



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

JANUARY 7, 2019

Regular meeting of the City Council held on Monday, January 7, 2019 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 8:47 PM.

City Council President Clancy recognized the four new Police Officers (Nicolas Evangelous, Jeffrey Hernandez, Mark Ney & Brady Schartner) who recently joined the Police Department.

ORDERED:

ORGANIZATIONAL MEETING

Councilor Clancy called the meeting to order at 8:00 PM. The City Council President called for the Election of the City Council President Pro-Tem for the Year 2019. Councilor Ossing nominated Councilor Robey as President Pro-Tem. Councilor Delano seconded the motion for nomination of Councilor Robey as President Pro-Tem. Council President Clancy closed nominations and Councilor Delano seconded, for President Pro-Tem as there were no further nominations. Councilor Robey received eleven votes for President Pro-Tem. Yea – Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Ossing, Oram, & Robey.

Councilor Robey called for the Election of the City Council President of the Marlborough City Council for the Year 2019. Councilor Ossing nominated Councilor Clancy as President. Councilor Oram seconded the motion for nomination of Councilor Clancy as President. Councilor Delano moved to close nominations for President as there were no further nominations. Councilor Clancy received eleven votes for President. Yea – Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Ossing, Oram, & Robey.

President Clancy called for the Election of the City Council Vice-President of the Marlborough City Council for the Year 2019. Councilor Ossing nominated Councilor Delano as Vice-President. Councilor Tunnera seconded the motion for nomination of Councilor Delano as Vice-President. President Clancy closed nominations and Councilor Ossing seconded, for City Council Vice President as there were no further nominations. Councilor Delano received eleven votes for Vice-President. Yea – Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Ossing, Oram, & Robey.

President Clancy declared that the next meeting of the City Council will be Monday, January 28, 2019. Motion made by President Clancy and seconded by Council Ossing that the City Council accept the Rules from Year 2018 and carry over to Year 2019, **APPROVED**; adopted.

ORDERED: That the Minutes of the City Council meeting DECEMBER 17, 2018, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, FEBRUARY 25, 2019** as **DATE TO RESCHDULE PUBLIC HEARING** On the Application for Special Permit from Attorney Sem Aykanian to modify existing Special Permit issued to Main Street Bank, 81 Granger Boulevard on June 22, 2009, Order No. 09-1002152C, to modify permit to allow for an electronic digital display (electronic message board) sign, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Councilor Delano recused.

President Clancy called a recess at 8:13 PM and returned to open meeting at 8:17 PM.

ORDERED: That there being no objection thereto set **MONDAY, FEBRUARY 25, 2019** as **DATE TO RESCHEDULE PUBLIC HEARING** On the Application for Sign Special Permit, Main Street Bank, 81 Granger Boulevard Marlborough to operate an electronic message center sign at its bank located at 81 Granger Boulevard, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Councilor Delano recused.

Suspension of the Rules requested – Motion by Councilor Ossing to move up agenda item #26 – granted.

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, but are not limited to, 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.

APPROVED; adopted.

Yea: 11 – Nay: 0

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

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** Executive Office of Elder Affairs (EOEA) grant in the amount of \$80,436.00 awarded to the Council on Aging which will be enhance the quality of life for the older population; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** Donation to K-9 Account grant in the amount of \$7,521.27 awarded to the Police Department to support Kaiser and Sargent Ken McKenzie; adopted.

ORDERED: That the Appointment of Brendan Downey to the Marlborough Historical Commission for a term to expire three years from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

Suspension of the Rules requested – Motion by Councilor Doucette to accept the communication from Solicitor Rider and to substitute the modified conditions submitted for those that were included in the Council packet for the AT&T petitions – granted.

ORDERED: That the City Council for the City of Marlborough, pursuant to M.G.L. c. 166, § 22, does hereby approve the petition of New Cingular Wireless PCS, LLC (“AT&T”) dated August 9, 2017, filed with the City Clerk on September 21, 2017, to grant a location on an existing utility pole located at 319 East Main Street in Marlborough, which pole is designated as National Grid pole #35-84, in order for AT&T to deploy a small cell facility thereon by constructing and maintaining telecommunications wires and appurtenances, including a pole top antenna, equipment cabinet, circuit breaker box, electric meter main, related wiring, fiber optic cable, and conduit (the “Small Cell Facility”), all as depicted on plans submitted with AT&T’s petition and in photo simulations submitted to the City Council’s Wireless Communications Committee, which plans and photo simulations are incorporated;

subject, however, to the following conditions, which conditions shall be binding upon AT&T, its successors and/or assigns:

1. The Small Cell Facility shall be of such material and construction, and all work shall be done in such manner, as to be satisfactory to the City Council and the Engineering Division of the City’s Department of Public Works (the “City Engineering Division”).
2. AT&T shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of AT&T, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to AT&T for its Small Cell Facility.
3. AT&T shall comply with the requirements of existing City ordinances, including but not limited to Chapter 473 thereof, entitled “Poles, Wires and Conduits,” as may be applicable, and such requirements as may hereafter be adopted governing the construction and maintenance of the Small Cell Facility.

4. AT&T shall not install its Small Cell Facility on double poles. If National Grid pole #35-84 becomes a double pole in the future, AT&T shall remove its Small Cell Facility to a single pole as expeditiously as possible within the guidelines then prescribed by National Grid, but in any event no later than December 31 of the year in which National Grid pole #35-84 becomes a double pole; provided, however, that if AT&T is unable to comply with the December 31 deadline for reasons fairly attributable to National Grid, AT&T shall submit to the City Council a letter, to be received by the City Council prior to such deadline, requesting that the Council extend the deadline to a specified date in the subsequent year and providing good cause in support of such request.
5. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of AT&T in conjunction with its Small Cell Facility is prohibited, as is all underground installation associated with the Small Cell Facility; provided, however, that the grounding rod proposed to be installed as part of the Small Cell Facility is permitted as long as 1) AT&T installs the rod immediately adjacent to National Grid pole #35-84 so as to cause minimal disturbance to the surface of the street or sidewalk, and 2) AT&T restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the City Engineering Division.
6. The Small Cell Facility shall be color-coordinated so as to best minimize the visual impact of the Facility.
7. The Small Cell Facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of National Grid pole #35-84 facing away from the roadway.
8. Any future modification of the Small Cell Facility by AT&T shall require further City Council approval.
9. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of National Grid pole #35-84 shall result in AT&T's moving their Small Cell Facility to another pole in a timely fashion after having been notified by the City Engineering Division about the road project; provided, however, that any such relocation shall require further City Council approval.
10. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City Engineering Division with a written construction and/or installation schedule satisfactory to the Division.

11. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the Small Cell Facility from National Grid pole #35-84 and for the repair and/or restoration of the public way, in the vicinity of National Grid pole #35-84, to the condition the public way was in as of the date of this order, said amount to be determined by the City Engineering Division. The amount of the bond shall be the total of the estimate by the Division plus an annual increase of 3% for the operating life of the Small Cell Facility. AT&T shall notify the City CPO and the Division of any cancellation of, or change in the terms or conditions in, the bond.
12. Failure by AT&T to comply with any of the above conditions to the satisfaction of the City Council or, as applicable, the City Engineering Division or the City CPO shall result in the City Council's review of AT&T's petition granted herein.

APPROVED; adopted.

Yea: 11 – Nay: 0

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

ORDERED: That the City Council for the City of Marlborough, pursuant to M.G.L. c. 166, § 22, does hereby approve the undated petition of New Cingular Wireless PCS, LLC ("AT&T"), filed with the City Clerk on June 13, 2018, to grant a location on an existing utility pole located on Francis Street at or near its intersection with East Main Street in Marlborough, which pole is designated as National Grid pole #11-50, in order for AT&T to deploy a small cell facility thereon by constructing and maintaining telecommunications wires and appurtenances, including a pole top antenna, equipment cabinet, circuit breaker box, electric meter main, related wiring, fiber optic cable, and conduit (the "Small Cell Facility"), all as depicted on plans submitted with AT&T's petition and in photo simulations submitted to the City Council's Wireless Communications Committee, which plans and photo simulations are incorporated;

subject, however, to the following conditions, which conditions shall be binding upon AT&T, its successors and/or assigns:

1. The Small Cell Facility shall be of such material and construction, and all work shall be done in such manner, as to be satisfactory to the City Council and the Engineering Division of the City's Department of Public Works (the "City Engineering Division").
2. AT&T shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of AT&T, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to AT&T for its Small Cell Facility.

3. AT&T shall comply with the requirements of existing City ordinances, including but not limited to Chapter 473 thereof, entitled “Poles, Wires and Conduits,” as may be applicable, and such requirements as may hereafter be adopted governing the construction and maintenance of the Small Cell Facility.
4. AT&T shall not install its Small Cell Facility on double poles. If National Grid pole #11-50 becomes a double pole in the future, AT&T shall remove its Small Cell Facility to a single pole as expeditiously as possible within the guidelines then prescribed by National Grid, but in any event no later than December 31 of the year in which National Grid pole #11-50 becomes a double pole; provided, however, that if AT&T is unable to comply with the December 31 deadline for reasons fairly attributable to National Grid, AT&T shall submit to the City Council a letter, to be received by the City Council prior to such deadline, requesting that the Council extend the deadline to a specified date in the subsequent year and providing good cause in support of such request.
5. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of AT&T in conjunction with its Small Cell Facility is prohibited, as is all underground installation associated with the Small Cell Facility; provided, however, that the grounding rod proposed to be installed as part of the Small Cell Facility is permitted as long as 1) AT&T installs the rod immediately adjacent to National Grid pole #11-50 so as to cause minimal disturbance to the surface of the street or sidewalk, and 2) AT&T restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the City Engineering Division.
6. The Small Cell Facility shall be color-coordinated so as to best minimize the visual impact of the Facility.
7. The Small Cell Facility’s equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of National Grid pole #11-50 facing away from the roadway.
8. Any future modification of the Small Cell Facility by AT&T shall require further City Council approval.
9. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of National Grid pole #11-50 shall result in AT&T’s moving their Small Cell Facility to another pole in a timely fashion after having been notified by the City Engineering Division about the road project; provided, however, that any such relocation shall require further City Council approval.
10. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City Engineering Division with a written construction and/or installation schedule satisfactory to the Division.

11. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the Small Cell Facility from National Grid pole #11-50 and for the repair and/or restoration of the public way, in the vicinity of National Grid pole #11-50, to the condition the public way was in as of the date of this order, said amount to be determined by the City Engineering Division. The amount of the bond shall be the total of the estimate by the Division plus an annual increase of 3% for the operating life of the Small Cell Facility. AT&T shall notify the City CPO and the Division of any cancellation of, or change in the terms or conditions in, the bond.
12. Failure by AT&T to comply with any of the above conditions to the satisfaction of the City Council or, as applicable, the City Engineering Division or the City CPO shall result in the City Council's review of AT&T's petition granted herein.

APPROVED; adopted.

Yea: 11 – Nay: 0

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

ORDERED: That the City Council for the City of Marlborough, pursuant to M.G.L. c. 166, § 22, does hereby approve the undated petition of New Cingular Wireless PCS, LLC ("AT&T"), filed with the City Clerk on June 13, 2018, to grant a location on an existing utility pole located at 10 Neil Street in Marlborough, which pole is designated as National Grid pole #1, in order for AT&T to deploy a small cell facility thereon by constructing and maintaining telecommunications wires and appurtenances, including a pole top antenna, equipment cabinet, circuit breaker box, electric meter main, related wiring, fiber optic cable, and conduit (the "Small Cell Facility"), all as depicted on plans submitted with AT&T's petition and in photo simulations submitted to the City Council's Wireless Communications Committee, which plans and photo simulations are incorporated;

subject, however, to the following conditions, which conditions shall be binding upon AT&T, its successors and/or assigns:

1. The Small Cell Facility shall be of such material and construction, and all work shall be done in such manner, as to be satisfactory to the City Council and the Engineering Division of the City's Department of Public Works (the "City Engineering Division").
2. AT&T shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of AT&T, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to AT&T for its Small Cell Facility.
3. AT&T shall comply with the requirements of existing City ordinances, including but not limited to Chapter 473 thereof, entitled "Poles, Wires and Conduits," as may be applicable, and such requirements as may hereafter be adopted governing the construction and maintenance of the Small Cell Facility.

4. AT&T shall not install its Small Cell Facility on National Grid pole #1 unless and until the double poles at that location as of the date of this order have been eliminated. If, after National Grid pole #1 becomes a single pole, it again becomes a double pole in the future, AT&T shall remove its Small Cell Facility to a single pole as expeditiously as possible within the guidelines then prescribed by National Grid, but in any event no later than December 31 of the year in which National Grid pole #1 becomes a double pole; provided, however, that if AT&T is unable to comply with the December 31 deadline for reasons fairly attributable to National Grid, AT&T shall submit to the City Council a letter, to be received by the City Council prior to such deadline, requesting that the Council extend the deadline to a specified date in the subsequent year and providing good cause in support of such request.
5. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of AT&T in conjunction with its Small Cell Facility is prohibited, as is all underground installation associated with the Small Cell Facility; provided, however, that the grounding rod proposed to be installed as part of the Small Cell Facility is permitted as long as 1) AT&T installs the rod immediately adjacent to National Grid pole #1 so as to cause minimal disturbance to the surface of the street or sidewalk, and 2) AT&T restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the City Engineering Division.
6. The Small Cell Facility shall be color-coordinated so as to best minimize the visual impact of the Facility.
7. The Small Cell Facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of National Grid pole #1 facing away from the roadway.
8. Any future modification of the Small Cell Facility by AT&T shall require further City Council approval.
9. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of National Grid pole #1 shall result in AT&T's moving their Small Cell Facility to another pole in a timely fashion after having been notified by the City Engineering Division about the road project; provided, however, that any such
10. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City Engineering Division with a written construction and/or installation schedule satisfactory to the Division.

11. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the Small Cell Facility from National Grid pole #1 and for the repair and/or restoration of the public way, in the vicinity of National Grid pole #1, to the condition the public way was in as of the date of this order, said amount to be determined by the City Engineering Division. The amount of the bond shall be the total of the estimate by the Division plus an annual increase of 3% for the operating life of the Small Cell Facility. AT&T shall notify the City CPO and the Division of any cancellation of, or change in the terms or conditions in, the bond.
12. Failure by AT&T to comply with any of the above conditions to the satisfaction of the City Council or, as applicable, the City Engineering Division or the City CPO shall result in the City Council's review of AT&T's petition granted herein.

APPROVED; adopted.

Yea: 11 – Nay: 0

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

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Proposed Amendment to Chapter 270-8.1 In Building Fire Department and Police Department Radio Coverage in proper legal form, Order No. 18-1007481A, **MOVED TO ITEM #23;** adopted.

ORDERED: That the Communication from Code Enforcement Officer, Pamela Wilderman, re: Application for a temporary, freestanding sign for Ventura X at 11 Apex Drive, along with the approval from Walker Realty LLC, refer to **URBAN AFFAIRS COMMITTEE;** adopted.

ORDERED: That there being no objection thereto set **MONDAY, FEBRUARY 25, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Marc Buchan to raze an existing one story single family residence and build a new two story single family residence on the same existing foundation footprint, 180 Cullinane Drive, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE;** adopted.

ORDERED: That the Application for Livery License from Bismark Ohemeng d/b/a West Royal Car Service, 33 Paris Street, refer to **PUBLIC SERVICES COMMITTEE;** adopted.

ORDERED: That the Communication from Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid re: Notice of Filing, Public Hearings and Procedural Conference, **FILE;** adopted.

ORDERED: That the Minutes, Traffic Commission, November 28, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Council on Aging, October 9, 2018 & November 13, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, November 27, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Retirement Board, November 27, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, December 3, 2018, **FILE**; adopted.

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

- a) Vanessa DeMasi, 10 Davis Street, Belmont, pothole or other road defect.
- b) Robert Gustafson, 134 Glen Street, other property damage and/or personal injury.
- c) Rosa Ruiz, 1 Winter Street, #1, pothole or other road defect.

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: January 3, 2018

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

Convened: 5:30 PM – Adjourned: 5:45 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, and Doucette; Councilors Clancy, Irish (arrived 5:41 PM), and Ossing; Donald Rider (City Solicitor, City of Marlborough); Melynda and J.P. Gallagher (Lost Shoe Brewing and Roasting Company)

Absent: Urban Affairs Committee Member Councilor Tunnera

Order No. 18-1007462: Application for Special Permit from Melynda Gallagher on behalf of Lost Shoe Brewing and Roasting Company to allow for coffee roasting at their establishment within the Marlborough Village District, 19 Weed Street. The Urban Affairs Committee met with Melynda Gallagher and J.P. Gallagher of Lost Shoe Brewing and Roasting Company for a review of their special permit application to allow for coffee roasting at their location. Chairman Delano read through the special permit conditions listed below and any changes are noted.

1. Signage
2. Compliance with Local, State and Federal Laws
3. Public Peace and Good Order
4. Parking
5. Hours of Operation: The hours of operation of the Facility, in conjunction with the on-Site taproom and on-Site production brewery, shall not be earlier than 5:00 AM nor later than 1:00 AM on any day, subject to the approval of the Marlborough License Board. ~~If the Ward Councilor, Chief of Police or other Councilor has not heard of any complaints in a year's time, then the hours of operation can remain the same.~~

Motion made by Councilor Landers, seconded by the Chair, to strike the second sentence of special permit condition 5. Hours of Operation. The motion carried 4-0.

Reports of Committee Continued:

6. Limits of Use
7. Food Preparation
8. Certificate of Occupancy Required
9. No Expansion of Use Area or Change in Area Configuration
10. Subsequent Users
11. Required Approval Regarding Sanitary Conditions
12. Nuisance Odors: Nuisance odors emanating from this location as a result of the coffee roasting process shall not be allowed. If it is determined by the City Council or their designee that a nuisance odor is being generated, the roasting process must cease until said process can be conducted **without** creating nuisance odors.

Motion made by Councilor Juaire, seconded by the Chair, to include the above condition regarding nuisance odors. The motion carried 4-0.

The City Solicitor will place in legal form, if necessary.

The City Solicitor will also amend condition 5. Hours of Operation as requested by the Urban Affairs Committee. The City Solicitor was requested to make the changes and provide an updated Special Permit Decision, in proper legal form, to be presented to the City Council prior to the Monday, January 7, 2019 City Council meeting. The Urban Affairs Committee will make its report and recommend approval of the permit under a suspension of the rules at the January 7th meeting.

Motion made by Councilor Juaire, seconded by the Chair, to approve the special permit as amended. The motion carried 4-0.

Motion made by Councilor Juaire, seconded by the Chair, to request a suspension of the rules at the January 7, 2019 City Council meeting to vote on the Special Permit application of Lost Shoe Brewing and Roasting Company. The motion carried 4-0.

Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 5:45 PM.

Suspension of the Rules requested – granted

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit for Lost Shoe Brewing and Roasting Company, to allow for coffee roasting at their establishment within the Marlborough Village District, 19 Weed Street in proper legal form, Order No. 18/19-1007462A, **FILE**; adopted.

ORDERED:

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 18/19-1007462**

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

FINDINGS OF FACTS AND CONDITIONS

1. The landlord is Downtown Marlborough, LLC, a duly organized and existing Limited Liability Company established under the laws of the state of Massachusetts with its principal place of business located at 63 Court Street, Boston, MA 02108.
2. Applicant Tenant is a duly organized and existing Massachusetts Limited Liability Company with its principal place of business at Ashcroft Law Firm, LLC, 200 State Street, Boston, MA 02109 and has duly filed its Certificate of Organization Limited Liability Company with the City Clerk of the City of Marlborough to operate its business at the subject location. The LLC managers of the Applicant Tenant are Melynda Gallagher and John Paul Gallagher.
3. The landlord is the title owner of the property located at 19 Weed Street (the “Site”). The landlord and Applicant Tenant have executed or will execute a lease regarding the Site and its use pursuant to the terms of this special permit regarding the Site.
4. The Applicant Tenant seeks permission to utilize the Site as a coffee roasting facility (the “Facility”). The Site is located in the Marlborough Village zoning district. Coffee roasting is allowed in the Marlborough Village zoning district by special permit.
5. The Applicant Tenant, on November 14, 2018, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of § 650-17 and pursuant to the procedures specified in § 650-59 of the Marlborough Zoning Ordinance (the “Application”).
6. The Site contains an existing two-unit commercial building. The Site is shown in the building on plans submitted with or subsequent to the Application, the first said plan entitled “Existing Conditions/Demo” and the second plan being a floor plan entitled “1st Floor Plan”; both plans prepared for: Lost Shoe Brewing & Roasting, 19 Weed Street, Marlborough, MA 01752; both plans prepared by: Austin Design, Inc., 2 Mead Street, Greenfield, MA 01301; both plans dated: June 1, 2018 (collectively, the “Plans”), which Plans are attached hereto. No modifications are proposed to the exterior of the building, minor structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.
7. The Applicant Tenant seeks a special permit allowing the establishment and operation of the Facility. The Site will also include an on-Site taproom with retail sales for serving the roasted coffee as well as beer brewed in an on-Site production brewery.

8. The Plans have been certified by the Building Commissioner, acting on behalf of the City Planner, as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.
9. Pursuant to the Rules and Regulations of the City Council and the provisions of M.G.L. c. 40A, the City Council established a date for public hearing for the Application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent written notice of said hearing to those abutters entitled to notice under law.
10. The Marlborough City Council pursuant to M.G.L. c. 40A held a public hearing on December 17, 2018, concerning the Application. The hearing was opened and closed at that meeting.
11. The Applicant Tenant presented evidence at the public hearing detailing the proposed use and its projected limited impact upon City services, the neighborhood and traffic.
12. At the public hearing, Melynda Gallagher, who will be managing the operation of the business, described the proposed business as being one that would involve roasting coffee on-site while utilizing a Vortex EcoFilter for odor and smoke control. She indicated that coffee is roasted at $400\pm$ degrees for ten to fifteen minutes; that at around five minutes, the coffee begins to turn a light brown color and smells like sweet, baking bread and that it is not until around the ten-minute point that it develops roast-type aromas and the smoke becomes more noticeable; that, of the ten to fifteen minutes, only two to four minutes are in the stage where the roasting produces roast-type smells and noticeable smoke; that smoke will be directed into a Vortex EcoFilter which uses atomized water to suppress up to eighty-percent of the smoke and odor; and that once that smoke and odor has processed through the EcoFilter, it will exit the building as water vapor. In response to questions from city councilors, she indicated that:
 - a) twenty pounds of coffee can be roasted in one batch;
 - b) starting out, roasting would take place two to three days a week for about an hour per day;
 - c) the roasting process does not differentiate between certified organic and non-organic coffee beans;
 - d) the Vortex EcoFilter filtration system would vent through the roof towards the front of the building near the garage door; and
 - e) the business hopes to open in January 2019.
13. No member of the public spoke, either in favor of or in opposition to the proposal.
14. Following the public hearing, the Urban Affairs Committee held a meeting on January 3, 2019 during which this Application was discussed. At that meeting, the parties discussed various issues and proposed permit conditions to deal with them.

REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT

- A. The City Council finds that the Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council for an application as they pertain to the requested special permit (the “Special Permit”).
- B. The use of the Site for coffee roasting is an appropriate use of the Site and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions provided for herein. The use sought and its impacts and characteristics are not in conflict with the public health, safety, convenience and welfare, provided the safeguards and limitations imposed herein are met.
- C. The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, **GRANTS** the Applicant Tenant, its successors and assigns, a Special Permit to establish and operate a coffee roasting facility as per plans filed with the City Council and the City Clerk, **SUBJECT TO THE FOLLOWING CONDITIONS**, which shall be applicable to Applicant Tenant and its successors and assigns, and a violation of which shall be a violation of this Special Permit:
 1. Signage: Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.
 2. Compliance with Local, State and Federal Laws: The Applicant Tenant agrees to comply with all rules, regulations and ordinances from the City of Marlborough, the Commonwealth of Massachusetts, and Federal Government as they may apply to the construction, maintenance of equipment, and operation of the Facility.
 3. Public Peace and Good Order: The Applicant Tenant agrees to maintain public peace and good order at all times. In the event the Chief of Police determines that either the business or the Applicant Tenant is acting contrary to public peace and good order, the Chief shall notify the Applicant Tenant in writing and shall direct the Applicant Tenant that it shall put corrective measures into effect within seven calendar days of such written notification. Upon the failure or inability of the Applicant Tenant to implement such corrective measures within such period, the Police Chief may require the Applicant Tenant to employ one or more police detail officers during such hours or days that the Police Chief in the exercise of his sole discretion deems to be necessary for the purpose of correcting the conditions. Applicant Tenant shall obtain appropriate CORI information regarding all employees of Applicant Tenant, and shall keep said information available for inspection by local police upon request.
 4. Parking: No on-street parking shall be permitted on Weed Street or any other abutting side street or public way or public property except for municipal parking spaces.
 5. Hours of Operation: The hours of operation of the Facility, in conjunction with the on-Site taproom and on-Site production brewery, shall not be earlier than 5:00 AM nor later than 1:00 AM on any day, subject to the approval of the Marlborough License Board.

6. Limits of Use: The proposed principal use of the Site is to roast coffee, brew beer, and serve these products in the on-Site taproom. No other kinds of public use shall be allowed at or in the Site except those the Building Commissioner deems ancillary to this principal use.
7. Food Preparation: No food shall be prepared by the Applicant Tenant at or in the Site unless and until the Applicant Tenant obtains a permit and any other approvals from the Director of the Marlborough Board of Health and pays the accompanying fees.
8. Certificate of Occupancy Required: No use of the Site will be made pursuant to this Special Permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner regarding the change of use of the Site.
9. No Expansion of Use Area or Change in Area Configuration: Only the area of the Site, containing approximately 4,600 sq. ft., which has been specified in the Plans attached hereto, will be used for the proposed use. To the extent that a substantial increase in, or a change in the configuration of, the area used for this use is desired, the Building Commissioner shall determine whether such increase or change constitutes a substantial change of the permitted use, and if so, no such area increase or configuration change shall be permitted unless and until this Special Permit has been modified by the City Council.
10. Subsequent Users: Before any successor tenant uses the Site for the uses allowed in this Special Permit, the Director of the Marlborough Board of Health shall determine in writing that any permit required of Applicant Tenant, and any other permit determined by the Director to be necessary, has been obtained.
11. Required Approval Regarding Sanitary Conditions: Prior to the beginning of operation of the business, the Director of the Marlborough Board of Health shall determine in writing what, if any, special sanitary requirements are necessary at or in the Site in order to ensure that the Facility does not cause unusual health risks to those using the Facility or to the public. The Director may later, in writing, amend and/or add to said requirements as the Director deems necessary. Such determination, and any such amendments and/or additions, shall be provided by the Director to the City Council. Any failure by the Applicant Tenant to comply with said sanitary requirements shall be a violation of this Special Permit.
12. Nuisance Odors. Nuisance odors and airborne pollutants emanating from the Site to the outdoor air as a result of the coffee roasting process allowed under this Special Permit shall be prohibited. If it is determined by the City Council or the Board of Health that such odors and/or pollutants are emanating from the Site to the outdoor air, the coffee roasting process shall cease until such time as it can be conducted, to the satisfaction of the Board of Health, without such odors and/or pollutants emanating from the Site to the outdoor air.
13. Recordation: In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant Tenant shall, at its expense, record this Special Permit with the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having being filed. The Applicant Tenant shall provide a copy of the recorded Special Permit to the City Council, the City Solicitor, and the Building Commissioner.

Yea:11 – Nay: 0

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

ORDERED: That the Appointment of Fred Haas to the Library Board of Trustees for a 3-year term to expire from date of confirmation, **APPROVED**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Proposed Amendment to Chapter 270-8.1 In Building Fire Department and Police Department Radio Coverage in proper legal form, Order No. 18-1007481A, **FILE**; 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 916.1, 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 existing public safety communication systems.
2. The effective date of this amendment shall be the date of its passage.

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 City Council of the City of Marlborough, having care, custody, management, and control of a certain parcel of land and the building thereon located at 25 East Main Street, Marlborough, MA, also identified as Assessors Map 70 Parcel 379 (the “Property”), said Property having been acquired by the City by foreclosure of tax title dated April 2, 2009 and recorded with the South Middlesex County Registry of Deeds at Book 52530 Page 243, does by 2/3rds vote hereby transfer pursuant to MGL Chapter 40, § 15A the purpose of the land from general municipal purposes to the purpose of disposition by sale, and hereby declares, pursuant to MGL Chapter 30B, § 16(a), that the Property is available for disposition by sale;

ORDERED: That the OPEB transfer request in the amount of \$887,745.00 which moves funds from Undesignated Fund (“Free Cash”) to OPEB Trust, **APPROVED**; 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					

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