the 45000 square foot building, 30-foot wetland setback and existing parking. An infiltration basin is being added in order

Approved Dec. 7, 2023 meeting  
Conservation Commission Minutes 11-16-23

to comply. Vortech units are a proposed addition to meet water quality standards. Drainage discharge points from the original design were found, peak rates and volumes at those points were calculated and then compared to the new design. The drainage calculations show that the runoff will be reduced from the 1980's design. No specific use for the building has been determined yet but will be discussed with the Building Department in the future. Mr. Clancy asked who was responsible for the wetland delineation and when they did it. Mr. Doty's said staff from Crowe Engineering performed the delineation which was completed late September-October 2023. The scope of work is also going to be 1.5 acres less than the original design. Mr. Clancy asked about soil testing and how. Mr. Joans explained that they made test pits which were around 9 feet deep, and they did not hit standing water. Mr. Clancy also asked about the existing pipes and their condition. Mr. Joans confirmed that they are still functioning well. Mr. Dunbar explained that the current wetland boundary is approximate, he is looking for the exact wetland boundary. He also noted that one of the driveway entrances collapsed due to corrugated pipe rotting, he wanted to be have the downstream pipe checked as they are likely the same age. Ms. Paquin explained that the west side parking area comes up to the 30 foot no disturb line and wants to make sure no issues will occur with that. Mr. Doty confirmed no significant excavation would be done. Mr. White asked where the construction would be done within the buffer zone. Mr. Doty identified the location where the trench would be dug to install the sewer line and explained that the wetland would be replicated once work was complete. Mr. Dunbar mentioned snow storage must be on pavement, Mr. Doty said they will reconsider the snow storage location so that it is not on the landscape as it's not allowed. Mr. Clancy asked if the structural fill on site is suitable or if more would be needed. Mr. Joans explained that more testing would need to be done in order to confirm this. Mr. Demers explained that the original failure of the malfunctioning pipe was that the galvanized pipe itself rotted out. Being that this is the same pipe and the same age it isn't going to be any better. Mr. Doty explained that they will inspect the pipe. Ms. Ryder explained that this property needs an operation and maintenance plan, and the wetland line needs to be re-evaluated and defined as a few flags were not accurate. Improving the wetland with invasive removal would also be something to consider when replicating. Mr. Clancy asked about the sewer manhole being raised, if it's at grade or below. Mr. Doty explained that it is mostly at grade, they plan to raise it, so it functions better. Mr. Demers asked about what soils were found at that buffer zone. Mr. Joans explained that it had very low permeability. A site visit was scheduled for Tuesday, December 5<sup>th</sup> at 9am, Dave Williams will not be in attendance. The hearing was continued to December 7<sup>th</sup>.

### Abbreviated Notice of Resource Area Delineation

#### Sasseville Way – Sharon Sullivan

*Review & Verify Wetland Resource areas delineated on the property.*

Andrea Kendall of LEC Inc. presented the property wetland delineation plan. She pointed out that several members of the commission walked it on Monday Nov. 13<sup>th</sup>. She noted the buffer zones and paths taken on the site walks. She stated that she has delineated the bordering vegetated wetland (BVW), Bank, and 200' Riverfront area. Two small, isolated wetlands were found but as documented, do not contain the required ¼ acre foot of water and are too small to be protected under the regulations. Mr. Dunbar asked about the difference between the 100' and 200' lines. Ms. Kendall explained that the wetland buffer and the riverfront area come from different starting points. The 100' buffer is measured from edge of wetland, the Riverfront buffer is from top of bank/mean annual high-water mark. Mr. Clancy brought the isolated wetland to attention. Ms. Kendall explained that a vehicle sat there for many years and perhaps the activity from removing the vehicle created this small depression. A small

Approved Dec. 7, 2023 meeting  
Conservation Commission Minutes 11-16-23

swale was found which Ms. Kendall assessed as non-jurisdictional as she visited the site at different times of year and found no evidence of flow. Mr. White asked about the monitoring well and if any documentation associated with that well. Ms. Kendall explained she has no information on that monitoring well.

A resident Mr. Paul Goldman from Second Rd. noted that in 1987 an evaluation of the site was done and does show test pits which were done. He has a map of the sites. Mr. Goldman asked if any locations have been picked to monitor temperatures and salt content around the site. Ms. Kendall explained that she has not given this thought yet as we do not know the scope of work which is being planned. However, she would intend on having one up gradient location perhaps off site, one on site, and one down gradient. Another question was asked by Rebeka Salima, an abutter on Blaiswood Ave, about runoff from roads and how to protect from water problems. Ms. Ryder explained that in technical design, they will keep the flow of water in mind in order to not change the path of the water or increasing runoff. Mr. Clancy pointed out that if you visit the catch basin at the top of the site, all you can hear is running water. Engineers will have to show exactly where the groundwater is. Another question was asked about wetlands and how they are affected by the water level in the lake. Ms. Ryder explained that soils hold the history via mineral collection, so it is far more reliable in comparison to looking at plants to determine where the wetland line is located. After additional discussion about the site walk. A motion was made by John Skarin, seconded by Edward Clancy to approve the Delineation as presented, affirming the BVW, Riverfront Area, and Bank. The motion passes 7-0 approved.

Discussion

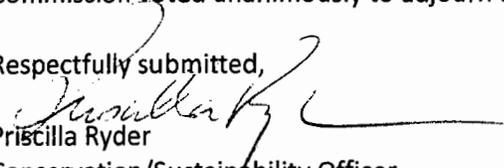
541 Pleasant St. violation. No representative was present and no new information was provided.

Correspondence/Other Business- None

Next Conservation Commission meetings- December 7, and Dec. 21, 2023

Adjournment- There being no further business on a motion by Mr. White, seconded by Mr. Clancy, the Commission voted unanimously to adjourn the meeting at 8:30 PM.

Respectfully submitted,



Priscilla Ryder

Conservation/Sustainability Officer

PR/ag

**Conservation Commission  
Minutes  
December 7, 2023 - 7:00 PM  
140 Main St. – Marlborough City Hall – 3<sup>rd</sup> Floor (Memorial Hall)**

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CITY OF MARLBOROUGH  
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2024 JAN -4 AM 10:44

**Members Present:** Edward Clancy-Chairman, Allan White, William Dunbar, John Skarin, Karin Paquin, Dennis Demers, Dave Williams; Also present- Priscilla Ryder-Conservation officer & Liz Austin- Associate Member

**Members Absent:** None

The hearing was recorded using Microsoft Teams

**Approval of Minutes:** The minutes of November 16, 2023, were reviewed and on a motion by Mr. White and second by Mr. Clancy, the Commission voted unanimously to approved 7-0.

**Public hearings**

**Notice of Intent**

**110-116 Boston Post Rd. – Michael Beyranevand – Continued from November 16<sup>th</sup> meeting.**

*Proposes to replace existing failing retaining wall supporting a parking lot and repave the parking lot. Work near wetlands.*

Art Cabral, P.E. was present representing the applicants – he noted that he has received comments from the City Engineer and has revised the plans accordingly. The plan changes show the drain formally blocked on one side, and a wall design that protects the sewer which travels under the wall. His agreement with the City is that the line will be inspected to be sure it is in good condition, if not the City will get permits for the sewer line replacement. Mr. Demers asked about the wall design whether small or large blocks to be used. Mr. Cabral indicated it was up to contractor, but he shows two designs for continuous block walls. Questions were raised about the sewer line, what material would be used behind the wall, where snow storage would be provided and if there was a curb stop next to the wall. Mr. Cabral indicated that new processed material would be used to backfill the wall, snow would need to be removed from the site. Signage about no snow dumping can be added to the plans, a sidewalk is proposed next to the fence which will also serve as a curb stop for vehicles.

Mr. Cabral showed photos of the wall and the abutting vegetation, some small trees will need to be removed from the site. It was discussed that some wetland restoration would be needed and perhaps can be determined once project is complete, a “not to exceed” planting condition can be added to the draft Order of Conditions. There was discussion about the sewer repair/replacement if needed and how to include language in the conditions to allow this work. After some additional discussion about construction sequencing and dewatering, the Commission asked that some draft conditions be provided for the next meeting. The hearing was continued to the Dec. 21<sup>st</sup> meeting, Ms. Ryder will draft conditions.

**Notice of Intent**

**686 Forest St. – Charles Doty**

*Construction of a 60,000 square foot commercial use building. Work near wetlands.*

Mr. James Bond, applicant provided a summary of the site walk noting that wetland flags have been adjusted as indicated in the field. All work in the buffer zone has been avoided with the new design being presented tonight. The team did inspect the downstream culvert and confirmed it is a reinforced concrete pipe and not a galvanized steel pipe and appears in good condition so that will not need to be replaced. Brian Joans, P.E. from Allan and Major. Charles Doty of Crowe Engineering were also present to answer questions. Mr. Clancy asked about the existing catch basins, drains and sewer connections they saw on the site visit that are in or right next tot the wetlands. Mr. Joans explained that they have redesigned the connections so will not be impacting the wetlands. The existing drainage structures will not be removed as they are in essence regulating the size of the wetland and providing a discharge point. It was noted by several members that there are some large reinforced concrete

Approved on Dec. 21, 2023

structures in the woods within the wetland that should be removed. Mr. Joans indicated this could be done when the site is frozen to have least damage to wetland. Mr. Dunbar asked about the results of the coring being done during the site visit. Mr. Joans noted that it is glacial till no rock, but very poorly drained soils. As everything is being discharged through the existing drainage outlets to the wetland, it was determined that additional riprap, hand placed, along slope would help dissipate villosity and stabilize the area. Mr. White asked what the building elevation was in relation to the wetland, Mr. Joes indicated 12"-18" higher than wetlands. Mr. White expressed concern with this. Mr. Dunbar asked about salt storage and noted that signage to prevent snow dumping in wetlands would be required, and snow storage must be on pavement not landscaped areas. Mr. White asked if dewatering would be needed. Mr. Joans didn't think so as the soil is so tight than water migration would be slow to non-existent. Ms. Ryder noted that she still needs comments from the City Engineer on the drainage, condition of the sewer line and maintenance through the wetlands, and his thoughts on leaving the structures in place. She also noted that no DEP# has yet been issued by DEP. The hearing was continued to the January 4<sup>th</sup> agenda to allow time to revise plans and get input from City Engineer.

#### Certificate of Compliance

DEP 212-1215- Green District- Request partial Certificate of Compliance for Phase 1 completion. Ms. Ryder noted that she is doing a site walk on Dec. 11<sup>st</sup> and will report back to the Commission. This was continued to Dec. 21<sup>st</sup>

#### Discussion

541 Pleasant St. violation. David Cowell of Hancock Associates had called Ms. Ryder to say that the survey crew was out on site today and they should have something to share for the Dec. 21<sup>st</sup> meeting. This was continued to the Dec. 21<sup>st</sup> meeting.

Robin Hill St. Overlay District - The City Council is reviewing a zoning change for a parcel of land on Robin Hill St. The project was withdrawn without prejudice and will likely be refiled early next year. Because winter is approaching the project proponent is interested in having the Conservation Commission walk the site before snow fall if possible. The Commission determined they would walk the site on Tuesday Dec. 19, at 9:00 AM.

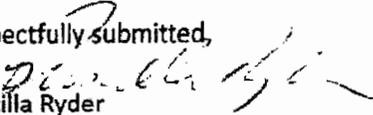
Sasseville Way Overlay District – Ms. Ryder updated the Commission noting that this filing before City Council has been withdrawn without prejudice as well.

#### Correspondence/Other Business- None

Next Conservation Commission meetings- Dec. 21, 2023 & January 4, 2024

Adjournment- There being no further business on a motion by Mr. White, seconded by Mr. Clancy, the Commission voted unanimously to adjourn the meeting at 8:18 PM.

Respectfully submitted,

  
Priscilla Ryder  
Conservation/Sustainability Officer  
PR

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## MARLBOROUGH HISTORICAL COMMISSION

**MEETING MINUTES**  
**October 19, 2023**  
**CITY HALL, 140 MAIN STREET**  
**MAYOR'S MEETING ROOM, 7:00PM**

*Board Members: Meeting comes to order 7:06PM*

*Brendan Downey, Chair – Present*  
*Sarah Hough, Vice Chair – Absent*  
*Stephanie Ferrecchia – Present*  
*Kathleen Newton – Present*  
*Adrian Gilbert, Secretary – Present*

1. *Motion put forth and seconded to approve September 21, 2023 minutes. Motion passes 4 - 0*

*Brendan Downey, Chair - Aye*  
*Sarah Hough - Absent*  
*Stephanie Ferrecchia - Aye*  
*Kathleen Newton - Aye*  
*Adrian Gilbert – Aye*

2. *Correspondence & Communications*

- A. *New application for 65 West Main Street, resident has received form but is not complete as of this meeting. Discrepancy concerning built date, 1830 or 1850.*

3. *Current Business*

- A. *487 Lincoln St., Cozy Café, brass commemorative plaque. Kathleen Newton has been in contact with family, obtained names of grandparents, however some family members were unaware of this request or what words should be placed on plaque for information concerning details to be included on plaque. After a short discussion an example of wording could be:*

*1970-2013, site of Cozy Café  
one of several neighborhood  
family restaurants and saloons  
located on Lincoln Street*

- B. *Preservation Guidebook*

*Kathleen Newton expressed concern how Guidebook would be presented on web site. The Guidebook as voted upon at the meeting of September 21, 2023 will be subject to corrections, alterations, and additions in the future. Listing the Topics as separate chapters, with connections by selecting, in the Index of the Historical Commission web site will make these changes simpler and faster.*

- C. *Brendan is seeking a meeting with Tin Htway and Adrian Gilbert to review current version of the guidebook, petitioning approval and direction of the document and requests for future topics.*

4. *Motion to Adjourn meeting, 7:31PM. Motion passes 4 - 0*

*Brendan Downey, Chair - Aye*

*Sarah Hough -Absent*

*Stephanie Ferrecchia - Aye*

*Kathleen Newton - Aye*

*Adrian Gilbert – Aye*

*Respectfully Submitted,*

*Adrian Gilbert, Secretary*

*Marlborough Historical Commission*



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1A

**Call to Order**

**November 13, 2023**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Sean Fay, Barbara Fenby, James Fortin, Patrick Hughes, Dillon LaForce, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio.

**1. Draft Meeting Minutes**

**A. October 23, 2023**

On a motion by Dr. Fenby, seconded by Mr. LaVenture, the Board voted to accept and file the October 23, 2023, meeting minutes. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

**2. Chair's Business (None)**

**3. Approval Not Required (None)**

**4. Public Hearings**

**A. Council Order No. 23-1008951 – Proposed Zoning Amendment to Chapter 650, to add a new section to create the Red Spring Road Overlay District (RSROD) – *Continued from October 2, 2023***

- i. Legal Notice
- ii. Correspondence from abutter Paul Goldman, 137 Second Road
- iii. Correspondence from abutter Peter Sharon, 95 Lakeshore Drive

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to reopen the public hearing. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Arthur Bergeron, of Mirick, O'Connell, DeMallie & Lougee, LLP spoke on behalf of the proposed zoning amendment. Mr. Bergeron went over the proposed changes, 1) capping the number of units to 29 for the parcel and 2) removing the 10-acre section from the proposed zoning amendment.

Mr. Fay explained there are two additional documents that have been submitted. – **See attachment A.**

- Correspondence from Mirick, O'Connell, DeMallie & Lougee, LLP – proposed revisions to the Red Spring Road Overlay District
- Updated plan for the 10-acre parcel

Mr. Bergeron confirmed these documents are the final submissions for the public record.

On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to close the public hearing and the record. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

The Board reviewed and discussed their opinions on the below zoning standards:

- Is the proposed change in keeping with the character of the neighborhood?
- Does the proposed change negatively impact the neighbors?
- Does the proposed change benefit the City, or provide a use not permitted elsewhere?
- Is the proposed change in keeping with the intent and purposes of the City's zoning ordinances?

The Board concluded with the following vote and recommendations:

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On a motion by Mr. Russ, seconded by Dr. Fenby, the Board voted to send a favorable recommendation to the City Council on the above referenced Proposed Zoning Amendment. Yea: Fay, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0. Abstained: Fenby

The Board provided the following reasons in reaching its recommendation:

- The developer established that the proposed Zoning Amendment is consistent with the character of the existing neighborhood and that the Zoning Amendment would allow homeowners to better maintain the existing neighborhood;
- In the Planning Board's opinion, approval of the Zoning Amendment would not be overly burdensome to the neighbors.

If the City Council sees fit to approve the Zoning Amendment, the Planning Board suggests the following:

- Add language to define lot frontage:
    - o For lots created prior to (date TBD) required lot frontage is equal to 51.42' (the existing frontage, or round up to 52.0'), instead of zero;
    - o For lots created on or after (date TBD) required lot frontage is equal to 120.0', instead of zero.
  - Add language to define lot setback:
    - o For lots created prior to (date TBD) all structures to be set back min. 15.0' from the RSR district boundary line;
    - o For new structures on lots created prior to (Date TBD) all structures to be setback min 30' from the RSR district boundary line
  - Add language requiring any new lots created after (Date TBD) to conform with the of the current A2 zoning;
  - Remove language allowing the boat club use, keeping the current boat club as "pre-existing, non-conforming";
  - Add language limiting the number of structures within each exclusive use area to one single family house, one garage (non-habitable) and one shed (non-habitable) and specifically exclude bunk houses;
  - Add language limiting the number of dwelling units to 29 for the entire parcel, consistent with the stated opposition to further development around the reservoir by the residents of Red Spring Road during the Sasseville Road public hearing;
  - Secure an agreement giving the City the right of first refusal for the 10-acre undeveloped parcel for conservation purposes.
- B. Council Order No. 23-1008964 – Proposed Zoning Amendment to Chapter 650 "Zoning" to amend §22 "Retirement Community Overlay Districts" to include Map 39, Parcel 5 and 26B located on Robin Hill Street.
- i. Legal Notice
  - ii. Slide Deck Presentation

Chairperson Fay opened the hearing. Mr. LaVenture read the public hearing legal notice into the record. Chairperson Fay provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from the Board members.

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**Presentation:**

Arthur Bergeron, of Mirick, O'Connell, DeMallie & Lougee, LLP, Mark Mastroianni and Essek Petrie, of Pulte Homes of New England, LLC, and Robert Michaud of MDM Transportation Consultants all spoke on behalf of the proposed zoning amendment.

Mr. Mastroianni explained Pulte Homes New England is one of 26 local divisions of the Pulte Group, and the Pulte Group is a large publicly traded national home builder based out of Atlanta. Pulte Homes is completely self-funded, allowing them to acquire, develop, build, and sell their projects from start to finish. Pulte homes has 30 years of experience building residential homes in Massachusetts and has about 70 employees. Mr. Mastroianni went over information within their slide presentation. – **See attachment B.**

Mr. Petrie went over the team of professionals that will be working on this project and their roles.

- Civil Design Group, LLC, Matt Lightner – Site design, civil and general engineering
- Mirick O'Connell, Brian Falk, Arthur Bergeron – Legal Services
- VHB – Natural resource evaluation, identification, and analysis
  - This team will be working directly with Priscilla Ryder, Conservation Commission and starting with ANRAD (Abbreviated Notice of Resource Area Delineation) process.
- MDM Transportation Consultants, Robert Michaud – transportation impact analysis
  - Mr. Petrie did make note that they recognize that traffic is going to be a critical discussion point as this project moves forward.
- Coughlin Environmental Services, LLC – utility infrastructure analysis and design

Mr. Petrie explained the site is approximately 28 acres, made up of two parcels, primarily surrounded by residential communities. He argued the proposed zoning change would allow for a residential development, which is a better fit than some of the potential uses in the current limited industrial zoning. The site design on the preliminary concept minimizes the direct impact to the sites' abutters. The concept has approximately 25% lot coverage, leaving over 40% of the site completely undisturbed, leaving ample forest in-between all the proposed buildings and the adjacent residences, including the Hillside School. The development would be a 55+ age restricted community, consisting of 3-50-unit buildings, 57 townhomes, a clubhouse, and amenities. These would be ownership properties, not rentals.

Mr. Petrie explained based on preliminary conversations with the City of Marlborough's Water and Sewer Department, the existing system has the capacity to serve the proposed development. Their plan is to install an internal force main system that would then connect to the existing municipal gravity system at a sewer manhole located in Jacobs Road.

Mr. Petrie continued to go over information within the slide presentation detailing the amenity program and photos from similar developments Pulte Homes has built. He went over Pulte Homes' commitment to building environmentally sensitive communities and described several specific environmentally friendly features the proposed development will have. He argued these homes would provide existing residents the opportunity to downsize while offering a variety of different styles and sized units.

Mr. Mastroianni went over the procedural process and explained if the proposed zoning amendment was approved, the proposed development would require a special permit approval from City Council and site development approval from Site Plan Review Committee and Conservation Commission.

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Mr. Bergeron concluded the presentation by explaining when retirement communities started in the City, about 30 years ago the zoning was in an isolated location. He argued these types of projects should be allowed in additional locations through the City. The proposed project is projected to bring in an additional 1M dollars in tax revenue.

Mr. Fay closed this portion of the public hearing.

**Speaking in Favor of the Amendment or Asking Questions:**

- Martin Suberg, of Durand and Anastos, 25 Robert Dr., Shrewsbury, MA addressed concerns regarding the wetlands and potential perennial stream on site and asked, "is there enough work that's been done to indicate whether or not this project is even viable in the way it's laid out?" He continued to address concerns regarding the watershed protection land in the area and explained the site abuts the North Branch Brook and the Millham Reservoir and asked, "have the proponents evaluated the impact and ways of managing it both during construction and post construction?"
- Rebecca Salemi 32 Blaiswood Ave asked, if the City of Marlborough has stated housing goals?
- Harmony Larson 173 Barnard Rd asked, asked if there was an estimate on the HOA fees?

Mr. Fay closed this portion of the public hearing.

**Speaking in Opposition to the Amendment:**

- Damon Michaels 93 Chase Rd asked/addressed the following questions/concerns:
  - Is this supposed to be affordable to 55+?
  - Why is the lower cost Centex not being chosen as Pulte Group says that is for budget conscious consumers?
  - What is the plan to upgrade Robin Hill St?
  - Biking was discussed, but Robin Hill St is not safe in any way for bicycle usage.
  - There are no sidewalks in the area and is a hazard to walk along and will leave this neighborhood as its own island. Will this be addressed?
  - Will any units be designated as affordable housing under MA law?
- David Wagner 649 Robin Hill St spoke in oppositions addressing concerns on increased traffic and roadway safety specifically for pedestrians.
- Brian Robidoux 660 Robin Hill St spoke in opposition.
- Alan Chamberlain 100 Jacobs Rd, spoke in opposition addressing the following concerns:
  - The proposed development is not in keeping with the character of the neighborhood
  - Public safety on Robin Hill St
  - Environmental impact
  - Increase in highway noise
  - Stormwater runoff and potential flooding
  - Sewer capacity
- Paul Pelletier 69 Jacobs Rd, spoke in opposition addressing the following concerns:
  - Increase of traffic
  - Roadway safety
  - Sewer capacity
  - Watershed
  - Wildlife

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- Harley Racer of Larry Friedman, 1 McKinley Square spoke in opposition on behalf of Hillside School, 404 Robin Hill Street. He summarized the attached letter. – **See Attachment C.**
  - Mr. Racer addressed key points from the communications.
    - The proposal not being valid because Pulte Homes is not an individual landowner, they are a prospective buyer.
    - The authorization letter authorizes Mirick O’Connell to present the proposed zoning change and initiate this on behalf of Pulte Homes and argued it is an invalid initiation of the zoning bylaw of the zoning change under the Massachusetts Statue and under the Marlborough ordinances.
    - The proposed zoning changes seeks to rewrite the Marlborough ordinances that related to the retirement Community Overlay in substantial, significant ways.

Mr. Fay acknowledged Mr. Racer’s correspondence for the record.

- Ed Chase, Head of Hillside School, 404 Robin Hill St spoke in opposition. Mr. Chase summarized the Planning Boards’ zoning standards, presented his argument, and presented the Board with additional signatures in opposition. – **See Attachment D.**
- Thomas Pipoli, Dean of Hillside School, 404 Robin Hill St spoke in opposition on behalf of 32 teachers, 27 of which live on campus. He argued one the defining components of Hillside School is their Farm Program and that a project like this proposal would not have any sort of positive impact to the school’s mission or on its population.

Mr. Fay acknowledged correspondence speaking in opposition from Arlene Stetson, 603 Robin Hill St. – **See Attachment E.**

Mr. Fay closed this portion of the public hearing.

**Questions and Comments from the Planning Board:**

Mr. LaVenture addressed concerns on Mr. Racer’s correspondence and suggested having the legal department review his correspondence. Mr. LaVenture suggested the following items/ideas be considered:

- Provide a summary of the changes being proposed.
- Review the impact on the individual parcels and how it could potentially impact the City as a whole.
- Review the site plan to determine if access to and from the site from Route 290 is feasible.
- Comparison data from other Cities and Towns where similar developments have been built, summarizing the impact on demographics and finance.
  - Mr. LaVenture argued when people considering downsizing, most of them would not consider buying a \$800,000 home and asked whom would this project attract into the community and how would this impact the City?

Mr. Russ asked, why not zone the project with the current zoning the City has? He addressed concerns on the proposed changes to the zoning ordinance and argued the City has them written the way they are for a reason. The proposed change to the building height is not only a significant change but would not include the underground parking in the calculation.

Mr. Fay asked, why propose this change City wide instead of for just this parcel?

Mr. Bergeron explained it made more sense to have the standards reviewed to allow this kind of retirement community in other places.

Mr. Fay argued it’s easier to fashion something for this parcel than for the entire City.

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Mr. Fay asked Mr. Bergeron if he could address the key questions raised at tonight's meeting, specifically items within Mr. Racer's correspondence. Mr. Bergeron agreed with the suggestion to refer to the correspondence to the Legal Department for review. Mr. Fay and Mr. Bergeron discussed keeping the public hearing and record open for additional input/information.

Mr. Petrie explained the wetlands will be delineated and the team will be working with the Conservation Commission to set the ANRAD. The team will be working with MDM Transportation to address the specific questions related to traffic concerns and would conduct a traffic impact analysis. He argued if something was built on site using the current by-right zoning, there would also be an increase in traffic.

Mr. Bergeron reviewed the Board's zoning standards and provided his comment/argument:

- Is the proposed change in keeping with the character of the neighborhood?
  - The proposed zoning change is a better fit than what the site is currently zoned for. The current zoning would result in an increase in truck traffic, traffic and noise.
  - The proposed homes on site that would not fit into to character of the neighborhood would be in the back of the property and would not be visible from Robin Hill Street.
  - Retirement communities generally do not generate a large amount of traffic especially during peak rush hour times.
- Does the proposed change negatively impact the neighbors?
  - Yes, compared to an open space parcel, but much less than what could be built with its current zoning.
- Does the proposed change benefit the City, or provide a use not permitted elsewhere?
  - It increases the amount of housing available for seniors.
  - Some of the homes will be reserved for affordable housing.
  - The fiscal benefit would be significantly higher than what a by-right project would provide.
- Is the proposed change in keeping with the intent and purposes of the City's zoning ordinances?
  - Yes, it is a logical and consistent extension of the efforts that have been made over the last 30 years to develop what has become a variety of retirement communities for a population that is heading into retirement.

On a motion by Mr. Fortin, seconded by Dr. Fenby, the Board voted to refer Harley Racer's correspondence to the legal department for review and to continue the public hearing to the November 27, 2023, meeting and to keep the record open. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to recess the meeting for two minutes. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

- C. Council Order No. 23-1008941 - Proposed Zoning Amendment to Chapter 650, to add a new Section 39A to create the Sasseville Way Residential Overlay District (SWROD). – *Continued from September 18, 2023*
- i. Legal Notice
  - ii. Correspondence from William Pezzoni
  - iii. Revised Proposed Amendment to Zoning Code
  - iv. Fiscal Impact Analysis
  - v. Transportation Impact Assessment (Electronic Packets Only)

On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to reopen the public hearing. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

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Michael Flannery of Goulston & Storrs, Carolyn Hewitt and Mark Shraiberg of Trammell Crow Company all spoke on behalf of the proposed zoning amendment. Mr. Flannery presented the Board with an additional memo. – **See Attachment F.**

Mr. Flannery and Mr. Shraiberg went over information from within their slide presentation – **See Attachment G.** Detailed information on their presentation can be found in the October 23, 2023, meeting minutes.

Mr. Flannery and Mr. Shraiberg also went over information from within Day Pitney’s memos, dated November 7, 2023, (which can be found in the November 13, 2023, agenda packet) and dated November 13, 2023, (Attachment F).

Mr. Flannery went over the changes since their original presentation at City Council, presentation. The biggest is, proposing that any development proposed under this overlay zoning would be subject to the special permit process. He briefly discussed the newly provided impact analysis and explained it includes an estimate that there will be 15 school age students in this development.

Mr. Shraiberg went over the revised photos within their slide presentation detailing visuals of the height of the buildings, as requested by the Planning Board at their October 23, 2023, meeting.

Dr. Fenby asked for further clarification on how much additional open space would be left open on top of what is required?

Mr. Shraiberg explained they are allowed to encroach 10% into the 200-foot riverfront set back area. However, this 10% is being preserved.

Mr. Russ asked, why aim for Silver LEED and not higher?

Mr. Shraiberg explained the Silver LEED is what they are committed to today, and because the energy model will be done after July of 2024, they will have to meet a passive house modeling standard or a TEDI modeling standard, both of which increase their ability to meet or have a higher platform than Silver LEED.

Mr. Russ asked, have you considered reducing the impervious surface with parking alternatives and how many parking spots would there be?

Mr. Shraiberg explained there is a 1.7 spot per unit ratio, + 54 spots for the retail unit = 540 parking spots. He explained alternative parking ideas would be discussed during their site plan review and special permit process.

Mr. Hughes ask for further clarification on where the estimate of 15 school aged children came from.

Patrick Sullivan of Trammel Crow Company explained data was pulled from a proprietary database and information from School Superintendent Murphy. He argued in comparison to the Burrow which has 235 unit, based on data from the Marlborough Public Schools, the Burrow has four school aged children.

Ms. Hewitt explained the elementary aged students would attend Goodnow and superintendent explained there was a plan to expand prior to the completion of this project.

Mr. LaVenture asked for more information on the maintenance plan for the retaining walls. Furthermore, who is responsible for fixing, repairing, and maintaining the walls?

Mr. Shraiberg explained it would be the project ownership and it would all be handled in the operations and maintenance plan, which would be attached to the deed. The plan would be developed and then

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approved by the City during the site plan approval process. The plan would be funded by the ownership's operations budget.

Mr. LaVenture asked for more information on similar projects they have completed in close proximity to landfills.

Mr. Shraigberg explained White Stone did phase 1 investigation of this project and confirmed that stormwater will follow the gradient and go downhill towards Fort Meadow Reservoir. He went over Bohler Engineering's extensive experience on projects in areas near landfills.

Mr. LaVenture asked for further clarification on how they plan to protect Fort Meadow Reservoir.

Mr. Shraigberg explained they are committed to sedimentation and temperature monitoring. A plan will be written by their wetland consultant to be approved by the City as part of their operation and maintenance plan which will be attached to the deed. Andrea Kendal of LPC explained establishing a baseline of current conditions is the first step by collecting temperature data from upstream, immediately on site and immediately downgradient of any outfall.

Mr. LaVenture asked if this data would be public.

Mr. Shraigberg explained they would need to discuss this and that it would be available to the City Engineer.

The Board and Mr. Flannery discussed their responses to previously raised questions from the Board, abutters and the Conservation Commission and Mr. Flannery confirmed no additional information would be submitted unless requested.

Mr. Fay asked who would enforce the monitoring of sedimentation and temperature in perpetuity?

Mr. Flannery reminded the board these would be rental properties and there would be a single owner. There would be an operations and maintenance plan in place enforceable by the City of Marlborough that would be binding to the property owner.

Mr. Fay and Mr. Shraigberg discussed the option of using porous pavement on site. Mr. Shraigberg explained once the stormwater system design and soil characterization is completed, they would then have a better understanding on if the porous pavement would be beneficial.

Mr. Russ and Mr. Shraigberg discussed snow storage and Mr. Shraigberg explained this would also be part of their operations and maintenance plan and that they are committed to using low impact chemicals and storing snow in an area where it would not create an issue with the stormwater runoff.

Mr. Fortin and Mr. Shraigberg discussed alternatives for the emergency access and Mr. Shraigberg discussed the difficulties other emergency access locations pose. Mr. Fortin addressed concerns on the impact to the Blaiswood neighborhood and the conditions of the roadway in the future.

On motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to close the public hearing. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

The Board discussed their opinions on the proposed zoning amendment and concluded with the following recommendation.

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On a motion by Mr. Russ, seconded by Dr. Fenby, the Board voted to send a neutral recommendation to the City Council on the above referenced Proposed Zoning Amendment. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

The Board provided the following reasons in reaching its recommendation:

- The developer established that the proposed Zoning Amendment is more consistent with the character of surrounding neighborhood than the existing limited industrial zoning;
- In the Planning Board's opinion, the developer established the proposed Zoning Amendment would impact the Blaiswood Avenue neighborhood and the Assabet River Rail Trail users less than a commercial development, but argued the proposed development could negatively impact its abutters (height of buildings in close proximity to a single-family neighborhood and potential impacts to Fort Meadow Reservoir);
- The developer did not establish the proposed Zoning Amendment would provide the City with a type of housing that is not already available in the City, however it would benefit the City by preventing a commercial development, which could severely impact a sensitive environmental area. The proposed Zoning Amendment would give the City an additional opportunity to reduce the overall impact through the special permit process.

If the City Council sees fit to approve the Zoning Amendment, the Planning Board suggests the following items be considered:

- Implement additional safety protocols for the Assabet River Rail Trail crossing;
- Review the Blaiswood Avenue neighborhood impact;
- Review the Fort Meadow Reservoir impact;
- Conduct building height studies in relationship to adjacent neighborhoods;
- Explore options to reduce impervious surface;
- Increase the number of affordable housing units or consider reducing the cost of the affordable housing units;
- Consider making the runoff temperature and sediment monitoring data public record;
- Further defining the language within the proposed zoning amendment and addressing the Board's comments.

**D. Open Space Definitive Subdivision Application, Stow Road, Map and Parcels 8-164, 8-163, and 20-150A –  
Continued from September 11, 2023 – Vote required based on statutory clock**

Name of Applicant: Kendall Homes, Inc. (P.O. Box 766, Southborough, MA 01772)

Name of Owner: McCabe Family Irrevocable Trust & Judith McCabe  
(6 Erie Drive, Hudson, MA 01749)

Name of Surveyor: Connorstone Engineering, Inc. (10 Southwest Cutoff, Northborough, MA 01532)

i. Flowchart

ii. Correspondence from City Engineer, Thomas DiPersio, Jr., - Engineering Review

iii. Correspondence from Assistant City Solicitor, Jeremy McManus

iv. Correspondence from Vito Colonna, Connorstone Engineering, Inc.

v. Revised Plan Set Dated: 10/18/23

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to reopen the public hearing. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

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Mr. Colonna spoke on behalf of the open space development. He went over the changes since the original submission and explained updated plans have been submitted addressing Engineering's comments. The stormwater report and soil management plan addressing the arsenic on site from the previous apple orchard on site, and the City Solicitor's determination on the perimeter buffer and the status of the road have been provided.

He explained the soil management plan found elevated levels of arsenic on the front ANR lot 1. The plan is to strip and stockpile the soils and bury the contaminated soil on ANR lot 1. Mr. DiPersio and Mr. Colonna discussed how this would be memorialized to the deed with possibly a AUL restriction and Mr. Colonna explained he was not sure but that this question was sent to the LSP for determination. Mr. LaVenture addressed concerns on future residents gardening, Mr. Colonna explained they are buried about 3 feet deep, and Mr. DiPersio explained these chemicals do not leach into the water and this is the typical way soils are managed on former apple orchard sites and Board discussed other sites where similar procedure was followed.

He explained the letter from the City Solicitor confirmed that the oversized lots do not require the perimeter buffer and the status of the roadway classification it is to be considered a secondary street, which typically requires 28 feet of pavement, so the plan has been revised to include a waiver requesting a 26-foot pavement width.

He explained an ANR plan has been prepared but is has not been submitted yet. The plan is to get it approved prior to the approval of the definitive plan and a note on the definitive plan would need to be added saying ANR Lot 1 as shown on Plan of Land dated XYZ. He explained the ANR lots meet all of the dimensional requirements and have present adequate access on Stow Road.

He explained there a few things that need to be cleaned up but all of the changes would be minor including the name of the Street to Quinn.

Mr. Fay discussed cul-de-sac designs he saw in another town and the Board and Mr. Colonna discussed the tear drop design with a landscaped island. He explained how the ledge on site might cause some additional difficulties. Mr. DiPersio discussed how this would require an additional waiver request and the administrator provided Mr. Colonna with the sketch of the cul-de-sac specifications.

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to accept and file all correspondence under item 4D, and to close the public hearing and the record. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Mr. Fay explained to Mr. Colonna that the Board will need the following items:

- Draft certificate of vote
- Draft covenant
- ANR Submission
- Extension request

Mr. Colonna verbally requested an extension request on the decision to December 18, 2023.

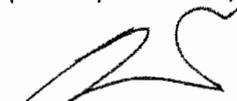
On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to grant the extension for the decision on the Open Space Definitive Subdivision on Stow Road (547 Stow Road) to December 18, 2023. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

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- 4. **Subdivision Progress Reports (None)**
- 5. **Preliminary/Open Space/Limited Development Subdivision (None)**
- 6. **Definitive Subdivision (None)**
- 7. **Signs (None)**
- 8. **Correspondence (None)**
- 9. **Unfinished Business**
  - D. Working Group
    - i. Cul-de-sac discussion
      - (1) Response from multiple departments  
The Board reviewed the response.
- 10. **Calendar Updates**
  - D. Planning Board Holiday Party – December 18<sup>th</sup>
- 11. **Public Notices of other Cities & Towns (None)**

On a motion by Mr. Hughes, seconded by Mr. LaForce, the Board voted to adjourn the meeting. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Respectfully submitted,



George LaVenture/Clerk

/kmm

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**Call to Order**

**November 27, 2023**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Sean Fay, Barbara Fenby, James Fortin, Patrick Hughes, Dillon LaForce, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio.

- 1. Draft Meeting Minutes (None)**
- 2. Chair's Business (None)**
- 3. Approval Not Required (None)**
- 4. Public Hearings**

- A. Council Order No. 23-1008964 – Proposed Zoning Amendment to Chapter 650 “Zoning” to amend §22 “Retirement Community Overlay Districts” to include Map 39, Parcel 5 and 26B located on Robin Hill Street.
  - i. Legal Notice
  - ii. Correspondence from the Legal Department
  - iii. Correspondence from Brian Falk, Mirick O’Connell
  - iv. Correspondence from Robert J. Michaud, MDM Transportation Consultants, Inc.
  - v. Correspondence from Ed Chase, Head of Hillside School
  - vi. Correspondence from Harley Racer, Lurie Friedman, LLP

On a motion by Dr. Fenby, seconded by Mr. LaVenture, the Board voted to reopen the public hearing. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file all the correspondence under item 4A. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Mr. LaVenture asked for clarification on language in the proposed zoning amendment under item C. “by special permit in accordance with § 650-59, permit a retirement community-detached and townhomes and a retirement community-multifamily,” asking if the language should read “and/or” or if this language is requiring that these can only be approved as a combination?

Mr. Falk explained “and or” may be more appropriate.

Mr. LaVenture pointed out a typo under item (2)(l) “less than 50 fee shall” should read “less than 50 feet shall”.

Mr. Falk confirmed no additional information/material would be submitted.

Mr. Russ asked for further clarification on the proposed language being added to section (2)(a) “or (ii) within in area designated by City Council through an amendment to the Zoning Map”, asking if this is saying that City Council can decide where else other than the proposed locations or specifically in industrial zoned areas?

Mr. Falk explained the idea was to give the Council flexibility, that if there was another limited industrial, industrial parcel beyond the area that was defined earlier that they would have the option through a zoning map amendment to do that.

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Mr. Russ argued this section should include the language regarding the "limited industrial, industrial".  
Mr. Falk agreed it would add further clarification.

Mr. Russ asked for further clarification on the proposed language being added under section (3)(a), addressing concerns on the regulations and definitions on items like setback requirements, etc.

Mr. Falk explained the intent was to use the existing regulations that are in effect unless by special permit through the Council.

Mr. LaVenture asked for clarification on language under (2)(e) "municipal".

Mr. Falk explained the word municipal was added to clarify that the set back is from the City's public way and not Interstate Route 290.

Mr. LaVenture discussed his concerns on the conflicting information from the City Solicitor and Mr. Racers' communications. Mr. Racers' attachment correspondence from the City of Cambridge Solicitor seems to indicate that an individual cannot request a zoning change for area in which they do not have standing, in the sense that they do not own land there. He asked, since the proposed zoning amendment is proposed City wide, could the proposed zoning request impact other sections of the City in which the proponent does not own land?

Mr. Falk explained written authorization has been provided stating the property owner Denali Bell LLC supports the petition to be filed on their behalf and argued the City Solicitor has issued an opinion that the petition is in order.

Mr. LaVenture argued that is true, but it only applies to this property not others in the City that would be affected by the proposed change.

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to close the public hearing and the record. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Dr. Fenby said "for years we've been protecting the industrial land in the City because we wanted to have the dual tax base and recently that's been eaten away by variety of things without any forethought or planning. A lot of the changes are being made without sufficient thought as to the future of the City and what we want to be, and in ways that benefit those who have money and not the people who are our traditional base, which is the working-class population who can't even find a house to live in. In looking at this proposal among others, I'm just feeling that without a City planner, without any direction from the City, we are just mumbling along and giving away things and we should be cognizant of that.

Mr. Fay reminded the Board this land is not conservation land and that when we are looking at a recommendation for use, the Board needs to think about the impact on the neighborhood and what can be built as a matter of right in this zone versus the proposal before the Board.

The Board discussed their feelings on this proposal covering multiple parcels throughout the City versus just this parcel and concluded they did not support the proposal being City wide.

The Board reviewed and discussed their opinions on the below zoning standards:

- Is the proposed change in keeping with the character of the neighborhood?
- Does the proposed change negatively impact the neighbors?
- Does the proposed change benefit the City, or provide a use not permitted elsewhere?
- Is the proposed change in keeping with the intent and purposes of the City's zoning ordinances?

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The Board concluded with the following vote and recommendations:

On a motion by Mr. Russ, seconded by Dr. Fenby, the Board voted to send a negative recommendation to the City Council on the above referenced Proposed Zoning Amendment. Yea: Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: Fay. Motion carried. 6-1.

The Board provided the following reasons in reaching its recommendation:

- The consensus of the Board was that a change in zoning to allow residential development of the proposed site would be the least impactful development option and one that is more consistent with the character of the surrounding neighborhood. However, the Board was concerned about the impact from a traffic perspective, specifically because the roadway cannot be widened;
- In the Planning Board’s opinion, the developer established that the proposed Zoning Amendment would impact the neighborhood less than a commercial development, but argued the proposed development could negatively impact its abutters due to the height of buildings in close proximity to a single-family neighborhood;
- In the Planning Board’s opinion, the developer established that the proposed Zoning Amendment would benefit the City in that it provided a use not permitted elsewhere, but determined that that the benefit would only be sufficient if the proposed development had less density, more screening, and lower building height;
- Without a comprehensive plan for all parcels throughout the City potentially impacted by the proposal, the Board could not recommend a zoning amendment that would be applicable city-wide, and stated a preference for a proposal that would cover only the proposed development site.

If the City Council sees fit to approve the Zoning Amendment, the Planning Board suggests the following items be considered in addition to the above-listed items:

- More extensive definition of allowable building dimension and height restrictions;
- Providing an amenity plan and considering granting the public access to these amenities.

**5. Subdivision Progress Reports**

**A. 342 Sudbury Street Bond Reduction Request**

Mr. LaVenture read the November 20, 2023, correspondence into the record.

On a motion by Dr. Fenby, seconded by Mr. LaVenture the Board voted to accept and file the correspondence and refer the bond reduction request to Engineering for review. Yea: Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: Fay. Motion carried. 6-1.

**6. Preliminary/Open Space/Limited Development Subdivision**

**A. NO DISCUSSION REQUIRED, no new information –**

Open Space Definitive Subdivision Application, Stow Road, Map and Parcels 8-164, 8-163, and 20-150A

Name of Applicant: Kendall Homes, Inc. (P.O. Box 766, Southborough, MA 01772)

Name of Owner: McCabe Family Irrevocable Trust & Judith McCabe  
(6 Erie Drive, Hudson, MA 01749)

Name of Surveyor: Connorstone Engineering, Inc. (10 Southwest Cutoff, Northborough, MA 01532)

**7. Definitive Subdivision (None)**

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**8. Signs (None)**

**9. Correspondence (None)**

**10. Unfinished Business**

**A. Working Group**

**i. Cul-de-sac photos**

Mr. Fay went over the photos and explained the cul-de-sac appears to be designed so that snow could be plowed over the pavers onto gravel and would drain into the gully and then into the drain system. Without the curbing it allows for easier turning for emergency vehicles. Mr. DiPersio discussed the difficulties the pavers may pose from a maintenance perspective. He explained in certain circumstances like topography and soil conditions these could be a good way to deal with stormwater. The stone layer is likely used as a pretreatment, filtering out debris and would collect the first flush of runoff before entering the planted area. Concepts like this could be easily done with a flat surface but some site could pose some difficulties.

Mr. Fortin argued these stones would also retain heat and argued this would go against what the Board was trying to accomplish with the landscaped design. He suggested coming up with a requirement where developers have to explore this option to see if the site is best suited for these type of cul-de-sac designs, but not making them a requirement to install.

The Board discussed maintenance concerns and requiring an HOA in situations where there are areas the City would not maintain. Mr. DiPersio explained the City would maintain the drain system if there was installed within the landscaped cul-de-sac and that there would need to be some sort of agreement in place.

Mr. Fay and Mr. DiPersio discussed the potential future use of porous pavement. Mr. DiPersio explained he hasn't investigated its durability recently and that porous pavement requires special maintenance that would likely require a special contractor. Mr. Fay explained he wanted to investigate this an option to be better prepared for the expected future submission of a subdivision on South Street where the property includes wetlands, streams, and gullies.

Dr. Fenby discussed meeting with Priscilla Ryder to see if she has any ideas.

**11. Calendar Updates**

**A. Planning Board Holiday Party – December 18<sup>th</sup>**

**12. Public Notices of other Cities & Towns (None)**

On a motion by Mr. Hughes, seconded by Mr. LaForce, the Board voted to adjourn the meeting. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Respectfully submitted,



George LaVenture/Clerk

/kmm