



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

Regular meeting of the City Council held on Monday, March 11, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Absent: Juairé. Meeting adjourned at 9:50 PM.

ORDERED: That the Minutes of the City Council meeting, FEBRUARY 25, 2019, **FILE**; adopted.

ORDERED: That the Minutes of the Joint Convention meeting, FEBRUARY 25, 2019, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Map Amendment from Attorney Mark Bourbeau on behalf of Marlborough Hub, LLC, re: Rezoning of land off Valley Street, Order No. 19-1007552, all were heard who wish to be heard, hearing closed at 8:11 PM; adopted.

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

Councilors Absent: Juairé.

ORDERED: That the PUBLIC HEARING On the Proposed Order relative to changes to Municipal Aggregation, Order No. 19-1007578, all were heard who wish to be heard, hearing closed at 8:40 PM; adopted.

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

Councilors Absent: Juairé.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment, to add to Chapter 650 a new section §36, which will create an Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road Area, Order No. 19-1007533, all were heard who wish to be heard, hearing closed at 9:12 PM; adopted.

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

Councilors Absent: Juairé.

ORDERED: That the Reappointment of Councilor Michael Ossing to the OPEB Board of Trustees for a two-year term, **APPROVED**; adopted.

ORDERED: That the Temporary Appointment of Steven Kerrigan as City Clerk effective upon the retirement of Lisa M. Thomas on March 15, 2019 at 5:00 PM; **APPROVED**; adopted.

ORDERED: Pursuant to M.G.L. c. 30B, § 16(e)(2), the City Council of the City of Marlborough hereby determines that advertising for the proposed purchase of a parcel of land in fee simple interest will not benefit the City's interest because of the unique qualities and location of the properties as hereinafter defined:

Land of proposed purchase of fee simple interest: The parcel identified on the Assessors Map of the City of Marlborough as Map 41 Parcel 37B, containing 10.09 acres, located on Berlin Road, Marlborough, MA, and further identified in a deed recorded in the Middlesex South District Registry of Deeds at Book 27781, Page 51. The person having a beneficial interest in this parcel is Ernest A. Houde, Jr. of 399 Berlin Road, Marlborough, MA.

The above-identified parcel satisfies the requirements of said M.G.L. c. 30B, § 16(e)(2), because:

(i) the parcel is uniquely situated because it abuts Map 41, Parcel 25, both of which are classified as Agricultural and Horticultural land pursuant to M.G.L. c. 61A; (ii) include wetlands and seasonal wetlands which feed Flagg Swamp and Flagg Brook which fall within the City's 2011-1018 Open Space and Recreation Plan to preserve and protect watershed to wetland and water resource areas; (iii) feeds into the Fort Meadow Reservoir, the City's recreational lake, which will be protected and preserved by the acquisition and (iv) supports a variety of wildlife.

It is further ordered that the Mayor is authorized to negotiate and enter into a purchase and sales agreement for the above-identified parcel subject to the following conditions: (i) that, in accordance with M.G.L. c. 43, § 30, the purchase price of any parcel shall not exceed more than 25% of the average assessed value of the parcel during the previous three years; and (ii) that the City's performance under any purchase and sales agreement will be contingent upon a favorable vote of the City Council authorizing the appropriation of sufficient funds for the purchase of the parcel, refer to **FINANCE COMMITTEE & OPEN SPACE COMMITTEE**; adopted.

ORDERED: That, pursuant to Mass. Gen. Laws c. 43, § 30 and c. 40, § 5B, the City Council, by a two-thirds vote of all its members, hereby authorizes an appropriation from Stabilization – Open Space (account # 83600-32918) in the amount of \$150,000.00 as sufficient funds to pay for the proposed purchase of the parcel located at Berlin Road; provided, however, that the thirty-day period following the City’s publication in the Central Register of the proposed purchase has expired as required by law, refer to **FINANCE COMMITTEE & OPEN SPACE 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
\$668,824.31	\$150,000.00	83600	32918	Stabilization-Open Space	\$150,000.00	19300006	58170	Open Space Acquisition	\$0.00
	Reason:					For purchase of property on Berlin Rd			
	\$150,000.00	Total			\$150,000.00	Total			

ORDERED: That the Communication from the Mayor, re: OPEB Trust Update, **FILE**; adopted.

ORDERED: That the Reappointment of Alfred Weaver to the OPEB Board of Trustees for a 3-year term to expire on March 11, 2022, **FILE**; 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:

I. Section 650-8, entitled “Boundaries established; Zoning Map,” is hereby amended:

a. by re-zoning the following property, presently zoned within the Limited Industrial District, as being zoned within the Residence A-1 District:

Map 113, Parcel 5.

b. by re-zoning the following property, presently zoned within the Limited Industrial District and the Retirement Community Overlay District, as being zoned within the Residence A-1 District:

Map 113, Parcel 6.

II. The effective date of this zoning map amendment shall be the date passed by the City Council and signed by the Mayor.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, APRIL 29, 2019**; adopted.

ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation of the Proposed Zoning Amendment to Chapter 650, §5 & §22 relative to Retirement Community Detached and Townhomes, and Retirement Community Multifamily, Order No. 18/19-1007452B, X18-1007198G, **FILE**; adopted.

ORDERED: That the Communication from the Planning Board, re: Recommendations and comments relative to the Proposed Zoning Amendment, Chapter 650, §15, §17 & §18 relative to Home Offices & Contractor Yards, Order No. 18/19-1007500A, **FILE**; adopted.

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

Suspension of the Rules requested – granted

ORDERED: That consideration of the Mayor's 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, **REMOVED FROM THE TABLE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That consideration of the Mayor's 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, **REMOVED FROM THE TABLE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That consideration of the Mayor's 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, **REMOVED FROM THE TABLE**; adopted.

ORDERED: That the Mayor's veto of Council Order 17/18/19-1007034D, as set forth in the Mayor's letter dated January 14, 2019, relative to Petition of AT&T to place small cell facility on a utility pole at 319 East Main Street, be and is herewith **OVERRIDEN** by two thirds vote of the members of the City Council, pursuant to Section 55 of Division 1 of the City Charter; adopted.

Yea: 9 – Nay: 1 – Absent: 1

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

Nay: Oram.

Absent: Juair.

ORDERED: That the Mayor's veto of Council Order 18/19-1007321C, as set forth in the Mayor's letter dated January 14, 2019, relative to Petition of AT&T to place small cell facility on utility pole #11-50 at Francis and East Main Streets, be and is herewith **OVERRIDEN** by two thirds vote of the members of the City Council, pursuant to Section 55 of Division 1 of the City Charter; adopted.

Yea: 9 – Nay: 1 – Absent: 1

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

Nay: Oram.

Absent: Juair.

ORDERED: That the Mayor's veto of Council Order 18/19-1007322C, as set forth in the Mayor's letter dated January 14, 2019, relative to Petition of AT&T to place small cell facility on utility pole #1 at 10 Francis Street, be and is herewith **OVERRIDEN** by two thirds vote of the members of the City Council, pursuant to Section 55 of Division 1 of the City Charter; adopted.

Yea: 9 – Nay: 1 – Absent: 1

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

Nay: Oram.

Absent: Juaire.

ORDERED: That the Communication from Attorney Michael Dolan, re: New Cingular Wireless PCS, LLC ("AT&T") Small Cell Facility Petitions – Veto of City Council Orders, Order No. 17/18/19-1007034E, 18/19-1007321D & 18/19-1007322D, **FILE**; adopted.

ORDERED: That the Minutes, School Committee, January 22, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, February 14, 2019, **FILE**; adopted.

ORDERED: That the Minutes, High School Council, March 5, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Library Trustees, June 5, 2018, September 4, 2018, November 6, 2018, December 4, 2018 & January 8, 2019, **FILE**; adopted.

ORDERED: That the Minutes, License Board, January 30, 2019, **FILE**; adopted.

ORDERED: That the Minutes, OPEB Trust, February 21, 2018 & March 5, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, February 11, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Retirement Board, January 29, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, January 30, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, February 19, 2019, **FILE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the updated Minutes, Library Trustees, October 2, 2018, **FILE**; adopted.

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

- a) Kohar Berberian, 315 Sudbury Street, residential mailbox claim (2b).
- b) Paul Fiore, 111 Denoncourt Street, pothole or other road defect.
- c) Jason Irish, 46 Pleasant Street, pothole or other road defect.
- d) Steven Kludt, 6 Abigail Drive, Hudson, other property damage and/or personal injury.
- e) Paige Moreland-Bousquet, 10 Kelly Circle, Douglas, pothole or other road defect

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee
Monday March 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 Clancy, Landers and Doucette.

The meeting convened at 7:26 PM.

1. **Order No. 19-1007544 – Mid-Year Transfers for \$1,341,950.00:** The Finance Committee reviewed the Mayor's letter dated February 7, 2019 requesting mid-year transfers totaling \$1,341,950.00 in the Mayor's, Information Technology, Personnel, Police Department, Inspectional Services, Comptroller and Auditors department. The Finance Committee voted 5 – 0 to approve all the transfers.
2. **Order No. 19-1007548 – Increase Council On Aging Revolving Fund Spending Limit for the Remainder of FY19:** The Finance Committee reviewed the Mayor's letter dated February 7, 2019 requesting the spending limit for the Council On Aging Revolving Fund be increased from \$40,000.00 to \$60,000.00 for the remainder of FY19. The increase is required to support the programs being offered by the Senior Center. The Finance Committee voted 5 – 0 to approve increase in the spending limit to \$60,000 for the remainder of FY19.
 - The Finance Committee agreed to support suspending the rules at the March 11, 2019 City Council meeting to approve the increase in the spending limit for the Council On Aging Revolving Fund from \$40,000.00 to \$60,000.00 for the remainder of FY19.
3. **Order No. 19-1007565 – Transfer \$510,832.30 from PEG (Public, Educational and Government) Fees to Marlboro Cable Trust Fund:** The Finance Committee reviewed the Mayor's letter dated February 21, 2019 requesting a transfer of \$510,832.30 from the PEG Fund Account to the Marlboro Cable Trust Fund Account to fund the FY20 budget for WMCT in Marlboro. The Finance Committee voted 5 – 0 to approve the transfer.
 - Note that Councilor Ossing discussed the disclosure that was filed with the City Clerk's office per MGL c. 268A section 23(b)(3) on February 25, 2019.
 - The Finance Committee agreed to support suspending the rules at the March 11, 2019 City Council meeting to approve the transfer.

Reports of Committee Continued:

- 4. Order No. 19-1007566 – Transfer \$182,500.00 from Undesignated Funds to IT Equipment Account:** The Finance Committee reviewed the Mayor's letter dated February 21, 2019 requesting the transfer of \$182,500.00 from the Undesignated Fund account to the IT Equipment account to purchase and install security camera systems at Jaworek and Richer Schools. The Finance Committee voted 5 – 0 to approve the transfer.

The Finance Committee adjourned at 8:08 PM.

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

City Council Legislative and Legal Affairs Committee
Monday, March 4, 2019, 6:30 PM– In Council Chambers
Minutes and Report

Present: Chairman Katie Robey, Councilor Landers, Councilor Delano, & Councilors Clancy, Dumais, and Ossing.
Also attending were Mayor Vigeant and Council on Aging Director Trish Pope.

Order No. 19-1007547: Communication from the Mayor, regarding amendment to Senior Citizen Property Tax Work Off Program, to the increase number of allowed participants.

The Mayor's letter of February 7, 2019 was read into the record. In it he stated that the program has been successful, so he is asking the Council to amend the original Order No.12-1004062A to increase the number of positions available. Other changes were replacing the income requirement and deleting some language.

It was moved and seconded to amend the Mayor's Order to add in #2 the words "by the Council on Aging" after the word "lottery" and in #3 to remove deletion of "I" in its entirety. The motion carried 3-0.

A Suspension of Rules will be requested to refer this to the City Solicitor to be placed in proper legal form.

It was moved and seconded to adjourn; motion carried 3-0. The meeting adjourned at 7:25 PM.

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

Meeting Name: City Council Public Services Committee
Date: March 4, 2019
Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 8:10 PM – Adjourned: 8:19 PM

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

Reports of Committee Continued:

Order No. 19-1007530: Communication from City Solicitor, Donald Rider, re: Cider Mill Estates Subdivision - Acceptance of Goodwin Street and McDermot Way as Public Ways.

The Public Services Committee met with City Solicitor Donald Rider and City Engineer Tom DiPersio regarding the Cider Mill Estates Subdivision and the acceptance of Goodwin Street and McDermot Way as public ways. Chairman Landers referenced the letter dated January 24, 2019 from the City Solicitor requesting the City Council accept Goodwin Street and McDermot Way as public ways including their appurtenant easements (drainage and flowage) as municipal easements. The acceptance plan and signed deed were included as attachments to that letter. The Planning Board at its regular meeting on February 11, 2019 voted to recommend Goodwin Street and McDermot Way be accepted as public ways, and that their appurtenant easements be accepted as municipal easements in the City of Marlborough. The committee discussed with the City Engineer that there were still several undeveloped lots and if the streets and/or sidewalks were damaged during the construction of those lots, then it was the responsibility of the developer to repair them at the direction of the Department of Public Works.

Motion made by Councilor Doucette, seconded by the Chair, to approve the acceptance of Goodwin Street and McDermot Way as public ways. The motion carried 3-0.

Motion made and seconded to adjourn. The motion carried 3-0. Meeting adjourned at 8:19 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: February 26, 2019

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

Convened: 5:30 PM – Adjourned: 6:59 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juare, Landers, Tunnera and Doucette; Councilors Clancy, Dumais, Ossing, and Robey; Donald Rider (City Solicitor, City of Marlborough);

Order No.16/17/18/19-1006443AAA-1: Communication from Code Officer regarding Application for Temporary, freestanding sign for VENTURE X at 11 Apex Drive; Approval from Walker Realty LLC attached to the Application.

The Urban Affairs Committee met with Ryan Gagne, CEO of RDG Enterprises, Inc. and owner of Venture X. Mr. Gagne explained the business model to the committee as a shared, coworking space. There is the opportunity for flex space or private loft offices and the amenities fit each based on the scale of the space. Each space can be leased as either one-day per month or 24/7/365 access and provides businesses flexibility in the modern age. They have placed a marquee sign on the corner of the building, but their request for the temporary, freestanding sign is for about eight months. Their expectation is for them to be at a level of capacity for the business to survive and not require the necessity of the sign after that point.

Reports of Committee Continued:

Motion made by Councilor Juaire, seconded by the Chair, to approve the sign request from Venture X for a temporary sign for a period of eight months after the building permit is issued. The motion carried 5-0.

Order No.18/19-1007460: Communication from Solicitor Rider together with Proposed Zoning Petition from Councilor Delano, Chairman of the Urban Affairs Committee, to vest the ZBA with jurisdiction over applications for special permits that seek to increase or intensify the existing nonconforming nature of single or two-family residential structures, as it currently rests with the City Council.

The Urban Affairs Committee met to discuss the proposed zoning petition that would allow the Zoning Board of Appeals (ZBA) the jurisdiction to review the applications for special permits from the owners of single-family and two-family residential structures who look to increase or intensify the existing nonconforming nature of their residence by either expanding the residence or constructing a garage or deck as examples. These types of cases were not previously before the City Council, but recent court rulings have dictated these requests must go before the City Council as the Special Permit granting authority. By approving this proposed zoning petition, the City Council may delegate their authority to the ZBA. The Planning Board at its regularly scheduled meeting on January 7, 2019 voted to make a favorable recommendation to the City Council on the proposed zoning amendment.

Motion made by Councilor Doucette, seconded by the Chair, to approve the proposed zoning petition. The motion carried 4-1 (Landers opposed).

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 6:59 PM.

Suspension of the Rules requested – granted

ORDERED: That no more than sixty thousand dollars (\$60,000.00) shall be expended from the Council on Aging Revolving Fund during fiscal year 2019, unless otherwise authorized by City Council and Mayor, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Transfer request in the amount of \$510,832.30 which moves funds from PEG Fees to Marlborough Cable Trust to fund the operation of WMCT for FY20, **APPROVED**; 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	
\$545,477.04	\$510,832.30	27000	33010	Receipts Reserved-PEG Funds		\$510,832.30	89000	25581	Marlboro Cable Trust		\$0.00	
	Reason:	To fund WMCT operations with PEG fees										
	\$510,832.30	Total				\$510,832.30	Total					

ORDERED: That the Amendment to Senior Citizen Property Tax Work Off Program, to increase number of allowed participants, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM**; adopted.

City Council President Clancy recognized retiring City Clerk Lisa M. Thomas for her dedicated service to the City of Marlborough. She was then presented with a proclamation from the City Council in addition to a gift from the members of the City Council and City Clerk's staff.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:50 PM; adopted.