



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
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**JANUARY 22, 2018**

Regular meeting of the City Council held on Monday, January 22, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juaire, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 8:59 PM.

**ORDERED:** That the Minutes of the City Council meeting JANUARY, 8, 2018, **FILE**; adopted. **Councilor Oram recused.**

**ORDERED:** That the Communication from President Clancy - Amended Proposed Zoning Ordinance as it pertains to powers and procedures of Special Permit granting authority; Execution of Agreement to Extend Time in Which to Act on a Special Permit, refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY FEBRUARY 26, 2017**; adopted.

**ORDERED:** That the Communication from Councilor Delano: (1) Proposed Amendment Medical Marijuana Ordinance; (2) Proposed Recreational Marijuana Ordinance **WITHDRAWN**; adopted.

**ORDERED:** That the transfer request in the amount of \$32,960.00 which moves funds from Local Inspector to Assistant Building Commissioner to fund the position of Assistant Building Commissioner, refer to **FINANCE COMMITTEE**; adopted.

		CITY OF MARLBOROUGH								
		BUDGET TRANSFERS --								
	DEPT:	Inspections					FISCAL YEAR:	2018		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:	Balance
\$83,662.63	\$32,960.00	12410001	50260	Local Inspector		\$32,960.00	12410001	50095	Asst Bldg Commissioner	\$0.00
	Reason:	Funds available due to creation of new position					To fund through June 30, 2018			
		and vacancy of Building Commissioner								
	\$32,960.00	Total				\$32,960.00	Total			

ORDERED: That the Appointment of Mike Ossing to the MEDC Executive Board, **FILE**; adopted.

**Councilor Ossing abstained.**

ORDERED: That the Apex Sign Request, Kelly Services, 58 Apex Drive, **APPROVED**; adopted.

ORDERED: That the Communication from MA State Lottery Commission re: O'Hearn's Tavern, 11 B Florence Street, Keno License, **FILE**; adopted.

ORDERED: That the Communication from Central MA Mosquito Control Project, Board of Commission meetings, **FILE**; adopted.

ORDERED: That the Minutes, Recreation Commission, May 10, 2017 & September 13, 2017, **FILE**; adopted.

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

- a. Elizabeth Newton, 38 B Oak Street, Franklin, pothole or other road defect.
- b. Margarita Alfarodegluarado, 24 Harriman Road, Hudson, pothole or other road defect.

ORDERED: It is moved, in conformance with MGL c. 30A, § 21(a)(3), that the Marlborough City Council conduct an executive session for the purpose of discussing strategy in pending litigation concerning a land use request involving a property off Boston Post Road, as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough and the City Council, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the City Council will re-convene in open session after the executive session

**APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.**

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee  
Tuesday January 9, 2018  
In Council Chambers**

**Finance Committee Members Present:** Chairman Ossing; Councilors Robey, and Dumais.

**Finance Committee Members Absent:** Councilors Oram and Irish

**Other Councilors in Attendance:** Councilors Clancy, Delano, Juairé, Landers and Doucette.

The meeting convened at 6:35 PM.

- 1. Order No. 17-1007120 A&B – Authorize Purchase of 28 Witherbee Street and Transfer \$459,720.84 from Undesignated Fund for Library Project Land Acquisition** - The Finance Committee reviewed the Mayor's letter dated December 14, 2017 requesting the authorization to purchase and the approval of a transfer of \$459,720.84 from the Undesignated Fund to purchase the property at 28 Witherbee Street as part of the land acquisition for the Library Renovation Project. **The Finance Committee voted 3 - 0 to authorize the purchase and approve the transfer.**

**The Finance Committee agreed to support suspending the rules at the January 22, 2018 City Council meeting to approve the orders.**

The Finance Committee adjourned at 6:47 PM.

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

**City Council Legislative and Legal Affairs Committee  
Tuesday, January 9, 2018, 6:50 PM– In Council Chambers  
Minutes and Report**

Present: Chairman Katie Robey, Councilor Landers, Councilor Delano, & Councilors Clancy, Doucette, Dumais, Juairé, and Ossing. Also attending were Cynthia Panagore Griffin, Assistant City Solicitor, City of Marlborough and John Ghiloni, DPW Commissioner.

Reports of Committee Cont'd:

**Order No. 17 1007122-Communication from Mayor Vigeant re: Eminent Order of Taking related to the Public Library project.**

The mayor's letter of December 14, 2017 was read. In it he stated that the proposed taking by eminent domain the fee simple interest in the land at 28 and 29 Witherbee Streets effectively clears the title in both of these properties and relieves the owners of the time and expense to do so and the City's right to clear title by taking was reserved in the purchase and sale agreements for each of the properties. He also asked that Council approval of the Eminent domain order not be approved until the transfer for 28 Witherbee Street was approved.

The City Council approved the transfer request for funds to purchase 29 Witherbee Street at its December 18, 2017 meeting. At its January 9th meeting, the Finance Committee voted to recommend approval of a transfer for the 28 Witherbee Street property and to Suspend the Rules for action at the January 22<sup>nd</sup> meeting.

Councilor Delano moved to approve the Eminent Domain Order of Taking for 28 and 29 Witherbee Streets with monetary award of \$1.00 for each property as adequate compensation and damage for the taking. **The motion was seconded and the motion carried 3-0.**

**The committee agreed to ask for a Suspension of Rules for this to be voted on at the January 22<sup>nd</sup> meeting pending approval of the transfer recommendation from the Finance Committee.**

It was moved and seconded to adjourn; motion carried 3-0.

The meeting adjourned at 7:00 PM.

City Council Legislative and Legal Affairs Committee  
Tuesday, January 16, 2018, 6:00 PM– In Council Chambers  
Minutes and Report

Present: Chairman Katie Robey, President Clancy, and Councilors Doucette, Dumais, Juaire, and Ossing. Also attending were John Ghiloni, DPW Commissioner; David Giorgi, Police Chief; and Ted Scott, DPW Assistant Commissioner of Operations.

**Order No. 18-1007147 The City Council Urban Affairs Committee meet with DPW Commissioner Ghiloni and Police Chief Giorgi to consider replacing the seasonal (winter) all night parking ban in the City of Marlborough with an ordinance providing for a Declaration of a Snow Emergency during which no parking of vehicles would be allowed on any streets or ways that are plowed by the City.**

## Reports of Committee Cont'd:

Although the order that was submitted by councilors Juairé and Delano mentioned Urban Affairs committee, this was referred to Legislative & Legal Affairs as well as the Traffic Commission. Councilor Juairé stated his reasons why he had proposed this and discussion occurred by Commissioner Ghiloni and Chief Giorgi and other councilors in attendance. Fire Chief Breen was unable to attend but had submitted a letter to councilors with the chair quoting some of his comments and apprehension for a change. In the end, Commissioner Ghiloni stated he could not recommend a change to the current practice and Chief Giorgi agreed.

President Clancy moved to recommend a negative vote on replacing the current seasonal winter parking ban with something else. The motion was second and carried 2-0. President Clancy also moved to recommend the Council remove this the Traffic Commission as a majority of its members have had a chance to speak and they have no jurisdiction on the parking ban. The motion was seconded and carried 2-0.

The committee also discussed Order No. 17-1007097-1A & 2A, Communication from Mayor Vigeant regarding Proposed Lodging House Ordinances to comprehensively regulate lodging homes. This matter was tabled in committee until the mayor could offer further information.

Councilor Tunnera reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: January 22, 2018

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 6:47PM – Adjourned: 7:04PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers.

Councilors Clancy, Dumais, Ossing, and Robey; Councilor Oram arrived late; Mayor Vigeant was also present.

**Order No. 17/18-1007051: The Appointment of William Dunbar to the Conservation Commission for a three-year term.** Recommendation of the Personnel Committee is to approve the appointment of William Dunbar to the Conservation Commission. Mr. Dunbar stated that he has been working with Conservation Office Ryder for many years taking photographs. President Clancy stated that Mr. Dunbar will replace Larry Roy, a 35-year member of the Conservation Commission, and has been attending Conservation Commission meetings since we expressed interest for him to join us. The Conservation Commission is a 7-member board that meets twice a month during the year. There is a longstanding tradition of long term membership by board members.

**Motion made by Councilor Landers, seconded by chair, to approve the appointment of William Dunbar. The motion carried 3-0.**

## Reports of Committee Cont'd:

**Order No. 17/18-1007112: The Appointment of Joseph Bisol to the Council on Aging for a four-year term.** Recommendation of the Personnel Committee is to approve the appointment of Joseph Bisol to the Council on Aging Board. Mr. Bisol is a 42-year resident of the City and volunteered to serve as a member of the COA. He has been a member of the senior center and visits the fitness center several times during the week. He stated that he looks forward to listening to ideas of Marlborough's seniors. He stated that the city is fortunate to have the beautiful facility at Ward Park and happy that the center is very well maintained.

**Motion made by Councilor Irish, seconded by Landers, to approve the appointment of Joseph Bisol. The motion carried 3-0.**

Motion made by Councilor Irish, seconded to adjourn. The motion carried 3-0.

The meeting adjourned at 7:04PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: January 9, 2018

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 5:33 PM – Adjourned: 6:34 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juairé, Landers, Doucette, and Tunnera; and Councilors Clancy, Dumais, Ossing, and Robey; **Donald Rider (City Solicitor, City of Marlborough); Carolyn Parker; Amy Lynch, Bob Messier, and John Grasso**

**Order No. 17-1007068: Application for Sign Special Permit, Mobil, 656 Boston Post Road East, in which the four manual price panels will be removed and replaced with two LED price panels for regular and diesel prices.** Carolyn Parker of 3 Lorion Avenue, Worcester, MA, appeared on behalf of Mobil, 656 Boston Post Road East, for a discussion of its request for two LED price panels replacing its current sign of four manual price panels. Chairman Delano received assurance from the applicant that the sign would adhere to the technical specifications as stated in the City code with regards to its brightness levels. The discussion continued regarding the pump toppers which are required by the State and whether they would also need City Council approval. The Urban Affairs Committee agreed to include the pump toppers in the special permit decision and they would be numerical only with no other advertising allowed on the pumps. The committee approved the pump toppers and other signs as strictly numerical allowing for fuel costs only. The Urban Affairs Committee agreed to request a suspension of the rules at their January 22, 2018 City Council meeting to refer the special permit decision to the Legal Department to be placed in proper form.

**Motion made by Councilor Juairé, seconded by Chair, to approve the sign special permit as amended. The motion carried 5-0.**

## Reports of Committee Cont'd:

**Order No. 17-1007069: Application for Sign Special Permit, Halfway Café, 820 Boston Post Road East, for proposed new 90" x 96" x 15" double sided U.L. listed LED internally illuminated sign with 31" x 66" electronic message board.** Amy Lynch, representative of the sign company, Bob Messier (Daktronics), manufacturer of the product, and John Grasso, proprietor of Halfway Café, appeared before the Urban Affairs Committee for a discussion of their request for a new LED internally illuminated sign with an electronic message board for the Halfway Café. Chairman Delano confirmed the applicant had read the City's sign regulations and understood the requirements for their sign. He stated they were within all stated limits of sixty square feet for their sign of which twenty-five percent or fifteen square feet can be the electronic message board. The electronic message board would have no pictures or moving displays and include words only. It was noted that a condition stating the plans and/or documentation as provided by the applicant would become part of the special permit decision was omitted and would be included in the final version, the language is as follows: "All plans and/or other documentation provided by the Applicant as part of the Application, and as amended during the Application/hearing process before the City Council and/or the Urban Affairs Committee, are incorporated into and become part of this LED Sign Special Permit, and become conditions and requirements of the same, unless otherwise altered by the City Council." The Urban Affairs Committee agreed to request a suspension of the rules at their January 22, 2018 City Council meeting to refer the special permit decision to the Legal Department to be placed in proper form.

**Motion made by Councilor Doucette, seconded by Chair, to approve the sign special permit as amended. The motion carried 5-0.**

Motion made and seconded to adjourn. The motion carried 5-0.

The meeting adjourned at 6:34 PM.

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

**ORDERED:** That by Order No. 16-1006760B the City Council of the City of Marlborough appropriated funds and approved the use of said funds to bind an offer by the City on a purchase and sales agreement for 28 Witherbee Street, and that by Order No.17-1006978-2 the City Council authorized the Mayor to negotiate and enter into said purchase and sales agreement, the performance of which is contingent upon a favorable vote of the City Council authorizing the City to acquire the parcel for the amount stated in said agreement and an appropriation of sufficient funds for said purchase, the Mayor, having thereby negotiated a purchase and sales agreement bound by an offer to purchase, the City Council hereby authorizes the City to acquire the parcel in the total amount of \$483,916.67 as provided in said purchase and sales agreement, and further appropriates the balance due on said purchase by approving the transfer request, as noted below, in the amount of \$459,720.84 which moves funds from the Undesignated Fund to Land Acquisition, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Mayor					FISCAL YEAR:	2018		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$9,029,104.00	\$459,720.84	10000	35900	Undesignated Fund	\$459,720.84	19300006	58120	Land Acquisition		\$0.00
	Reason:	Purchase and sale of 28 Witherbee Street								
	\$459,720.84	Total			\$459,720.84	Total				

**Yea: 11 – Nay: 0**

**Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Oram, Ossing & Robey.**



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

ORDERED:

**Eminent Domain Order of Taking**

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that the fee simple interest in certain parcels of land located at 28 Witherbee Street and at 29 Witherbee Street, as more particularly described herein, be taken by eminent domain as general corporate property, confirming and making clear the title of the City of Marlborough to said parcels of land and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

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

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

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

**DESCRIPTION OF LAND TAKEN****1. Street address: 28 Witherbee Street, Marlborough, MA 01752**

Fee simple interest: Being approximately 16,117.2 square feet, more or less, of land at 28 Witherbee Street, Marlborough, MA, known and numbered as Map 69, Parcel 235 on the Assessors' Map of the City of Marlborough. For further description, see below owners' deed recorded with Middlesex South Registry of Deeds in Book 25364, Page 378.

OWNERS: Katherine A. Ribeiro (fka Katherine R. Ribeiro) and Paulo S. Ribeiro

**2. Street Address: 29 Witherbee Street, Marlborough, MA 01752**

Fee simple interest: Being approximately 8,698.93 square feet, more or less, of land at 29 Witherbee Street, Marlborough, MA, known and numbered as Map 69, Parcel 245 on the Assessors' Map of the City of Marlborough. For further description, see below owners' deed recorded with Middlesex South Registry of Deeds in Book 47304, Page 279.

OWNERS: Roy E. Hansen and Eileen Maguire

The ownership of said parcels and each of them are supposed to be as stated herein, but said fee simple interest and each of them are hereby taken whether the ownership is as stated herein or otherwise. Owners have waived and released the City of Marlborough from all damages and claims resulting from said taking, and have waived their right to appeal or contest said taking.

### **TABLE OF AWARDS**

The City Council hereby makes the following awards for damages for the owner or owners of record:

<b><u>OWNERS</u></b>	<b><u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u></b>	<b><u>AWARD</u></b>
Katherine A. Ribeiro (fka Katherine R. Ribeiro) and Paulo S. Ribeiro	69/235	\$1.00
Roy E. Hansen and Eileen Maguire	69/245	\$1.00

**APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.**

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

**ORDERED:** That the Application for Sign Special Permit, Mobil, 656 Boston Post Road East, in which the four manual price panels will be removed and replaced with two LED price panels for regular and diesel prices, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE NEXT CITY COUNCIL MEETING OF FEBRUARY 5, 2018**; adopted.

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

**ORDERED:** That the Application for Sign Special Permit, Halfway Café, 820 Boston Post Road East, for proposed new 90" x 96" x 15" double sided U.L. listed LED internally illuminated sign with 31" x 66" electronic message board, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE NEXT CITY COUNCIL MEETING OF FEBRUARY 5, 2018**; adopted.

**ORDERED:** That the City Council Operations and Oversight Committee meet with DPW Commissioner Ghiloni, Fire Chief Breen and Police Chief Giorgi to reconsider the seasonal (winter) all night parking ban in the City of Marlborough and whether parking shall be allowed on streets deemed wide enough so as not to constitute a hazard to city emergency vehicles if residents are allowed to park on the street during the winter season or even if they are deemed to be parked illegally during snow emergencies, **TABLED**; adopted.

**Councilor Delano opposed.**

ORDERED: That the Mayor Vigeant, DPW Commissioner Ghiloni, and Assistant DPW Commissioner Higgins address the Urban Affairs Committee regarding the closing of the Millham Water Treatment Plant last year, including the present status of the facility, associated financial impacts, and future plans for the site, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:59 PM.