



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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DECEMBER 3, 2018

Regular meeting of the City Council held on Monday, December 3, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Delano, Juairé, Oram, Ossing, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 10:07 PM.

City Council President Clancy recognized Police Officer Nicholas Lessard who recently joined the Marlborough Police Department.

ORDERED: That the Minutes of the City Council meeting NOVEMBER 5, 2018, **FILE**; adopted.

ORDERED: That the Minutes of the City Council meeting NOVEMBER 19, 2018, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition from Massachusetts Electric and Verizon New England, Inc., to install new joint owned Pole #47-5, Bolton Street, to service new school at 441 Bolton Street, Order No. 18-1007463, all were heard who wish to be heard, hearing closed at 8:05 PM.

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

ORDERED: That the **JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, DECEMBER 03, 2018 at 8:00 p.m. in Council Chambers, 2nd Floor, City Hall, 140 Main Street, Marlborough, MA, to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2019. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing closed at 8:45 PM.

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

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Marlborough TOTG, LLC d/b/a MCO & Associates, Inc., to increase lot coverage area of 80% to 84% for patio area of proposed restaurant at 57 Main Street, Order No. 18-1003r7424A, all were heard who wish to be heard, hearing closed at 9:17 PM.

Councilors Present: Delano, Doucette, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

Councilor Dumais recused.

ORDERED: That the transfer of \$34,725.00 (thirty-four thousand, seven hundred twenty-five dollars) from Sale of Graves to Reduce the FY2019 Tax Levy, **APPROVED;** adopted.

		CITY OF MARLBOROUGH								
		BUDGET TRANSFERS --								
	DEPT:	Mayor's Office					FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description: Balance	
\$34,725.00	\$34,725.00	27000	33020	Sale of Graves		\$34,725.00	To reduce FY19 Tax Levy			\$0.00
	Reason:	Sale of Graves revenue from FY18 to reduce FY19 tax levy								
	\$34,725.00	Total				\$34,725.00	Total			

ORDERED: That the transfer of \$1,362,409.90 (one million, three hundred sixty-two thousand, four hundred nine dollars & ninety cents) from Overlay Reserve to reduce the FY2019 Tax Levy, **APPROVED;** adopted.

		CITY OF MARLBOROUGH										
		BUDGET TRANSFERS --										
	DEPT:	Mayor's Office						FISCAL YEAR:	2019			
		FROM ACCOUNT:						TO ACCOUNT:				
Available												Available
Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:			Balance
\$1,362,409.90	\$1,362,409.90	10000	32200	Overlay Reserve		\$1,362,409.90	To reduce FY19 Tax Levy				\$0.00	
	Reason:	Excess overlay from FY15 to reduce FY19 tax levy										
	\$1,362,409.90	Total				\$1,362,409.90	Total					

ORDERED: The Marlborough City Council votes in accordance with M.G.L., Ch. 40, Sec. 56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2019 tax rates and set the Residential Factor at 0.8063 with a corresponding CIP shift of 1.43 pending approval of the City's annual tax recap by the Massachusetts Department of Revenue, **APPROVED;** adopted.

ORDERED: That the OPEB and Stabilization transfer requests in the amount of \$887,745.00 which moves funds from Undesignated Fund ("Free Cash") to Undesignated Stabilization and to the OPEB Trust for stabilization and OPEB accounts, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Mayor					FISCAL YEAR:	2019	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$8,877,451.00	\$887,745.00	10000	35900	Undesignated Fund	\$887,745.00	87500	35900	OPEB Trust	\$9,154,936.35
	Reason:	Transfer funds to OPEB trust							
	\$887,745.00	Total			\$887,745.00	Total			

Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$8,877,451.00	\$887,745.00	10000	35900	Undesignated Fund	\$887,745.00	83600	32925	Undesignated Stabilization	\$12,988,519.44
	Reason:	To increase undesignated stabilization funds							
	Reason:								
	Reason:								
	Reason:								
	\$887,745.00	Total			\$887,745.00	Total			

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Massachusetts Emergency Performance grant in the amount of \$8,900.00 awarded to the Fire Department which will be utilized to install a security access system at the Central Fire Station; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Massachusetts Cultural Council grant in the amount of \$5,000.00 awarded to the Department of Public Works to fund the Museum in the Streets project for the downtown area; adopted.

ORDERED: That the Appointment of Matt Elder to the Planning Board for a 5-year term to expire the first Monday in February, 2024, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: request for Executive Session to discuss litigation strategy involving property off Williams Street, **MOVE TO END OF AGENDA**; adopted.

ORDERED: That pursuant to Mass. Gen. Laws c. 40, § 3, the City of Marlborough grant permanent utility easements, to be executed by the Mayor on behalf of the City, to the Massachusetts Electric Company (a/k/a “NGrid”), as described on Exhibits “A” and “B” hereto concerning, respectively, a Grant of Easement to Massachusetts Electric Company for electrical service to Marlborough High School at 431 Bolton Street, and a Grant of Easement to Massachusetts Electric Company for electrical service to the new elementary school at 441 Bolton Street, said grants of easement having been approved by the Marlborough School Committee on _____, 2018, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY THE FOLLOWING AMENDMENT TO ARTICLE II OF CHAPTER 270:

1. Section 8.1 of Chapter 270 (§ 270-8.1), entitled “In-building Fire Department and Police Department radio coverage,” is hereby amended by striking paragraph A. therefrom and inserting place thereof the following:

- A. The Marlborough Fire Department requires that, in accordance with 780 CMR 915.1, et seq., of the Code of Massachusetts Regulations, as amended, all new buildings and new additions to existing buildings provide reliable radio communications for emergency responders within the building based upon the existing coverage levels of the Marlborough Fire Department and the Marlborough Police Department communication systems at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

2. The effective date of this amendment shall be the date of its passage.

Refer to **PUBLIC SAFETY COMMITTEE**; adopted.

ORDERED: That the Department of Public Works-be authorized to plow and remove snow from the following way during the 2018-2019 snow season, in accordance with the provisions of Massachusetts General Law, Chapter 40, Section 6-C, provided that said way be of such construction and condition that, in the opinion of the Commissioner of Public Works, said plowing can be safely and conveniently accomplished, **APPROVED**; adopted.

Gikas Lane - Howes Landing, off Hudson Street

ORDERED:

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

1. Section 650-5, entitled Definitions; word usage, is hereby amended to read:

RETIREMENT COMMUNITY – DETACHED AND TOWNHOMES

A community consisting of detached or attached (only alongside walls in so-called “townhouse” style) structures, constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

[Amended 1-6-2003 by Ord. No. 03-9821B; 1-6-2003 by Ord. No. 03-9821-1B; 1-6-2003 by Ord. No. 03-9821-2B]

RETIREMENT COMMUNITY – MULTIFAMILY

A community consisting of a single multiple unit structure constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

1. Section 650-22.A, entitled “Purpose” is hereby amended to read: Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities that provide housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community
2. Section 650-22.C, entitled “Permitted uses” is hereby amended to read: Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § **650-59**, permit a Retirement Community - Detached and Townhomes, or a Retirement Community – Multifamily, as defined in § **650-5**, consistent with the following provisions:
 - (i) Retirement Community – Detached and Townhomes (RCO-D/T)
 - (1) No building in a RCO-D/T community shall be more than 2 1/2 stories in height.

- (2) Each building in a RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by air line distance between the nearest points of the buildings.
- (3) No dwelling in a RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.
- (4) All dwelling units in a RCO-D/T community shall be detached from the others or attached only alongside walls in the so-called "townhouse" style.
- (5) The lot or lots on which a RCO-D/T community and any approved ancillary residential community are located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.
- (6) No part of any principal building in a RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.
- (7) Each dwelling unit in a RCO-D/T community shall have its own attached yard area.
- (8) Required off-street parking for each dwelling unit in a RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in a RCO-D/T community, either entirely or except in designated locations, of boats, boat trailers, campers, or other recreational vehicles.
- (9) Maximum combined lot coverage in a RCO-D/T community and in any permitted ancillary residential community shall not exceed 40% of the total lot size.
- (10) Each lot or contiguous lots upon which a RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.
- (11) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a RCO-D/T community and limiting or prohibiting the presence in a RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

- (12) The City Council may, as a permit condition, require that a proposed RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
 - (13) No unit in a RCO-D/T community shall have more than three bedrooms.
- (ii) Retirement Community – Multifamily (RCO-MF)
- (1) The total area of the tract of contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with Pleasant Street; then north along Pleasant Street to the intersection with Fitchburg Street; then north along Fitchburg Street to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.
 - (2) A RCO-MF may contain one (1) and two (2) bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barber shop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.
 - (3) No building in a RCO-MF shall be more than 3 stories in height.
 - (4) The total number of dwelling units in a RCO-MF shall be limited to 12 units per acre.
 - (5) No part of any principal building in a RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any public way.
 - (6) Maximum combined lot coverage in a RCO-MF, including any permitted accessory structures shall not exceed 40% of the tract or contiguous parcels.
 - (7) The tract or contiguous parcels upon which a RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.

- (8) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (9) The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (10) A minimum of 1.0 parking space per dwelling unit shall be provided in a RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (11) No dwelling unit in a RCO-MF shall contain less than 500 square feet of living area or more than 1300 square feet of living area.
- (12) No building in a RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.
- (13) In a RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.

REMOVE FROM TABLE UNDER SUSPENSION OF RULES-CARRIES & refer to URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019; adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH HEREBY ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING MAP, SECTION 650-8, AS FOLLOWS:

That, upon the petition of Lacombe Business Center, LLC, the Zoning Map established under Chapter 650, the City of Marlborough's Zoning Ordinance, in Article III, entitled "Establishment of Districts" is hereby amended in subsection 8 thereof, entitled "Boundaries Established; Zoning Map," by rezoning, from the Industrial (I) zoning district to the Commercial Automotive (CA) zoning district, the parcels shown on the Marlborough Assessors Map as Map 82, Parcel 42 and Map 82, Parcel 42E.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019;** adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH HEREBY ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING MAP, SECTION 650-8, AS FOLLOWS:

That, upon the petition of Stephen Vigeant, Trustee of the 22 Englewood Trust, the Zoning Map established under Chapter 650, the City of Marlborough's Zoning Ordinance, in Article III, entitled "Establishment of Districts" is hereby amended in subsection 8 thereof, entitled "Boundaries Established; Zoning Map," by rezoning, from the Industrial (I) zoning district to the Commercial Automotive (CA) zoning district, the parcels shown on the Marlborough Assessors Map as Map 104, Parcel 29 and Map 104, Parcel 29A.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019;** adopted.

ORDERED: That the Communication from the Public Employee Retirement Administration Commission (PERAC) re: Required FY20 Appropriation, **FILE;** adopted.

ORDERED: That the Communication from Central Massachusetts Mosquito Control Project re: 2019 Commission Meeting Dates, **FILE;** adopted.

ORDERED: That the Minutes, Conservation Commission, September 6, 2018, September 20, 2018 & October 4, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Commission on Disabilities, September 4, 2018 & October 9, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Retirement Board, October 30, 2018, **FILE;** adopted.

ORDERED: That the Minutes, School Committee, October 9, 2018, October 23, 2018 & November 13, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Board of Assessors, August 28, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Traffic Commission, August 29, 2018 & October 31, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, September 11, 2018, **FILE**; adopted.

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

- a) Bolton Street Tavern, 587 Bolton Street, other property damage.
- b) Rev. Kazimierz Bem, 406 Lincoln Street, Apt 208, pothole or other road defect.
- c) Nam Kim Huynh, 301 Cook Lane, pothole or other road defect.
- d) Sanjay Ahuja, 30 Danjou Drive, pothole or other road defect.
- e) Geeta Bihari, 14 Fox Court, Stow, pothole or other road defect

Reports of Committees:

Councilor Doucette reported the following out of the Wireless Communications Committee:

Meeting Name: City Council Wireless Communications Committee

Date: November 27, 2018 Convened: 7:11 PM – Adjourned: 8:24 PM

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

Present: Chairman Doucette; Wireless Communications Committee Members Councilors Oram and Juaire; Councilors Clancy, Landers, and Ossing;

Donald Rider, Jr. (City Solicitor, City of Marlborough); Mayor Arthur Vigeant; Michael Dolan (Attorney, Brown Rudnick for AT&T)

Order No. 18-1007321: Petition of AT & T to grant a location for Telecommunication Wires and Wireless Attachments and Appurtenances, Francis Street & East Main Street, Utility Pole #11-50.

Order No. 18-1007322: Petition of AT & T to grant a location for Telecommunication Wires and Wireless Attachments and Appurtenances, 10 Neil Street Utility Pole 1.

Order No. 17-1007055: Petition of AT & T to deploy a small cell site which will be mounted on existing utility pole at 28 Concord Road.

Order No. 17-1007034: Petition of AT & T to deploy one small cell site which will be mounted on existing utility pole at 319 East Main Street.

The Wireless Communication Committee met with Attorney Michael Dolan of Brown Rudnick on behalf of AT&T for a review of their requests for grant of locations for Telecommunication Wires and Wireless Attachments and Appurtenances for small cell wireless units which would relieve the use at the nearest macro sites and allow for more capacity for AT&T customers. The four sites are located at Francis and East Main Streets, 10 Neil Street, 28 Concord Road, and 319 East Main Street.

Councilors Clancy, Landers, and Juairé expressed concerns about these petitions. Their concerns included the height location of the units on the poles, the integrity of the pole at 28 Concord Road as it leans, and the 10 Neil Street location due to multiple double poles on the street. Atty. Dolan was to provide a structural analysis of the site at 28 Concord Road to the City Engineer and Building Commissioner. Councilors were opposed to any AT&T small cell installation at a site where there is a double pole. Councilors discussed color coordination of the units to their respective sites. Atty. Dolan confirmed there would be no digging in the street to bring fiber to the sites, and Councilor Clancy requested that language in the petitions be amended by AT&T to remove all reference to underground installation. Solicitor Rider reminded councilors of previously discussed conditions.

Motion by Councilor Oram, seconded by the Chair, and approved 3-0 to recommend approval of grant locations by AT&T for small cell locations for Telecommunication Wires and Wireless Attachments and Appurtenances for the following three sites, subject to the following eight (8) conditions and to forward to the City Solicitor to be drawn in proper legal form.

Order No. 18-1007321 (Francis and East Main Streets);

Order No. 17-1007034 (319 East Main Street);

Order No. 18-1007322 (10 Neil Street). This site is further subject to removal of all double poles on Neil Street.

- 1) Double pole installations are prohibited;
- 2) Cutting and digging into streets and/or sidewalks is prohibited;
- 3) The facility shall be color coordinated;
- 4) All equipment shall be aimed away from the street on the sidewalk side;
- 5) Modification of the facility shall require further City Council approval;
- 6) The Petitioner shall submit a construction schedule satisfactory to the City Engineer;
- 7) The Petitioner shall submit a performance bond satisfactory to the City Engineer;
- 8) The installation shall specify the pole number for identification purposes.

Councilor Juairé questioned notification to the City in case of damage to AT&T small cell equipment. Atty. Dolan stated that he provided the 24-hour contact information to Solicitor Rider.

The Committee discussed the proposed facility at 28 Concord Road. As discussed at the first meeting, there remains concerns about the angle of the lean to the pole. The present condition of the pole is leaning at an angle that appears unsafe. Councilor Landers suggested that the site be moved to the other side of the street where it is being supported by the crooked pole. Atty. Dolan stated that National Grid has informed AT&T on which poles they can locate their equipment. Councilor Landers stated that it appears we are dealing with the wrong utility, further stating that this is the City's opportunity to make sure the site is not only safe but improved aesthetically. He stated that the City should be able to have a site that is safe and that looks good. Councilor Juairé stated that the City Council should not approve the site until the pole is straightened.

Reports of Committee Continued:

Motion by Councilor Oram, seconded by the Chair, to table the petition of AT&T for the proposed small cell site at 28 Concord Road. The motion carried 3-0. This matter remains in committee.

Motion made and seconded to adjourn.

Motion carried 3-0. The meeting adjourned at 8:24 PM.

ORDERED:

LIBRARY CONSTRUCTION BOND

That the City of Marlborough, Massachusetts (“the City”) appropriate the amount of \$23,780,902.00 (twenty-three million seven hundred eighty thousand nine hundred and two dollars) for the purpose of paying the costs of the renovation and construction project at the Marlborough Public Library located at 35 West Main Street. Costs shall include demolition, landscaping, paving, utility, and other site improvements incidental or directly related to such construction, renovation and expansion, architectural, engineering or other professional and legal expenses and fees associated with this project, temporary library operational space, storage and moving expenses, furnishings and equipment, and all other costs incidental or related to the Marlborough Public Library building.

To meet this appropriation, the Comptroller/Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, as amended and supplemented, or pursuant to any other enabling authority, and that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. Chapter 44, Section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

TABLED UNTIL THE JANUARY 7, 2019 CITY COUNCIL MEETING;
adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES WITH CONDITIONS** the Workplace Charging Program grant in the amount of \$6,219.00 awarded to DPW to fund 50% of the cost to purchase two Level 2 Electric Vehicle Charging Stations; adopted.

MOTION made by Councilor Juairé and seconded by Councilor Delano to amend the conditions to read as follows – **CARRIES**.

- 1) The two charging stations will be set up to require patrons to pay for charging their electric vehicles.
- 2) The parking spaces for the charging stations will have a 4-hour charging limit for non-municipal vehicles.
- 3) The charging stations will be placed at the Department of Public Works and on the top floor (roof deck) of the Carl Rowe Municipal Garage located behind City Hall.

ORDERED: That the request from Peter Grahm, PG Realty Trust, to extend the reconstruction of the building at 182 West Main Street for one year to November 19, 2019, **APPROVED**; adopted.

ORDERED: That the City Council of the City of Marlborough, having, by Order No. 18-1007245C voted on October 15, 2018, approved a special permit to 27 Jefferson LLC to build and operate an 11-unit, 2-story multifamily condominium building to be located at 27 Jefferson Street in Marlborough; and

Having conditioned that approval on, in part, condition no. 16, which anticipates that the City Council consider assigning to the LLC, its successors and/or assigns, the easement rights granted to the City in 1940, as recorded at the Middlesex (South District) Registry of Deeds in Book 6397, Page 83, to construct and maintain a retaining wall on a 3'-wide strip of land located at 27 Jefferson Street, 23 Jefferson Street, and 30 Highland Street (respectively, Marlborough Assessors Map 56, Parcels 160, 161, and 162); and

Having received notification from the Commissioner of the Department of Public Works that said retaining wall easement is no longer needed by the City of Marlborough for the purpose for construction and maintenance;

NOW, THEREFORE:

1. the City Council, acting pursuant to MG. c. 40, § 15A, hereby transfers said easement from the DPW to the City Council for another specific municipal purpose, namely, assignment of said easement to 27 Jefferson LLC, its successors and/or assigns, such that the LLC, its successors and/or assigns, at their sole expense, shall:
 - 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; and

APPROVED; adopted.

Yea: 10 – Nay: 0 – Abstain: 1

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

Councilor Dumais recused.

ORDERED: That the City Council, acting pursuant to MGL c. 40, § 3, hereby authorizes the assignment of said easement, for nominal consideration, to 27 Jefferson LLC, its successors and/or assigns, and hereby authorizes the Mayor to execute the assignment of easement and to do all things as may be necessary to carry out this order, **APPROVED**.

Councilor Dumais recused.

ORDERED: That the City Council of the City of Marlborough, pursuant to the provisions and conditions of MGL c. 40, § 8C, does hereby accept from Mauro Farms LLC, a Massachusetts limited liability company, the attached deed of land in Marlborough, Middlesex County, Massachusetts shown and/or identified as Parcels 20, 21, 30, 31 and 32 on a plan entitled, “Definitive Subdivision Plan for Mauro Farm, Marlborough, Massachusetts,” prepared by Tunison Smith, P.O. Box 73, 115 Main St., Suite 2B, Easton, Massachusetts 02356, dated April 20, 2007, last revised October 15, 2007, which plan is recorded in the Middlesex South District Registry of Deeds as Plan No. 75 of 2008 (the “Subdivision Plan”) and to which Subdivision Plan reference is made for a more particular description of said Parcels 20, 21 and 30.

As only portions of Parcel 31 and Parcel 32 are shown on the Subdivision Plan, reference for a more particular description of said Parcels 31 and 32 is made to a plan entitled, “Plan of Land, Capital Group Properties, Lot 282 & 283, Map 71, City of Marlborough, Middlesex County, Commonwealth of Massachusetts, prepared by Control Point Associates, Inc., 352 Turnpike Road Southborough, MA 01772, dated October 26, 2017” (the “Land Plan”).

Collectively, the Subdivision Plan and the Land Plan are referred to herein as the “Plans.”

According to the Plans:

- Parcel 20 contains 42,296 square feet;
- Parcel 21 contains 46,129 square feet and a detention basin and a level spreader to be maintained by the Marlborough Department of Public Works;
- Parcel 30 contains 57,264 square feet and two detention basins to be maintained by the Marlborough Department of Public Works;
- Parcel 31 contains 22,974 square feet; and
- Parcel 32 contains 10,919 square feet.

These open space parcels are to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation and conservation.

APPROVED; adopted.

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require:

that NOLAN WAY be accepted as a public way

from COOK LANE to Terminus at Station 8+31.42,

that SPENSER CIRCLE be accepted as a public way

from NOLAN WAY to Terminus at Station 2+83.07, and

that REAGIN LANE be accepted as a public way

from COOK LANE to Terminus at Station 2+87.28,

and that their appurtenant easements be accepted as municipal easements,

as shown on plans thereof and as hereinafter described:

DESCRIPTION

Plan entitled, "Street Acceptance Plan of 'Nolan Way,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (2 sheets), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith;

Plan entitled, "Street Acceptance Plan of 'Spenser Circle,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (1 sheet), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith;

Plan entitled, "Street Acceptance Plan of 'Nolan Way & Spenser Circle,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (2 sheets), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith; and

Plan entitled, "Street Acceptance Plan of 'Reagin Lane,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (3 sheets), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith.

Title to the roadways shown as NOLAN WAY, SPENSER CIRCLE and REAGIN LANE on said plans, and title to all the municipal easements shown on said plans as:

Utility Easements:

- Utility Easement A, over Lot 13, containing 1,022 square feet
- Utility Easement B, over Parcel 21, containing 30,320 square feet
- Utility Easement C, over Lot 27, containing 0.04 acres
- Utility Easement D, over Lot 29, containing 0.03 acres
- Utility Easement E, over Parcel 30, containing 0.46 acres

Drain Easements:

- Drain Easement F, over Lot 29, containing 0.01 acres
- Drain Easement J, over Lot 29, containing 0.02 acres
- Drain Easement K, over Lot 28, containing 0.06 acres
- Drain Easement L, over Parcel 30, containing 0.19 acres
- Drain Easement N, over Lot 12, containing 1,782 square feet
- Drain Easement O, over Lot 10, containing 1,784 square feet

Sewer Easements:

- Sewer Easement G, over Lot 25, containing 0.03 acres
- Sewer Easement H, over Lot 28, containing 0.06 acres
- Sewer Easement I, over Lot 23, containing 0.05 acres

Water Easements:

- Water Easement P, over Lot 16, containing 2,195 square feet
- Water Easement Q, over Lot 18, containing 860 square feet

Landscape Easements:

- L-2, over Lot 2, containing 1,211 square feet
- L-3, over Lot 3, containing 1,227 square feet
- L-4, over Lot 4, containing 1,035 square feet
- L-5, over Lot 5, containing 1,085 square feet
- L-6, over Lot 6, containing 1,513 square feet
- L-7, over Lot 7, containing 1,401 square feet
- L-8, over Lot 8, containing 1,024 square feet
- L-9, over Lot 9, containing 1,570 square feet
- L-10, over Lot 10, containing 1,021 square feet
- L-11, over Lot 11, containing 1,358 square feet
- L-12, over Lot 12, containing 1,008 square feet
- L-13, over Lot 13, containing 1,395 square feet
- L-14, over Lot 14, containing 1,145 square feet
- L-15, over Lot 15, containing 1,963 square feet
- L-16, over Lot 16, containing 1,182 square feet
- L-17, over Lot 17, containing 1,151 square feet
- L-18, over Lot 18, containing 1,054 square feet
- L-19, over Lot 19, containing 1,028 square feet
- L-22, over Lot 22, containing 894 square feet
- L-25, over Lot 25, containing 1,661 square feet
- L-26, over Lot 26, containing 1,018 square feet
- L-27, over Lot 27, containing 1,026 square feet
- L-28, over Lot 28, containing 1,115 square feet
- L-29, over Lot 29, containing 1,086 square feet.

has been granted to the City of Marlborough in a quitclaim deed from Mauro Farms LLC, a Massachusetts limited liability company with a principal place of business at 259 Turnpike Road, Southborough, Massachusetts, said deed to be recorded herewith at the Middlesex County (South District) Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

NOLAN WAY, SPENSER CIRCLE and REAGIN LANE be accepted as public ways, and their appurtenant easements be accepted as municipal easements, in the City of Marlborough.

TABLED; adopted.

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

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

APPROVED; adopted.

Yea: 11 – Nay: 0

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:07 PM; adopted.