



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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FEBRUARY 11, 2019

Regular meeting of the City Council held on Monday, February 11, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 10:25 PM.

ORDERED: That the Minutes of the City Council meeting JANUARY 28, 2019, **FILE AS AMENDED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Communication from Peter Bemis on behalf of Lacombe Business Center, LLC, re: Rezoning land off Lacombe Street, Order No. 18-1007483, **FILE**; adopted.

ORDERED: That the Proposed Zoning Map Amendment from Peter Bemis on behalf of Lacombe Business Center, LLC, re: Rezoning land off Lacombe Street, Order No. 18-1007483, **WITHDRAWN WITHOUT PREJUDICE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Communication from Peter Bemis on behalf of Stephen Vigeant, Trustee 22 Englewood Trust, re: Rezoning land off Mill Street South, Order No. 18-1007484, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Map Amendment from Peter Bemis on behalf of Stephen Vigeant, Trustee 22 Englewood Trust, re: Rezoning land off Mill Street South, Order No. 18-1007484, **CONTINUED UNTIL MARCH 25, 2019 AT 8:00 PM**; adopted.

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

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Ordinance Amendment, Chapter 650 §22 & §5, relative to Multifamily Retirement Community, 90 Crowley Drive, Order No. 18-1007452A, all were heard who wish to be heard, hearing closed at 8:34 PM; adopted.

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

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Ordinance Amendment, Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards, Order No. 18-1007500, all were heard who wish to be heard, hearing closed at 9:32 PM; adopted.

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

President Clancy called a recess at 9:33 PM and returned to open meeting at 9:36 PM.

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:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended by inserting the following new definition:

MOBILE FOOD TRUCK

A food establishment that is located upon a motorized vehicle or is pulled by a motorized vehicle where food is prepared, cooked, and served for retail sale in individual portions.

- II. Section 650-18, entitled “Conditions for uses,” is hereby amended by inserting in subsection A thereof a new paragraph (49), pertaining to mobile food trucks:

(49) Mobile food trucks shall be operated in accordance with all applicable Marlborough regulations and state and federal food codes. Mobile food trucks shall not park within 20 feet of a fire hydrant or within five feet of a fire alarm box or other comparable emergency communication device, or within five feet of a marked crosswalk, public or private driveway, or handicapped accessible curb cut.

- (a) Mayor is authorized to issue 1 to 3 day permits in the zones requiring a special permit.
 - (b) City Council issues special permits for longer duration permits addressing duration of permit, periodic review to ensure quality mobile food truck and compliance with city and state regulations.

- III. Section 650-48, entitled “Off-street parking” is hereby amended by inserting in subsection A thereof a new paragraph (17), pertaining to mobile food trucks:

(17) Mobile food trucks: two spaces per mobile food truck. Each mobile food truck is required to provide two parking spaces for customer use and provide documentation to the Building Commissioner identifying the two spaces.

- II. Section 17 of Chapter 650, entitled "Table of Uses," is hereby amended by inserting the following:

	RR	A1	A2	A3	RB	RC	RCR	NB	B	CA	LI	I	MVD
Mobile food trucks (49)	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, APRIL 8, 2019**; adopted.

ORDERED: That the Mid-Year Transfer requests in the amount of \$1,341,950.00 as detailed in the spreadsheets, refer to **FINANCE COMMITTEE**; adopted.

		CITY OF MARLBOROUGH										
		BUDGET TRANSFERS --										
	DEPT:	Mayor							FISCAL YEAR:	2019		
		FROM ACCOUNT:							TO ACCOUNT:			
Available												Available
Balance	Amount	Org Code	Object	Account Description:			Amount	Org Code	Object	Account Description:		Balance
\$25,997.13	\$7,900.00	11610002	50770	Senior Clerk			\$2,900.00	11210001	50321	Exec Aide to the Mayor		\$27,491.79
	Reason:	Surplus						Reason:	New Hire			
	\$0.00						\$5,000.00	11210003	51920	Sick Leave Buy Back		\$0.00
	Reason:							Reason:	Employee exit buy back			
	\$7,900.00	Total					\$7,900.00	Total				

		CITY OF MARLBOROUGH										
		BUDGET TRANSFERS --										
	DEPT:	IT						FISCAL YEAR:	2019			
		FROM ACCOUNT:					TO ACCOUNT:					
Available											Available	
Balance	Amount	Org Code	Object	Account Description:			Amount	Org Code	Object	Account Description:	Balance	
\$75,000.00	\$13,100.00	12200001	50805	Fire Inspector			\$13,100.00	11550001	50213	Network Engineer	\$34,050.56	
	Reason:	Surplus					Reason:	New Hire				
	\$13,100.00	Total					\$13,100.00	Total				

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:	HR					FISCAL YEAR:	2019		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$75,000.00	\$17,000.00	12200001	50805	Fire Inspector	\$12,000.00	11520006	57380	Conference & Training	\$8,153.50
	Reason:	Surplus			Reason:	OSHA Training Course for DPW			
	\$0.00				\$5,000.00	11520004	53140	Contract Services	\$20,053.31
	Reason:				Reason:	Police Assessment Center			
	\$17,000.00	Total			\$17,000.00	Total			

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:	POLICE					FY: 2019			
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$816,832.65	\$93,400.00	11990006	57820	Reserve for Salaries	\$93,400.00	12100003	51920	Sick Leave Buyback	\$9,910.41
	Reason:	Budgeted retirement of two officers				Contractual sick leave retirement payment			
\$274,701.57	\$5,000.00	12100003	51440	Educational Incentive	\$5,000.00	12100005	54220	Office Supply/Expenses	\$9,911.00
	Reason:	Surplus in account				Deficit due to increase training classes			
\$274,701.57	\$5,000.00	12100003	51440	Educational Incentive	\$5,000.00	12100006	52560	Vehicle Repair & Maintenance	\$21,687.06
	Reason:	Surplus in account				Maintenance to existing fleet of cruisers			
	\$103,400.00	Total			\$103,400.00	Total			

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Building					FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$10,000.00	\$8,000.00	12410004	53140	Contract Services	\$8,000.00	12410001	50960	Asst. Plumbing Inspector		\$0.00
	Reason:	Surplus from unused			Reason:	Funds needed to cover potential shortfall.				
	\$8,000.00	Total			\$8,000.00	Total				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Comptroller					FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$3,822,047.29	\$600,000.00	11980006	51750	Health Ins	\$500,000.00	13100003	51751	Health Ins		\$3,717,160.23
	Reason:	Surplus			Reason:	Cover potential shortfall				
\$0.00	\$0.00				\$100,000.00	13100003	51753	Medicare Ins		\$352,925.45
	Reason:				Reason:	Cover potential shortfall				
	\$600,000.00	Total			\$600,000.00	Total				

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Comptroller					FISCAL YEAR:	2019	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$1,250,000.00	\$185,000.00	17110006	59968	2018 Muti Purpose	\$185,000.00	60071106	59966	2016 Multi Purpose	\$205,000.00
	Reason:	Reclassify for Borrowing June 2018			Reason:	Reclassify for account error correction			
\$400,000.00	\$100,000.00	17110006	59967	2017 Muti Purpose	\$100,000.00	61071106	59965	MWRA WRA 13-13-258	\$100,000.00
	Reason:	Reclassify for Borrowing June 2018			Reason:	Reclassify for account error correction			
	\$0.00				\$0.00				\$0.00
	\$285,000.00	Total			\$285,000.00	Total			

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Comptroller					FISCAL YEAR:	2019	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$395,000.00	\$180,000.00	17520006	59254	Interest on BAN	\$305,000.00	13860006	59254	Interest on BAN	\$82,500.00
	Reason:	Reclassify for Borrowing June 2018			Reason:	Cover new school BAN interest			
\$80,000.00	\$25,000.00	60075206	59050	Interest Expense	\$0.00				\$0.00
	Reason:	Reclassify for Borrowing June 2018			Reason:				
\$150,000.00	\$100,000.00	61075206	59080	Interest Expense	\$0.00				\$0.00
	Reason:	Reclassify for Borrowing June 2018			Reason:				
	\$0.00				\$0.00				\$0.00
	\$305,000.00	Total			\$305,000.00	Total			

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Auditor					FISCAL YEAR:	2019	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$10,100.00	\$2,550.00	15410004	53140	Contract Services	\$2,550.00	11350002	50520	Principal Clerk	\$17,281.26
	Reason:	Surplus - COA			Reason:	New hire contractual obligation			
	\$0.00				\$0.00				\$0.00
	\$2,550.00	Total			\$2,550.00	Total			

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$5,350.00 from the National Association of City and County Health Officials (NACCHO) awarded to the Board of Health for improvements to our food protection program and to send an employee to the National Environmental Health Association Conference; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance to the Council on Aging in the amount of \$985.00 in memory of Francis Kane, Bruce Campbell and Terry Lupien, to be used for various programs; adopted.

ORDERED: That the Amendment to Senior Citizen Property Tax Work Off Program, to increase number of allowed participants, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from the Mayor, re: Proposed increase in spending limit for the Council on Aging Revolving Fund, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Appointment of Josh Daigle to the Community Development Authority for a three-year term to expire from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Andrea Bell Bergeron to the Historical Commission for a three-year term to expire from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Reappointment of Public Works Commissioner John Ghiloni for a five-year term to expire from date of confirmation, **APPROVED**; adopted.

Yea: 11 – Nay: 0

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

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed TIF Agreement, Candela Corporation and BAC Locke LLC, in proper legal form, Order No. 18/19-1007497A, **MOVED TO ITEM 26**; adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH HEREBY ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING MAP, SECTION 650-8, AS FOLLOWS:

That, upon the petition of Marlborough HUB, LLC, the Zoning Map established under Chapter 650, the City of Marlborough's Zoning Ordinance, in Article III, entitled "Establishment of Districts" is hereby amended in subsection 8 thereof, entitled "Boundaries Established; Zoning Map," by rezoning, what is presently zoned partly Residence C (RC) and partly Industrial (I), be rezoned entirely as Residence C (RC) as said Industrial (I) portion of Assessor' Map 82, parcel 125 is contiguous to the proponent's residentially zoned portion of Assessors' Parcel 125, and neither contiguous to any other industrially zoned land, and not practical or feasible for lawful industrial use.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, MARCH 11, 2019**; adopted.

ORDERED: That the Communication from Central MA Mosquito Control, re: Notice of Preliminary Proposed Budget for FY20, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, November 28, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, January 10, 2019, **FILE**; adopted.

ORDERED: That the Minutes, License Board, December 19, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, January 7, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Retirement Board, December 21, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, December 19, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Richer School Council, January 14, 2019 & February 4, 2019, **FILE**; adopted.

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

- a) Linda Campbell, 647 Pleasant Street, residential mailbox claim (2a).
- b) Linda Colleton, 15 Sidney Street, residential mailbox claim (2a).
- c) Ethel Cutting, 240 Main Street, other property damage and/or personal injury.
- d) Janice Johnson & Walter McGrail, 780 Stevens Street, residential mailbox claim (2a).
- e) William & LeAnn Neal Reilly, 28 Littlefield Lane, residential mailbox claim (2b)
- f) Deborah & Eric Richard, 4 Bellevue Avenue, other property damage and/or personal injury.

Reports of Committees:

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

Meeting Name: City Council Public Services Committee

Date: February 4, 2019

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

Convened: 7:30 PM – Adjourned: 7:37 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette and Irish; and Councilors Clancy, Dumais, Oram, Ossing, and Robey; Tom DiPersio (City Engineer, City of Marlborough); Donald Rider (City Solicitor, City of Marlborough)

Order No. 18/19-1007499A: Communication from the City Solicitor, Donald Rider, regarding Walker Brook Estates Subdivision – Acceptance of Allis Road & Bemis Road as Public Ways.

The Public Services Committee met with City Solicitor Donald Rider and City Engineer Tom DiPersio regarding the Walker Brook Estates Subdivision and the acceptance of Allis Road and Bemis Road as public ways. Chairman Landers read the letter dated December 13, 2018 from the City Solicitor as well as the letter dated January 10, 2019 from the Planning Board that recommended Allis Road and Bemis Road be accepted as public ways and their appurtenant easements be accepted as municipal easements in the City of Marlborough. The City Engineer worked closely with the Planning Board on their acceptance procedures and was satisfied the subdivision completed its one-year maintenance procedures.

Motion made by Councilor Doucette, seconded by the Chair, to approve the acceptance of Allis Road and Bemis Road as public ways. The motion carried 3-0.

Motion made and seconded to adjourn. The motion carried 3-0. Meeting adjourned at 7:37 PM.

Councilor Ossing reported the following out of the Finance Committee:

Marlboro City Council Finance Committee

Monday February 4, 2019

In Council Chambers

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

Finance Committee Members Absent: None

Other Councilors in Attendance: Councilors Landers and Doucette.

The meeting convened at 7:20 PM.

- 1. Order No. 19-1007524 – Transfer \$62,800.00 from Reserve for Salaries to Police Department Sick Leave Buy Back:** The Finance Committee reviewed the Mayor's letter dated January 22, 2019 requesting the transfer of \$62,800.00 from Reserve for Salaries to the Police Department Sick Leave Buy back account to cover the retirement of a Command Officer. The Finance Committee voted 5 – 0 to approve the transfer

Reports of Committee Continued:

2. **Order No. 19-1007525 – Transfer \$11,000.00 from Police Department Educational Incentive account to the Initial Equipment account:** The FINANCE COMMITTEE reviewed the Mayor's letter dated January 22, 2019 requesting the transfer of \$11,000.00 from Police Department Educational Incentive account to the Police Initial Equipment account to cover initial equipment for new Police Officers. The FINANCE COMMITTEE voted 5 – 0 to approve the transfer.

The Finance Committee adjourned at 7:27 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: February 4, 2019

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

Convened: 5:30 PM – Adjourned: 7:08 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; and Councilors Clancy, Oram, Ossing, and Robey; Priscilla Ryder (Conservation Officer, City of Marlborough); Donald Rider (City Solicitor, City of Marlborough); Jeffrey Cooke (Building Commissioner, City of Marlborough)

Absent: Urban Affairs Committee Member Juairé

Also Present: **Mark O'Hagan (MCO & Associates Inc.); Larry Reeves (Reeves Design Associates)**

Order No. 18/19-1007424B: Application for Special Permit from Marlborough TOTG, LLC d/b/a MCO & Associates, Inc. to increase lot coverage area of 80% to 84% for patio area of proposed restaurant at 57 Main Street.

The Urban Affairs Committee met with Mark O'Hagan for a review of the application for a special permit for 57 Main Street to increase the lot coverage area from 80% to 84%. The special permit application was previously reviewed at a meeting on January 22, 2019 where it was explained the applicant was providing an easement to the City of Marlborough for the reconstruction of Exchange Street and thereby reducing the area available to meet the lot coverage requirements. The Urban Affairs Committee approved the special permit application however the Site Plans did not accurately reflect the site conditions with regards to a bicycle rack location as well as bedroom counts and units. The applicant updated the Site Plans and Architectural Plans and submitted them for review. The special permit language requires updating for conditions eleven and twelve to properly reference the correct plans.

Motion made by Councilor Tunnera, seconded by Chair, to approve the special permit application granting an increase in lot coverage from 80% to 84% as amended. The motion carried 4-0.

Reports of Committee Continued:

Order No. 18/19-1007425: Site Plan Application for Tavern on the Green, 57 Main Street.

The Urban Affairs Committee met with Mark O'Hagan for City Council review of the Site Plan Application for Tavern on the Green at 57 Main Street. As part of the Site Plan Application, the proponent requested a waiver of the open space requirement for the site as the ordinance requires 5,500 square feet for a project of this size (100 square feet per unit x fifty-five units), half of which must be ground level open space and the other half may be private patio open space. This site has private patio space and within the building on the second floor, community-residence common space area totaling 8,200 square feet but not meeting the requirement of 2,750 square feet of outdoor patio space. The Committee reviewed the Site Plan Approval draft decision, and changes are required to accurately reference the architectural plans and site plans and properly reference each in the draft decision.

In response to Councilor Robey's inquiries, the applicant is required to assign each residential unit with one (1) parking space. The parking plan includes adequate parking spaces to meet the residential parking requirement with additional spaces remaining and available for the proposed commercial use.

Motion made by Councilor Doucette, seconded by Chair, to approve the open space waiver request for 57 Main Street. The motion carried 4-0.

Motion made by Councilor Tunnera, seconded by Chair, to approve the Site Plan Decision as amended. The motion carried 4-0.

Motion made and seconded to Suspend the Rules on February 11, 2019 to refer to the Legal Department the Special Permit Decision and the Site Plan Decision as amended to place in proper legal form for the February 25, 2019 City Council meeting. The motion carried 4-0.

Motion made and seconded to adjourn. The motion carried 4-0. The meeting of the Urban Affairs Committee adjourned at 7:08 PM.

Meeting Name: City Council Urban Affairs Committee

Date: February 4, 2019

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

Convened: 5:30 PM – Adjourned: 7:08 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; and Councilors Clancy, Dumais, Ossing, and Robey; Tom DiPersio (City Engineer, City of Marlborough); Priscilla Ryder (Conservation Officer, City of Marlborough); Donald Rider (City Solicitor, City of Marlborough)

Absent: Urban Affairs Committee Member Juairé

Also Present: **Robert Buckley (Riemer & Braunstein LLP); Joseph Zink (President and CEO, Atlantic Management);** Scott Dale (Vice President of Development, AvalonBay Communities, Inc.); Julia Wynyard (Director Development, AvalonBay Communities); Paul Momnie (Attorney, Goulston & Storrs)

Reports of Committee Continued:

Order No. 18/19-1007313: Communication from the Attorney Buckley regarding the Results Way Mixed Use Overlay District and changes to the Master Concept Plan and Development Agreement.

The Urban Affairs Committee met with representatives of Atlantic Management and AvalonBay Communities for review of the Master Concept Plan and Development Agreement for the Results Way Mixed Use Overlay District. A revised Master Concept Plan was submitted by Attorney Buckley in compliance with the Results Way Mixed Use Overlay (RWMUOD) District as requested by Councilor Robey and will accurately reflect the acreage and parking ratios.

The Development Agreement had several modifications:

- Include a payment of \$3,000.00 per residential unit providing flexibility to the City Council and its use of those funds to provide mitigation in terms of structures and services at the discretion of the City Council.
- Reflect the total construction of 473-units at the site.
- The original Development Agreement cites a plan drawn by SMMA, labeled Forest Ave. Master Plan dated April 16, 2013, which shall be updated to appropriately reference the most recently revised Master Concept Plan, submitted February 1, 2019.

Chairmen Delano read through item number two of the First Amendment to the Development Agreement which contained the substantive changes:

“For each unit of residential housing in excess of the 350 units already built, the owner of any Development Parcel containing residential use shall make a one-time payment to the City equal to Three Thousand Dollars (\$3,000.00) per residential dwelling unit (hereinafter, such amounts being referred to as the “Residential Development Contribution”) to be used by the City, acting by and through the City Council, to contribute to the cost of mitigation structures and/or services. The Residential Development Contribution shall be made in two (2) installments for each residential unit. The first payment installment shall be in the amount of One Thousand Dollars (\$1,000.00) and shall be due and payable upon the issuance of the building permit for the construction of the applicable residential dwelling unit and the second payment installment shall be in the amount of Two Thousand Dollars (\$2,000.00) and shall be due and payable upon the issuance of a Certificate of Occupancy for the applicable residential dwelling unit. The payment of the Residential Development Contribution by the owner of any Development Parcel containing residential use is made in recognition of the benefits to the Property of such undertakings by the City. The payment of the Residential Development Contribution made pursuant to this Paragraph 4 shall be the exclusive payment required for the subject matter of this paragraph (including without limitation, towards the production of affordable housing) notwithstanding anything in the City of Marlborough Zoning ordinance to the contrary, as the same may be amended. Notwithstanding anything in the City of Marlborough Zoning ordinance to the contrary, as the same may be amended, upon completion of the proposed multi-family housing of up to a maximum of 473 dwelling units within the entire RWMUOD, no more multi-family housing (of any type) shall be permitted within the RWMUOD.”

Reports of Committee Continued:

Motion made by Councilor Tunnera, seconded by Chair, to approve the First Amendment to the Development Agreement as amended pending review by the Legal Department. The motion carried 4-0.

Motion made by Councilor Tunnera, seconded by Chair, to approve the Master Concept Plan as updated. The motion carried 4-0.

Order No. 18/19-1007315: Communication from AvalonBay Communities, Inc., regarding Site Plan for Avalon Marlborough II, a 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed-Use Overlay District.

The Urban Affairs Committee met with representatives of Atlantic Management and AvalonBay Communities for review of the Site Plan Review Committee Report dated January 30, 2019. The following changes were discussed and recommended for inclusion in the Site Plan Decision:

- Detention Basin requires an adequate fence agreeable to the City Engineer.
- Removal of item # 36.
- Item #22 shall be revised to be the same as the Development Agreement.
- Add a General Provision for “Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plans. The City Council delegates to the Building Commissioner the authority to approve changes to the approved Site Plans consistent with future amendments to the Zoning Ordinance enacted by the City Council.”

Motion made by Councilor Doucette, seconded by Chair, to approve the Site Plan Decision as amended and to suspend the rules on February 11, 2019 to forward to the Conservation Officer and to the City Solicitor to place in proper form for placement on the February 25, 2019 City Council Agenda. The motion carried 4-0.

Order No. 18/19-1007314D: Communication from AvalonBay Communities, Inc., regarding Special Permit Application for Avalon Marlborough II, a 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed-Use Overlay District.

The Urban Affairs Committee met with representatives of Atlantic Management and AvalonBay Communities for review of the Special Permit Application for Avalon Marlborough II for 123-residential units. City Solicitor Rider noted paragraph 6 of the “Findings of Fact and Conditions” will be updated to reflect the residential development contribution as written in the “First Amendment to the Development Agreement.” They discussed a truck exclusion on the property but determined since they are private roads, it was at the Developer’s discretion whether to include one on their property. Scott Dale, on behalf of AvalonBay, stated that the site plan had been amended to remove the gate and allow for free flow access around the entire overlay as initially envisioned. The site had several lots which were consolidated into one lot and it will be properly referenced in the Special Permit as well as the plan described in paragraph 6 of the “Findings of Fact and Conditions.”

Reports of Committee Continued:

Motion made by Councilor Tunnera, seconded by Chair, to approve the Special Permit as amended for AvalonBay Communities, Inc. The motion carried 4-0.

Motion made and seconded to Suspend the Rules on February 11, 2019 to refer to the Legal Department the First Amendment to the Development Agreement dated February 4, 2019 as amended, the Master Concept Plan as amended, the Special Permit Decision as amended, and the Site Plan Decision as amended, together with renderings, studies, exhibits and other evidence submitted to the Urban Affairs Committee and to place in proper form on the February 25, 2019 City Council Agenda. The motion carried 4-0.

Motion was made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 7:08 PM.

Suspension of the Rules requested – granted

ORDERED: That the Special Permit for Marlborough TOTG, LLC to increase lot coverage area from 80% to 84% for patio area of proposed restaurant at 57 Main Street, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE FEBRUARY 25, 2019 COUNCIL MEETING**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Site Plan Application of Marlborough TOTG, LLC, for a mixed-use development proposed at 57 Main Street, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE FEBRUARY 25, 2019 COUNCIL MEETING**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the First Amendment to the Development Agreement and the Master Concept Plan as amended as proposed by Atlantic-Marlboro Realty LLC for certain parcels within the Results Way Mixed Use Overlay District (RWMUOD), refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE FEBRUARY 25, 2019 COUNCIL MEETING**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Site Plan Application by Avalon Marlborough II, for a 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed Use Overlay District (RWMUOD), refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE FEBRUARY 25, 2019 COUNCIL MEETING**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Special Permit Application by Avalon Marlborough II, for a 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed Use Overlay District (RWMUOD), refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE FEBRUARY 25, 2019 COUNCIL MEETING**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed TIF Agreement, Candela Corporation and BAC Locke LLC, in proper legal form, be and is herewith accepted and placed on **FILE**; adopted.

ORDERED: That the Tax Increment Financing Agreement (TIF) with Candela Corporation and BAC Locke LLC, the owner of the property at 251 Locke Drive, with following documents attached, **APPROVED**; adopted.

1. City Council Resolution

2. The Tax Increment Financing Agreement (TIF)

ORDERED: That consideration of the Mayoral Veto of Council Order 17/18/19-1007034D, relative to Petition of AT&T to place small cell site on utility pole at 319 East Main Street, **TABLED**; adopted.

ORDERED: That consideration of the Mayoral Veto of Council Order 18/19-1007321C, relative to Petition of AT&T to place small cell site on utility pole #11-50 at Francis and East Main Streets, **TABLED**; adopted.

ORDERED: That consideration of the Mayoral Veto of Council Order 18/19-1007322C, relative to Petition of AT&T to place small cell site on utility pole #1 at 10 Neil Street, **TABLED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:25 PM; adopted.