

### Councilors-at-Large

Mark A. Oram  
Michael H. Ossing  
Samantha Perlman  
Kathleen D. Robey



### Ward Councilors

Ward 1 – Laura J. Wagner  
Ward 2 – David Doucette  
Ward 3 – J. Christian Dumais  
Ward 4 – Teona C. Brown  
Ward 5 – John J. Irish  
Ward 6 – Sean A. Navin  
Ward 7 – Donald R. Landers, Sr.

### Council President

Michael H. Ossing

### Council Vice-President

Kathleen D. Robey

## **CITY OF MARLBOROUGH CITY COUNCIL MEETING MINUTES MONDAY, JANUARY 23, 2023**

The regular meeting of the City Council was held on Monday, January 23, 2023, at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 8:35 PM.

The Mayor addressed the City Council to provide an update on the State of the City.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, JANUARY 9, 2023, **FILE**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the City Council Regular Meeting Schedule and City Council Committee Assignments for the 2023 Legislative Year, **FILE**; adopted.

That the PUBLIC HEARING on the Application for Special Permit from Stephen Copper, on behalf of Alliance Health & Human Services to renovate 10,490 sf of the existing building to provide twelve (12) rest home beds at 720 Boston Post Road East within the Wayside District, Order No. 22-1008768, all were heard who wish to be heard, hearing closed at 8:19 PM, adopted.

**Councilors Present: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.**

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$18,000.00 from the Department of Environmental Protection awarded to the Department of Public Works to be used to offset the increased cost of processing recycling materials; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$116,136.00 from the Executive Office of Elder Affairs (EOEA) awarded to the Council on Aging to be used to fund the Council on Aging's operating budget for the year; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the Transfer Request in the amount of \$100,000.00 which moves funds from PEG Funds to Marlborough Cable Trust to fund WMCT operations, referred to **FINANCE COMMITTEE**; adopted.

**Councilor Ossing read a Disclosure of Appearance of Conflict of Interest into the record.**

		CITY OF MARLBOROUGH								
		BUDGET TRANSFERS --								
	DEPT:	Mayor					FISCAL YEAR:	2023		
		FROM ACCOUNT:				TO ACCOUNT:				
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$498,899.73	\$100,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$100,000.00	89000	25581	Marlboro Cable Trust	\$0.00	
	Reason:	To fund the balance of WMCTS FY23 Budget								
	\$100,000.00	Total			\$100,000.00	Total				

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the Capital Bond Requests totaling \$10,270,000.00, which includes various reconstruction of streets, drain and sidewalk repairs throughout the city, referred to **FINANCE COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

**ORDERED:** That there being no objection thereto set **MONDAY FEBRUARY 13, 2023**, as the **DATE FOR PUBLIC HEARING**, on the: Proposed Ordinance Amendment to Chapter 315 "Enforcement", §2 "Non-criminal Disposition" to ensure consistency with state law as submitted by the Mayor and Board of Health, referred to the **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE & ORDERED ADVERTISED**; adopted.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:**

- I. Chapter 315 (entitled "Enforcement"), Section 315-2 (entitled "Noncriminal disposition"), Subsection (A), is hereby amended by inserting the following sentence at the end of the existing paragraph:

In addition to any other enforcing municipal personnel, the code enforcement officer(s) may also be a designee of any enforcing agent for all such ordinances, rules or regulations.

- II. Chapter 315, Section 315-2, Subsection (B), is hereby amended by inserting the following sentences after the existing second sentence:

Where no specific penalty amount is stated in an ordinance, rule, or regulation, the specific penalty amount shall be: \$100 for First Offense, \$200 for Second Offense, and \$300 for Third and Any Subsequent Offense. Unless otherwise specified, second and any subsequent offenses shall mean additional offenses after a first offense which are committed by the same offender within a twelve-month period.

- III. Chapter 315, Section 315-2, Subsection (B), Table Row numbers “20”, “21”, “22”, “23”, “25”, “27”, “28.1”, “29”, and “31”, are hereby amended as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

	<b>Ordinance Violation (Chapter/Section)</b>	<b>Penalty</b>	<b>Enforcing Agent</b>
20)	<del>Human Habitation,</del> <del>City Health Code</del> <u>Board of Health:</u> <u>Regulations for</u> <u>Minimum Standards</u> <u>for Human Habitation</u>	<del>\$50</del> <u>1<sup>st</sup> offense: \$100</u> <u>2<sup>nd</sup> offense: \$200</u> <u>3<sup>rd</sup> and subsequent offense: \$300</u>	Board of Health, <u>Director of Public</u> <u>Health, agent,</u> <del>sanitarian</del> and assistant sanitarian (hereinafter, Board of Health)
21)	<del>Subsurface Disposal</del> <del>of Sanitary Sewage,</del> <del>City Health Code</del> <u>Board of Health:</u> <u>Regulations for</u> <u>Minimum Standards</u> <u>for Onsite Sewage</u> <u>Treatment &amp; Disposal</u> <u>Systems</u>	<del>\$50</del> <u>1<sup>st</sup> offense: \$100</u> <u>2<sup>nd</sup> offense: \$200</u> <u>3<sup>rd</sup> and subsequent offense: \$300</u>	Board of Health
22)	<del>Food Establishments,</del> <del>City Health Code</del> <u>Board of Health:</u> <u>Regulations for</u> <u>Minimum Standards</u> <u>for Food</u> <u>Establishments</u>	<del>\$50</del> <u>1<sup>st</sup> offense: \$100</u> <u>2<sup>nd</sup> offense: \$200</u> <u>3<sup>rd</sup> and subsequent offense: \$300</u>	Board of Health
23)	City Wetland Regulations (Ch. 627)	<u>Penalty amounts set forth in Ch.</u> <u>627.</u>	Conservation Officer

25)	Plumbing	For violation of any provisions of Ch. 270, Art. II, § 270-7.1 or any provision of the State Plumbing Code (248 CMR): <del>no less than \$50 nor more than \$100</del> <u>\$100</u> for 1st offense; \$200 for 2 <sup>nd</sup> offense; <del>no less than \$200 not more than \$300</del> <u>\$300</u> for each succeeding offense; each day or part thereof, whether continuous or intermittent, construed as separate and succeeding offense	Plumbing Inspector or Assistant Plumbing inspector (in his absence)
27)	Building Regulations  Building Permits, etc., Ch. 270, § 270-8	For violation of § 270-8 or any provision of State Building Code (780 CMR): <u>\$100 for 1<sup>st</sup> offense; \$200 for 2<sup>nd</sup> offense; \$300 for each succeeding offense</u> <del>no less than \$100 nor more than \$300</del> <u>\$X</u> for each offense; each day or part thereof, whether continuous or intermittent, construed as separate and succeeding offense	Building Commissioner or his or her designee, in his absence
	Certificate of legal multifamily dwelling units, Ch. 420	<del>Not less than \$100 nor more than \$300</del> <u>\$100 for 1<sup>st</sup> offense; \$200 for 2<sup>nd</sup> offense; \$300 for 3<sup>rd</sup> and subsequent offense</u>	Building Commissioner or his or her designee
28.1)	Motorized Scooters, Ch. 503	First offense: <del>not more than \$25; second: not less than \$25 nor more than \$50; subsequent offenses: not less than \$50 nor more than \$100</del>	Police Department
29)	<u>Antiblight; Nuisances (Ch. 485, Art. I)</u>  Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties, Ch. 485, <u>Art. II</u>	<u>\$200</u>  \$300	<u>Building Commissioner or his or her designee; Board of Health</u>  Building Commissioner

31)	Stormwater Management, Ch. 271	1 <sup>st</sup> offense: \$100 2 <sup>nd</sup> offense: \$200 3 <sup>rd</sup> and subsequent offense: \$300	City Engineer
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IV. Chapter 315, Section 315-2, Subsection (B), Table Row number “24”, is hereby deleted in its entirety and replaced with the following:

	<b>Ordinance Violation (Chapter/Section)</b>	<b>Penalty</b>	<b>Enforcing Agent</b>
24)	Board of Health: Regulation XII, Smoking and other use of tobacco products in school buildings, upon school grounds or in pupil transport vehicles	\$25 per offense	Superintendent of Marlborough School District; all district principals, assistant principals, directors of athletics; Superintendent-Director and Principal of Assabet Valley Regional Vocational High School, as well as police officers
24.1)	Board of Health Regulations: All other Board of Health regulations not listed in Section 315-2.	Amount as set forth in the Board of Health Regulation. If no specific penalty is listed in the regulation, then: 1 <sup>st</sup> offense: \$100 2 <sup>nd</sup> offense: \$200 3 <sup>rd</sup> and subsequent offense: \$300	Board of Health

V. Chapter 420 (entitled “Multifamily Dwellings”), Section 420-3 (entitled “Violations and Penalties”) is hereby amended as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

Every day that a person violates § 420-2 shall constitute a separate offense. Each offense shall be subject to a noncriminal fine ~~of not less than \$100 and not more than \$300~~ as set forth in the Code of the City of Marlborough §315-2B, as enforced by the Building Commissioner or his/her designee.

VI. Chapter 485 (entitled “Property Maintenance”), Section 485-3 (entitled “Administration”), Subsection (A)(3), is hereby amended as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

In addition to the foregoing remedy, whoever violates any provision of this article or fails to obey any lawful order issued by the enforcing authority in enforcing this article shall be liable to a noncriminal fine ~~of not more than \$200 for each violation~~ as set forth in the Code of the City of Marlborough §315-2B. Each violation of this article shall constitute a separate offense. Each day that any such violation continues shall constitute a separate violation. The enforcing authority may also issue a cease-and-desist order for any hazardous situation.

VII. Effective Date. These amendments shall take effect upon passage.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Michael Cabral to the Planning Board for a 5-year term to expire on February 1, 2027, referred to the **PERSONNEL COMMITTEE**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of James Fortin to the Planning Board for a 5-year term to expire on February 1, 2027, referred to the **PERSONNEL COMMITTEE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Attorney Terrence Morris on behalf of 272 Lincoln LLC, re: Request to Extend Time Limitations until 11:00 PM on March 28, 2023, on the Application for Special Permit, to build a 12-unit multi-family dwelling with accessory parking to be located at 272 Lincoln Street, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Marquel Frink and Divino Oliveira on behalf of All Fur Love, re: Request to Extend Time Limitations until 10:00 PM on April 11, 2023, on the Application for Special Permit, to operate a dog grooming business to be located at 75 Lincoln Street, **APPROVED**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) School Committee, December 13, 2022.
- b) Conservation Commission, December 15, 2022.
- c) Historical Commission, November 17, 2022.
- d) Library Trustees, October 4, 2022, November 14, 2022 & December 6, 2022.

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

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

Kyle Hesemeyer, 56 Rice Avenue, Northborough, pothole or other road defect.

Reports of Committees:

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

**City Council Public Services Committee  
Monday, January 18, 2023  
Minutes and Report**

This meeting convened at 6:30 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Ch. 8 or Verizon/Fios Ch.34) and available for viewing using the link under the Meeting Videos tab on the city's website, home page.

Voting members Present: Chair Landers, Councilor Irish, and Councilor Brown.

Other Councilors Present: Councilors Ossing & Robey.

Also Present: Yacine Nouri appeared on behalf of Dish Wireless. Al Galvin appeared on behalf of NGrid. Attorney Douglas Rowe appeared on behalf of Andrea Bibi, Bibi Realty Corp., owner of property located at 115 Mechanic Street.

Reports of Committee Continued:

**Order No.22-1008710: Application by Dish Wireless to install 3 new antennas and a 5'x 7' platform on an existing cell tower located on city property located at 860 Boston Post Road.**

Petitioner submitted an amended draft decision that included a condition requested by City Engineer DiPersio that a pre-construction meeting shall be held with the Department of Public Works to discuss access to the site during construction. No other comments were received from city managers. Petitioner submitted an extension of time to February 27, 2023 to act on the permit.

On a motion by Councilor Irish, seconded by Councilor Brown, the committee approved the extension of time to expire February 27, 2023. Vote 3-0.

**On a motion by Councilor Irish, seconded by Councilor Brown, the committee recommends approval of the special permit, together with draft decision including Condition #8 requiring a pre-construction meeting to discuss access to the site during construction. Vote 3-0.**

**Order No.22-1008739: Petition of Mass Electric to install a push brace off Pole #18 on Mechanic Street which is needed to support pole with wires going down Manning Street.**

By email dated 1/13/23 from NGrid's Emily O'Brien, Operations Clerk, Permits and Petitions, Brockton, MA, the Public Services Committee received an updated Petition, Sketch dated 1/13/23, WR-30672208, Designer D. Larson and cover letter. NGrid's Al Galvin addressed the revised petition. By email dated 1/13/23, City Engineer DiPersio notified the committee he had reviewed the petition and design and it is acceptable and preferred over the previous design of a push brace, and the approval should include the standard conditions and on 1/18/23 added a condition that NGrid confirm the new pole and anchor are located in the public way prior to placement to address abutter concerns. Attorney Rowe submitted a 6-page presentation further addressing his client's concerns.

**On a motion by Councilor Irish, seconded by Councilor Brown, the committee voted to recommend approval of the Revised Petition with the following conditions, Vote 3-0.**

- 1) National Grid shall confirm the new pole and anchor are located in the public way prior to placement of the new utilities**
- 2) Petition is subject to the eleven (11) standard conditions for utility conditions; 3) Pole 0-5 shall be located on the street side of sidewalk and no further than fifteen (15') feet from Manning Street.**

On a motion by Irish, seconded by the Chair, all in favor, the meeting adjourned at 7:30 PM.

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

Motion by Councilor Landers, seconded by the Chair to adopt the following:

**ORDERED:** That the Application for Modification of Special Permit from Brian Martinelli on behalf of Dish Wireless, to install three (3) new antennas on the existing cell tower along with a 5x7 platform, at 860 Boston Post Road East, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE FEBRUARY 13, 2023, COUNCIL MEETING**; adopted.

**Suspension of the Rules requested – Motion by Councilor Irish, seconded by the Chair to remove from the Finance Committee Order No. 22-1008733 – granted.**

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the Transfer Request in the amount of \$100,000.00 which moves funds from the Undesignated Fund to Unemployment Payment for city and schools to fund mandated unemployment costs, **APPROVED;** adopted.

FROM ACCOUNT:					TO ACCOUNT:				
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$6,006,264.80	\$100,000.00	10000	35900	Undesignated Fund	\$50,000.00	11970006	51730	Unemploymt Paymt-City	\$17,528.80
	Reason:	To fund unemployment payments through year-end.							
					\$50,000.00	13100003	51730	Unemploymt Paymt-School	\$44,611.85
	\$100,000.00	Total			\$100,000.00	Total			

Council President Ossing thanked Assistant Clerk Wilson Chu for his outstanding job clerking the City Council meeting.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

**ORDERED** There being no further business, the regular meeting of the City Council is herewith adjourned at 8:35 PM; adopted.