



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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MARCH 25, 2019

Regular meeting of the City Council held on Monday, March 25, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Dumais, Irish and Landers. Absent: Tunnera. Meeting adjourned at 9:05 PM.

ORDERED: That the Minutes of the City Council meeting, MARCH 11, 2019, **FILE**; adopted.

ORDERED: That the Minutes of the Special City Council Meeting, MARCH 18, 2019, **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. 18/19-1007484A, all were heard who wish to be heard, hearing closed at 8:25 PM; adopted.

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

Councilors Absent: Tunnera.

ORDERED: That the PUBLIC HEARING On Petition from Massachusetts Electric, to install 461 feet of underground primary from P13 on Framingham Road up to Pad 1-99 on Beverly Drive and to install 262 feet of underground secondary from Pad 1-99 to HH 0-2, all work to remain in the public way, Order No. 19-1007568, all were heard who wish to be heard, hearing closed at 8:36 PM; adopted.

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

Councilors Absent: Tunnera.

ORDERED: 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 473, ENTITLED "POLES, WIRES AND CONDUITS," AS FOLLOWS:

- I. By adding to Chapter 473 a new Article III, entitled "Small Cell Wireless Facilities within Public Rights of Way," as follows:

Sec. 473-27. Purpose.

- A. The purpose and intent of this Article III is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of small cell wireless telecommunications facilities in the City of Marlborough. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with small cell wireless facilities. This Article III provides standards necessary to:
- (1) preserve and promote harmonious land uses and the public rights of way in the City;
 - (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City;
 - (3) provide for the orderly, managed, and efficient development of small cell wireless telecommunications facilities in accordance with federal and state laws, rules, and regulations; and
 - (4) encourage new and more efficient technology in the provision of small cell wireless telecommunications facilities.
- B. This chapter is not intended, nor shall it be interpreted or applied, to:
- (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
 - (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;
 - (3) unreasonably discriminate among providers of functionally equivalent services;
 - (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; or
 - (5) otherwise authorize the City to preempt any applicable federal or state law.

Sec. 473-28. Application Process.

Applications for permits to install small cell wireless facilities shall be processed as follows.

- A. Fees. Applications shall be submitted to the City Council by filing with the City Clerk's Office in accordance with subsection D below, accompanied by the application filing fee of \$500.00 per application, payable to the City of Marlborough. The \$500.00 fee will cover up to five (5) locations. Each application for more than 5 installations is subject to a separate fee of \$100.00 per installation.
- B. Public Hearing Notices. The applicant must also pay for legal notices of the public hearing to be mailed to abutters directly abutting, and across the street from, the property where the pole for the proposed small cell wireless facility currently is, or is proposed to be, located. The applicant is responsible for obtaining the abutters list for each pole location contained within the application.

- C. Pre-Submittal Verification by DPW Engineering. No application will be filed as provided in subsection D below unless and until the Engineering Division of the City's Department of Public Works ("DPW Engineering") shall have first verified that the applicant has assembled, to DPW Engineering's satisfaction, all of the application contents listed in subsection E below.
- D. Payment of Application Filing Fees and Number of Application Copies. The applicant shall pay all application filing fees to the City Clerk's Office and shall file the following number of sets of application materials at the offices set forth below:

Number of Sets	Office
3	City Clerk's Office
1	City Engineer
1	Building Commissioner
12	City Council Office

- E. Contents of Application. Applications shall include the following information:
- (1) Applicant's name, address, telephone number and email address.
 - (2) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with respect to the application.
 - (3) Detailed drawings and descriptions of the equipment to be mounted on the pole(s) in question, including:
 - a. Type of equipment;
 - b. Specifications of equipment (including but not limited to dimensions and weight);
 - c. Equipment mount type and material;
 - d. Power source or sources for equipment, including necessary wires, cables, and conduit;
 - e. Expected life of equipment;
 - f. Coverage area of equipment, including:
 - i. Amount of antennas
 - ii. Antenna model
 - iii. Antenna length
 - iv. Antenna height
 - v. Typical coverage area radius;
 - g. Hardening, including:
 - i. If there is a battery backup
 - ii. If there is a generator backup; and
 - h. Renderings/photo simulations and elevation of equipment.
 - (4) Detailed map with locations of the poles on which equipment is to be located, including specific pole identification number, if applicable, and the geographic areas the equipment will service.
 - (5) Detailed map showing existing and proposed small cell installations within 500 feet of the application site.
 - (6) Certification by a registered professional engineer that the pole will safely support the proposed equipment.

- (7) Written consent by the pole owner to the proposed installation.
 - (8) Affidavit from a radio frequency engineer outlining the network/network service requirements in Marlborough and how each installation addresses that need in Marlborough. Such affidavit should characterize, through or with coverage maps, the current level of coverage and how the desired installation(s) will change the current level of coverage, including current and proposed coverage, and the breakdown of “excellent,” “good,” and “poor” reception areas.
 - (9) Liability insurance certificate, naming the City of Marlborough as an additional insured.
 - (10) Description as to why the desired location is superior to other similar locations, from a community perspective, including but not limited to:
 - a. Visual aspects; and
 - b. Proximity to single-family residences.
 - (11) Description of efforts to locate the equipment on existing poles which currently exist or are under construction. A good faith effort to locate on such poles is required and evidence of such efforts must be included within the application.
 - (12) An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within sixty (60) days of being no longer in good repair or no longer in use.
- F. Placement of Application on Agenda. Once the application has been submitted and all filing fees have been paid, the City Clerk’s Office will place the application on the City Council agenda for the scheduling of a public hearing.
- G. Shot Clocks. The City Council shall have sixty (60) days from the application’s filing date for processing an application for collocation of a small cell wireless facility using a pre-existing pole, and ninety (90) days for processing an application for attachment of small cell wireless facility proposing a new pole. These shot clocks may be extended by mutual written agreement of the City Council and the applicant, such agreement to be timely filed with the City Clerk’s Office and a copy of that filing to be submitted for informational purposes on the agenda for the next regular Council meeting; provided, however, that by vote of the standing Council committee to which any given application has been referred by the full Council, that committee may, by simple majority vote at a duly noticed public meeting, authorize the following committee members to sign the written extension agreement on behalf of the full Council: a) the chairman of the committee; or, b) in his or her absence or incapacity, its vice-chairman; or, c) when a quorum of the committee is otherwise not present, the Council President or Vice-President sitting for that meeting as an ex officio member of that committee.

- H. Council Decision. The City Council may grant, grant with conditions, or deny the application based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, and/or failure to meet applicable aesthetic requirements as hereinbelow set forth.

Sec. 473-29. Annual Re-Certification and Affidavit.

- A. Annual Re-Certification and Affidavit. Each year on July 1, the small cell wireless equipment owner shall submit an affidavit which shall list, by location, all small cell wireless installations it owns within the City of Marlborough, and shall certify:
- (1) each such installation that remains in use;
 - (2) that such in-use installations remain covered by liability insurance naming the City as an additional insured; and
 - (3) each such installation which is no longer in use.
- B. Annual Re-Certification Fee. The equipment owner shall pay to the City of Marlborough an annual re-certification fee of \$250.00 per installation which remains in use.
- C. Facility No Longer in Use. Any small cell wireless facility which is no longer in use shall be removed by the owner, at the owner's expense, within sixty (60) days of the City Council's receipt of the annual re-certification affidavit.
- D. Non-Removal of Facility No Longer in Use. Any small cell wireless installation which is not removed by the owner, at the owner's expense, within sixty (60) days after being listed in the annual re-certification affidavit as no longer in use shall be subject to a fine of \$100/day until such installation is removed by the owner.
- E. Failure to Timely Submit Re-Certification/Remove Facility No Longer in Use. Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the 60-day period, no further applications for small cell wireless installations will be accepted by the City Clerk's Office until such time as the annual re-certification has been submitted and all fees and fines have been paid.

Sec. 473-30. Aesthetics and Additional City Requirements.

- A. Poles.
- (1) No small cell wireless equipment shall be installed on double poles.
 - (2) Within the public right of way, only pole-mounted antennas shall be permitted and all telecommunications towers within the meaning of City Code sec. 650-25.A are prohibited.
 - (3) Absent City Council permission, no new poles are permitted within the public right of way that are not replacing an existing pole. If an applicant proposes to replace a pole in order to accommodate the small cell wireless facility, the pole shall match the appearance of the original pole to the extent feasible, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven (7) feet.

- (4) If a new pole is permitted by the City Council to be placed within the public right of way, the new pole shall be designed to resemble existing poles in the right of way, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such new poles that are not replacement poles shall be located no closer than ninety (90) feet to an existing pole.
- (5) Small cell wireless installation equipment (meters, boxes, etc.) shall be mounted on the pole a minimum of eleven (11) feet above ground level.
- (6) No small cell wireless installation equipment shall be replaced or altered on a pole without a re-application, hearing and approval from the City Council, unless the equipment is no longer functioning and it is being replaced with the same or substantially similar equipment.
- (7) The maximum height of any antenna mounted to an existing pole shall not exceed 24 inches above the height of the then-existing pole; provided that in any event:
 - a. no small cell wireless facility shall be located on a pole that is less than twenty-six (26) feet in height; and
 - b. no facility shall exceed thirty-five (35) feet in height, including but not limited to the pole and any antenna that protrudes above the pole.
- (8) Pole-mounted equipment shall not exceed six (6) cubic feet in dimension.
- (9) Not more than one (1) small cell wireless facility shall be mounted per pole.

B. Location.

- (1) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right of way, or safety hazards to pedestrians and motorists.
- (2) A facility shall not be located within any portion of the public right of way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
- (3) Each pole-mounted small cell wireless telecommunications facility must be separated by at least 1,500 feet.
- (4) All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing pole so as to not exceed the diameter and height of the existing pole.

C. Americans with Disabilities Act Compliance. All facilities shall be built and maintained in compliance with the Americans with Disabilities Act (ADA)/Architectural Access Board (AAB).

- D. Residential Neighborhoods. If an applicant seeks to place a small cell wireless facility in a residentially-zoned neighborhood, the applicant:
- a. Should seek to avoid attaching to poles that are within twenty-five (25) feet of an existing driveway so that the property owner can plant trees that could shield the wireless equipment from view; and
 - b. Should seek to avoid poles where the installation and/or ongoing maintenance will require significant tree trimming due to the wireless equipment.
- E. Satisfactory Material, Construction and Work. The small cell wireless facility shall be of such material and construction, and all installation and maintenance work shall be done in such manner, as to be satisfactory to the City Council and DPW Engineering. If the DPW Engineering shall determine that such material, construction and/or work is (a) placing or tending to place at risk the public health, safety, and welfare, (b) interfering or tending to interfere with pedestrian and/or vehicular traffic, and/or (c) causing or tending to cause damage to the public right of way or any property adjacent to the location of the pole in question, the DPW Engineering shall forthwith notify the City Council, which shall review that determination for possible further action as to the applicant.
- F. Indemnification. The applicant shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of the applicant, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to the applicant for its small cell wireless facility. Such indemnification shall not be limited by the amount of the applicant's liability insurance naming the City as an additional insured.
- G. City Streets and/or Sidewalks. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of an applicant in conjunction with its small cell wireless facility is prohibited, as is all underground installation associated with the small cell wireless facility; provided, however, that the grounding rod proposed to be installed as part of the small cell wireless facility is permitted as long as:
- 1) The applicant installs the rod immediately adjacent to the pole so as to cause minimal disturbance to the surface of the street or sidewalk; and
 - 2) The applicant restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the DPW Engineering.

- H. Repair of Damage. The applicant shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right of way. The applicant shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the applicant fails to complete such repair within the number of days stated on a written notice from the City Engineering Division, the Division shall cause such repair to be completed at the applicant's sole cost and expense.
- I. Visual Impact Minimization. The small cell wireless facility shall be color-coordinated so as to best minimize the visual impact of the facility.
- J. Side of Pole on which to Mount Equipment. The small cell wireless facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of the pole facing away from the roadway.
- K. Future Road Reconstruction/Repair. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of the pole shall result in the applicant's moving its small cell wireless facility to another pole in a timely fashion after having been notified by the DPW Engineering about the road project; provided, however, that any such relocation shall require further City Council approval.
- L. Construction and/or Installation Schedule. Prior to the commencement of construction and/or installation of the small cell wireless facility, the applicant shall provide the DPW Engineering with a written construction and/or installation schedule satisfactory to DPW Engineering.
- M. Removal Bond. Prior to the commencement of construction and/or installation of its small cell wireless facility, an applicant shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the small cell wireless facility from the pole in question and for the repair and/or restoration of the public way, in the vicinity of the pole in question, to the condition the public way was in as of the date when the relevant application was submitted to the City Clerk's Office, said amount to be determined by DPW Engineering. The amount of the bond shall be the total of the estimate by DPW Engineering plus an annual increase of 3% for the operating life of the small cell wireless facility. The applicant shall notify the City CPO and DPW Engineering of any cancellation of, or change in the terms or conditions in, the bond.
- N. Each Requirement a Permit Condition. Each and every requirement set forth in sections 29 and 30 of this Chapter 473 shall be deemed to be continuing conditions on the applicant's pole location permit granted by the City Council.
- O. Failure to Comply with Conditions. An applicant's failure to comply with any of the City Council's conditions to the Council's satisfaction or, as applicable, DPW Engineering or the City CPO, shall result in the City Council's review of the applicant's pole location permit(s).

II. This amendment shall become effective immediately upon passage.

Refer to **PUBLIC SERVICES COMMITTEE AND ORDERED ADVERTISED**; adopted.

ORDERED: Communication from the Mayor, re: Presentation at the March 11, 2019 Council Meeting by Post Road Residential, **FILE**; adopted.

ORDERED: That the Transfer request in the amount of \$60,000.00 which moves funds from various accounts within the Fire Department to Vehicle Repair and Maintenance, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		FIRE				FISCAL YEAR:		2019		
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$8,960.00	\$7,000.00	12200001	51210	Civil Defense Director	\$7,000.00	12200006	52560	Vehicle Repair & Maint.	\$18,962.78	
	Reason:	Unfilled position				Unanticipated repairs on older fleet				
\$8,500.00	\$8,500.00	12200003	51412	HAZMAT PAY	\$8,500.00	12200006	52560	Vehicle Repair & Maint.	\$18,962.78	
	Reason:	Positions unfilled first half of fiscal year				Unanticipated repairs on older fleet				
\$73,461.84	\$10,000.00	12200003	51440	Educational Incentive	\$10,000.00	12200006	52560	Vehicle Repair & Maint.	\$18,962.78	
	Reason:	Positions unfilled first half of fiscal year				Unanticipated repairs on older fleet				
\$144,472.63	\$20,000.00	12200003	51490	Holiday	\$20,000.00	12200006	52560	Vehicle Repair & Maint.	\$18,962.78	
	Reason:	Retirements, positions unfilled first half of FY				Unanticipated repairs on older fleet				
\$72,535.54	\$14,500.00	12200003	51430	Longevity	\$14,500.00	12200006	52560	Vehicle Repair & Maint.	\$18,962.78	
	Reason:	Retirements				Unanticipated repairs on older fleet				
	\$60,000.00	Total			\$60,000.00	Total				

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed amendment to Senior Citizen Property Tax Work Off Program, to the increase number of allowed participants, in proper legal form, Order No. 19-1007547A, **MOVED TO ITEM 23**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed amendment to Senior Citizen Property Tax Work Off Program, to the increase number of allowed participants, in proper legal form, Order No. 19-1007547A, **FILE**; adopted.

ORDERED: That the Communication from Sudbury Companies of Minute and Militia re: Temporary sign placement at the corner of Route 20 and Hagar Road for the 2019 Colonial Faire and Muster at the Wayside Inn, **APPROVED**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY APRIL 29, 2019** as **DATE FOR PUBLIC HEARING** Petition from Comcast, to install new underground 3" PVC conduit for approximately 1055 feet and (3) 2' x 3' vaults starting at 46 Lizotte Drive to provide service to 130 Lizotte Drive, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, APRIL 29, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Thomas Coder, to demolish existing single story home and construct a new two story home at 21 Patten Drive, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

ORDERED: That the Communication from the MA State Lottery Commission re: Eligibility to sell Keno To Go, Brasil Remessa, 576 Boston Post Road East, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, February 5, 2019, **FILE**; adopted.

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

ORDERED: That the Minutes, Conservation Commission, February 7, 2019, **FILE**;

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

- a) Robert Bucher, 4 Farm Road, residential mailbox claim (2b).
- b) Anthony Long, 20 Kelleher Street, residential mailbox claim (2a).
- c) Dorothy Magliozzi, 30 Farm Road, residential mailbox claim (2a).
- d) Marlboro Softball League, 85 Sawin Street, other property damage and/or personal injury.
- e) Gabrielle Miller, 38 Gikas Lane, pothole or other road defect.
- f) Lauren Racine, 55 Littleton Road, Ayer, pothole or other road defect.
- g) Brian Rotondo, 100 Stearns Road, residential mailbox claim (2a).

Reports of Committees:

Councilor Irish reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: March 18, 2019

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

Convened: 6:00 PM – Adjourned: 6:27 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers; Councilors Clancy, Delano, Doucette (arrived 6:15 PM), Dumais, and Ossing

Order No. 19-1007549: The Appointment of Josh Daigle to the Community Development Authority for a three-year term to expire from date of confirmation. Josh Daigle has been a Marlborough resident for the past twelve years, attended Marlborough High School, received his master's degree in architecture and is currently pursuing his licensure while he works for a small firm in Boston. He enjoys living in Marlborough and wants to give back to the community. **Motion made by Councilor Irish, seconded by Councilor Landers, to approve the appointment of Josh Daigle to the Community Development Authority for a three-year term to expire from date of confirmation. The motion carried 3-0.**

Order No. 19-1007527: The Reappointment of Patricia Pope as Executive Director of the Council on Aging for a three-year term to expire from date of City Council approval. Patricia Pope has been a Marlborough resident for the past thirty-two years, worked in and around the community during that time, and has been at the Senior Center for just over three years. She provided an update for the second-floor renovations which will help with the forty-five to fifty programs they run per week for their 1,720 members. **Motion made by Councilor Irish, seconded by Councilor Landers, to approve the reappointment of Patricia Pope as Executive Director of the Council on Aging for a three-year term to expire from date of City Council approval. The motion carried 3-0.**

Order No. 19-1007511: The Appointment of Brendan Downey to the Marlborough Historical Commission for a term to expire three years from date of confirmation. Brendan Downey has been a Marlborough resident for the past seven to eight years, grew up in Sudbury, and works at a software startup. He explained himself as a student of history since his undergraduate days at Boston College when he had professors who opened his eyes to his surroundings when on walking tours of the City. He enjoys the understanding of how cities grow and evolve, and he would like to participate in that in his community, the process to preserve but not hold back. **Motion made by Councilor Irish, seconded by Councilor Landers, to approve the appointment of Brendan Downey to the Marlborough Historical Commission for a term to expire three years from date of confirmation. The motion carried 3-0.**

Reports of Committee Continued:

Order No. 19-1007550: The Appointment of Andrea Bell Bergeron to the Historical Commission for a three-year term to expire from date of confirmation. Andrea Bell Bergeron is a recent resident to Marlborough, since the previous June when she and her husband purchased a home in the City. They made a commitment to the City and each would like to give back in their own way. She was introduced to the Historical Commission by Melanie Whapham and being a lover of history thought it would be a good fit for her. **Motion made by Councilor Irish, seconded by the Chair, to approve the appointment of Andrea Bell Bergeron to the Historical Commission for a three-year term to expire from date of confirmation. The motion carried 3-0.**

Motion made by Councilor Landers, seconded by the Chair, to request a Suspension of the Rules at the March 25, 2019 City Council Meeting to vote on the appointments of Josh Daigle to the Community Development Authority as well as Brendan Downey and Andrea Bell Bergeron to the Historical Commission. The motion carried 3-0.

Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 6:27 PM.

Councilor Dumais reported the following out of the Open Space and Finance Committee:

**Joint Meeting of the Marlborough City Council Finance and Open Space
Committees**

Monday March 18, 2019

In Council Chambers

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

Finance Committee Members Absent: **None**

Open Space Committee Members: **Chairman Dumais and Councilors Doucette and Delano.**

Open Space Committee Members Absent: **None**

Other Councilors in Attendance: **Councilors Clancy, Delano, Landers and Doucette.**

The meeting convened at 7:00 PM.

1. Order No. 19-1007584 – Authorize Mayor to Purchase Property Off Berlin Road and Transfer \$150,000.00 from Open Space Stabilization Account to Open Space Acquisition: The Finance Committee and the Open Space Committee conducted a joint meeting to review the Mayor's letter dated March 6, 2019 requesting the approval of the following two orders:

- An order to authorize the Mayor to negotiate a purchase and sale for the property off Berlin Road identified as Map 41, Parcel 37B.
- An order to approve a transfer of \$150,000.00 from the Open Space Stabilization Account to the Open Space Acquisition Account to make a deposit for the purchase of approximately 10 acres located off Berlin Road on Map 41 Parcel 37B.

Reports of Committee Continued:

- A communication from Conservation Officer Priscilla Ryder supporting the acquisition of the property was reviewed.
- The Finance Committee voted 5 - 0 to approve both orders.
- The Open Space Committee voted 3 - 0 to approve both orders.
- Both the Open Space Committee and the Finance Committee agreed to support suspending the rules at the March 25, 2019 City Council meeting to approve both orders.

The Open Space Committee adjourned at 7:20PM.

Councilor Ossing reported the following out of the Finance Committee:

2. **Order No.19-1007578 – Revision to Municipal Aggregation Order:** The Finance Committee reviewed the Order submitted by Councilor Ossing on February 25, 2019 to revise the Municipal Aggregation Order No. 17-1006881. The revised order will allow the City to enter into longer electrical supply contracts to provide stability and predictability for electrical supply rates while potentially providing greater savings to Marlboro residents than the current process. The Finance Committee voted 5 - 0 to approve the following revised Municipal Aggregation order:

1. This order supersedes Order No. 17-1006881 dated April 10, 2017.
2. The goal of the Ad-Hoc Municipal Aggregation Committee is to obtain competitive electric supply offers that will provide stability and predictability and on a yearly average be lower than the National Grid Fixed Basic Service Rates during the same period.
3. Establish an Ad-Hoc Municipal Aggregation Committee that will review competitive electric supply agreements and make recommendations to the Mayor. The Municipal Aggregation Committee will consist of 5 members including:
 - The Mayor
 - Two City Councilors (appointed by the City Council President)
 - The Chief Procurement Officer
 - The DPW Commissioner (or designee)
 - A quorum shall consist of a minimum of 3 members
4. The Ad-Hoc Municipal Aggregation Committee will provide periodic updates to the City Council on Municipal Aggregation implementation.
5. All suppliers of electricity licensed by the Department of Public Utilities and qualified to do business in the Commonwealth of Massachusetts can participate in the City's Municipal Aggregation Program.

The Finance Committee adjourned at 8:02 PM.

Reports of Committee Continued:

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

Meeting Name: City Council Urban Affairs Committee

Date: March 19, 2019

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

Convened: 5:30 PM – Adjourned: 7:00 PM

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

Order No. 18/19-1007452A (X19-1007198G): Proposed Zoning Ordinance Amendment, Chapter 650 §22 & §5, relative to Multifamily Retirement Community, 90 Crowley Drive. The Urban Affairs Committee met with William Pezzoni of Day Pitney, LLP and Brian Blaesser of Robinson + Cole for a review of their proposed zoning petition relative to a Multifamily Retirement Community at 90 Crowley Drive. They previously appeared at Urban Affairs Committee on March 12, 2019 and there were no objections to their proposal, but several councilors were unable to attend, and the Chairman wished to provide them the opportunity to speak with the proponents. Mr. Pezzoni reviewed the map of the proposed zoning area and the text description with Councilors and noted where they had inadvertently deleted Pleasant Street and should have included West Hill Road. They also had previously discussed traffic and parking and there were no further questions about the proposed zoning amendment.

Motion made by Councilor Doucette, seconded by the Chair, to approve the proposed zoning ordinance as amended. The motion carried 5-0.

Motion made and seconded to refer to the Legal Department to place in proper legal form. The motion carried 5-0.

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:00 PM.

Meeting Name: City Council Urban Affairs Committee

Date: March 12, 2019

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

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

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

Absent: Urban Affairs Committee Member Councilor Juare

Reports of Committee Continued:

Order No. 19-1007512: Application for Special Permit from Marc Buchan to raze an existing one story single family residence and build a new two story single family residence on the same existing foundation footprint, 180 Cullinane Drive. The Urban Affairs Committee met with Marc Buchan on his request to raze an existing one story single family residence and build a new two story single family residence on the same existing foundation footprint at 180 Cullinane Drive. Mr. Buchan explained he purchased the property three-years prior and wished to build a new two-story, two-bedroom, single-family home on the existing footprint. The property required extensive clean-up which he performed and now wants to build a new house on the site. The ward councilor, President Clancy, gave a history of the site and supported the applicant's proposal.

City Solicitor Rider suggested the following two amendments as noted in *italics* below:

Construction in Accordance with Applicable Laws. *Demolition and* construction of all structures on the Site 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 built according to the Site Plan and Architectural Drawings as may be subject to minor modifications with *prior written* approval of the Building Commissioner.

City Solicitor Rider suggested inclusion of a condition that "All work performed at the site shall be in compliance with this special permit decision."

Motion made by Councilor Doucette, seconded by the Chair, to amend the special permit decision as suggested by the City Solicitor and refer back to Council with a favorable recommendation. The motion carried 4-0.

Motion made and seconded to request a Suspension of the Rules at the March 25, 2019 City Council Meeting to refer to the Legal Department for placement in proper legal form on the April 8, 2019 regular meeting agenda. The motion carried 4-0.

Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 6:30 PM.

Suspension of the Rules requested – granted

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

Suspension of the Rules requested – granted

ORDERED: That the Appointment of Brendan Downey to the Marlborough Historical Commission for a term to expire three years from date of confirmation, **APPROVED**; adopted.

Suspension of the Rules requested – granted

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

Suspension of the Rules requested – granted

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 2011-2018 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, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That, pursuant to M.G.L. 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, **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	
\$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				

Suspension of the Rules requested – granted

ORDERED: That the Proposed Zoning Ordinance Amendment to Chapter 650 §22 & §5, relative to Multifamily Retirement Community, 90 Crowley Drive, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE APRIL 8, 2019 CITY COUNCIL MEETING**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Application for Special Permit from Marc Buchan to raze an existing one story single family residence and build a new two story single family residence on the same existing foundation footprint, 180 Cullinane Drive, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE APRIL 8, 2019 CITY COUNCIL MEETING**; adopted.

ORDERED: That the City Council review the results of the FY19 abbreviated budget process.

That the City Council approve the Massachusetts Department of Revenue Financial Review Recommendation for adopting an abbreviated budget authorization format for all departments for the FY20 City budget. The City Council will assess the results in April 2020 to determine if the practice will continue.

Background:

The City Council approved the abbreviated budget process for FY18 on April 24, 2017 (Order No. 17-1006856A) and FY19 on April 23, 2018 (Order No. 18-1007236). In its 2006 Financial Management Review of the City of Marlborough, the Massachusetts Department of Revenue recommended that the City adopt several best financial practices including approving the City budget with the salary and expenditure accounts for each department as opposed to the past practice of approving each individual line item. This recommendation was also made in the City's Fiscal Year 2016 audit performed by Roselli, Clark & Associates. Department Heads would not be able to add funds to their approved salary or expenditure accounts without City Council approval. The Auditor will provide a summary of all transfers within a department's budget each month to the City Council, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Mid-Year Transfer requests in the amount of \$1,341,950.00 as detailed in the attached spreadsheets, **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
\$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 Multi 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 Multi 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: That the Transfer request in the amount of \$182,500.00 which moves funds from Undesignated Fund to IT Equipment to purchase, install and maintain security cameras at the Jaworek and Richer Elementary Schools, **APPROVED**; adopted.

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
\$7,101,961.00	\$182,500.00	10000	35900	Undesignated Fund	\$182,500.00	19300006	58618	IT Equipment		\$14,806.58
	Reason:	Security camera related projects								
	\$182,500.00	Total			\$182,500.00	Total				

ORDERED: That the Application for a temporary freestanding sign for Ventura X at 11 Apex Drive along with the approval from Walker Realty, LLC for a period of eight months after the building permit is issued, **APPROVED**; adopted.

ORDERED: That the City Council of the City of Marlborough hereby amends City Council Order No. 12-1004062A, as follows:

1. By deleting provision f) in its entirety and inserting in place thereof the following:

The applicant seeking the reduction must have annual gross income, as calculated by the Department of Revenue, that qualifies for the senior circuit breaker tax credit in the calendar year prior to the start of the tax year for which that applicant seeks a reduction in his or her real property tax obligations.

2. By deleting provision i) in its entirety and inserting in place thereof the following:

If the number of eligible applicants for this program exceeds the number of available positions in a given fiscal year, a lottery shall be held by the Council on Aging to determine placement. From time to time, eligible applicants who possess unique skills or talents that would aid municipal operations may be placed in positions upon direct approval of the Mayor. The number of annual participants will not exceed 30 (fractional volunteers can be combined to equal one participant) without prior City Council approval.

3. By deleting provisions k) and m) in their entirety.
4. By re-numbering provision l) as provision k), and provision n) as provision l).

APPROVED; adopted.

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require:

that GOODWIN STREET be accepted as a public way

from Dufresne Drive at Station 0+25 to Goodwin Street's terminus, and

that MCDERMOT WAY be accepted as a public way

from Dufresne Drive at Station 0+25 to and terminating at Goodwin Street,

and that their appurtenant easements be accepted as municipal easements,

as shown on a plan thereof and as hereinafter described:

DESCRIPTION

Plan entitled, " 'Cider Mill Estates' - Acceptance Plan of Goodwin Street, McDermot Way, and Municipal Easements, Marlborough, Massachusetts," Owner: West Hill, LLC, 120 Quarry Drive, Milford, MA 01757; To Be Deeded to: City of Marlborough, 140 Main Street, Marlborough, MA 01752; Prepared By: Guerriere & Halnon, Inc., Engineering & Land Surveying, 333 West Street, Milford, MA 01757; Dated: July 19, 2018; Scale: 1"=40', which plan is to be recorded herewith.

Title to the roadways shown as GOODWIN STREET and MCDERMOT WAY on said plan, and title to all the municipal easements shown on said plan as:

- Goodwin Street - Flowage Easement, over Lot #1, Lot #2, Lot #5 and Lot #6, containing 19,386 square feet
- McDermot Way - Drainage Easement over Lot #1 and Lot #2, containing 4,895 square feet

has been granted to the City of Marlborough in a quitclaim deed from West Hill, LLC, a Massachusetts limited liability corporation with a principal place of business at 120 Quarry Drive, Milford, Massachusetts, said deed to be recorded herewith at the Middlesex County (South District) Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

GOODWIN STREET and MCDERMOT WAY be accepted as public ways, and their appurtenant easements be accepted as municipal easements, in the City of Marlborough.

APPROVED; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:05 PM; adopted.