



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
Lisa M. Thomas  
140 Main St.  
Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723**

**OCTOBER 15, 2018**

Regular meeting of the City Council held on Monday, October 15, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Delano, Juaire, Oram, Ossing, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 9:40 PM.

ORDERED: That the Minutes of the City Council meeting September 24, 2018, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from the Attorney Norris, on behalf of Raphael Fischetti, to construct a new single-family dwelling at 89 Spring Street, Order No. 18-1007387, all were heard who wish to be heard, hearing closed at 8:09 PM.

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

ORDERED: That the Certification of Free Cash in the amount of \$8,877,451.00, **FILE**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** MA Cultural Council grant in the amount of \$12,500.00 awarded to the City which allows local arts and cultural organizations to apply for grant funding; adopted.

ORDERED: That the Appointment of Fred Haas to the Library Board of Trustees, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Funding for a New School, Library Renovation and West Side Fire Station, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Municipal Aggregation – Six Month Fixed Price Contract with Direct Energy Services, November 2018 through May 2019, **FILE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed Zoning Amendment – Ancillary Retirement Communities, Legal Effect of Written Protests, Order No. 18-1007287B, **FILE**; adopted.

ORDERED: That the Proposed Zoning Amendment – Ancillary Retirement Communities, in proper legal form, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit, 27 Jefferson LLC, to build and operate an 11-unit condominium building, 27 Jefferson Street in proper legal form, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED; That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin re: Apex Center – Open Space Covenant and Restriction in proper legal form, **MOVE TO ITEM 42**; adopted.

ORDERED; That the Sign Change for Evviva Cucina to Evviva Trattoria, **APPROVED**; adopted.

ORDERED: That the Communication from the Planning Board re: Reserved Recommendation, Proposed Zoning Amendment, Ancillary Auto Sales, **FILE**; adopted.

ORDERED: That the Communication from the Planning Board re: Favorable Recommendation, Proposed Zoning Amendment, Ancillary Residential Community, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Sandra Colligan & Thomas Code re: request to withdraw application for Special Permit to demolish and rebuilt home at 21 Patten Drive, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the request to extend the reconstruction period of two years for 182 West Main Street, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Falk, re: E on Main, Proposed Zoning change to the Marlborough Village District, **ADVERTISE AS CORRECTED**; adopted.

ORDERED: That the Application for LED Sign Special Permit for Main Street Bank, 81 Granger Boulevard, refer to **BUILDING COMMISSIONER, AND TO AMEND THE SPECIAL PERMIT**; adopted.

**Councilor Delano recused.**

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 5, 2018** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Marlborough TOTG, LLC, to increase lot coverage area of 80% to 84% for patio area of proposed mixed use 5-story building with office/retail/restaurant space and residential units at 57 Main Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

**Councilor Dumais recused.**

ORDERED: That the Site Plan Application for Tavern on the Green, 57 Main Street, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

**Councilor Dumais recused.**

ORDERED: That the Communication from various residents re: Opposition of Proposed Farm Road Retirement Community Overlay District, Order No. 18-1007136R, X17-1006963C, **FILE**; adopted.

ORDERED: That the Communication from various residents re: Support of Proposed Farm Road Retirement Community Overlay District, Order No. 18-1007136R, X17-1006963C, **FILE**; adopted.

ORDERED: That the request to extend time limitations on the Communication from Christopher White, re: request to extend time limitations on Application for Special Permit to construct a 24' X 26' garage on nonconforming lot located at 22 Brimsmead Street, until 10:00 PM on December 20, 2018, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Bergeron on behalf of Garden Remedies, Inc. re: request to extend time limitations on Application for Special Permit to operate a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment within an existing retail unit at Marlboro Square, 416 Boston Post Road, until 10:00 PM on December 4, 2018, Order No. 18-1007318B, **FILE**; adopted.

ORDERED: That the Communication from Scott Dales on behalf of Avalon Marlborough II. re: request to extend time limitations on Application for Special Permit to build a 123-unit Luxury Apartment Community, located on a portion of 200 Forest Street, until 10:00 PM on December 20, 2018, Order No. 18-1007314A, **APPROVED**; adopted.

ORDERED: That the Communication from Goulston & Storrs re: Request to Extend Sewer Connection Permit at Marlborough, 100 Campus Drive, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, October 29, 2018** as date for a **PUBLIC HEARING** on the Petition from Eversource Energy to install 775' of 6" IP plastic gas main as a system improvement on Stow Road from the intersection of Simpson Road to the intersection of Fitzgerald Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, School Committee, September 11, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, June 12, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Ad-Hoc Municipal Aggregation Committee, September 27, 2018, **FILE**; adopted.

ORDERED: That the Minutes, License Board, August 15, 2018 & August 22, 2018, **FILE**; adopted.

ORDERED: That the Minutes Historical Commission, October 4, 2018, **FILE**; adopted.

ORDERED: That the Minutes High School Council, October 2, 2018, **FILE**; adopted.

ORDERED: That the Minutes Planning Board, September 10, 2018, **FILE**; adopted.

## Reports of Committees:

Councilor Tunnera reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: October 1, 2018

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

Convened: 5:30 PM – Adjourned: 6:05 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers; Councilors Clancy, Doucette, and Ossing

**Order No. 18-1007401: Communication from the Mayor regarding Reappointment of Human Resources Director, David Brumby, for a term of three years to commence from date of City Council confirmation.** David Brumby, Human Resources Director for the City of Marlborough, has been employed with the City for the past nine years and overall has over thirty years of human resources experience. **Motion made by Councilor Landers, seconded by the Chair, to approve the reappointment of David Brumby as Human Resources Director. The motion carried 3-0.**

**Order No. 18-1007402: Communication from the Mayor regarding Reappointment of Collector, Eileen Bristol, for a term of two years to commence from date of City Council confirmation.** Eileen Bristol, tax collector, has been with the City of Marlborough for almost two-and-a-half years and has worked for other municipalities for approximately twelve years in the capacity of collector/treasurer. **Motion made by Councilor Irish, seconded by the Chair, to approve the reappointment of Eileen Bristol as Collector. The motion carried 3-0.**

**Order No. 18-1007403: Communication from the Mayor regarding Reappointment of Comptroller, Brian Doheny, for a term of three years to commence from date of City Council confirmation.** Brian Doheny has been comptroller for the City of Marlborough for the past five years. **Motion made by Councilor Landers, seconded by the Chair, to approve the reappointment of Brian Doheny as Comptroller. The motion carried 3-0.**

**Order No. 18-1007385: Communication from the Mayor regarding Appointment of Melanie Whapham to the Marlborough Historical Commission for a term of three years to commence upon City Council approval.** Melanie Whapham explained a neighbor introduced her to the Marlborough Historical Commission and asked if she would like to be a member. Melanie has been a resident since 1980 and has appreciated the Marlborough community in her years here. **Motion made by Councilor Irish, seconded by the Chair, to approve the appointment of Melanie Whapham to the Marlborough Historical Commission. The motion carried 3-0.**

**Order No. 18-1007367: The Appointment of Monica Lucey to the Marlborough Cultural Council for a term to expire three years from date of confirmation.** Monica Lucey lives and works at the Hillside School and has been a Marlborough resident for the past twelve years. She is currently the Dean of Faculty and Academics at Hillside and is looking for a way to be involved in the community outside of the school campus. **Motion made by Councilor Irish, seconded by the Chair, to approve the appointment of Monica Lucey to the Marlborough Cultural Council.**

## Reports of Committee Cont'd:

**Order No. 18-1007334: The Appointments of Samantha Perlman, Kathy Oliver Jones, and Gabriele Luzzi to the Cultural Council for terms expiring three years from date of confirmation and recognition of members Chair David Elmore, Sandra Pirie St. Amour and Kim Beauchemin for their services as their appointments will expire this fall.** Samantha Perlman has lived in Marlborough her entire life, went to Marlborough Public Schools, graduated from Emory University in 2017, works in a civic engagement non-profit in Boston, and wanted to get involved and give back to her community. Gabriele Luzzi moved to Marlborough in the past year, loves the community and wanted to give back. Kathy Oliver Jones moved to Marlborough twenty years ago with the intent to stay for only five. She would like to give back to the community, see the City and diversity thrive, and become an active part of her community. **Motion made by Councilor Landers, seconded by the Chair, to approve the appointments of Samantha Perlman, Kathy Oliver Jones, and Gabriele Luzzi to the Cultural Council. The motion carried 3-0.**

**Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 6:05 PM.**

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

Meeting Name: City Council Public Services Committee

Date: October 1, 2017

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

Convened: 6:09 PM – Adjourned: 6:17 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette and Irish; and Councilors Clancy, Juaire, Oram (arrived 6:11 PM), Ossing, and Tunnera; Tom DiPersio (City Engineer, City of Marlborough)

**Order No. 18-1007323: Petition from Mass Electric and Verizon New England, Inc. to install new Pole #37-5, Stevens Street, for new electrical feed to the High School.** Chairman Landers reviewed the provided diagram where it showed the pole to be coming in from the back driveway off Stevens Street and it would provide additional service to the high school. Tom DiPersio, City Engineer, explained it is an upgrade to the existing electrical service to the high school which comes off Stevens Street via LaFreniere Drive, there will be new transformers on the school property. A new pole needs to be installed to bring the riser down from the existing wires as there is currently too much equipment on the existing pole. The new service will come underground along LaFreniere Drive with new transformers in the general location of the existing transformers with new service into the building and the new pole will be located between two existing poles.

**Motion made by Councilor Doucette, seconded by the Chair to request a Suspension of the Rules at the October 15, 2018 City Council meeting to vote on the petition.**

Reports of Committee Cont'd:

**Motion made by Councilor Doucette, seconded by the Chair to approve the petition for the installation of Pole # 37-5 on Stevens Street. The motion carried 3-0.**

**Motion made and seconded to adjourn. The motion carried 3-0.**

**The meeting adjourned at 6:17 PM.**

Councilor Irish reported the following out of the Public Safety Committee:

Meeting Name: City Council Public Safety Committee

Date: October 1, 2018

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

Convened: 6:16 PM – Adjourned: 7:09 PM

Present: Chairman Irish; Public Safety Committee Members Councilors Tunnera (left at 6:56 PM) and Ossing; Councilors Clancy, Doucette, Juaire, Landers, and Oram; Tom DiPersio (City Engineer, City of Marlborough); David Giorgi (Police Chief, City of Marlborough)

**Order No. 18-1007414: 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. -Submitted by Councilor Tunnera.** Joanne O'Leary, Eversource Community Relations Specialist, Daniel Henry, Manager of Gas Operations, Joshua White, Manager of Emergency Preparedness for gas, Scott LaPlante, Manager of Instrumentation and Regulation, met with the Public Safety Committee for a discussion of gas safety within the City of Marlborough. Ms. O'Leary reviewed Eversource's gas emergency plan because no matter how safe their gas product, there may be situations with contractors and others that may create a situation for them where they must respond. It is how they respond and having a plan that makes things go smoothly. They also have maintenance plans, for how they look at their infrastructure to ensure to the City they have a safe system. Their response time for emergencies is an hour and they try to identify the problem and take care of it the same day. Eversource has a robust compliance program where they identify gas services that have aged and are at an accelerated point of corrosion and deterioration and work with individual customers to replace those systems on a timeline as part of their compliance program with the Department of Public Utilities. The Councilors continued the discussion with the Eversource representatives regarding the Marlborough infrastructure and coordinating their work with the City to ensure newly repaved roads are not unnecessarily disturbed. They also discussed notification procedures for residents and how to work with the City to ensure residents are aware of any issues.

**Motion made by Councilor Ossing, seconded by the Chair, to accept and place on file. The motion carried 3-0.**

## Reports of Committee Cont'd:

**Order No. 18-1007413: 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. -Submitted by Councilors Oram and Juaire.** Police Chief Giorgi explained Bellingham has a similar program which runs through their City Clerk's Office; however, Marlborough would have their registry go through the Police Department since they issue door to door solicitation licenses. They would put a link on the Police Department's City webpage where residents could register on the no solicitation registry (Do Not Knock) and solicitors would be issued the list when they receive their licenses at the Police Department. The Police Chief also stated a paper registration could occur for residents who do not have access to a computer and a reverse 9-1-1 call could be used to notify residents of the Do Not Knock Registry and how to sign up.

**Motion made by Councilor Ossing, seconded by the Chair, to allow the Police Department, at their discretion, to setup a registry for residents to sign up for a Do Not Knock List. The motion carried 2-0 (Tunnera absent).**

**Motion made and seconded to adjourn. The motion carried 2-0. The meeting adjourned at 7:09 PM.**

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

Meeting Name: City Council Urban Affairs Committee

Date: September 25, 2018

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

Convened: 5:31 PM – Adjourned: 7:51 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, Doucette, and Tunnera; Councilors Clancy, and Ossing; Donald Rider (City Solicitor, City of Marlborough); David Giorgi (Police Chief, City of Marlborough); Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough); Tom Coder (Cabinet Depot); Sandra Colligan (21 Patten Drive); William Pezzoni (Day Pitney); Brian Blaesser (Robinson + Cole); Arthur Bergeron (Mirick O'Connell); Brian Falk (Mirick O'Connell); Stas Burdan (27 Jefferson LLC); and Dr. Karen Munkacy (Garden Remedies Inc.)

## Reports of Committee Cont'd:

**Order No. 18-1007244: Application for Special Permit from Sandra Colligan, to demo existing house and build a new two-story home at 21 Patten Drive.** The Urban Affairs Committee met with Tom Coder, Cabinet Depot – Southborough, and Sandra Colligan, owner 21 Patten Drive, for a discussion of their plan to build a new two-story home at 21 Patten Drive. The applicants had previously appeared before the Urban Affairs Committee on July 25<sup>th</sup>, August 8<sup>th</sup>, and August 21<sup>st</sup> where they were asked to provide an example of the planned height of the home for the neighbors (i.e. a balloon test or board that showed the final height). They were also asked to provide a rendering of the home at the site and letters of support from the neighbors. The ward councilor could not support the home as presented by the applicant as he felt the house as proposed was too large for the lot. The councilors proceeded to discuss that although the site would be enhanced by the demolition and construction of a new house, the proposed structure would be too high for the neighborhood and overshadow the property.

**Motion made and seconded to amend the draft conditions to prohibit decks from either side of the house, the motion carried 5-0.**

**Motion made and seconded to approve the amended special permit decision, the motion carried 5-0.**

**Motion made by Councilor Juare, seconded by the Chair, to deny the special permit application for a new two-story home at 21 Patten Drive. The motion to deny carries 3-2 (Juare, Doucette, Delano in favor of denial) (Landers and Tunnera opposed to denial)**

Chairman Delano explained to the applicant, this was a committee vote and the ward councilor was not in favor of the project. He advised them that it is within their right prior to the full City Council vote to withdraw without prejudice their application which would give them the ability to reapply for the special permit with a different design otherwise they would have to wait two years if the full City Council votes to deny the special permit.

**Order No. 18-1007198E: Proposed Zoning Amendment, to Chapter 650 §5, §22.A, C as it pertains to a Retirement Community Overlay District, 90 Crowley Drive.** The Urban Affairs Committee met with William Pezzoni, attorney for Jon Delli Priscoli and First Colony Development, the owner of the property, and Brian Blaesser, of Robinson + Cole for the purchaser of the property. Mr. Pezzoni provided his client's response to the MAPC report which reviewed the proposed amendments to the Retirement Community Overlay District and Use of the Amended Zoning to Develop a Project at 90 Crowley Drive dated September 10, 2018. Mr. Pezzoni believed MAPC did not have all the information regarding this specific site, specifically that the proposed zoning was restricted to certain areas and not City-wide as requested by the City Council, and he responded to each of their additional comments. Councilors then discussed applying this zoning in other areas of the City and their concerns about this specific proposal especially limited parking. Chairman Delano described his position that he was not in favor of the original proposal as it affected too large of an area and appreciated the reduced area suggested by the applicant; however saying he has become convinced this is not a good location for this type of housing and cannot support it.



## Reports of Committee Cont'd:

Councilor Tunnera made a motion, seconded by the Chair, to approve the Proposed Zoning Amendment. The motion did not carry, 2-3 (Councilors Delano, Juairé, and Doucette opposed). The recommendation of the committee is to deny the proposed zoning amendment. The Legal Department advised the Chairman that a vote to deny the special permit application would be in order.

**Motion made by Councilor Juairé, seconded by the Chair, to deny the Proposed Zoning Amendment to Chapter 650 §5, §22.A, C as it pertains to a Retirement Community Overlay District, 90 Crowley Drive. The motion carried 3-2 (Councilors Landers and Tunnera opposed).**

**Order No. 18-1007245: Application for Special Permit from Attorney Falk, on behalf of Jefferson Street Residences, 27 Jefferson LLC, to build an 11-unit, 2-story, multifamily condominium building at 27 Jefferson Street.** The Urban Affairs Committee met with attorneys Arthur Bergeron and Brian Falk of Mirick O'Connell and Stas Burdan, developer of the project, to review the application for a special permit to build an 11-unit, 2-story, multifamily condominium building at 27 Jefferson Street. The applicant reviewed the heating system for the driveway as the committee previously requested additional information as to how it worked and if there would be run-off into the street. The water system is designed in such a way that no water is discharged into the City's system, there is a collection system connected to the gutters which collects the run-off therefore the drainage never leaves the driveway and does not enter the street.

Mr. Falk made changes to the draft decision based upon comments at their previous appearance before the committee and they also discussed a few additional changes:

- A new condition "15. Emergency Access" and their obligation to keep the walkways and driveway free from obstructions and vehicles. Walkways must be constructed of materials acceptable to the Fire Chief.
- A new condition "16. Notice to Residents Regarding Kelleher Field" shall stipulate in the bylaws to include an acknowledgment that residents will be next to an active recreational facility, Kelleher Field, and inclusion of language to note the park operates seven days a week.
- A new condition "17. Payment to the Recreation Department" which is a payment of \$15,000 to the Recreation Department for use at Kelleher Field.
- A new condition "18. Retaining Wall Easement" where the City's rights in an easement pertaining to an existing retaining wall situated along land on Jefferson Street be assigned to the Applicant; the Applicant shall then be responsible for the maintenance of said retaining wall.
- Condition "12. Sidewalk Reconstruction" would be modified as follows, "As Jefferson Street was recently reconstructed by the City, the applicant, its successors, and/or assigns shall repair and/or reconstruct the existing bituminous concrete sidewalk and the roadway where excavated and/or damaged as a result of site construction by the methods, to the limits directed by the City Engineer and set forth in the road opening permit for said construction."

Reports of Committee Cont'd:

- Condition “13. Fences and Retaining Wall” would be deleted as that item, removal of chain link fence, would not occur.
- Condition “14. Reconfiguration of Proposed Retaining Wall” would be deleted as that item is noted in the plan.

**Motion made by Councilor Juaire, seconded by the Chair, to approve the special permit conditions for 27 Jefferson Street as amended. The motion carried 5-0.**

**Motion made by Councilor Juaire, seconded by the Chair, to approve the special permit decision for 27 Jefferson Street. The motion carried 5-0.**

**Motion made by Councilor Juaire, seconded by the Chair, to request a Suspension of the Rules at the October 15, 2018 City Council meeting to vote on the application. The motion carried 5-0.**

**Motion made by Councilor Juaire, seconded by the Chair, to request the Legal Department place in the application in proper form for the October 15, 2018 City Council agenda. The motion carried 5-0.**

**Order No. 18-1007318: Application for Special Permit from Attorney Bergeron on behalf of Garden Remedies, Inc., for a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment, 416 Boston Post Road East.** The Urban Affairs Committee met with attorneys Arthur Bergeron and Brian Falk of Mirick O'Connell and Dr. Karen Munkacy of Garden Remedies for review of their special permit application for a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment at 416 Boston Post Road East.

Mr. Falk reviewed the changes to the special permit conditions from the previous version:

- A new condition “14. Police Detail” which requires a police detail at the site for the first sixty days after commencement of operations unless the Police Chief determines a detail is not required at certain times of the day.
- A new condition “15. Partial Use” which was in response to the Legal Department’s question of what would happen if the facility were approved for medical use first and not adult use until a later date, this condition clarifies they would do a partial use by starting medical use once that license is obtained and commence adult use once that approval is received. Additional language to be included in the condition was as follows, “Similarly, if for any reason either of said uses ceases, either temporarily or permanently, the other use may continue.”

The Police Chief described his review of the site and their security procedures and had no issues with the information provided to him. Chairman Delano requested the Police Chief have additional patrols in the area once the facility opens. Chairman Delano asked how enforcement of the age restriction is handled and Mr. Falk explained the Cannabis Control Commission has an enforcement division who administers the State law and Cannabis Control Commission regulations with respect to licensees. The discussion continued with the fact that the City of Marlborough Board of Health would have local enforcement of the facility and the City would not have to wait for the State to act if any violations were found.

## Reports of Committee Cont'd:

**Motion made by Councilor Doucette, seconded by the Chair, to approve the special permit conditions for Garden Remedies, Inc. as amended. The motion carried 5-0.**

**Motion made by Councilor Doucette, seconded by the Chair, to approve the special permit decision for Garden Remedies, Inc. The motion carried 5-0.**

**Motion made by Councilor Doucette, seconded by the Chair, to accept from Garden Remedies, Inc. the Agreement to Extend Time Limitations until December 1, 2018. The motion carried 5-0.**

**Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:51 PM.**

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

Meeting Name: City Council Urban Affairs Committee

Date: October 2, 2018

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

Convened: 5:33 PM – Adjourned: 7:04 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; Councilors Clancy, Dumais, Ossing, and Robey; Donald Rider (City Solicitor, City of Marlborough); Arthur Bergeron (Mirick O'Connell); Brian Falk (Mirick O'Connell)

Absent: Urban Affairs Committee Member Councilor Juare

**Order No. 18-1007287: Communication from Attorney Falk, Mirick O' Connell, re: Proposed Zoning Amendment – Ancillary Residential Communities.** Attorneys Arthur Bergeron and Brian Falk of Mirick O'Connell met with the Urban Affairs Committee on behalf of their client, Williams Street Holdings LLC, the entity who owns the land subject to the ancillary residential community use if this zoning proposal moves forward. They discussed the history of the zoning and how it was removed from the city code several years previously. Mr. Bergeron explained this zoning amendment would allow for an Ancillary Residential Community on an adjacent parcel in an Overlay District and a special permit could be considered if there is support from the condominium association and it has been at least twelve months since the issuance of the last certificate of occupancy for that community. Chairman Delano read a letter from the City Engineer dated September 28, 2018 regarding the sewer connection for the subject property and then reviewed the suggested changes to the proposed zoning amendment:

1. In Section 650-5. B, insert the following new definition:

**ANCILLARY RESIDENTIAL COMMUNITY**

A single multifamily building containing up to thirty (30) dwelling units in a Retirement Community Overlay District that is located on a lot adjacent to a retirement community. No more than one (1) Ancillary Residential Community shall be adjacent to any retirement community.

## Reports of Committee Cont'd:

3. (14) (a) An Ancillary Residential Community shall be permitted as a principal use through a separate special permit for a lot in a Retirement Community Overlay District adjacent to an existing retirement community provided that (i) the organization governing the adjacent retirement community provides written consent to the filing of such special permit application, and (ii) a certificate of occupancy for the final new dwelling unit in the retirement community was issued at least twelve (12) months prior to the date of such special permit application.
3. (14) (g) All site landscaping shall be designed so as to provide a clear sense of separation between the Ancillary Residential Community and the retirement community. Landscape design shall be given to the maintenance of existing trees and ground cover.

Attorneys Bergeron and Falk agreed to provide the City Solicitor with an amended copy of the proposed zoning amendment with the agreed changes to be placed in proper legal form for the October 15, 2018 City Council Agenda.

**Motion made by Councilor Doucette, seconded by the Chair, to approve the Proposed Zoning Amendment for Ancillary Residential Communities as amended. The motion carried 3-1-1 (Landers opposed, Juare absent).**

**Motion made by Councilor Doucette, seconded by the Chair, to request a suspension of the rules at the October 15, 2018 City Council Agenda to vote on the proposed zoning amendment. The motion carried 4-0 (Juare absent).**

**Motion made and seconded to adjourn. The motion carried 4-0 (Juare absent). The meeting adjourned at 7:04 PM.**

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

ORDERED: That Petition from Mass Electric and Verizon New England, Inc. to install new Pole #37-5, Stevens Street, for new electrical feed to the High School, **APPROVED**; adopted.

ORDERED: That item #15 which is a Communication from Sandra Colligan & Thomas Code re: Request to **WITHDRAW WITHOUT PREJUDICE** for Application for Special Permit to demolish and rebuild home at 21 Patten Drive, **FILE**; adopted.

ORDERED: That the Application for Special Permit from Sandra Colligan to demo existing house and build a new-story home at 21 Patten Drive, **WITHDRAWN WITHOUT PREJUDICE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit, 27 Jefferson LLC, to build and operate an 11-unit condominium building, 27 Jefferson Street in proper legal form, **FILE**; adopted.

**Suspension of the Rules requested - Granted**

ORDERED:

**DECISION ON A SPECIAL PERMIT  
ORDER NO. 18-1007245C**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to 27 Jefferson LLC (the “Applicant”) to build and operate a multifamily building at 27 Jefferson Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, 27 Jefferson, LLC, is a duly organized and existing Limited Liability Company having a business address of 110 Pleasant Street, Unit 100, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 27 Jefferson Street, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 56 as Parcels 160 and 173 (the “Site”). The Site’s current owner is the Donald C. Morris Trust, with a business address of 1047 Pikes Falls Road, Jamaica, VT 05343.
3. In accordance with Article VI, Section 650-17 and Section 650-18(4), of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to build and operate an 11-unit, 19,503± square foot multifamily condominium building with 24 underground parking spaces (the “Use”).
4. The Site is located in the Residence B Zoning District with frontage on Jefferson Street.

5. The Site has an area of 44,613 square feet +/- as per the City Council Special Permit Site Plan referenced in paragraph 7 below.
6. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use, as provided in this Decision.
7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a detailed site plan entitled "City Council Special Permit Site Plan" prepared for 27 Jefferson LLC by Hancock Associates, 315 Elm Street, Marlborough, MA and dated February 8, 2018, last revised October 10, 2018 (the "Site Plan"), and a set of architectural plans entitled "Project: 27 Jefferson St. Residences" prepared by Khalsa Design, 17 Ivaloo Street, Somerville, MA and dated April 18, 2018 (collectively with the Site Plan, the "Plans").
8. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, June 18, 2018. The hearing was closed on that date. On August 27, 2018, the Applicant and the City Council agreed to extend the deadline for the Council to take final action on the Application to October 30, 2018.
11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
12. At the public hearing, two members of the public spoke in favor of the Use. No members of the public spoke in opposition to the Use. Further, the Applicant submitted a petition signed by nine residents of the neighborhood near the Site in favor of the Use.

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

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to build and operate a multifamily building as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
  2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
  3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
  4. Modification of Plans. Notwithstanding conditions #1 and #3 above, the City Council or the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, increase the size, shape or position of the building, or alter the fencing bordering the property, all as shown on the Plans.
  5. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

6. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.
7. Owner-Occupancy. It shall be a condition of the by-laws of the condominium association governing the Use that all units that are sold will be purchased by a person or persons who intend to reside in the units. The condominium documents shall provide for appropriate daily fines for the violation of this section of the condominium by-laws, and will provide that this section may not be amended. No occupancy permit regarding the Use shall be issued unless and until the City Solicitor has certified to the Building Commissioner that the condominium by-laws, along with the condominium master deed, have been recorded. The Applicant, including its successors and assigns, may, following the issuance of the occupancy permit for a particular unit but prior to the conveyance thereof to the purchaser of the unit, rent said units to tenants; provided, however, that:
  - a. No said unit shall be or continue to be rented after the fifth anniversary of the date of issuance of the occupancy permit of said unit;
  - b. No unit shall be rented or continue to be rented after the seventh anniversary of the date of issuance of the first occupancy permit for the site;
  - c. An executed "rent to own" contract shall qualify the subject unit as owner-occupied, so long as transfer of title for that unit occurs within 36 months of the starting date of the rental agreement for that unit;
  - d. The Applicant, including its successors and assigns, shall continue to market the units as condominiums;
  - e. No sign at the Site shall market any units as being for rent; however "rent to own" signs are permissible so long as they are in compliance with City's sign ordinance without variance; and
  - f. No unit shall be rented to any person or persons for more than three years unless, prior to the expiration of those three years, said person or persons execute(s) a purchase and sale agreement.

The term "Applicant, its successors and assigns," as used herein and for purposes of this Condition 7, shall include Applicant, its successors and assigns, and any entity controlled by said entities, or controlled by the principal and/or principals of said entities.



8. Conditions Relating to Neighboring Properties. The following conditions are based upon the Applicant's discussions and agreements with the owners of properties located in the neighborhood of the Site:
- a. 60 Highland Street (Parcel 56-166): The Applicant shall install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 60 Highland Street. This new fence shall be connected to the existing chain link fence located near the boundary line with 64 Highland Street.
  - b. 50 Highland Street (Parcel 56-165): The Applicant shall install a berm of up to 2 feet, if/where possible, and install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 50 Highland Street.
  - c. 44 Highland Street (Parcel 56-164): The Applicant shall install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 44 Highland Street. The Applicant, or the successor condominium association, shall maintain the Site in good order and, except as may be specifically authorized herein, shall not grant an easement over the Site to abutting properties.
  - d. 23 Jefferson Street (Parcel 56-161):
    - i. The Applicant shall plant and maintain a hedge along and at a reasonable distance from the retaining wall that will be located above the new driveway connecting Jefferson Street to the new building garage, said reasonable distance to be sufficient to allow for the convenient maintenance of the hedge when it has grown to its mature height. The hedge location and plant type shall be mutually agreeable to the Applicant and the owner of 23 Jefferson Street, and shall at the time of planting be approximately three (3) feet in height and shall be maintained so as to not exceed five to six (5-6) feet in height at mature growth, said hedge to be located in substantially the same location as identified on the Plans. During the course of construction, the grade of the area on which the hedge will be constructed will be raised, but not to a grade that is higher than the current grade of the property at 23 Jefferson Street. The area in question will be planted after the completion of construction, but prior to the conveyance to owner of 23 Jefferson Street of an easement (described below).

- ii. The Applicant shall, within 30 days after the issuance of an occupancy permit for the Use, grant an exclusive use permanent easement extending from the side of the hedge fronting 23 Jefferson Street to the mutual property line with the Site, in a form acceptable to the Applicant and the owner of 23 Jefferson Street. Said easement shall be recorded at the Middlesex South District Registry of Deeds, with the cost of the easement preparation to be at the expense of the Applicant and the cost of recording to be at the expense of the owner of 23 Jefferson Street.
  - iii. The Applicant shall take care not to disturb and damage the wall located in front of and on the 23 Jefferson Street property during the construction process, and to assure that, to the extent that any portion of said wall that is on the Site is moved or removed as part of the driveway construction, the corner of the wall on the 23 Jefferson Street property will be rebuilt so as to be aesthetically appropriate. If any portion of the wall in front of or on the 23 Jefferson Street property is disturbed or damaged by the Applicant during construction, the Applicant shall restore the wall to its prior condition.
- 9. Lighting. Standard downward-facing lighting shall be used, with little to no light leaving the Site.
  - 10. Trash Pick-Up. Trash pick-up at the Site shall be once per week and conducted during business hours only.
  - 11. Delivery and Service Trucks. Delivery and service trucks shall conduct business at the Site during business hours only.
  - 12. Sidewalk Reconstruction. As Jefferson Street was recently reconstructed by the City, the Applicant, its successors and/or assigns, shall repair and/or reconstruct the existing bituminous concrete sidewalk and the roadway, where excavated and/or damaged as a result of site construction, by the methods and to the limits directed by the City Engineer and set forth in the Road Opening Permit for said construction.
  - 13. Emergency Access. The Applicant, its successors and/or assigns, shall keep the perimeter walkway around the building free from snow and ice for purposes of accommodating emergency access. Walkways shall be constructed using materials acceptable to the Fire Chief. The Applicant, its successors and/or assigns, shall keep the driveway area clear of vehicles and obstructions in order to accommodate emergency access, and shall impose any parking/towing restrictions deemed necessary by the Traffic Commission and/or Fire Department.
  - 14. Notice to Residents Regarding Kelleher Field. The Applicant, its successors and/or assigns, shall stipulate in the bylaws governing the Use an acknowledgement that residents will be living in a building adjacent to an active recreational facility, Kelleher Field, which is often used seven days per week.

15. Payment to Recreation Department. Prior to obtaining a building permit for the Use, the Applicant, its successors and/or assigns, shall make a payment in the amount of Fifteen Thousand Dollars (\$15,000) to the City's Recreation Department to be used for Kelleher Field.
16. Retaining Wall Easement. In the event that the City Council votes to assign to Applicant, its successors and/or assigns, the City's rights in an easement pertaining to an existing retaining wall situated along Jefferson Street on land described as Marlborough Assessors Map 56, Parcel 160 (27 Jefferson Street), Parcel 161 (23 Jefferson Street) and Parcel 162 (30 Highland Street), which easement is recorded at the Middlesex (South District) Registry of Deeds in Book 6397, Page 83, the Applicant, its successors and/or assigns, shall at its sole expense:
  - a. perform any and all work in the future for the purposes of reconstructing, relocating, maintaining and/or repairing the retaining wall; and
  - b. record the City's assignment at the Registry, with a copy of the recorded assignment provided to the City Council's office, the Engineering Division of the Department of Public Works, and the Legal Department.
17. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

**Yea: 9 – Nay: 1 – Abstain - 1**

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

**Abstain: Dumais**

**Nay: Irish**

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

ORDERED: 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 as follows:

1. In Section 650-5.B, insert the following new definition:

**ANCILLARY RESIDENTIAL COMMUNITY**

A single multifamily building containing up to thirty (30) dwelling units in a Retirement Community Overlay District that is located on a lot adjacent to a retirement community. No more than one (1) Ancillary Residential Community shall be adjacent to any retirement community.

2. Add to the Table of Use Regulations, Section 650-17, a category for “Ancillary Residential Community” under “Residential Uses”, as follows:

	<b>Zoning District Abbreviations</b>											
	<b>RR</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>RB</b>	<b>RC</b>	<b>RCR</b>	<b>B</b>	<b>CA</b>	<b>LI</b>	<b>I</b>	<b>MV</b>
<b>Residential Use</b>												
Ancillary Residential Community (§ 650-22)	N	N	N	N	N	N	N	N	N	SP	SP	N

3. Add to Section 650-22 the following new Subsection C(14) as follows:

(14) Ancillary Residential Community: An Ancillary Residential Community shall be subject to the following requirements:

- (a) An Ancillary Residential Community shall be permitted as a principal use through a separate special permit for a lot in a Retirement Community Overlay District adjacent to an existing retirement community, provided that (i) the organization governing the adjacent retirement community provides written consent to the filing of such special permit application, and (ii) a certificate of occupancy for the final new dwelling unit in the retirement community was issued at least twelve (12) months prior to the date of such special permit application.
- (b) The Ancillary Residential Community’s principal building shall face upon an existing street, or the street-facing side of the building shall be designed in a manner satisfactory to the City Council.
- (c) The Ancillary Residential Community’s principal building shall have a maximum height of 2 1/2 stories.
- (d) The Ancillary Residential Community’s principal building shall have a minimum front yard of 10 feet. Each building, whether principal or accessory, shall be at least 50 feet from any other building by airline distance between the nearest points of the building.
- (e) No dwelling unit shall contain less than 800 square feet of floor space exclusive of halls and stairs, and no room in a dwelling unit shall contain less than 120 square feet.

- (f) No part of any building in any Ancillary Residential Community shall be less than 30 feet from any lot line, less than 50 feet from any street, or less than 80 feet from the nearest structure in the retirement community.
- (g) All site landscaping shall be designed so as to provide a clear sense of separation between the Ancillary Residential Community and the retirement community. Landscape design preference shall be given to the maintenance of existing trees and ground cover.
- (h) The City Council may, as a condition of any special permit for an Ancillary Residential Community, require that the land area on which the Ancillary Residential Community is located be permanently maintained as one undivided lot or, within a condominium, as one undivided condominium unit, or require such other legal mechanism as will, in the opinion of the City Council, assure that the Ancillary Residential Community will not be subdivided or its ownership further condominiumized, that the Ancillary Residential Community will remain as rental housing, and that ownership of the Ancillary Residential Community will remain consolidated.
- (i) The total number of units in an Ancillary Residential Community shall not exceed 30% of the combined total of retirement community and Ancillary Residential Community units.

**NOT APPROVED;** adopted.

**There was hand count of 7-4.**

**ORDERED:** That the Ad-Hoc Municipal Aggregation Committee review Council Order 17-1006881 regarding item #2 “The goal of Municipal Aggregation is to require that the R-1 (residential) class rates be lower than the prevailing National Grid Fixed Basic Service Rate” and report back to the City Council. The purpose of the review is to determine if there may be a financial benefit to the residents of Marlboro by entering into agreements for longer electricity supply contracts that may contain greater savings over the long run but may be occasionally slightly higher than National Grid Fixed Basic Service Rate, refer to the **AD-HOC MUNICIPAL AGGREGATION COMMITTEE;** adopted.

**ORDERED:** That the following Act of the Massachusetts Legislature be referred to the Legislative/Legal Affairs Committee and Traffic Commission for review and, if deemed appropriate, a suitable location chosen for such reserved parking space at the city hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90: SECTION 9. Chapter 40 of the General Laws is hereby amended by inserting after section 22A½ the following section: Section 22A¾. (a) A municipality may designate a parking space at the city or town hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90. The parking space shall be available during the normal business hours of the city or town hall for use by such veteran without charge. The municipality shall erect and maintain a sign designating such a parking space that shall bear the words "Veteran Parking Only – this space is reserved for those who have served. Unauthorized Vehicles May Be Removed At The Vehicle Owner's Expense". The parking space shall only be used by a veteran that meets the requirements of this subsection. (b) A violation of subsection (a) shall be punished by a fine of \$100 and the city or town may provide for the removal of a vehicle in the manner provided in section 22D. The penalty shall not be a surchargeable offense under section 113B of chapter 175, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE & TRAFFIC COMMISSION**; adopted.

**ORDERED:** That the Police Department transfer request in the amount of \$8,412.20 which moves funds from Receipts Reserved-TNC Surcharge to Capital Outlay-Police Equipment to purchase additional traffic equipment, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Police					FISCAL YEAR:		2019	
FROM ACCOUNT:							TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount		Org Code	Object	Account Description:	Balance
\$8,412.20	\$8,412.20	27000	33088	Receipts Reserved-TNC Surchar	\$8,412.20		19300006	58593	Capital Outlay-Police Equip	\$0.00
	Reason:	Traffic enforcement equipment purchase								
	\$8,412.20	Total			\$8,412.20		Total			

ORDERED: That the IT transfer request in the amount of \$254,000.00 which moves funds from Receipts Reserved-PEG funds to IT Equipment to fund upcoming projects and various equipment purchases, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	IT					FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$407,303.52	\$254,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$254,000.00	19300006	58618	IT Equipment		\$0.00
	Reason:	Use PEG funds for upcoming projects and various equipment purchases								
	\$254,000.00	Total			\$254,000.00	Total				

ORDERED: Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that the Code of the City of Marlborough 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

**APPROVED**; adopted.

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

**ORDERED:** That the transfer request in the amount of \$7,100.00 which moves funds from Reserve for Salaries to HR Assistant and Electrician line items to fund a Salary Ordinance Amendment to increase the salary of the HR Assistant position and create a new Public Facilities Manager of Communications Technology, **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
\$990,000.00	\$7,100.00	11990006	57820	Reserve for Salaries	\$3,410.00	11520001	50532	HR Assistant		\$46,734.00
	Reason:	Cover change in Salary Schedule				Reason:	Change in Salary Schedule			
					\$3,690.00	13032001	50385	Electrician		\$109,804.15
	Reason:					Reason:	Change in Salary Schedule			
	\$7,100.00	Total			\$7,100.00	Total				



ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**An Act authorizing the city of Marlborough to grant additional licenses for the sale of alcoholic beverages not to be drunk on the premises.**

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Marlborough may grant 1 additional license for the sale of all alcoholic beverages not to be drunk on the premises pursuant to section 15 of said chapter 138 to Kennedy's Irish Pub Inc. d/b/a Kennedy's Market located at 247 Maple Street in the city of Marlborough. The license shall be subject to all of said chapter 138 except said section 17.

(b) The licensing authority shall not approve the transfer of the license granted pursuant to this act to any other location, but it may grant the license to a new applicant at the same location if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

(c) If the license granted pursuant to this act is cancelled, revoked, or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

(d) The license granted pursuant to this act shall be issued within 2 years after the effective date of this act; provided, however, that if the license is originally granted within that time period, it may be granted to a new applicant pursuant to subsection (b) or (c) anytime thereafter.

SECTION 2. This act shall take effect upon its passage.

**APPROVED;** adopted.

**ORDERED:** That having authorized the Mayor, pursuant to Order No. 17-1007003A-1, to convey to BSL Marlborough Development LLC ("Benchmark") the City's fee interest in a so-called Sewer Parcel concerning propeliy located at 421 Bolton Street in Marlborough;

And having by that Order made that conveyance subject to, among other things, Benchmark' s conveyance to the City of approximately 10 acres at the site, which acreage comprises the "Donated Land" described in condition no. 8 of the special permit granted to Benchmark in Order No. 17-1006816E;

NOW, THEREFORE, the City Council of the City of Marlborough hereby accepts Benchmark' s executed and recorded deed of the Donated Land to the City for all municipal purposes. A copy of Benchmark ' s executed deed, as recorded, is attached hereto.

**APPROVED;** adopted.

**ORDERED:** That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin re: Apex Center – Open Space Covenant and Restriction in proper legal form, **FILE;** adopted.

**ORDERED:** That the City of Marlborough does hereby approve, and accept the gift thereof, the Open Space Covenant and Restriction for the perpetual conservation and preservation of open space, passive recreation, and assurance that the subject land will be retained in perpetuity in its natural, scenic, wetlands and wooded conditions in accordance with the terms of said Open Space Covenant and Restriction, concerning that certain land designated and labeled as "Open Space" on a plan entitled "Open Space Exhibit, for Apex Center, 240 Boston Post Road West, Marlborough, MA, Marlborough, Massachusetts, Prepared for Walker Realty, LLC, 4 Lan Drive, Westford, MA, Scale 1'= 200", dated March 21, 2018, prepared by Hancock Associates, 315 Elm Street, Marlborough, MA 01752", said Plan to be recorded as Exhibit A to the Open Space Covenant and Restriction, and this Order to be recorded as Exhibit B to the Open Space Covenant and Restriction, with the Middlesex County South Registry of Deeds, **APPROVED;** adopted.

**ORDERED:** At a regular meeting of the Marlborough City Council held on Monday, OCTOBER 15, 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 551-1 entitled "**STREET NAMES**", having been read was **ORDERED ADVERTISED;** adopted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING § 551-1, ENTITLED "STREET NAMES," OF CHAPTER 551 AS FOLLOWS:

- I. Chapter 551 is hereby amended by deleting the title of § 551-1 in its entirety and inserting in place thereof the following title:

Names of public streets, highways, places, buildings, spaces and other public assets.

- II. Chapter 551 is hereby amended by inserting into § 551-1 the following new paragraph:

- C. The Board of Library Trustees, having care, custody, management and supervision of the Marlborough Public Library pursuant to § 11 of chapter 78 of the Massachusetts General Laws and § 28 of Division 3 of the Charter of the City of Marlborough may name public assets located in and at the Marlborough Public Library, including internal and external spaces, furnishings, collections, equipment or fixtures, under such terms and conditions as may be specified in a naming policy adopted by the Board of Library Trustees for said public assets which are not otherwise governed by paragraphs A. and B. herein. Said authority of the Board of Library Trustees is in addition to, and not in lieu of, such powers and authorities of the Board of Library Trustees as may be provided by statute, regulation, ordinance or law.

ORDERED: That the Proposed Zoning Amendment to Chapter 650, §7, §17, new §39 & §41 as it relates to Neighborhood Business District, **TABLED UNTIL NEXT MEETING**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:40 PM; adopted.