



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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SEPTEMBER 25, 2017

Regular meeting of the City Council held on Monday, September 25, 2017 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Meeting adjourned at 9:45 PM.

ORDERED: That the Minutes of the City Council meeting SEPTEMBER 11, 2017, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to relocate 3 solely owned electrical poles 54, 55, & 56-1 on Maple Street (Route 85), Order No. 17-1007004, all were heard who wish to be heard, hearing recessed at 8:07 PM.

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

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to install 1 solely owned electrical pole on Framingham Road, Order No. 17-1007005, all were heard who wish to be heard, hearing recessed at 8:09 PM.

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

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to relocate 1 solely owned pole to be made jointly owned poles 37-84 and relocate 17 jointly owned poles on Maple Street (Route 85), Order No. 17-1007006, all were heard who wish to be heard, hearing recessed at 8:10 PM.

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

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to relocate 2 poles and associated facilities on Maple Street/Framingham Road, Order No. 17-1007007, all were heard wo wish to be heard, hearing recessed at 8:14 PM.

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

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment intended to better regulate self-storage facilities, Order No. 17-1007002, all were heard wo wish to be heard, hearing recessed at 8:26 PM.

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

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** two Grant Acceptances from the Executive Office of Public Safety & Security (EOPSS) to the Police Department in the amounts of \$69,746.68 & \$98,805.00 to fund training & personnel and offset personnel costs within the Public Safety Dispatching Center; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from the Department of Conservation and Recreation to the City through the Conservation Commission in the amount of \$39,717.00 to fund signage, maps, publicity and 16 miles of trail creation; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from Digital Federal Credit Union to the Police Department in the amount of \$7,500.00 to fund department programs; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from Digital Federal Credit Union to the Fire Department in the amount of \$7,500.00 to fund information technology upgrades; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from Bay Path Elder Services to the Council on Aging in the amount of \$5,040.00 to fund the transportation program and expand services; adopted.

Councilor Juaire abstained.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from MA Department of Public Health to the Board of Health in the amount of \$5,000.00 to fund emergency preparedness supplies; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance from Dianne Marcotte to the Police Department in the amount of \$415.00 to fund the K9 program; adopted.

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(1) 1), entitled "Extension of time for action; leave to withdraw," is hereby amended in subsection (a) by inserting at the end thereof the following:-- For purposes of administrative convenience, the Council hereby designates and authorizes its President or, in his or her absence or incapacity, its Vice-President, to sign the extension agreement on behalf of the Council, without the necessity of a formal vote being taken at a regular Council meeting.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY OCTOBER 30, 2017;** adopted.

ORDERED: The City Clerk be and is hereby authorized and directed to warn and notify the voters of Ward 2 and its 2 precincts of the City of Marlborough, duly qualified to vote in the preliminary, to assemble in their respective polling place, as designated by the City Council as follows:

WARD TWO: Precinct 1 and 2

Francis J. Kane School, 520 Farm Road

On Tuesday, October 10, 2017 then and there, for the purpose of casting their votes in the Preliminary Municipal Election for the candidates for Ward 2 Councilor as follows:

Richard G. Yurkus, 12 Helen Drive

David Doucette, 17 Arcadia Circle

Richard G. Jenkins, 40 Commonwealth Avenue

James M. Jumonville, 232 Phelps Street

Please note that above Ward 2 candidates are listed in the order in which they pulled nomination papers. The drawing for name position on the Preliminary Municipal Election ballot scheduled for September 7th at 5:00 PM will define the candidate's name placement on the ballot.

It is further ordered that the polling place legally designated by the City Council be opened at 7:00 o'clock in the forenoon and be closed at 8:00 o'clock in the evening. The City Clerk be and hereby is authorized to cause notice to be given by publication of this Order in a local newspaper and by posting a copy of the same in a conspicuous place in the office of the City Clerk.

Edward J. Clancy
City Council President

FILE; adopted.

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, SEPTEMBER 25, 2017 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, was ORDERED ADVERTISED as follows:

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 IN CHAPTER 468 "PEDDLING AND SOLICITING, "BY AMENDING ARTICLE II THEREOF, ENTITLED "DOOR-TO-DOOR SOLICITORS," AS FOLLOWS:

1. Section 468-17, entitled "issuance of license; fee," is hereby amended in subsection B thereof by deleting the words "The fee for such license shall be \$25" and inserting in place thereof the following: -- The fee for such license shall be #35.
2. Section 468-28, entitled "Violations and penalties," is hereby amended in subsection A thereof by deleting the words "Any person who solicits within the City of Marlborough without a license as described herein shall be fined not less than \$25" and inserting in place thereof the following: -- Any person who solicits within the City of Marlborough without a license as described herein shall be fined not less than \$35.

ORDERED ADVERTISED; adopted.

ORDERED: That the Applicant, Goldfish Swim School, request for flat wall signage pursuant to Section 650-35H, **APPROVED;** adopted.

ORDERED: That the Communication from Attorney Cipriano on behalf of Tiger Cat Properties LLC, re: request to extend time limitations on Application for Special Permit to construct a multifamily dwelling at 487 Lincoln Street until 10:00 PM on December 19, 2017, **APPROVED;** adopted.

ORDERED: That the Communication from Pat Scorzelli on behalf of Mina Property Group LLC, re: request to extend time limitations on Application for Special Permit to construct a commercial automotive facility at 408 Maple Street, until 10:00 PM on December 19, 2017, **APPROVED;** adopted.

ORDERED: That the Petition of AT & T to deploy one small cell site which will be mounted on existing utility poles at 2 South Bolton Street Extension, **FILE & REQUEST APPLICANT TO RESUBMIT PETITION WITH A MORE CONCISE NARRATIVE AS TO THE LOCATION;** adopted.

ORDERED: That there being no objection thereto set **MONDAY NOVEMBER 13, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of AT & T to deploy one small cell site which will be mounted on existing utility poles at 96 East Main Street, refer to **WIRELESS COMMUNICATION COMMITTEE;** adopted.

ORDERED: That there being no objection thereto set **MONDAY NOVEMBER 13, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of AT & T to deploy one small cell site which will be mounted on existing utility poles at 319 East Main Street, refer to **WIRELESS COMMUNICATION COMMITTEE;** adopted.

ORDERED: That the Petition of AT & T to deploy one small cell site which will be mounted on existing utility poles at 34 Boston Post Road East, **FILE & REQUEST APPLICANT TO RESUBMIT PETITION WITH A MORE CONCISE NARRATIVE AS TO THE LOCATION**; adopted.

ORDERED: That the Communication from Attorney Ericksen, Walker Realty, LLC, Re: Apex Center Signage Approval Delegation, Order No. 16/17-1006443BB, **FILE**; adopted.

ORDERED: That the proposed Pedestrian Trail Easement & Sewer Utility Easement, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

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

ORDERED: That the Minutes, Traffic Commission, July 25, 2017, **FILE**; adopted.

ORDERED: That the Minutes, License Board, April 26, 2017 & July 26, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Library Board of Trustees, June 6, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, August 28, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, August 3, 2017, **FILE**; adopted.

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

- a. Bruce Leblanc, 208 Swanson Road, Boxboro, pothole or other road defect.
- b. Bolton St. Tavern, 587 Bolton Street, other property damage and or personal injury.

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: September 12, 2017

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

Convened: 5:31 PM – Adjourned: 7:14 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juare, Tunnera and Landers; and Councilors Clancy, Doucette, Ossing and Robey; **Kevin Eriksen (Walker Realty LLC); Donald Rider (City Solicitor, City of Marlborough)**

Order No. 16/17-1006443: Proposed Amendment to the Apex Zoning Overlay to add to the overlay the parcels occupied by Wendy's and Bank of America, expressly excluding drive through facilities located on Map 78, Parcel 14A which facilities are existing and shall not require a Special Permit under this Section; Excluding so-called Dry-Cleaning drop stores where no dry cleaning is performed on premise which shall be permitted in the HRMUOD as of right.

The Urban Affairs Committee met with Attorney Kevin Eriksen representing Walker Realty, LLC for a discussion of the proposed zoning amendment to the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), Section 650-35, to incorporate the following two properties, 176 Boston Post Road West (Map 78, Parcel 14A) and 190 Boston Post Road West (Map 78, Parcel 23), into the HRMUOD. The addition of those two parcels would necessitate modifying Section 650-35. A (2) from “43.6 acres” to “45.2 acres” to accurately reflect the size of the overlay district as well as noting their addition to Exhibit A of Section 650-35.

Much of the committee’s discussion centered on the fact as to whether these businesses would be required to conform to the regulations of the HRMUOD regarding signage and drive-through limits for the site or be considered as pre-existing, nonconforming uses subject to Section 650-12 (Nonconforming uses) of the City of Marlborough’s General Code. The committee agreed the drive-through facilities of the two parcels, being preexisting conditions, shall continue to be allowed, notwithstanding anything contained in the HRMUOD to the contrary, and shall remain subject to Section 650-12 by updating Section 650-35.E(1)(i.) and (j.) with those conditions. Also, those sites shall not require a Special Permit for the current businesses under Section 650-35.E(2)(a.) and (b.), but shall remain subject to Section 650-12. The current signage for those two parcels continue to be allowed and all changes to their signage, whether on or outside the buildings, including any freestanding signs, shall be approved by the City Council which is in conformity with other buildings in the zone.

The committee agreed to the addition of the language to the end of Section 650-35.E(2)(d.), “, excluding so-called Dry-Cleaning drop store where no dry cleaning is performed on premise, which shall be permitted in the HRMUOD as of right.”

Motion made by Councilor Juare, seconded by Chair, to approve as amended. The motion carried 4-1 (Elder opposed.)

Reports of Committee Cont'd:

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:14 PM.

Motion made by Councilor Delano to refer to City Solicitor to place in proper legal form for next agenda.

Meeting Name: City Council Urban Affairs Committee

Date: September 19, 2017

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

Convened: 5:30 PM – Adjourned: 6:01 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juare, Tunnera and Landers; and Councilors Clancy, Doucette, Oram (arrived 5:55 PM), Ossing and Robey; **Kevin Eriksen (Walker Realty LLC); Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough); Meredith Harris (Executive Director, Marlborough Economic Development Corporation)**

Order No. 17-1006959A: Application for Special Permit from Walker Realty LLC for Proposed Veterinary Hospital use in the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), 58 Apex Drive. The Urban Affairs Committee met with Attorney Kevin Eriksen representing Walker Realty, LLC for a review of the document, “Decision on a Special Permit City Council Order No. 17-1006959A, X16-1006633B”, to allow for a veterinary hospital use within the Hospitality and Recreation Mixed Use Overlay District (HRMUOD) located at 58 Apex Drive. There were no major changes to the proposed special permit decision, Councilor Elder requested a minor change to condition “6. Animal Waste” so that the last sentence read: “Pet waste bags and disposal boxes or suitable containers will be made available to customers and guests in the parking area.” During their discussion, several Councilors were still not sure if a veterinary clinic use was appropriate for a hospitality and recreation district. However, a majority of Councilors on the committee agreed to support the special permit application to allow for the full City Council to vote. The Urban Affairs Committee agreed to request a suspension of the rules at the September 25, 2017 City Council meeting to vote upon the application for special permit.

Motion made by Councilor Elder, seconded by Chair, to approve as amended. The motion carried 3-2 (Tunnera and Landers opposed.)

Reports of Committee Cont'd:

Order No. 17-1006980A: Brew Pubs, Wineries, Breweries and Distilleries – Proposed Amendment to Zoning Ordinance. The Urban Affairs Committee met with City Council President Edward Clancy and Meredith Harris, Executive Director of the Marlborough Economic Development Corporation (MEDC). President Clancy explained this proposed zoning amendment was presented to City Council because the City has been trying to attract businesses to Marlborough, more specifically a brew pub to the downtown area. The current ordinance as written does not adequately cover the requirements for a prospective brew pub as the language was too restrictive and did not meet the needs of the companies looking to open a facility in Marlborough. Chairman Delano further explained with the hospitality and recreation area as well as the downtown, the City was trying to appeal to the younger residents and employees who work in the City to provide entertainment and recreation opportunities within the City. Chairman Delano confirmed with Assistant City Solicitor Panagore Griffin, the proposed amendment to the zoning ordinance had been through the Legal Department and was already in proper form. Assistant City Solicitor Panagore Griffin did note a small typographical error on Part II. b. where the first word should be “By” not “by.” Also, Part I. b., sentence two was amended to “Any such facility may provide, wither for a fee or at no charge and limited in size as set forth in M.G.L. c. 18,”. The City Council will not vote on the proposed amendment until a recommendation is received from the Planning Board.

Motion made by Councilor Elder, seconded by Chair, to approve as amended. The motion carried 5-0.

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 6:01 PM.

Motion made by Councilor Delano to refer to City Solicitor to place in proper legal form for next agenda.

Suspension of the Rules requested – granted

ORDERED: That the Communication from City Solicitor Rider re; Application for Special Permit-Walker Realty LLC, Veterinary Hospital, 58 Apex Drive, in proper legal form, **ENTER INTO RECORD & FILE**; adopted.

Suspension of the Rules requested – granted

Councilor Oram opposed.

ORDERED: That the Application for Special Permit from Walker Realty LLC for a Veterinary Hospital in the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), to be located at 58 Apex Drive; **DENIED**; adopted.

Yea: 6 – Nay: 5

Yea: Delano, Elder, Irish, Clancy, Ossing & Robey

Nay: Doucette, Tunnera, Landers, Juairé & Oram

ORDERED: That within 30 days Assabet Valley and/or DPW post hours on the new Assabet Valley track and field that lists daily hours of use for the public. It is Further Ordered that Mayor Vigeant work with AVRVS officials in furtherance of this request, refer to **OPERATIONS AND OVERSIGHT COMMITTEE, THE MAYOR AND PRESIDENT CLANCY WILL CONTACT ASSABET VALLEY REGIONAL VOCATIONAL SCHOOL**; adopted.

Councilor Robey opposed.

ORDERED: That the Mayor hire a full time and permanent Code Enforcement Officer for the City of Marlborough within 90 days of approval of this Order, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the following Apex Sign requests as follows **APPROVED**; adopted.

Apex Center of New England, including the bowling pin shape light fixtures, 21 Apex Drive, Pit Stop Tavern, 21 Apex Drive, Breakout Games, 21 Apex Drive, Sports Clips Haircuts, 160 Apex Drive, Hot Table Panini, 160 Apex Drive.

ORDERED: That the Communication from Attorney Eriksen, Walker Realty LLC, on behalf of Walker Realty LLC, re: renderings of 21 Apex Drive, **APPROVED**; 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 AMENDING CHAPTER 125, SECTION 6, SALARY SCHEDULE AS FOLLOWS:

Position	Effective Date	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 yrs. of service	4 yrs. of service	5 yrs. of service
Principal Assessor	July 1, 2017	\$91,405.26	\$93,233.10	\$95,098.68	\$96,999.96	\$98,940.00	\$100,918.80	\$102,937.38

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 9:45 PM.