

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, MAY 22, 2023

The regular meeting of the City Council was held on Monday, May 22, 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 9:20 PM.

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

ORDERED: That the Minutes of the City Council meeting, MAY 8, 2023, **FILE**; adopted.

That the PUBLIC HEARING on the Proposed Fiscal Year 2024 Operating Budget as submitted by Mayor Vigeant in the amount of \$188,751,024.00 which represents a 4.57% increase over the Fiscal Year 2023 appropriation, Order No. 23-1008881, all were heard who wish to be heard, hearing closed at 8:02 PM, adopted.

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

That the PUBLIC PRESENTATION from the Metropolitan Area Planning Council (MAPC) regarding the Draft Hazard Mitigation Plan for the City of Marlborough, Order No. 23-1008888, all were heard who wish to be heard, presentation ended at 8:23 PM, adopted.

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

That the PUBLIC HEARING on the Proposed Zoning Amendment from Attorney Brian Falk, on behalf of Marlborough Apartment Partners 2 LLC to Chapter 650 "Zoning" §36 "Executive Residential Overlay District" (EROD) to increase the cap on the number of multifamily dwelling units from 475 to 950, Order No. 23-1008872, all were heard who wish to be heard, hearing closed at 8:51 PM, adopted.

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

That the PUBLIC HEARING on the Application for Modification of a Sign Special Permit from Attorney Brian Falk, on behalf of Lincoln Street 431, LLC, to amend an EMC Sign Permit to add non-EMC panels to the existing free-standing sign at 431 Lincoln Street, Order No. 23-1008889, all were heard who wish to be heard, hearing closed at 8:55 PM, adopted.

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

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

ORDERED: That the Communication from City Council President Ossing is referred to the Mayor with a request that he forthwith submit to the City Council funding for the Assistant City Clerk (1610-50290) in the amount of \$4,590.00 and the Part-Time Clerk (1620-50141) in the amount of \$17,600.00, both of which are deemed necessary expenses in the Office of the City Clerk, **APPROVED**; adopted.

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

ORDERED: That the Transfer Request in the amount of \$1,974,642.32 which moves funds from and to various accounts as outlined to cover expenses for certain departments for the remainder of Fiscal Year 2023, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	DPW					FISCAL YEAR:	2023		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$5,089,564.80	\$1,655,000.00	10000	35900	Undesignated Fund	\$176,500.00	14001203	51390	Overtime-Snow & Ice		-\$176,454.48
	Reason:	To fund the snow & ice deficit for FY23								
					\$481,400.00	14001206	52960	Snow Removal		-\$481,393.92
	Reason:									
					\$997,100.00	14001206	57040	Operating Expenses		-\$995,110.52
	\$1,655,000.00	Total			\$1,655,000.00	Total				

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
\$5,089,564.80	\$29,624.32	10000	35900	Undesignated Fund	\$29,624.32	83600	32918	Stabilization-Open Space		\$560,679.13
	Reason:	To transfer annual wireless antennae payments received by the City in fiscal year 2022 to Open Space Stabilization								
	\$29,624.32	Total			\$29,624.32	Total				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	FIRE					FISCAL YEAR:	2023		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$6,555.40	\$932.50	12200002	50400	Part Time Clerk	\$932.50	12200006	57340	Dues & Subscriptions		\$620.00
	Reason:	Vacancy						NFPA Code subscription increase		
\$6,555.40	\$4,067.50	12200002	50400	Part Time Clerk	\$4,067.50	12200005	55000	Operation Supplies		\$1,968.48
	Reason:	Vacancy						Various training not funded through Public Safety Account		
	\$5,000.00	Total			\$5,000.00	Total				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT: DPW - West Waste Water Treatment Plant						FISCAL YEAR:	2023		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$42,592	\$15,000.00	60085003	51310	Overtime Regular	\$15,000.00	60085006	55980	West Waste Water		\$32,171.20
	Reason:	Available as projected						Increased equipment need		
	\$15,000.00	Total			\$15,000.00	Total				

	CITY OF MARLBOROUGH									
	BUDGET TRANSFERS --									
	DEPT: DPW - Forestry, Parks, & Cemetery					FISCAL YEAR:		2023		
	FROM ACCOUNT:					TO ACCOUNT:				
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$167,371	\$25,000.00	14001503	50740	Equipment Operators	\$25,000.00	14001504	53140	Contract Services		\$10,036.20
	Reason:	Excess due to vacancy				Increased costs				
	\$25,000.00	Total			\$25,000.00	Total				

	CITY OF MARLBOROUGH									
	BUDGET TRANSFERS --									
	DEPT: DPW - Solid Waste & Recycling					FISCAL YEAR:		2023		
	FROM ACCOUNT:					TO ACCOUNT:				
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$39,579	\$25,000.00	14003003	51240	Attendant	\$25,000.00	14003006	52920	Rubbish Collection		\$0.00
	Reason:	Excess due to vacancy				Increased costs				
	\$25,000.00	Total			\$25,000.00	Total				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT: DPW - Water					FISCAL YEAR: 2023					
FROM ACCOUNT:					TO ACCOUNT:					
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$139,885	\$30,000.00	61090001	50740	Equipment Operators	\$30,000.00	60080004	53110	Legal Services		\$0.00
	Reason:	Excess due to vacancy				Legal fees				
	\$30,000.00	Total			\$30,000.00	Total				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT: DPW - Streets					FISCAL YEAR: 2023					
FROM ACCOUNT:					TO ACCOUNT:					
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$187,376	\$15,000.00	14001303	50740	Equipment Operator	\$15,000.00	14001304	53140	Contract Services		\$73,792.56
	Reason:	Excess due to vacancy				Increased costs				
\$187,376	\$20,000.00	14001303	50740	Equipment Operator	\$20,000.00	60080004	53110	Legal Services		\$0.00
	Reason:	Excess due to vacancy				Legal fees				
	\$35,000.00	Total			\$35,000.00	Total				

	CITY OF MARLBOROUGH									
	BUDGET TRANSFERS --									
	DEPT: DPW - School Maintenance						FISCAL YEAR:		2023	
	FROM ACCOUNT:					TO ACCOUNT:				
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$118,397	\$40,000.00	13032006	52200	Natural Gas	\$40,000.00	11920006	52200	Natural Gas		\$2.65
	Reason:	Available as projected				Needed as projected				
	\$40,000.00	Total			\$40,000.00	Total				

		FROM ACCOUNT:					TO ACCOUNT:				
Available										Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance	
\$42,894	\$20,000.00	60081003	51310	Overtime Regular	\$20,000.00	60081006	55950	East Waste Water		\$37,190.13	
	Reason:	Available as projected					Increased equipment need				
\$9,100	\$9,100.00	60081001	50750	Equipment Operator	\$9,100.00	60081004	53174	Contract Services		\$257.19	
	Reason:	Excess due to vacancy					Needed plant improvement				
\$79,508	\$20,900.00	60081001	50850	Treatment Plant Operator	\$20,900.00	60081004	53174	Contract Services		\$257.19	
	Reason:	Excess due to vacancy					Needed plant improvement				
	\$50,000.00	Total			\$50,000.00	Total					

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT: DPW - Engineering					FISCAL YEAR: 2023				
FROM ACCOUNT:					TO ACCOUNT:				
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$88,615	\$50,500.00	14001101	50710	Jr. Civil Engineer	\$50,500.00	14001104	53180	Professional & Technical Svcs	\$30,390.80
	Reason:	Excess due to vacancy				Project development			
\$14,500	\$14,500.00	14001101	50700	Grade 2 Engineering Aide	\$14,500.00	14001104	53180	Professional & Technical Svcs	\$30,390.80
	Reason:	Excess due to vacancy				Project development			
	\$65,000.00	Total			\$65,000.00	Total			

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

ORDERED: That the Transfer Request in the amount of \$1,440,000.00 which moves funds from the Undesignated Fund to the West Side Fire Station Stabilization Account, **APPROVED**; adopted.

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
\$5,089,564.80	\$1,440,000.00	10000	35900	Undesignated Fund	\$1,440,000.00	83600	32900	Stab-West Side Fire Station	\$1,422,500.00
	Reason:	To transfer mitigation monies to Fire Station Stabilization							
	\$1,440,000.00	Total			\$1,440,000.00	Total			

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

ORDERED: That the Appointment of Jonathon Friedman to the Commission on Disabilities for a 3-year term from date of Council Confirmation, referred to the **PERSONNEL COMMITTEE**; adopted.

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

ORDERED: That the Communication from Assistant City Solicitor Jeremy McManus, re: Application for Special Permit from Connorstone Engineering, on behalf of Trombetta Family Limited Partnership to permit an existing Contractor/Landscape contractor Yard located in the LI district at 655 Farm Road, in proper legal form, Order No. 23-1008824B, **MOVED TO #18 & FILE**; adopted.

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

ORDERED: That the Communication from Attorney Sem Aykjanian on behalf of SUCIU LLC, d/b/a Exela Storage, re: Request to Extend Time Limitations until 10:00 PM on August 22, 2023, on the Application for Special Permit, to add additional storage units to a nonconforming storage facility located at 846 Boston Post Road East within the Wayside District, **APPROVED**; adopted.

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

ORDERED: That the Communication from Department of Public Utilities, re: Petition of NSTAR Electric Company, d/b/a Eversource Energy, for Approval of its 2023 Energy Efficiency Surcharges for effect July 1, 2023, **FILE**; 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, April 11, 2023 & April 25, 2023
- b) Historical Commission, March 16, 2023.
- c) Planning Board, April 10, 2023.

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

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

- a) GEICO Claims Fredericksburg, VA, other property damage and/or personal injury.

Reports of Committees:

Councilor Irish reported the following out of the Finance Committee:

**City Council Finance Committee
May 15, 2023, and May 16, 2023
Municipal FY2024 Budget Hearings
Minutes and Report**

These meetings convened at 6:00 PM and were held in the City Council Chamber and open to the public. The meetings were televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and were available for viewing using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov). The May 15th meeting adjourned at 11:20 PM. The May 16th meeting adjourned at 9:01 PM.

May 15, 2023: Voting members present: Chair Irish, Councilors Dumais, Perlman, Oram, and Brown.

Reports of Committee Continued:

Non-Voting members present: Councilors Ossing, Landers, Navin, Robey, Doucette, and Wagner.

May 16, 2023: Voting members present: Voting: Chair Irish, Councilors Dumais, Perlman, Oram, and Brown.

Non-Voting members present: Councilors Ossing, Landers, Navin, Robey, Doucette, and Wagner.

Order No. 23-1008881: Mayor Vigeant's Proposed FY2024 Operating Budget in the amount of \$188,751,024.00.

Chair Irish read the Mayor's May 4, 2023, letter submitting the budget for review and approval in the amount of \$188,751,024.00 representing a 4.57% increase over this year, primarily due to a continued increase in utility costs, Assabet Valley Regional School, contract services and added staffing.

The Finance Committee reviewed each of the items listed in the Budget Summary over the course of the two meetings together with the Mayor and municipal department heads and proposed the following adjustments to the Mayor's budget.

Reports of Committee Continued:

On a motion by Councilor Perlman, seconded by Councilor Oram, the Finance Committee voted 5-0 to refer to the City Council Mayor Vigeant's FY 2024 Operating Budget with proposed reductions in the amount of \$940,100.00 as listed in the below table and resulting in an amended FY 2024 Municipal Operating Budget in the amount of \$187,810,924; and further recommends that the Mayor be requested to submit budget amendments listed in the table on page 3.

FINCOM FY24 Budget Adjustments – Reductions

Department	Account # Description	Adjustment	FINCOM Vote	Comments
1920 Property & Building Maintenance	50291 Asst. Commish	-\$2,050	Approved 5-0	Fund the position at the correct step.
3032 Maintenance Schools	50291 Asst. Commish	-\$2,050	Approved 5-0	Fund the position at the correct step.
1920 Property & Building Maintenance	52120 Electricity	-\$100,000	Approved 5-0	Implement energy conservation measures
3032 Maintenance Schools	52200 Natural Gas	-\$100,000	Approved 3-2 (Opposed Irish/Brown)	Implement energy conservation measures
1990 Other Government	57820 Reserve for Salaries	-\$300,000	Approved 5-0	All contracts settled.

Reports of Committee Continued:

Department	Account # Description	Adjustment	FINCOM Vote	Comments
2200 Fire Department	51300 Gross OT	-\$50,000	Approved 3-2 (Opposed Irish/Oram)	20% increase is excessive. Have not spent FY23 funds. FY23 Run rate is \$40,000 per month
9300 Capital Projects	58595 City Hall Equipment	-\$300,000	Approved 5-0	Using Free cash enables the council to have oversight on how funds are used.
8600 Solid Waste	52935 Solid Waste Disposal	-\$86,000	Approved 5-0	Transferred out \$475,000 in FY23. Indicated there is contingency built in at the March 6, 2023 FINCOM meeting. Level fund line item.
TOTAL		-\$940,100		

Impact of the FINCOM FY24 Budget Adjustments

- The Mayor's proposed FY24 budget of \$188,751,024 less the above adjustments of \$940,100 equals a new FY24 budget of \$187,810,924. This represents an increase of \$7,307,825 from FY23 or an increase of 4.04%.
- The Mayor's projected tax impact provided in the budget package was an increase of \$262 for the average single-family house. This was based on a residential/CIP shift value of 1.40 which resulted in a corresponding residential tax rate of \$10.96. A reduction of \$940,100 from the Mayor's submitted budget will reduce the projected tax on the average single-family house to \$235.
- The Mayor emphasized that these are estimates and the actual tax implications will be determined in November.

**FINCOM FY24 Budget Adjustments – Motions Approved to Increase the Budget
Requires a Budget Amendment from the Mayor**

Department	Account # Description	Adjustment	FINCOM Vote	Comments
1610 City Clerk	50290 Asst. Clerk	+\$4,590	Approved 5-0	Funding to support new salary ordinance.
1620 Elections	50141 Clerk	+\$17,600	Approved 5-0	Add back position that was deleted by the Mayor
TOTAL		+\$22,190		

Reports of Committee Continued:

Department	Account # Description	Adjustment	FINCOM Vote	Comments
6100 Library	50475 Head Adult Services	\$61,580	Approved 5-0 For Mayor to submit salary ordinance	Unable to fund position without salary ordinance. Request Mayor submit salary ordinance.
6100 Library	50478 Program Outreach Coordinator	\$54,410	Approved 5-0 For Mayor to submit salary ordinance	Unable to fund position without salary ordinance. Request Mayor submit salary ordinance.

The FINCOM voted 5-0 to request the Mayor submit a budget amendment that contains the following:

- Add \$4,590 to the City Clerk Assistant City Clerk line item 1610-50290
- Add \$17,600 to the Elections Department part time Clerk line item 1620-50141
- Submit the salary ordinance for the Head Adult Services position in the Library Department
- Submit the salary ordinance for the Program Outreach Coordinator position in the Library Department

FINCOM FY24 Budget – Motions Made and Not Approved

Department	Account # Description	Adjustment	FINCOM Vote	Comments
1990 Other Government	57820 Reserve for Salaries	-\$100,000	Does not Carry 1 in favor (Oram) and 4 Opposed	
2100 Police Department	51320 Court OT	-\$46,900	Does not carry 1 in favor (Perlman) and 4 opposed	
5120 Health Department	50607 Substance Abuse Coordinator		Motion was withdrawn due to not having details on step 2 salary	Reduction to align with Step 2
9000 Water Fund	52320 Water MWRA	-\$90,545	Does not carry 2 in favor (Dumais/Perlman) and 3 opposed	

Suspension of the Rules requested – granted.

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

ORDERED: That the Proposed Amendment to the City Code, Chapter 125 “Personnel” §6 “Salary Schedule” to amend the salary for the Assistant City Clerk, **PLACED ON THE NEXT CITY COUNCIL AGENDA.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, ENTITLED “PERSONNEL,” AS FOLLOWS:

- I. By amending Chapter 125, entitled “Personnel”, by adding to the salary schedule referenced in Section 125-6, the following:

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
	Start	6 months of service	1 year of service	2 years of service	3 years of service	4 years of service	5 years of service
Assistant City Clerk	\$73,929.96	\$75,408.84	\$76,916.84	78,455.26	\$80,024.36	\$81,624.92	\$83,257.72

- II. This ordinance shall supersede and replace any existing rate for said position (if applicable) in the current salary schedule.
- III. The effective date of these amendments shall be July 1, 2023.

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

ORDERED: That the Application for Renewal of Junk Dealer License, Antoine Bitar, d/b/a Hannoush Jewelers, 601 Donald Lynch Boulevard, **APPROVED**; adopted.

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

ORDERED: That the Application for Renewal of Junk Dealer License, Gerald Dumais, d/b/a Dumais & Sons Secondhand Store, 65 Mechanic Street, **APPROVED**; adopted.

Councilor Dumais Recused.

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

ORDERED: That the Application for Renewal of Junk Dealer/Secondhand Dealer license and associated waivers by TVI, Inc., d/b/a Savers, 222A East Main Street, **APPROVED WITH THE FOLLOWING CONDITIONS AND WAIVERS;** adopted.

Conditions

1. The license shall not be transferred without prior review and approval of the City Council.
2. The license hereby granted is issued to TVI, Inc. d/b/a Savers only and is applicable only to the 222A East Main Street location.
3. There will be no exterior storage, display or sales of merchandise, other than a recycle trailer, a cloth delivery trailer with items waiting to be processed, and a local trailer from one of Savers' charitable partners delivering merchandise to the store. No more than three such trailers and trucks shall be parked at the loading dock area in the rear of the building at any one time, and no such trailers or trucks shall be parked on any other side of the building at any time.
4. Donations shall take place only during the hours of operation which shall be 9:00 A.M. to 9:30 P.M. Monday through Saturday and 10:00 A.M. to 7:00 P.M. on Sundays, and during the month of October from 9:00 A.M. to 10:00 P.M. Monday through Saturday and 10:00 A.M. to 10:00 P.M. on Sundays.
5. No Savers' donation boxes shall be permitted outside of the building.
6. No scrolling or rotating message signs shall be permitted as part of Savers' signage plans.
7. Glue boards shall be installed at locations within the business premises satisfactory to the Marlborough Board of Health and Savers, and a monthly monitoring program shall be implemented consisting of a logbook for said glue boards satisfactory to the Board of Health.
8. This license shall be subject to revocation or suspension for noncompliance of the above conditions or other applicable local ordinances or state laws.
9. The waivers granted as part of this license shall no longer be applicable should Savers commence paying the general public for merchandise delivered without first obtaining the review and approval of the City Council.

Waivers

1. The waiver of Section 377-4 of the Ordinance as requested by Savers is not granted because Section 377-4 is not applicable to Savers' operations.
2. The waiver of Section 377-5 of the Ordinance is granted with respect to the last sentence thereof requiring the City Clerk to keep a list of persons employed by Savers. All other provisions of Section 377-5, other than the duty of the City Clerk to keep a record of the name and residence of each dealer, are not applicable to Savers.
3. The provisions of Sections 377-6, 377-7 and 377-9 of the Ordinance are waived in their entirety.

Motion by Councilor Robey, to amend the Special Permit by inserting the language as follows, seconded by the Chair:

- “Decision on a Special permit” paragraph on page 1, line 2: add “and landscape contractor’s yard” after “contractor’s yard”
- Findings of fact paragraph 3, line 3: add “and landscape contractor’s yard” after “contractor’s yard”
- Findings and actions paragraph C, line 3: add “and landscape contractor’s yard” after “contractor’s yard”
- Condition 7, line 1: add “/landscape contractor yard area” after “contractor yard area”
- Condition 7, line 4: add “/landscape contractor’s yard” after “contractor’s yard”
- Condition 7, line 7: add “/landscape contractor’s yard” after “contractor’s yard”
- Condition 8, final paragraph, line 3: add “/landscape contractor yards” after “contractor yards”

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

ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT TROMBETTA FAMILY LIMITED PARTNERSHIP ORDER NO. 23-1008824C

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to The Trombetta Family Limited Partnership (the “Applicant”) for a contractor’s yard and landscape contractor’s yard at 655 Farm Road, in the Limited Industrial Zoning District, as provided in this Decision and subjected to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Trombetta Family Limited Partnership, is a Massachusetts Limited Partnership with an address of 655 Farm Road, Marlborough, MA 01752.
2. The Applicant is the owner of the property located at 655 Farm Road, Marlborough, Massachusetts, 01752 (Map 85, Parcel 12), and Charles P. Trombetta, Trustee of the 10 Broadmeadow Realty Trust, is the owner of the property located at 10 Broadmeadow Street, Marlborough Massachusetts, 01752 (Map 85, Parcel 10) (Both properties together are the “Site”).
3. In accordance with Article V, Section 650-17 and Section 650-18.A(48), of the Zoning Ordinance of the City of Marlborough (the “Zoning Ordinance”), the Applicant proposes a contractor’s yard and landscape contractor’s yard at the Site (the “Use”). As shown on the Plans referenced in Paragraph 5 below, the Use consists of trailers/containers, accessory parking, outdoor storage areas and landscaped areas.
4. The Applicant, by and through its engineer, filed with City Clerk of the City of Marlborough an Application for a Special Permit (“Application”) for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a site plan entitled “Proposed Site Plan of 655 Farm Road, Marlborough, MA (Map 85, Parcels 10 and 12) dated September 15, 2022” by Connorstone Engineering, with the last revision date of May 17, 2023, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit (collectively the “Plans”) as **“ATTACHMENT A”**.

6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site is located in the Limited Industrial Zoning District.
8. The Site has an area of 306,616 square feet.
9. The proposed lot coverage of 180,640 square feet (58.9% lot coverage) would maintain an area in compliance with Article VII, Section 650-41, Table of Lot Area, Yard and Height of Structures, of the Zoning Ordinance (maximum 60% lot coverage).

To the extent there is a residential structure on the 655 Farm Road portion of the Site (Assessor's Map 85, Parcel 12), nothing in this Special Permit authorizes such residential structure.

10. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on March 27, 2023. The public hearing was held at Marlborough City Hall, 140 Main Street. The hearing was closed March 27, 2023.
12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
13. At the public hearing, eight members of the public, including the Applicant and its engineer, spoke in favor of the Use and no members of the public spoke in opposition to the Use.

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

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the present Use of the Site is an appropriate use in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit for a contractor's yard and landscape contractor's yard at 655 Farm Road, as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site, if any, is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be build according to the Plans as may be amended during Site Plan Review.
2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions of this Special Permit. Subsequent Site Plan Review shall be consistent with the intent and conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plan's, so long as said changes do not change the Use approved herein, or materially increase the impervious area of the Use, reduce the green area, or alter traffic flow, all as shown on the Plans.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
5. Operating Hours. Hours of operation are limited to: 7:00AM to 7:00PM Monday through Saturday. Access for emergency business use, including for uses such as snow removal and sewer breaks, is permitted at all times.
6. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall be responsible for ensuring that the uses on the Site do not contaminate stormwater runoff, and shall ensure that the uses on the Site do not cause adverse stormwater impacts to abutting properties.
7. Traffic Pattern. All tenants and visitors to the contractor yard area/landscape contractor yard area are to enter and exit via the southern driveway shown on the Site Plan. Signage shall be erected on the northerly access of the site at the easterly edge of the ice cream and retail parking area prohibiting the retail customers from entering the contractor's yard/landscape contractor's yard areas and also prohibiting the contractors from entering the ice cream and retail parking area. Signage shall also be erected on the southerly access of the site at the easterly edge of the retail parking area prohibiting retail customers from entering the contractor yards/landscape contractor yards areas.
8. Screening. In accordance with Section 650-18.A(48) of the Zoning Ordinance, the Applicant shall, within a period of time to be determined during Site Plan Review by the Site Plan Review Committee, install screening to screen areas of the Site used for the storage of vehicles, equipment, and materials from adjacent properties as follows:

A. South Property Side Line

- I. #20 and #30 Broadmeadow Street – existing mature screening.
- II. #40 Broadmeadow Street – existing 6-foot private fence and longer storage building.
- III. #56 Broadmeadow Street – existing fence is a mix of 6-foot privacy fence and 6-foot black vinyl coated chain link fence along with existing an arborvitae space and deciduous trees. Applicant to supplement screening with arborvitae and other plantings to infill gaps within existing screening as shown on the Site Plans. The material stockpiles abutting the fence are to be removed.

B. Rear Property Line – Existing dense vegetation provides dense screening to Wayside Athletic Club. There is a vacant parcel of land (approximately 60 feet wide) between the Site and the Wayside Athletic Club. Applicant shall remove all gravel surfaces and containers within the required 7-foot setback and install plantings as shown on the Site Plan. The gravel surfaces shall be removed and replaced with mulch, or another cover determined by the City's Conservation Officer, to discourage future encroachments into the area.

C. Northern Property Line – Northern Property Line abuts 667 Farm Road and 665 Farm Road. This line includes existing 6-foot stockade fencing and a 6-foot privacy fence. An existing vegetated buffer has been planted over the past several years as shown on the Site Plan.

The Site Plan Review Committee shall require additional planting or screening as needed to ensure adequate screening for the abutters. Defined barriers between the landscaped areas and contractor/landscape contractor yards shall be provided so as to protect the landscaped areas from being encroached upon. The vegetated screening and fencing shall be maintained and replaced/ augmented as needed over the years to ensure the proper screening, as approved, is always provided.

9. Leased Areas. 16 containers are provided, one to each of the 16 leased areas, and are utilized to provide tenants with a space to secure and protect their daily and seasonal equipment. The containers are used to store hand tools, lawn maintenance equipment, snow equipment and similar equipment. Storage of unregistered vehicles is not allowed on the Site. Tenants are not allowed to perform vehicle repairs and/or maintenance on the Site.

Only the 16 lease areas are permitted as shown on the Plans, which shall be clearly defined in the field. Only the trailers shown on the approved Plans are permitted. Applicant may, as needed to accommodate existing and future tenants, change or modify the lease areas provided that there are no more than 16 lease areas. The total lease area, and the number of lease areas (16), and/or the number of trailers, cannot be increased or expanded without an amendment to this Special Permit.

10. Outdoor Storage Areas. In accordance with Section 650-18.A(48) of the Zoning Ordinance, the outdoor storage of vehicles, equipment, and materials shall be located on impervious and otherwise dust-free surfaces. Materials shall be stored with sufficient protections to avoid damage to landscaped areas and to avoid interference with the proper functioning of stormwater infrastructure. Storage of propane, chemicals, or hazardous material is not allowed.

11. Open Space. Within a period of time to be determined during Site Plan Review by the Site Plan Review Committee, the areas of open space as shown on the Plans shall be vegetated with grass with additional trees and shrubs to be added to help provide shade to these open spaces. These areas shall remain open and shall not be used for storage of any materials or equipment. During the Site Plan Review process the open space area, gravel area, and storage areas shall all be clearly defined and delineated on the plans with provisions that these areas are clearly defined by fencing or barriers or other on-the-ground methods for easier enforcement and management of the Site.
12. Noise and Air Quality. The Applicant, its successors and/or assigns, shall comply with the City's Noise Ordinance and shall comply with all state and federal requirements governing air quality and emissions.
13. Lighting. Exterior lighting at the Site shall be downward facing from three 15-foot posts shown on the Plans, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review Process. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.
14. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the Use.
15. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and, if applicable, before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the Recoded Special Permit to the City Council's Office, the Building Department, and the City Solicitor's Office.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

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 9:20 PM; adopted.