



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
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**SEPTEMBER 24, 2018**

Regular meeting of the City Council held on Monday, September 24, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Delano, Juare, Oram, Ossing, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 8:47 PM.

ORDERED: That the Minutes of the City Council meeting August 27, 2018, **FILE**; adopted.

ORDERED: That the Minutes of the City Council meeting September 10, 2018, **FILE**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Sustainable Material Recovery Program grant in the \$14,400.00 from MA Department of Environmental Protection to implement recycling programs and policies in which these funds will be used on equipment and approved activities, including recycling equipment, compost bins, and costs associated with our household hazardous waste collections; adopted.

ORDERED: The City Council hereby approves the gift of the Digital Federal Credit Union to the Marlborough Public Library in the amount of \$7,500.00, which amount shall be deposited with the City Comptroller and held in a separate account to be expended by the Marlborough Public Library without further appropriation, all in accordance with section 53A of chapter 44 of the Massachusetts General Laws; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Recreation grant in the amount of \$5,000.00 from DCU to support the Recreation Department's scholarship program which helps children of all backgrounds who participate in recreation programs at reduced cost or no cost; adopted.

ORDERED: That the Reappointment of Human Resources Director, David Brumby, for a term of three years to commence from date of City Council confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Reappointment of Collector, Eileen Bristol, for a term of two years to commence from date of City Council confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Reappointment of Comptroller, Brian Doheny, for a term of three years to commence from date of City Council confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Application for Special Permit, Ninja Twin, LLC, dba USA Ninja Challenge, 19 Brigham Street, to utilize Unit 8 in the building as a commercial indoor recreation center and place of fitness training for children ages 4 to 17, in proper legal form, Order No. 18-1007339, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Mirick O'Connell, on behalf of Capital Group Properties LLC, re: submission of two items related to this petition to place Marlborough Airport Property in the Retirement Community Overlay District, which includes a study of the airport and surrounding areas; and a memo concerning a property in Southborough where a residential community was located near commercial areas, Order No. 18-1007136A (X17-1006963C), **FILE**; adopted.

ORDERED: That the Communication from Mirick O'Connell on behalf of Garden Remedies, Inc., 416 Boston Post Road East re: Posting a Notice of a Community Outreach Meeting to be held on Monday, October 1, 2018 at 6:00 PM at the Wildwood Steakhouse, 189 Boston Post Road East as required by the regulations of the state Cannabis Control Commission as a prerequisite to Garden Remedies applying for a license to operate a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment, Order No. 18-1007138A, **FILE**; adopted.

ORDERED; At a regular meeting of the Marlborough City Council held on Monday, SEPTEMBER 24, 2018 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, was **ORDERED ADVERTISED** as follows; adopted.

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by amending certain provisions of Section 650-34, Marlborough Village District, and Section 650-41, Table of Lot Areas, Yards and Height of Structures, as follows:

1. By amending Section 650-34.F, Heights of Structures, as follows (deleted text in ~~striketrough~~; new text underlined):

F. Heights of structures.

- (1) To encourage redevelopment and reuse of parcels within the Marlborough Village District, minimum and maximum heights are established. Minimum heights shall be 35 feet; maximum height is 6 stories and up to 70 feet except for where a proposed structure is within 50 feet of a residential ~~lot~~ district boundary, where the height limit shall be 52 feet. By grant of a special permit, maximum building height, including building areas within 50 feet of a residential district boundary, may be increased to ~~80~~ 7 stories and up to 85 feet. Height limits do not include roof-mounted mechanical appurtenances; however, said appurtenances, and the screening required for them in § 650-34D(2)(b), shall be subject to site plan review and design standards. Rooftop mechanical equipment, including wireless communications equipment, shall be located and screened to minimize impacts on abutters and the general public. No interior space shall be occupied for any purpose above these height limits.

This shall not preclude the use of a flat roof for purposes allowed in this section.

- (2) Roof decks, providing recreation and amenity areas for residents and businesses on the roof above the top story of a building, shall be encouraged in Marlborough Village District. Roof decks may include open space areas for sitting and gardens; open-air areas covered by permanent roofs (flat or sloped); indoor areas for social gathering, meetings, common kitchens, restrooms, and storage; spaces for mechanical equipment; and enclosures for elevators and stairs. The portions of a building designed as a roofdeck shall be subject to maximum height restrictions, as may be extended by special permit.

2. By amending Section 650-41, Table of Lot Area, Yards, and Height of Structures, as follows (new text underlined, deleted text in strikethrough):

District	Minimum Lot Area	Minimum Lot Frontage (feet)	Minimum Side Yard (feet)	Minimum Front Yard (feet)	Minimum Rear Yard (feet)	Height	Minimum Lot Coverage
Marlborough Village District MV	5,000 square feet	25	10 <sup>3</sup>	10 <sup>14</sup>	10 <sup>15</sup>	Minimum: 35 feet; <u>Maximum:</u> <del>6 stories;</del> not to exceed a maximum of 70 feet <sup>12</sup>	80% <sup>13</sup>

**NOTES:**

<sup>1</sup> Note deleted.

<sup>2</sup> Applies to all buildings erected on or after January 27, 1969; all others, 10 feet.

<sup>3</sup> Where abutting a residence district or within the Marlborough Village District where abutting an existing structure that has side-facing windows at the structure's lot line; otherwise 0 feet.

<sup>4</sup> Except where abutting a residence district, shall be 50 feet.

<sup>5</sup> Except for buildings extending through a block or to a railroad siding.

<sup>6</sup> For the purpose of measuring setback distances for the corresponding height restrictions, an owner of LI or I zoned land may count abutting residentially zoned land toward the setback requirement if such land is owned by the same owner. Ownership of the residential land and the LI or I land must continue to be held by the same entity.

<sup>7</sup> However, this frontage need not be contiguous.

<sup>8</sup> No part of any principal building shall be within 25 feet of any exterior lot line nor shall any part of any building be closer to any exterior lot line than the minimum side yard requirement which would have been applicable in the zoning district in which the land in question was located before it was rezoned into a Retirement Community Residence District. A building may be as close as 25 feet to the front yard line of the exterior lot; provided, however, that no said building shall be less than 50 feet from the side line of a public way.

<sup>9</sup> Excluding from lot size any land which prior to development of the site as a Retirement Community would be defined as a resource area as that term is defined in MGL c. 131, § 40.

<sup>10</sup> Buildings on a Large Tract Development Lot, which are more than 1,200 feet from a Residential Zone, may be built to a maximum height of 85 feet.

<sup>11</sup> Maximum lot coverage for a Large Tract Development Lot shall be 50%.

<sup>12</sup> Within the Marlborough Village District, special permits may allow for an increase in height to ~~80~~ 7 stories and up to 85 feet; also, provided that the height of any development ~~adjacent to any~~ within 50 feet of a residential district boundary shall be stepped down and shall not exceed 52 feet except where allowed by special permit. (See § 650-34F(1).)

<sup>13</sup> Within the Marlborough Village District, special permits may allow for an increase in lot coverage.

<sup>14</sup> Except along the following streets in the Marlborough Village District where zero-foot setback is allowed by right: Main Street, the eastern side of South Bolton Street between Main Street and Granger Boulevard, and the northern side of Granger Boulevard between South Bolton Street and Main Street.

<sup>15</sup> Except that a special permit may be granted to reduce this to zero where public safety will not be impacted and the reduction will yield a better design.

**SET A PUBLIC HEARING FOR OCTOBER 29, 2018, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD;** adopted.

ORDERED; That the Communication from various residents listed below re: in Opposition of the Proposed Farm Road Retirement Community Overlay District, Order No. 18-1007136Q, **FILE**; adopted.

Leon Barsamian, 1 Simmons Street  
Kelley Barsamaian, 127 Beach Street  
Helen Barsamian, 1 Simmons Street  
Greg Barsamian, 127 Beach Street

ORDERED: That the Minutes, Conservation Commission, July 19, 2018, August 2, 2018 & August 16, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Retirement Board, July 31, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, July 26, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, March 20, 2018, April 10, 2018 & May 8, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Board of Health, August 13, 2018, **FILE**; adopted.

ORDERED: That the Minutes School Committee, June 26, 2018 & August 28, 2018, **FILE**; adopted.

ORDERED: That the Minutes Planning Board, August 27, 2018, **FILE**; adopted.

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

- a. Maxine Bellew, 45 Deerfield Run, pothole or other road defect claim.
- b. Carl Price, 109 Chase Road, other property damage and/or personal injury.
- c. Jason Campbell, 49 Hatfield Street, pothole or other road defect claim.

#### Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**FINANCE COMMITTEE Members Present:** Chairman Ossing; Councilors Robey, Oram, Irish and Dumais.

**FINANCE COMMITTEE Members Absent:** None

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

The meeting convened at 7:12 PM.

1. **Order No. 18-1007382 – Transfer \$8,412.20 from Receipts Reserved Transportation Network Companies (TNC) Surcharge to Capital Outlay Police Equipment:** The FINANCE COMMITTEE reviewed the Mayor's letter dated September 6, 2018 requesting a transfer of \$8,412.20 from Receipts Reserved from the 2017 Marlboro TNC (Uber/Lyft) surcharges to the Capital Outlay Police Equipment for the purchase of additional traffic enforcement equipment. **The Finance Committee voted 5 - 0 to approve the transfer.**
2. **Order No. 18-1007353 – Transfer \$66,988.35 from the Reserve for Salaries Account to Fund the DPW Equipment Operators Contract for Fiscal Year 2019, 2020 and 2021:** The FINANCE COMMITTEE reviewed the Mayor's letter dated August 23, 2018 requesting the transfer of \$66,988.35 from the Reserve for Salaries account to fund the first year of the DPW Equipment Operators contract for FY19, 20 and 21. **The Finance Committee voted 5 - 0 to approve the transfer request to fund the DPW Equipment Operators contract for FY19.**

## Reports of Committee Cont'd:

3. **Order No. 18-1007352 – Transfer \$254,000.00 from Receipts Reserved Public, Educational and Government (PEG) Fund to Information Technology (IT) Equipment Account:** The FINANCE COMMITTEE reviewed the Mayor's letter dated August 23, 2018 requesting a transfer of \$254,000.00 from the Reserved Receipts PEG Fund to the IT equipment account to purchase new computers for the Library, upgrade the City's existing Network storage device, cyber security training and install security cameras at the schools. **The Finance Committee voted 5 - 0 to approve the transfer.**
4. **Order No. 18-1007366 – Land Acquisition for Library Project - 49 West Main Street - \$381,504** - The Finance Committee reviewed the Mayor's letter dated August 23, 2018 requesting the approval of an order authorizing the purchase of 49 West Main Street for \$381,504.00 for the Library Project. The funds will be appropriated from the Capital Outlay account 19300006-58595. **The Finance Committee voted 4 – 1 (Councilor Robey opposed) to approve the Order to purchase 49 West Main Street using funds from the Capital Outlay account.**
5. **Order No. 18-1007381 – Transfer \$27,340.00 to Create a New Position in the Council on Aging (COA):** The Finance Committee reviewed the Mayor's letter dated September 6, 2018 requesting the transfer of \$27,340.00 (\$1,884.00 from Reserve for Salaries and \$25,456.00 from COA Program Coordinator) to create a new union position Program Coordinator/Clerk Typist. **The Finance Committee voted 5 - 0 to approve the transfers to create the new position within the COA.**
6. **Order No. 18-1007365 – Salary Ordinance Amendment and Transfers (\$7,100.00)– Human Resources Assistant and Manager of Communications Technology:** The Finance Committee reviewed the Mayor's letter dated August 23, 2018 requesting an amendment to the salary ordinance for two positions:
  - The Finance Committee voted 5 - 0 to amend the salary ordinance for the Human Resources Assistant to increase the salary and change the four step salary schedule to a seven step salary schedule.
  - The Finance Committee voted 5 - 0 to amend the salary ordinance to create a new position "Manager of Communications Technology" that will develop, manage and implement communications technology projects.
  - The Finance Committee voted 5 - 0 to approve the transfer of \$7,100.00 from Reserve for Salaries to Human Resource Assistant (\$3,410.00) and Electrician (\$3,690.00) to fund the changes to the salary ordinance.
  - The Finance Committee voted 5 - 0 to advertise the Human Resources Assistant and Manager of Communications Technology salary ordinances.

Reports of Committee Cont'd:

**The Finance Committee agreed to support suspending the rules at the September 24, 2018 City Council meeting to approve the following:**

- #2 - DPW Equipment Operator Contract Transfer for \$66,988.35
- #4 - Library Land Acquisition order/transfer for 49 West Main Street
- #5 - New position/transfer in the Council On Aging
- #6 – Only the advertising of the Salary Ordinance for the Human Resource Assistant and Manager of Communications Technology

**The Finance Committee adjourned at 8:07 PM.**

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

City Council Legislative and Legal Affairs Committee  
Monday, September 17, 6:30 PM– In Council Chambers  
Minutes and Report

Present: Chairman Katie Robey, Councilor Delano and Councilor Landers. Also present were Councilors Clancy, Dumais, Irish, Juaire, Ossing. Councilor Oram arrived late.

Also Present: Mayor Vigeant, Assistant City Solicitor Cynthia Panagore Griffin, License Board Chairman Walter Bonin

**Order No. 18-1007363 Communication from the Mayor regarding Home Rule Petition-Liquor License.**

The Mayor's letter of August 23, 2108 was read into the record. The legislature has denied the April 2018 Home Rule Petition by City Council for 2 licenses for all alcoholic beverages not to be drunk on the premises. Additionally they have required the petition identify Kennedy's Market on Maple Street by name with a 2-year window for them to apply for the license. If not granted within 2 years, the license would expire. It will still be up to the License Board to grant the license.

**It was moved and seconded to approve the Home Rule petition as requested. The motion carried 3-0.**

**Order No. 18-1007369 Communication from City Solicitor Donald Rider regarding Benchmarks Deed of ten acres to the city of Marlborough.**

The letter from Solicitor Rider was read into the record. In it he explains that as part of the Special Permit granted to BSL Marlborough Development LLC (Benchmark) they would convey to the city approximately 10 acres of land at the site. It was noted that the mitigation payment of \$150,000 due within 60 days of the issuance of the Building Permit for the Site has been paid.

It was moved and seconded to accept Benchmark's executed and recorded Deed of the donated Land to the City for all municipal purposes. **The motion carried 3-0.**

## Reports of Committee Cont'd:

**Order No. 16/17/18-1006443D-2 Communication from Assistant City Solicitor Cynthia Panagore Griffin, regarding Apex Center's revised Open Space Plan & revised Open Space Covenant and Restriction.**

Having been tabled at the March 12, 2018 L & L meeting, it was moved and seconded to removed this from the table; the motion carried 3-0. The August 23, 2018 letter from Assistant City Solicitor Cynthia Panagore Griffin was read into the record. At the March meeting there was discussion on the language of the Covenant and Exhibit A, the Open Space Exhibit. At the suggestion of department heads, Walker Realty was asked to revise the map showing defined boundaries of the Open Space and make some changes to the Covenant. Those changes were included in the revised documents and reviewed by the committee. It was made clear the land delineated in Exhibit A is to be left substantially in its natural state as undevelopable open space in accordance with the terms of the Covenant. It was also noted that there is still work to be completed on sewer lines and the public walking trail that are part of the Development Agreement and acceptance of the Covenant doesn't release Walker Realty from finishing those items. It was moved and seconded to accept the revised Open Space Plan and the revised Open Space Covenant and Restriction and refer to Legal Department to be placed in proper legal form. **The motion carried 3-0.**

Councilor Juaire reported the following out of the Veterans Affairs Committee:

Meeting Name: City Council Veterans Affairs Committee

Date: September 17, 2018

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

Convened: 6:02 PM – Adjourned: 6:25 PM

Present: Chairman Juaire; Veterans Affairs Committee Members Councilors Ossing and Robey; Councilors Clancy, Delano, Doucette, Dumais, and Landers; Mayor Vigeant and Assistant Solicitor Cynthia Panagore Griffin

**Order No. 18-1007364: Communication from the Mayor regarding Marlborough Public Library Naming Rights.** Chairman Juaire read a letter from Mayor Vigeant, dated August 23, 2018, which requested the City Council revise the City Code to allow the Board of Library Trustees to name public assets located in and at the Marlborough Public Library. The chairman also read a letter from the Veterans Council, dated September 14, 2018, which did not want to see the Board of Library Trustees have authority to rename the library in its entirety but had no issue if interior rooms and sections are named for donors to the library renovation project. Assistant City Solicitor Panagore Griffin explained the proposed ordinance change would not eliminate the existing naming rights, as those would remain the same, but would allow the Board of Library Trustees to name its interior and outdoor spaces by developing a well thought out policy. Assistant City Solicitor Panagore Griffin further explained that similar to the School Committee, the Board of Library Trustees has care, custody, management and control of the grounds it oversees which is governed by statute.

**Motion made by Councilor Ossing, seconded by the Chair, to approve the proposed ordinance to amend Chapter 551 to allow the Board of Library Trustees to name its interior spaces and exterior grounds as requested by the Mayor. The motion carried 3-0. (Requires advertising)**



Reports of Committee Cont'd:

**Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 6:25 PM.**

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

Meeting Name: City Council Urban Affairs Committee

Date: September 18, 2018

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

Convened: 5:31 PM – Adjourned: 7:19 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juairé, Landers, Doucette, and Tunnera; Councilors Clancy, Irish, and Ossing; Richard Knight (USA Ninja Challenge); PJ Scalzi (Ninja Twins, LLC); City Solicitor Rider; Asst. Solicitor Panagore Griffin and MAPC's Cynthia Wall

**Order No. 18-1007339: Application for Special Permit from Ninja Twins LLC, to create a gym for children in an existing building located at 19 Brigham Street, #8.** The Urban Affairs Committee met with Richard Knight of USA Ninja Challenge and PJ Scalzi of Ninja Twins LLC for a discussion of their application for a special permit for a commercial indoor recreation center and place of fitness at 19 Brigham Street, Unit 8. Mr. Knight explained the business is a gym focused on children aged four through seventeen for obstacle course training. The Urban Affairs Committee reviewed with the petitioner the draft Decision, Grant of Special Permit submitted by petitioner earlier. Among the items discussed were signage, background checks for employees, parking needs for the business, and hours of operation. The committee discussed the timing with the applicant. There is a three-month window for them to open after the special permit is approved. The Urban Affairs Committee agreed to request a suspension of the rules at the September 24, 2018 City Council meeting to vote on the application and for the Legal Department to place the final draft decision on the September 24, 2018 City Council agenda. **Motion made by Councilor Juairé, seconded by the Chair, to recommend approval of the special permit application together with the draft decision, as amended. The motion carried 5-0.**

**Motion made by Councilor Juairé, seconded by the Chair, to request a Suspension of the Rules at the September 24, 2018 City Council meeting to vote on the application. The motion carried 5-0.**

**Motion made by Councilor Juairé, seconded by the Chair, to request the Legal Department place the application in proper form on the September 24, 2018 City Council agenda. The motion carried 5-0.**

## Reports of Committee Cont'd:

**Order No. 18-1007337: Communication from Assistant City Solicitor, Cynthia Panagore Griffin regarding Proposed Zoning Amendment to Chapter 650, §7, §17, new §39 & §41 as it relates to Neighborhood Business District, sponsored by Councilors Ossing and Irish.** The Urban Affairs Committee met with Cynthia Wall of Metropolitan Area Planning Council (MAPC) to review the proposed zoning amendment for the Neighborhood Business District. The purpose of the zoning is to revitalize the Lincoln Street area not with an overlay but underlying zoning changes. It is hoped the amended zoning will spur economic growth beneficial to the City. Ms. Wall explained the process for developing good zoning is based upon good planning. She reviewed the proposed allowed uses, those uses not allowed or allowed by special permit in the petition. After Ms. Wall's presentation, the committee reviewed the zoning and decided upon the following changes, Comprehensive Developments would be allowed by Special Permit, dry-cleaning drop-off retail would be allowed by right, and the City Council would be responsible for the Waiver as Part of Special Permit or Under Site Plan Review as part of C. (4).

**Motion made by Councilor Doucette, seconded by the Chair, to approve as amended subject to Planning Board feedback and recommendation from their September 24, 2018 public hearing. The motion carried 5-0.**

**Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:19 PM.**

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

**ORDERED:** That the DPW transfer request in the amount of \$66,988.35 which moves funds from Reserve for Salaries account to various DPW payroll accounts for laborers in the Department of Public Works to fund the recently ratified Memorandum of Agreement between the City of Marlborough and the Marlborough Public Works Equipment Operators Association for FY19-21, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:		Comptroller				FISCAL YEAR:		2019	
FROM ACCOUNT:						TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$990,000.00	\$66,988.35	11990006	57820	Reserve for Salaries	\$16,796.98	14001303	50740	Equipment Operators	\$732,756.31
	Reason:	Recalculate amounts for contract obligations				Reason:	Contractual Obligation		
					\$18,303.05	14001503	50740	Equipment Operators	\$800,971.41
	Reason:				Reason:	Contractual Obligation			
					\$12,354.53	61090001	50740	Equipment Operators	\$677,287.70
	Reason:				Reason:	Contractual Obligation			
					\$3,606.63	14001403	50745	Motor Equipment Repairman	\$152,588.73
	Reason:				Reason:	Contractual Obligation			
					\$1,202.21	60085001	50750	Equipment Operators	\$50,863.25
	Reason:				Reason:	Contractual Obligation			
					\$1,202.21	60081001	50750	Equipment Operators	\$50,979.09
	Reason:				Reason:	Contractual Obligation			
					\$184.95	14001303	51920	Sick Leave Buy Back	\$18,970.00
	Reason:				Reason:	Contractual Obligation			
					\$256.22	14001503	51920	Sick Leave Buyback	\$25,250.00
	Reason:				Reason:	Contractual Obligation			
					\$46.24	60085003	51920	Sick Leave Buyback	\$3,781.00
	Reason:				Reason:	Contractual Obligation			
					\$46.24	61090003	51920	Sick Leave Buyback	\$7,260.00
	Reason:				Reason:	Contractual Obligation			
					\$276.51	14001303	51430	Longevity	\$31,000.00
	Reason:				Reason:	Contractual Obligation			
					\$36.07	14001403	51430	Longevity	\$6,115.00
	Reason:				Reason:	Contractual Obligation			
					\$216.40	14001503	51430	Longevity	\$30,789.00
	Reason:				Reason:	Contractual Obligation			
					\$12.02	60085003	51430	Longevity	\$4,452.00
	Reason:				Reason:	Contractual Obligation			
					\$48.09	61090003	51430	Longevity	\$10,283.00
	Reason:				Reason:	Contractual Obligation			
					\$250.00	60085003	51940	Longevity	\$4,452.00
	Reason:				Reason:	Contractual Obligation			
					\$3,500.00	14001303	51940	Clothing Allowance	\$720.00
	Reason:				Reason:	Contractual Obligation			
					\$1,650.00	14001403	51940	Clothing Allowance	\$990.00
	Reason:				Reason:	Contractual Obligation			
					\$4,000.00	14001503	51940	Clothing Allowance	\$2,493.76
	Reason:				Reason:	Contractual Obligation			
					\$250.00	60081003	51940	Clothing Allowance	\$510.00
	Reason:				Reason:	Contractual Obligation			
					\$2,750.00	61090003	51940	Clothing Allowance	\$4,270.01
	Reason:				Reason:	Contractual Obligation			
	\$66,988.35	Total			\$66,988.35	Total			

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

**ORDERED:** That by Order No.17-1006760A the City Council of the City of Marlborough authorized the Mayor to negotiate and enter into a purchase and sales agreement for the purchase of 49 West Main Street, and by Order No. 16-1006760B the City Council appropriated funds and approved the use of said funds to bind an offer by the City on a purchase and sales agreement for 49 West Main Street, the performance of which agreement is contingent upon (1) a favorable vote of the City Council authorizing the City to acquire said parcel for the amount stated therein and (2) an appropriation of sufficient funds for said purchase, the Mayor, having thus negotiated a purchase and sales agreement bound by an offer to purchase, the City Council hereby (1) authorizes the City to acquire 49 West Main Street in the total amount of \$381,504.00 as provided in said purchase and sales agreement and (2) by two-thirds vote appropriates from Account No. 19300006-58595 (City Hall Equipment) the balance due on said purchase in the amount of \$362,504.00.

Further, the City Council hereby authorizes the Mayor to accept a deed pursuant to M.G.L. c. 40, § 3 for said property located at 49 West Main Street, be and is herewith **APPROVED**; adopted.

**Councilor Robey Opposed.**

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

**ORDERED:** That the Council on Aging transfer request in the amount of \$27,340.00 which moves \$1,884.00 from Reserve for Salaries & \$25,456.00 from Program Director to COA-Clerk Typist to eliminate an existing position and create a new position, Program Coordinator/Clerk Typist, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Comptroller					FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$892,805.00	\$1,884.00	11990006	57820	Reserve for Salaries	\$27,340.00	15410002	50584	COA-Clerk Typist		\$0.00
	Reason:				Reason:		Position change			
\$33,940.00	\$25,456.00	15410001	50191	Program Coordinator						\$0.00
	\$27,340.00	Total			\$27,340.00	Total				

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

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, SEPTEMBER 24, 2018 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, be further amended by amending Chapter 125 entitled “**PERSONNEL**”, Section 6 entitled “**COMPENSATION SCHEDULE**” having been read was **ORDERED ADVERTISED** as follows; adopted.

Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that the Code of the City of Marlborough as amended, be further amended in Chapter 125, Section 6 “Salary Schedule” as follows:

Position	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
		Start	6 months of service	1 year of service	2 years of service	3 yrs. of service	4 yrs. of service	5 yrs. of service
Human Resources Assistant	October 1, 2018	\$53,079.34	\$54,140.93	\$55,223.75	\$56,328.23	\$57,454.79	\$58,603.89	\$59,775.96
Manager of Communications Technology	October 1, 2018	\$60,389.89	\$61,597.68	\$62,829.64	\$64,086.23	\$65,367.95	\$66,675.31	\$68,008.82

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

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin re: Apex Center – Revised Open Space Plan & Revised Open Space Covenant and Restriction, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM**; adopted.

Motion by Councilor Delano to delete the second sentence of Condition #5 of the Special Permit for Ninja Tiwns, **APPROVED**; adopted.

**Suspension of the Rules requested - Granted**

ORDERED:

**DECISION ON A SPECIAL PERMIT  
CITY COUNCIL ORDER NO. 18-1007339B**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Ninja Twins, LLC (hereinafter “Applicant Tenant”), as provided in this Decision and subject to the following Findings of Facts and Conditions:

**FINDINGS OF FACTS AND CONDITIONS**

1. The landlord is Ivy Brigham Property, LLC, a duly organized and existing Limited Liability Company established under the laws of the state of Delaware with its principal place of business located at 102 Chestnut Ridge Road, Ste. 204, Montvale, NJ 07645.

2. Applicant Tenant is a duly organized and existing Massachusetts Limited Liability Company with its principal place of business at 121 Lee Drive, Concord, MA 01742 and has duly filed its Certificate of Organization Limited Liability Company with the City Clerk of the City of Marlborough to operate its business at the subject location. Applicant Tenant is a franchisee of USA Ninja Challenge.
3. The landlord is the title owner of the property located at 19 Brigham Street (the "Site"). The landlord and Applicant Tenant have executed or will execute a lease regarding Unit 8 at the Site, and its use pursuant to the terms of this special permit regarding Unit 8 at the Site.
4. The Applicant Tenant seeks permission to utilize Unit 8 at the Site as a commercial indoor recreation center and place of fitness training for children ages 4 to 17. The Site is located in the Industrial zoning district. A recreation center is allowed in the Industrial zoning district by special permit.
5. The Applicant Tenant, on July 10, 2018, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of § 650-17 and pursuant to the procedures specified in § 650-59 of the Marlborough Zoning Ordinance (the "Application").
6. The Site contains an existing commercial building. Unit 8 is shown in that building on plans submitted with or subsequent to the Application, the first said plan entitled "19 Brigham Street Unit #8" and the second plan being a sketch floor plan entitled "Unit No. 8 Plan" (collectively, the "Plans"), all of which Plans are attached hereto. No modifications are proposed to the exterior of the building, minor structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.
7. The Applicant Tenant seeks a special permit allowing the establishment of an indoor recreation area that will include various children's exercise and fitness equipment / obstacles for training classes, birthday parties, and camps for children to work on physical fitness, coordination, and confidence.
8. The Plans have been certified by the Building Commissioner, acting on behalf of the City Planner, as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.
9. Pursuant to the Rules and Regulations of the City Council and the provisions of M.G.L. c. 40A, the City Council established a date for public hearing for the Application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent written notice of said hearing to those abutters entitled to notice under law.
10. The Marlborough City Council pursuant to M.G.L. c. 40A held a public hearing on September 10, 2018, concerning the Application. The hearing was opened and closed at that meeting.
11. The Applicant Tenant presented evidence at the public hearing detailing the proposed use and its projected limited impact upon City services, the neighborhood and traffic.

12. At the public hearing, Richard Knight, representing Paul Scalzi who will be managing the operation of the business and is the manager of Applicant Tenant, described the proposed business as being one that would provide an indoor venue for children's fitness to take advantage of the proposed indoor fitness facility. He indicated that the business would operate late afternoon into the early evening, and weekends, following an established training class format to ensure development and safety for children 4-17 years of age. In response to questions from city councilors, he indicated that:
  - a) all employees receive background screening conducted by service provider;
  - b) no food would be prepared on the premises;
  - c) the facility would be open to the general public to provide indoor training space for children on a daily basis; and
  - d) all recreation would occur indoors.
13. No member of the public spoke, either in favor of or in opposition to the proposal.
14. Following the public hearing, the Urban Affairs Committee held a meeting on September 18, 2018 during which this Application was discussed. At that meeting, the parties discussed various issues and proposed permit conditions to deal with them.

#### **REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT**

- A. The City Council finds that the Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council for an application as they pertain to the Special Permit.
- B. The use of Unit 8 for an indoor recreation establishment and place of fitness training is an appropriate use of the Unit 8-portion of the Site and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions provided for herein. The use sought and its impacts and characteristics are not in conflict with the public health, safety, convenience and welfare, provided the safeguards and limitations imposed herein are met.
- C. The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, GRANTS the Applicant Tenant, its successors and assigns, a Special Permit to operate an indoor recreation establishment and place of fitness training as per plans filed with the City Council and the City Clerk, SUBJECT TO THE FOLLOWING CONDITIONS, which shall be applicable to Applicant Tenant and its successors and assigns, and a violation of which shall be a violation of this Special Permit:
  1. Signage: Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.

2. Compliance with Local, State and Federal Laws: The Applicant Tenant agrees to comply with all rules, regulations and ordinances from the City of Marlborough, the Commonwealth of Massachusetts, and Federal Government as they may apply to the construction, maintenance of equipment, and operation of the facility, and to public peace and good order in the event that the Chief of Police determines that either the business or the Applicant Tenant are acting contrary to public peace and good order. The Chief shall notify the applicant in writing and deem corrective measures be put into effect within seven calendar days of such written notification. Upon the failure or inability of the Applicant Tenant to correct such measures within such period, the Police Chief may require the Applicant Tenant to employ one or more police detail officers during such hours or days that the Police Chief in the exercise of his sole discretion deems to be necessary for the purpose of correcting the conditions.
3. Public Peace and Good Order: Applicant Tenant shall obtain appropriate CORI information regarding all employees of Applicant Tenant, and shall keep said information available for inspection by local police upon request.
4. Parking: No on-street parking shall be permitted on Brigham Street or any other abutting side street or public way.
5. Hours of Operation: The hours of operation of the facility shall not be earlier than 8:00 AM or later than 8:00 PM on any day.
6. Limits of Use: The proposed principal use of Unit 8 is to provide a place of fitness training for children, and to otherwise provide an indoor fitness facility for children. No other kinds of public use shall be allowed at or in Unit 8 except those the Building Commissioner deems ancillary to this principal use.
7. Food Preparation: No food shall be prepared by the Applicant Tenant or the public at or in Unit 8 unless and until the Applicant Tenant obtains a permit and any other approvals from the Director of the Marlborough Board of Health and pays the accompanying fees.
8. Certificate of Occupancy Required: No use of the premises will be made pursuant to this Special Permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner regarding the change of use of the premises.
9. No Expansion of Use Area or Change in Area Configuration: Only the area of Unit 8, containing approximately 6,000 sq. ft., which has been specified in the Plans attached hereto, will be used for the proposed use. To the extent that a substantial increase in, or a change in the configuration of, the area used for this use is desired, the Building Commissioner shall determine whether such increase or change constitutes a substantial change of the permitted use, and if so, no such area increase or configuration change shall be permitted unless and until this Special Permit has been modified by the City Council.
10. Subsequent Users: Before any successor tenant uses Unit 8 for the uses allowed in this Special Permit, the Director of the Marlborough Board of Health shall determine in writing that any permit required of Applicant Tenant, and any other permit determined by the Director to be necessary, has been obtained.



11. Required Approval Regarding Sanitary Conditions: Prior to the beginning of operation of the business, the Director of the Marlborough Board of Health shall determine in writing what, if any, special sanitary requirements are necessary at or in Unit 8 in order to ensure that the facility does not cause unusual health risks to those using the facility or to the public. The Director may later, in writing, amend and/or add to said requirements as the Director deems necessary. Such determination, and any such amendments and/or additions, shall be provided by the Director to the City Council. Any failure to comply with said sanitary requirements shall be a violation of this permit.
12. Recordation: In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant Tenant shall, at its expense, record this Special Permit with the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal hearing being filed. The Applicant Tenant shall provide a copy of the recorded Special Permit to the City Clerk, the City Solicitor, and the Building Commissioner.

**Yea: 11 – Nay: 0**

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

ORDERED: That the Public Safety Committee meet with the Chief of Police to discuss the feasibility of adopting a Do Not Knock Registry in the City of Marlborough which would allow residents to submit their property for inclusion on a No Solicitation Registry. Upon approval and issuance of a City of Marlborough door-to-door solicitation permit, each salesperson would be provided with a copy of the No Solicitation Registry, refer to **PUBLIC SAFETY COMMITTEE**; adopted.

ORDERED: That officials from Eversource be invited to attend a meeting of the City Council Public Safety Committee to update the City Council on the status of gas lines and related infrastructure in the City of Marlborough, refer to **PUBLIC SAFETY COMMITTEE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:47 PM.