



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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MARCH 19, 2018

Regular meeting of the City Council held on Monday, March 19, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juaire, Oram, Ossing, Delano, Doucette, Dumais, Irish and Landers. Absent: Robey & Tunnera. Meeting adjourned at 9:06 PM.

City Council President Clancy recognized the six new Firefighters who recently joined the department, they are:

Patrick W. Burwinkel	Michael F. Cisek	Danny F. Martins
Daniel J. Valovcin	Andrew W. Verbitzki	Colin G. Richardson

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

ORDERED: That the JOINT PUBLIC HEARING WITH THE PLANNING BOARD On the Proposed Zoning Amendment to Chapter 650 §5 & §37, Recreational Marijuana Moratorium with letter of support from the Mayor, Order No. 18-1007177, X12/13/14-1005247I, all were heard who wish to be heard, hearing closed at 8:15 PM.

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

Abstain: Juaire.

Absent: Robey & Tunnera.

Planning Board Present: Fenby, Hodge, Fay, LaVenture, & Russ.

Planning Board Absent: Hughes & Gallagher.

ORDERED: That the PUBLIC HEARING On the Application for Sign Special Permit, Marlborough Car Care, 175 Lakeside Avenue, for a new LED internally illuminated price sign measuring 4' by 8', Order No. 18-1007182, all were heard who wish to be heard, hearing closed at 8:18 PM.

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

Absent: Robey & Tunnera.

ORDERED: That the PUBLIC HEARING On the Communication from Attorney Falk on behalf of Capital Group Properties LLC, re: Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18-1007136, X17/18-1006963C, all were heard who wish to be heard, hearing closed at 8:40 PM.

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

Absent: Robey & Tunnera.

ORDERED: That the Revised Bond Order in the amount of \$56,418,338.00 for the proposed Elementary School Project, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the DPW transfer request in the amount of \$17,807.50 which moves funds from Reserve for Salaries to Forestry Parks, Sick Leave Buy Back to fund retirement payout of a recent retiree, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	DPW					FISCAL YEAR:	2018		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$407,140.00	\$17,807.50	11990006	57820	Reserve for salaries	\$17,807.50	14001503	51920	Forestry Parks - slbb		\$0.00
	Reason:							Retirement payout		
	Reason:									
	Reason:									
	Reason:									
	Reason:									
	\$17,807.50	Total			\$17,807.50	Total				

ORDERED: That the Communication from the Mayor re: City's Water Infrastructure refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Revision to Proposed Zoning Amendment to Chapter 650 §5 & §38, Recreational Marijuana Moratorium in proper legal form, Order No. 18-1007177, X12/13/14-1005247I, **MOVED TO REPORTS OF COMMITTEE**; adopted.

Councilor Juaire abstained.

Suspension of the Rules requested – granted to introduce correspondence from Councilor Ossing.

ORDERED: That the Communication from Retirement Board re: Cost of Living Increase (COLA), and the Communication from Councilor Ossing, refer **BACK TO RETIREMENT BOARD**; adopted.

ORDERED: That the Communication from Attorney Brian Falk, on behalf of Williams Street Holdings, LLC, re: request to extend time limitations on Application for Special Permit for an Ancillary Residential Community to be built in conjunction with the Village at Crane Meadow, 615 Williams Street, until 10:00 PM on June 18, 2018, **APPROVED**; adopted.

ORDERED: That the Communication from the Planning Board re: Proposed Zoning Ordinance to further amend Chapter 650, §59.C (11) entitled “Extension of time for action; leave to withdraw,” as it pertains to Special Permit applications, Order No. 18-1007150A, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer’s/Second Hand License, ecoATM, LLC, 601 Donald Lynch Boulevard, refer to **PUBLIC SERVICES COMMITTEE**, adopted.

ORDERED: That the Application for Renewal of Junk Dealer’s/Second Hand License, Roman Kimyagarov, Arthur & Sons Shoe Repair, 107 Main Street, refer to **PUBLIC SERVICES COMMITTEE**, adopted.

ORDERED: That the Communication from Sudbury Companies of Minute and Militia re: temporary sign placement at the corner of Route 20 and Hagar Road from September 22, 2018 to Sunday September 30, 2018 for the 2018 Colonial Faire at the Wayside Inn, **APPROVED**, adopted.

ORDERED: That the Minutes, Conservation Commission, February 1, 2018, **FILE.**, adopted.

ORDERED: That the That the Minutes, Board of Health, February 6, 2018, **FILE.**, adopted.

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

- a. Fernando Medeiros, 10 Howard Road, Hudson, other property damage and/or personal injury.
- b. Mark Snyder, 33 DiBuono Drive other property damage and/or personal injury.
- c. Melissa Pirrotta, 153 Conrad Road, residential mailbox claim, 2(a).
- d. Michael Leonida, 22 Maddox Road, other property damage and/or personal injury.
- e. Tsu-Wei Kuang, 167 Kelleher Street, residential mailbox claim, 2(b).
- f. Michael Meyers, 223 Vega Road, residential mailbox claim, 2(b).

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee
Monday March 12, 2018
In Council Chambers**

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

Finance Committee Members Absent: None

Other Councilors in Attendance: Councilor Clancy, Landers, Delano, Doucette and Tunnera (part time).

The meeting convened at 7:13 PM.

- 1. Order #18-1007178 – \$56,418,338.00 Bond for New K-5 Elementary School** - The Finance Committee reviewed the Mayor's letter dated February 22, 2018 requesting a \$56,418,338.00 bond for a new K-5 elementary school for 610 students located on Poirier Drive.

The Finance Committee voted 5 - 0 to approve the \$56,418,338.00 amended bond order and voted 5 – 0 to approved the advertising of the amended bond.

The Finance Committee adjourned at 9:17 PM.

Councilor Irish reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: March 12, 2018

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

Convened: 5:34 PM – Adjourned: 6:11 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers; Councilors Clancy, Delano (arrived late), and Doucette; Charles Thebado (Recreation Director, City of Marlborough); Mayor Arthur Vigeant

Order No. 18-1007180: Communication from the Mayor regarding the Appointment of William Doherty to the Parks and Recreation Commission for a term to expire three years from the date of City Council approval. Mr. Doherty moved to Marlborough in 1992 and has three children who attended Marlborough Public Schools and participated in various youth sports and activities offered through the recreation department. With his youngest children graduating and attending college in fall, he felt it was time to volunteer and give back to the community.

Motion made by Councilor Irish, seconded by the Chair to approve the appointment of William Doherty to the Parks and Recreation Commission for a term to expire three years from the date of City Council approval. The motion carried 3-0.

Reports of Committee Cont'd:

Order No. 18-1007197: Communication from the Mayor regarding the Reappointments of Robert Kays, Brenda Calder, and Mark Vital to the Parks and Recreation Commission for three year terms, expiring three years from the date of confirmation. Robert Kays owns the Prospector restaurant and has been a member of the Parks and Recreation Commission for the past six to seven years and was member when the Memorial Beach upgrades were done. Mark Vital grew up in Marlborough and has been a member for the past four years. Brenda Calder is unable to attend the Personnel meeting due to her commute, but President Clancy agreed to the request by Councilor Landers to approve her reappointment as well.

Motion made by Councilor Irish, seconded by the Chair to approve the reappointments of Robert Kays and Mark Vital to the Parks and Recreation Commission for three year terms, expiring three years from the date of confirmation. The motion carried 3-0.

Motion made by Councilor Landers, seconded by the Chair to approve the reappointment of Brenda Calder to the Parks and Recreation Commission for a three-year term, expiring three years from the date of confirmation. The motion carried 3-0.

Order No. 18-1007196: Communication from the Mayor regarding the Reappointments of Robin Williams and Jim Griffin to the Board of Health for three year terms, expiring the first Monday in February 2021. Robin Williams and Jim Griffin were unable to attend the Personnel Committee Meeting and their reappointments remain in committee.

Order No. 18-1007181: Communication from the Mayor regarding the Appointment of Samantha Khosla to the Library Board of Trustees for a term to expire three years from date of City Council approval. Ms. Khosla has a background in higher education administration and law and grew up as a reader with a habit for libraries that followed her throughout her life. She believes libraries are important and wishes to help the Marlborough Public Library grow and develop. Councilor Irish has been a member of the Library Building Committee with Ms. Khosla and believes she would be an asset to the Library Board of Trustees. **Motion made by Councilor Irish, seconded by Councilor Landers, to approve the appointment of Samantha Khosla to the Library Board of Trustees for a term to expire three years from date of City Council approval. The motion carried 3-0.**

Order No. 18-1007133: Communication from the Mayor regarding the Appointment of Jeffrey Cooke as Building Commissioner. Mr. Cooke has been involved in the building community since 1976 and became involved in inspectional services in 2002. He was a local inspector in the Town of Orange, then a Building Commissioner in the Town of Athol and the City of Gardner, and now interim in Marlborough. **Motion made by Councilor Irish, seconded by Chair, to approve the appointment of Jeffrey Cooke as Building Commissioner (three-year term). The motion carried 3-0.**

Motion made by Councilor Irish, seconded by Councilor Landers to adjourn. The motion carried 3-0. The meeting adjourned at 6:11 PM.

Reports of Committee Cont'd:

Councilor Landers reported the following out of the Legal & Legislative Affairs Committee:

City Council Legislative and Legal Affairs Committee
Monday, March 12, 2018, 6:15 PM– In Council Chambers
Minutes and Report

Present: Chairman Katie Robey, Councilor Landers, Councilor Delano, and Councilors Irish, Ossing, Dumais, and Doucette & Clancy. Also present were Mayor Vigeant, Assistant City Solicitor Cynthia Panagore Griffin & Attorney Kevin Erickson representing Walker Realty.

Order No. 17-1007097-1A & 2A, Communication from Mayor Vigeant regarding Proposed Lodging House Ordinances to comprehensively regulate lodging homes. Councilor Delano moved to remove this from the table; the vote carried 3-0.

The committee had been sent an updated Order 17-1007097-1B, which reflected changes made. The Solicitor's Office determined that for Order 17-1007097-2B, the fee assessed under Article IV, §324-4 of the City Code cannot be greater than \$50 so no change will occur and the order is pulled. These orders were advertised twice as part of Public Hearing and the changes being made aren't more restrictive so no further advertising is needed at this time.

Councilor Delano moved to approve the proposed lodging house ordinance and with it, the amendment to Chapter 351 listing the penalty fee. The motion carried 3-0.

Order No. 17/18-1007113A, Special Act to increase by two the number of retail all alcohol package store licenses available in the City of Marlborough as requested by the Mayor.

This order was carried over from 2017 and is a Home Rule Petition for Legislature to ask for two additional licenses for the sale of all alcohol beverages not to be drunk on the premises. It was originally proposed for specific businesses but now one will be for a potential developer and one will be available for future request. The licenses, when given out by the License Board, cannot be transferred, and must be returned to License Board to be given out to a new applicant.

Councilor Delano moved to approve the Order asking for a Special Act to increase by two the number of retail all alcohol package store licenses available in the City of Marlborough; the motion carried 3-0.

The committee also discussed Order No. 16/17/18-1006443D-1 Communication from Assistant City Solicitor regarding Apex Center Open Space Covenant & Restriction pursuant to the Development Agreement. The matter was tabled in committee to allow time for a new map to be drawn.

The meeting adjourned at 7:10 PM

Reports of Committee Cont'd:

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

Meeting Name: City Council Urban Affairs Committee

Date: March 6, 2018

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

Convened: 5:31 PM – Adjourned: 6:27 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; and Councilors Clancy, Dumais, and Ossing; Also present were Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough)

Absent: Councilor Juairé (recused)

Order No. 18-1007163-2 (X18-1007151): The Urban Affairs Committee met to discuss a proposed zoning petition submitted by Urban Affairs Chairman Delano that would amend the existing medical marijuana zoning ordinance to allow medical marijuana treatment centers within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough Town line to Massachusetts State Highway Route 495, and within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street and which have frontage on Massachusetts State Highway Route 20 (Boston Post Road), subject to provisions of local and state law, standards and regulations, and ordinances of the City of Marlborough, any conditions imposed on licenses and permits held by the Medical Marijuana Treatment Center, agreements between the Medical Marijuana Treatment Center and the City of Marlborough, and a Special Permit from the City Council (the ‘Special Permit Granting Authority’).

The Assistant City Solicitor provided an updated proposed order for the committee’s review.

Motion made by Councilor Tunnera, seconded by the Chair, to refer to the City Council with a favorable recommendation, as amended. Motion to refer to the City Solicitor to be drawn in proper form. The motion carried 4-0.

Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 6:27 PM.

Reports of Committee Cont'd:

Meeting Name: City Council Urban Affairs Committee

Date: March 6, 2018

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

Convened: 5:31 PM – Adjourned: 6:27 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; and Councilors Clancy, Dumais, and Ossing; Also present were Mayor Arthur Vigeant; Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough)

Absent: Councilor Juairé (recused)

Order No. 18-1007177 (X12/13/14-1005247I): Proposed Order for Recreational Marijuana Moratorium which shall be in effect through December 31, 2018 or the adoption by the City Council of ordinances that address recreational marijuana establishments, the sale of marijuana accessories, and related uses, whichever occurs first in time.

The Urban Affairs Committee met with Mayor Vigeant and Assistant City Solicitor Panagore Griffin for a discussion of a recreational marijuana moratorium within the City until its ordinances for recreational marijuana establishments were approved by the City Council (medical marijuana facilities were already allowed per the City's zoning.) Chairman Delano explained it was unusual to take up a matter prior to its public hearing, however by forwarding the matter to the full City Council with no recommendation at its March 19, 2018 meeting they can have a discussion with the full body at that time. Mayor Vigeant attended several meetings on this topic and he described how there were a lot of questions regarding the April 1, 2018 date which is when recreational marijuana establishments can apply for a license in a community. With no regulations in place, there would be no additional restrictions on where a facility could be located and it was recommended that communities enact a moratorium until their regulations were ready and approved. The Assistant City Solicitor provided an updated proposed order for the committee to review which included an amendment on page 2, under B. Temporary Moratorium that "each individual type of marijuana establishment being subject to the temporary moratorium until such time as the City Council approves an ordinance concerning said individual class of marijuana establishment," with which the committee agreed.

Motion made by Councilor Doucette, seconded by the Chair, to refer to the City Council without a recommendation as amended. The motion carried 4-0.

Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 6:27 PM.

Suspension of the Rules requested – granted.

ORDERED: That the Proposed Zoning Ordinance to further amend Chapter 650, several subsections as it pertains to Medical Use of Marijuana, refer to **CITY SOLICITOR'S OFFICE TO BE PLACED IN PROPER LEGAL FORM TO BE PLACED ON THE APRIL 2, 2018 CITY COUNCIL AGENDA**; adopted.

Councilor Juaire abstained.

Suspension of the Rules requested – granted.

ORDERED: That the Communication from the Planning Board regarding their favorable recommendation of Proposed Zoning Ordinance to further amend Chapter 650, §37 as it pertains to Temporary Moratorium-Recreational Marijuana Establishments and the Sale of Marijuana Accessories, **FILE**; adopted.

Councilor Juaire abstained.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN 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 ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled "Definitions, Word Usage," is hereby amended by adding to said section the following definitions:

MARIJUANA ESTABLISHMENT: a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, marijuana delivery-only retailer, marijuana social consumption primary use establishment, marijuana social consumption mixed-use establishment, craft marijuana cooperative, marijuana transporter, marijuana micro-business, or any other type of licensed marijuana-related business, including but not limited to medical marijuana treatment centers which convert to or collocate with any of the aforementioned classes of marijuana establishments.

RECREATIONAL MARIJUANA: marijuana subject to regulation under 935 CMR 500.00, entitled "Adult Use of Marijuana," as promulgated by the Massachusetts Cannabis Control Commission, the laws of the Commonwealth of Massachusetts, and the regulations and ordinances of the City of Marlborough.

MARIJUANA ACCESSORIES: equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

2. A new Section 650-37, entitled "TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS AND THE SALE OF MARIJUANA ACCESSORIES," is hereby added, as follows:

650-37 TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS AND THE SALE OF MARIJUANA ACCESSORIES

A. Purpose

By vote of the state election on November 8, 2016, the voters of the Commonwealth approved a law, Chapter 334 of the Acts of 2016, which regulates the cultivation, distribution, possession and use of marijuana for recreational purposes. By act of the Legislature, Chapter 351 of the Acts of 2016, the Cannabis Control Commission must issue initial regulations by March 15, 2018 and begin accepting applications for licenses by April 1, 2018. The Cannabis Control Commission must also adopt final regulations by July 1, 2018.

Pursuant to section 3 of chapter 94G of the Massachusetts General Laws, a municipality may adopt zoning regulations that impose reasonable safeguards on the operation of marijuana establishments. Chapter 334 of the Acts of 2016 also established the Cannabis Advisory Board to, among other things, advise on the preparation of regulations. It is expected that the Legislature, the Cannabis Control Commission, and the Cannabis Advisory Board's will provide guidance to the City concerning the regulation of recreational marijuana establishments and marijuana retailers.

B. Temporary Moratorium

The regulation of recreational marijuana establishments and the sale of marijuana accessories raises complex and novel legal, planning, and public safety issues. The City intends to adopt a temporary moratorium on the use of land and structures in the City for the purpose of recreational marijuana establishments and the sale of marijuana accessories. The temporary moratorium will provide the City with time to study, plan, consider and promulgate ordinances to address said complex and novel issues, including but not limited to assessing and incorporating State regulations, in a manner consistent with sound land use planning goals and objectives.

For the reasons sets forth above, and notwithstanding any other provision of the Zoning Ordinance to the contrary, the City hereby adopts a temporary moratorium on the use of land or structures for or by recreational marijuana establishments and the sale of marijuana accessories, as herein defined, and related uses including but not limited to accessory uses and home occupations. During the moratorium period, the City shall undertake a planning process to address the potential impacts of recreational marijuana in the City; consider Cannabis Control Commission regulations regarding recreational marijuana establishments, the sale of marijuana accessories, and related uses; consider such guidance as may be provided by the Legislature, the Cannabis Control Commission, and the Cannabis Advisory Board; determine whether the City shall restrict any or all recreational marijuana establishments, the sales of marijuana accessories or related uses through any available legal means, adopt provisions of the Zoning Code to address the impact and operation of recreational marijuana establishments, the sale of marijuana accessories, and related uses; and consider such other and further matters as set forth in M.G.L. c. 94G, § 3, M.G.L. c. 64N, § 3, and 935 CMR 500.000.

The temporary moratorium shall be in effect from the date of adoption through December 31, 2018 or until such time as the adoption by the City Council of ordinances that address each class of recreational marijuana establishments (each and every individual class of marijuana establishments being subject to the temporary moratorium), the sale of marijuana accessories, and related uses, whichever occurs first in time.

APPROVED; adopted.

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

Councilor Juaire abstained.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN 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 AS FOLLOWS:

1. Section 650-59.C(11), entitled "Extension of time for action; leave to withdraw," is hereby amended by deleting subsection (a) and inserting in place thereof the following:-- The period within which final action shall be taken may be extended for a definite period by mutual written agreement of the Council and the applicant, pursuant to MGL c. 40A, § 9, as amended. For purposes of timely administration of special permit applications and in order to avoid constructive grants thereof, the Urban Affairs & Housing Committee may, by simple majority vote at a duly noticed public meeting, authorize the following Council members to sign the written extension agreement on behalf of the full Council: a) the Chairman of Urban Affairs; or, b) in his or her absence or incapacity, its Vice-Chairman; or, c) when a quorum of Urban Affairs is otherwise not present, the President or Vice-President sitting for that meeting as an ex officio member of Urban Affairs. A copy of the signed extension agreement shall be timely filed in the office of the City Clerk, and a copy of that filing shall be submitted for informational purposes on the agenda for the next regular Council meeting.

APPROVED; adopted.

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:06 PM.