



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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APRIL 29, 2019

Regular meeting of the City Council held on Monday, April 29, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juaire, Oram, Ossing, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Absent: Delano. Meeting adjourned at 8:55 PM.

ORDERED: That the Minutes of the City Council meeting, APRIL 8, 2019 **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition from Massachusetts Electric, to install a new pole 47-84 to use as a stub pole for poles 47 and 47-5 on Bolton Street, Order No. 19-1007629, all were heard who wish to be heard, hearing closed at 8:02 PM; adopted.

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

Councilors Absent: Delano.

ORDERED: That the PUBLIC HEARING On the Petition from Comcast, to install new underground 3" PVC conduit for approximately 1055 feet and (3) 2'x3' vaults starting at 46 Lizotte Drive to provide service to 130 Lizotte Drive, Order No. 19-1007611, all were heard who wish to be heard, hearing closed at 8:03 PM; adopted.

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

Councilors Absent: Delano.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Thomas Coder, to demolish the existing single story home and construct a new two story home at 21 Patten Drive, Order No. 19-1007612, all were heard who wish to be heard, hearing closed at 8:06 PM; adopted.

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

Councilors Absent: Delano.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Map Amendment from Councilor Clancy on behalf of the Mayor re: Proposed Rezoning of land off Williams Street, identified as Map 113, Parcels 5 & 6, Order No. 19-1007587, all were heard who wish to be heard, hearing closed at 8:14 PM; adopted.

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

Councilors Absent: Delano.

ORDERED: That the Transfer Request for the Department of Public Works in the amount of \$397,000.00 which moves funds from and to various accounts within Public Works to fund ongoing projects, step increases and overtime, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Department of Public Works/Public Facilities				FISCAL YEAR:	2019		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$295,449	\$59,300.00	61090001	50740	Equipment Operator	\$2,300.00	60085001	50850	Treat. Plant Op.	\$45,868
	Reason:	Excess due to vacancy				Due to step increase			
					\$7,000.00	60085001	50910	Chief Treat. Plant Op.	\$8,686
	Reason:					Due to step increase			
					\$3,000.00	60085003	51310	Overtime	\$0
	Reason:					Due to increased flow			
					\$40,000.00	60085006	55980	West Waste Water Tr.	\$29,782
	Reason:					Due to new permit from DEP / increased flow			
					\$7,000.00	14001303	51310	Overtime	\$3,112
	Reason:					Due to vacancy			
	\$59,300.00	Total			\$59,300.00	Total			

	CITY OF MARLBOROUGH BUDGET TRANSFERS --										
	DEPT:	Department of Public Works/Public Facilities					FISCAL YEAR:	2019			
		FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Available Balance	
\$295,449	\$35,000.00	61090001	50740	Equipment Operator	\$50,000.00	60081006	55950	East Waste Water Tr.		\$9,522	
	Reason:	Excess due to vacancy					Due to new permit from DEP / increased flow				
\$78,150	\$15,000.00	60081001	50850	Treatment Plant Op.							
	Reason:	Excess due to vacancy									
\$41,747	\$17,700.00	13032001	50690	Foreman	\$15,000.00	11920003	51300	Additional Gross-OT		\$0	
	Reason:	Excess due to vacancy					Due to vacancies				
					\$2,700.00	14001403	51470	Interim Foreman		\$0	
	Reason:						Due to medical leave				
\$295,449	\$45,000.00	61090001	50740	Equipment Operator	\$105,000.00	61090006	55710	Water Maintenance		\$37,899	
	Reason:	Excess due to vacancy					Ongoing projects				
\$101,211	\$60,000.00	61090001	50690	Foreman							
	Reason:	Excess due to vacancy									
	\$172,700.00	Total			\$172,700.00	Total					

	CITY OF MARLBOROUGH										
	BUDGET TRANSFERS --										
	DEPT:	Department of Public Works/Public Facilities					FISCAL YEAR:		2019		
		FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:		Available Balance
\$41,747	\$24,000.00	13032001	50690	Foreman		\$75,000.00	11920006	53999	Other Services		\$0
	Reason:	Excess due to vacancy					Ongoing projects				
\$40,079	\$20,000.00	13032001	50386	HVAC							
	Reason:	Excess due to vacancy									
\$43,082	\$16,000.00	13032001	50385	Electrician							
	Reason:	Excess due to medical leave									
\$26,564	\$15,000.00	60080001	50630	Asst. Comm. Utilities							
	Reason:	Excess due to vacancy									
\$221,032	\$50,000.00	14001503	50740	Equipment Operator		\$90,000.00	14001504	53140	Contract Services		\$473
	Reason:	Excess due to vacancy					Ongoing projects				
\$295,449	\$40,000.00	61090001	50740	Equipment Operator							
	Reason:	Excess due to vacancy									
	\$165,000.00	Total				\$165,000.00	Total				

ORDERED: That the Transfer Request for the Police Department in the amount of \$88,500.00 which moves funds from Reserved for Salaries to various accounts within the Police Department to fund the recently ratified 3-year contract with the Police Patrol Officers Association (MPPOA) through FY2021, refer to **FINANCE COMMITTEE**; adopted.

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
\$660,632.65	\$88,500.00	11990006	57820	Reserve for Salaries	\$63,000.00	12100001	50420	Police Officers	\$753,091.08
	Reason:	Budgeted for contracts			Reason:	Contract			
	\$0.00				\$4,000.00	12100003	51360	Overtime - Training	\$8,905.21
	Reason:				Reason:	Contract			
	\$0.00				\$2,000.00	12100003	51310	Overtime - Regular	\$57,318.52
	Reason:				Reason:	Contract			
	\$0.00				\$6,000.00	12100003	51320	Overtime - Court	\$50,896.31
	Reason:				Reason:	Contract			
	\$0.00				\$3,000.00	12100003	51319	Overtime - Cell watch	\$1,259.66
	Reason:				Reason:	Contract			

CITY OF MARLBOROUGH											
BUDGET TRANSFERS --											
	DEPT:	Comptroller						FISCAL YEAR:	2019		
		FROM ACCOUNT:						TO ACCOUNT:			
	\$0.00						\$500.00	12100003	51329	On-Call Pay	\$3,279.74
	Reason:						Reason:	Contract			
	\$0.00						\$500.00	12100003	51920	Sick Leave Buy Back	\$7,314.95
	Reason:						Reason:	Contract			
	\$0.00						\$1,000.00	12100003	51490	Holiday	\$67,566.67
	Reason:						Reason:	Contract			
	\$0.00						\$4,000.00	12100003	51450	Night Shift Differential	\$28,114.55
	Reason:						Reason:	Contract			
	\$0.00						\$2,000.00	12100003	51440	Education Incentive	\$108,743.22
	Reason:						Reason:	Contract			
	\$0.00						\$1,500.00	12100003	51410	First Responder	\$13,888.89
	Reason:						Reason:	Contract			
	\$0.00						\$1,000.00	12100001	50435	Police Specialists	\$10,801.88
	Reason:						Reason:	Contract			
	\$88,500.00	Total					\$88,500.00	Total			

ORDERED: That the Transfer Request for the Police Department in the amount of \$59,300.00 which moves funds from Reserved for Salaries to various accounts within the Police Department to fund the recently ratified 3-year contract with the Police Command Officers Association (MPCOA) through FY2021, refer to **FINANCE COMMITTEE**; adopted.

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
\$660,632.65	\$59,300.00	11990006	57820	Reserve for Salaries	\$34,000.00	12100001	50500	Police Captains		\$36,368.77
	Reason:	Budgeted for contracts			Reason:	Contract				
	\$0.00				\$8,500.00	12100003	51440	Educational Incentive		\$108,743.22
	Reason:				Reason:	Contract				
	\$0.00				\$500.00	12100001	50510	Police Lieutenants		\$63,584.51
	Reason:				Reason:	Contract				
	\$0.00				\$500.00	12100001	50820	Sergeants		\$128,608.15
	Reason:				Reason:	Contract				
	\$0.00				\$4,500.00	12100003	51920	Sick Leave Buy Back		\$7,314.95
	Reason:				Reason:	Contract				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:	Comptroller					FISCAL YEAR:	2019			
FROM ACCOUNT:						TO ACCOUNT:				
\$0.00					\$200.00	12100003	51360	Overtime - Training		\$8,905.21
Reason:					Reason:	Contract				
\$0.00					\$5,500.00	12100003	51310	Overtime - Regular		\$57,318.52
Reason:					Reason:	Contract				
\$0.00					\$700.00	12100003	51320	Overtime - Court Time		\$50,896.31
Reason:					Reason:	Contract				
\$0.00					\$100.00	12100003	51319	Overtime - Cell Watch		\$1,259.66
Reason:					Reason:	Contract				
\$0.00					\$2,200.00	12100003	51490	Holiday		\$67,566.67
Reason:					Reason:	Contract				
\$0.00					\$1,800.00	12100003	51342	Longevity		\$30,726.90
Reason:					Reason:	Contract				
\$0.00					\$700.00	12100003	51450	Night Shift Differential		\$28,114.55
Reason:					Reason:	Contract				
\$0.00					\$100.00	12100003	51410	First Responder		\$13,888.89
\$59,300.00	Total				\$59,300.00	Total				

ORDERED: That the Transfer Request for the Police Department in the amount of \$11,000.00 which moves funds from 2018 Multi-Purpose to City Hall Equipment to purchase a new K-9 Unit vehicle, **APPROVED**; adopted.

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
\$1,065,000.00	\$11,000.00	17110006	59968	2018 Muti Purpose	\$11,000.00	19300006	58595	City Hall Equipment		\$49,953.74
Reason:	Excess due to favorable interest rate				Reason:	For Police K-9 unit vehicle				
\$11,000.00	Total				\$11,000.00	Total				

ORDERED: That the Transfer Request for the Department of Public Works in the amount of \$27,250.00 which moves funds from Reserved for Salaries to DPW Sick Leave Buy Back to fund the retirement benefit of a recently retired member of DPW, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	DPW					FISCAL YEAR:	2019	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$660,632.65	\$27,250.00	11990006	57820	Reserve for Salaries	\$27,250.00	14001503	51920	DPW-Sick Leave Buy Back	\$3.08
	Reason:	To fund sick leave buy back due to a retirement							
	\$27,250.00	Total			\$27,250.00	Total			

Suspension of the Rules requested – granted

ORDERED: That the follow up communication from the Mayor, re: Order Transferring Care, Custody, Management and Control of a portion of the Wilson Street Cemetery land for the purpose of obtaining a perpetual historic preservation restriction, **FILE**; adopted.

Suspension of the Rules requested – granted to allow DPW Commissioner Ghiloni to speak.

ORDERED: That the City Council by a two-thirds vote of all its members pursuant to MGL c. 40, §15A, the City Council having received notice from the Commissioner of the Department of Public Works that the DPW, having charge of the Wilson Street Cemetery located on land bordering Wilson Street and identified on Marlborough Assessors Map 60 as Parcel 35 (the “Land”), has determined that it wishes to transfer the care, custody, management and control of the Land from the DPW for the purpose of a cemetery, to the City Council for the purpose of a cemetery and for the additional purpose of conveying to the Commonwealth of Massachusetts, acting by and through the Massachusetts Historical Commission (“MHC”), a perpetual historic preservation restriction encumbering the Land, does hereby transfer the Land to the City Council for such purposes.

Further, by a simple majority vote subsumed by the two-thirds vote above, a separate vote being unnecessary, the City Council hereby:

- Declares, pursuant to MGL c. 30B, §16(a), that the Land is available for disposition by conveyance of the said historic preservation restriction to MHC;

- b) Determines, pursuant to MGL c. 30B, §16(e)(2), that advertising for the proposed conveyance of the said historic preservation restriction to MHC will not benefit the City's interest because of the unique qualities and location of the Land, namely, that the Land has been used as a cemetery since at least 1844, will continue to be used for that purpose in perpetuity, and is in need of MHC grant monies that would be used to repair and restore a tomb and other grave markers, as well as to procure and install a wrought iron fence along the Land's perimeter with the abutting Evergreen Cemetery; and
- c) Authorizes the Mayor, pursuant to MGL c. 40, §3, to convey to the Commonwealth of Massachusetts, acting by and through the Massachusetts Historical Commission, a perpetual historic preservation restriction encumbering the Land, on such terms and conditions in the City's best interest as the Mayor deems appropriate.

APPROVED; adopted.

Yea: 10 – Nay: 0 – Absent: 1

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

Absent: Delano

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$1,163.00 from the Massachusetts Board of Library Commissioners awarded to the Public Library to be used for a summer program at the library called Tween Arts Exploration for children ages 8-13; adopted.

ORDERED: That the City of Marlborough, acting by and through its City Council, does hereby accept from Ernest A. Houde, Jr., the deed of the fee interest in a parcel of land containing 10.09 acres and situated on the easterly side of Berlin Road, described as Map 41, Parcel 37B of the Marlborough Assessors Maps, and more particularly described as Lot 37-2B on a plan entitled "Plan of Land in Marlborough, Massachusetts; Owner: Ernest A. Houde, Jr., 399 Berlin Road, Marlborough, MA; Prepared by: Connorstone Consulting Civil Engineers and Land Surveyors, 276 West Main Street, Northborough, MA 01532; Scale: 1" = 50'; Dated: April 21, 2000, revised: May 1, 2000," and recorded at Middlesex South District Registry of Deeds as Book 31403, Page 364, Plan Book 2000, Plan 513, said plan attached hereto along with said deed.

The above-described parcel is conveyed to the City under the provisions of Massachusetts General Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space, **TABLED UNTIL THE MAY 6, 2019 CITY COUNCIL MEETING;** 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 650-5, entitled “Definitions; word usage,” is hereby amended, as follows:

- a. By amending the definition in subsection B of “HOME OCCUPATION,” by inserting at the end thereof the following sentence:

A home occupation shall not include a home office, as defined in Section 650-5.

- b. By amending the definition in subsection B of “OUTDOOR STORAGE,” by inserting at the end thereof the following sentence:

Outdoor storage shall not include either a contractor’s storage yard or a landscape contractor’s storage yard, as defined in Section 650-5.

- c. By inserting the following new definitions:

CONTRACTOR - Any person or firm engaged in construction, building trades, landscaping services or maintenance, on a contract basis, either licensed or unlicensed.

CONTRACTOR’S STORAGE YARD - An outdoor area used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation; but not including a landscape contractor’s storage yard. A contractor’s storage yard shall not include outdoor storage, as defined in Section 650-5.

HOME OFFICE - An office in a dwelling unit or accessory building within which ancillary activities are performed for a business whose primary services are conducted by the residents at offsite locations. Home offices are permitted if they conform to each of the conditions set forth in Section 650-18(47).

LANDSCAPE CONTRACTOR'S STORAGE YARD – An outdoor area used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the grounds being otherwise landscaped. A landscape contractor's storage yard shall not include outdoor storage, as defined in Section 650-5.

- II. Section 650-17, entitled "Table of Uses," is hereby amended by adding the following new uses:

RR A1 A2 A3 RB RC RCR B CA LI I MV NB

Contractor's

Storage Yard (48) N N N N N N N N Y Y N N N

Home Office (47) Y Y Y Y Y Y Y Y Y Y Y Y Y

Landscape Contractor's

Storage Yard (48) N N N N N N N N Y Y N N N

- III. Section 650-18, entitled "Conditions for uses," is hereby amended as follows:

- a. By inserting in subsection A thereof a new paragraph (47), pertaining to home offices:

(47) Home offices.

Home offices are permitted if they conform to each of the following conditions:

- (a) The home office use must be secondary to the principal use of the property as a residence.
- (b) The proprietor of the home office, whether a contractor or otherwise, must reside in the dwelling unit comprising the principal building.
- (c) Anyone associated with the home office must reside in the dwelling unit comprising the principal building, except that not more than two (2) non-residents may be permitted when the home office is on a property principally used as a residence by the proprietor, whether a contractor or otherwise, unless it is located in the Commercial Automotive or Limited Industrial zoning districts, in which case three (3) non-residents may be permitted.

- (d) No more than 25% of the floor area of the residence or, if an accessory building is used, no more than 30% of the floor area of the accessory building and residence combined, is to be used for the purposes of the home office.
- (e) There shall be no external evidence of the home office except for a sign that conforms to the requirements for a home occupation sign set forth in City Code Section 526-8.A(2), and no major structural change shall be made to the exterior so as to alter the appearance and character of the residence or that of the accessory building if used for the home office.
- (f) The proprietor of a home office, whether a contractor or otherwise, shall be allowed to have not more than either i) one (1) commercial vehicle having a gross vehicle weight rating (GVWR) not exceeding 10,000 pounds or one (1) heavy-duty pickup truck having a GVWR not exceeding 14,000 pounds, or ii) one (1) commercial trailer not to exceed sixteen (16) feet in length, parked at the home office, whether that vehicle or that trailer, as the case may be, is used by the proprietor of the home office and/or by anyone associated with the home office, except that not more than three (3) commercial vehicles each having a GVWR not exceeding 10,000 pounds, or three (3) commercial trailers each not exceeding sixteen (16) feet in length, or any combination of such vehicles and trailers not to exceed three (3) in total number, may be permitted when the home office is on a property located in the Commercial Automotive or Limited Industrial zoning districts. No such vehicle or trailer shall be parked on the street(s) fronting the premises where the home office is located, but instead shall be parked on the premises. Vehicles and equipment must be parked and accessed on impervious surfaces such as concrete or asphalt (dust-free surfaces) and may never be parked on the lawn or other pervious parts of a property on which the home office is located.

- (g) A home office shall be permitted to store equipment and/or materials, but only indoors in the principal building or accessory building. In no event shall a home office, even when on a property located in the Commercial Automotive or Limited Industrial zoning districts be used for a contractor's storage yard or a landscape contractor's storage yard. No activity in conjunction with the business associated with the home office, including but not limited to loading and unloading of equipment and/or materials, is permitted Monday through Friday except from 7:00 a.m. until 7:00 p.m. and Saturday except from 7:00 a.m. until 5:00 p.m., and no such activity is permitted on Sunday at any hour; provided, however, that essential emergency services as reasonably needed may operate outside previously established hours. All such activity, when permitted, shall otherwise comply with Chapter 431 of the City Code, entitled "Noise."
 - (h) A home office shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.
- b. By inserting in subsection A thereof a new paragraph (48), pertaining to contractor's storage yards and landscape contractor's storage yards:
- (48) Contractor's storage yards and landscape contractor's storage yards.
 - (a) Design Standards. Contractor's storage yards and landscape contractor's storage yards, as defined in Section 650-5, are allowed in the Commercial Automotive or Limited Industrial zoning districts only after having been granted site plan approval by the City of Marlborough Site Plan Review Committee, whose review shall include but not be limited to the following design standards.
 - (1) *Proximity to existing residential zoning districts*. A storage yard, if created after February 11, 2019, shall not be located on a lot less than two hundred (200) feet from a residential zoning district.
 - (2) *Abutting residential lots*. A storage yard, if created after February 11, 2019, shall not be located on any lot if a residential use is being made of any abutting lot(s).
 - (3) *Screening*. The proposed storage yard shall be adequately screened from the street and adjacent properties to obscure the vehicles parked thereon, and the equipment and/or materials stored therein.

- (4) *Minimum lot area.* The minimum area of the lot being proposed for the storage yard shall be 22,500 square feet.
- (5) *Maximum size of storage yard.* The maximum size of the storage yard, when combined with all structures, parking and driveways on the lot being proposed for the lot on which the storage yard is proposed to be located, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the lot is located.
- (6) *Vehicles, Equipment and/or Materials.* All vehicles, equipment and/or materials associated with the storage yard must be stored on and accessed from impervious or otherwise dust-free surfaces.
- (7) *Flammable, Combustible or Dangerous Substances.* A storage yard shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.
- (b) Grandfathering. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that existed before the City of Marlborough Zoning Code was enacted on January 27, 1969, or that exist as legal pre-existing nonconforming uses or structures, shall not be required to submit to Site Plan Review; provided, however, that such yards shall not be permitted to expand or alter any legal pre-existing nonconforming use or structure, unless such expansion or alteration is otherwise authorized by zoning relief.
- (c) Previous Special Permit or Site Plan Approval. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that are in compliance with a previously-granted special permit, or that are in compliance with a previously-granted site plan approval by the Site Plan Review Committee, shall not be required to submit to Site Plan Review, so long as such yards remain in compliance with the dimensional, landscaping and parking requirements of Chapter 650.
- (d) All others. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that satisfy neither subsections (b) nor (c) of this section 650-18(48) shall be required to complete the Site Plan Review process within twelve (12) months of the effective date of approval of this zoning amendment.

Refer to **PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, JUNE 3, 2019**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Application for Special Permit by Main Street Bank, to further modify the Bank's original 2009 Special Permit by removing condition #4 which prohibits electronic signs, in proper legal form, Order No. 18/19-1007461C **MOVED TO ITEM 39**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re Application for LED Sign Special Permit by Main Street Bank, 81 Granger Boulevard, Order No. 18/19-1007423D, **MOVED TO ITEM 40**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re Proposed Open Space Covenant and Restriction for certain land on a plan entitled "Open Space Exhibit for Apex Center, 240 Boston Post Road West, Marlborough, in proper legal form, Order No. 16/17/18/19-1006443D-6, **MOVED TO ITEM 35**; adopted.

President Clancy called a recess at 8:30 PM and returned to open meeting at 8:32 PM.

ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation on the Proposed Zoning Map Amendment, land off Mill Street South, Order No. 18/19-1007484B, **FILE**; adopted.

ORDERED: That the Communication from Ayoub Engineering on behalf of Colbea Enterprises, LLC, re: Removal of existing underground storage tanks (USTs) and installation of new underground storage tanks which will result in a decrease of storage capacity at 342 Boston Post Road East, **FILE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Jean Rabelo, d/b/a Post Road Used Auto Parts, 785 Boston Post Road East, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Gerald Dumais, d/b/a Dumais & Sons Second Hand Store, 65 Mechanic Street, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

Councilor Dumais recused.

ORDERED: That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Best Buy Stores LP #820, d/b/a Best Buy, 769 Donald J. Lynch Boulevard, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication Department of Public Utilities, re: Condensed Financial Return for year-ending December 31, 2018, NStar Gas Company, **FILE**; adopted.

ORDERED: That the Minutes, School Committee, February 26, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, April 3, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Commission on Disabilities, March 12, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, March 21, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, April 11, 2019, **FILE**; adopted.

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

ORDERED: That the Minutes, Municipal Aggregation Committee, March 21, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, March 25, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, March 26, 2019, **FILE**;

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

- a) Elaine Alden, 70 Kelleher Street, residential mailbox claim (2b).
- b) Raymond Degaetano, 153 Mechanic Street, pothole or other road defect.
- c) Bill Dehner, 89 Kelleher Street, residential mailbox claim (2a).
- d) Steven Kinz, 98 Kelleher Street, residential mailbox claim (2b).
- e) Frank Thetonia, 30 Johansen Drive, other property damage and/or personal injury.

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee
Monday April 22, 2019
In Council Chambers**

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

Finance Committee Members Absent: Councilor Oram

Other Councilors in Attendance: Councilor Landers.

The meeting convened at 7:00 PM.

1. **Order No. 19-1007624 – Transfer \$699,088.00 from the Economic Development Account to Fund the Marlboro Economic Development Corporation (MEDC) for FY20:** The Finance Committee reviewed the Mayor's letter dated April 4, 2019 requesting the transfer of \$699,088.00 from the Economic Development account to fund MEDC for FY20. The funds are from the local options hotel tax that has a current balance of \$1,661,109.48. **The Finance Committee voted 4 - 0 to approve the transfer.**

The Finance Committee adjourned at 7:20 PM.

Reports of Committee Continued:

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

Meeting Name: City Council Urban Affairs Committee

Date: April 22, 2019

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

Convened: 5:33 PM – Adjourned: 6:26 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, Doucette, and Tunnera; Councilors Dumais, Irish, Ossing, and Robey; Brian Falk (Mirick O’Connell); Arthur Bergeron (Mirick O’Connell); Andy Montelli (Post Road Residential); Mark Racicot (Metropolitan Area Planning Council (MAPC)); Neil Vigeant

Order No. 19-1007533: 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. The Urban Affairs Committee met with attorneys Arthur Bergeron and Brian Falk of Mirick O’Connell, Andy Montelli of Post Road Residential, and Mark Racicot of Metropolitan Area Planning Council (MAPC) on March 26th and April 22nd for a discussion of a proposed zoning amendment for an Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road Area. At the meeting on March 26th, their discussions centered on limiting the first two phases of the project to 475 units and all uses permitted by-right were to require a Special Permit except those uses allowed by the underlying zoning. On April 22nd, councilors reviewed Atty. Falk’s proposed edits to the zoning petition and no further changes were recommended by the committee or other councilors present. **Motion made by Councilor Doucette, seconded by the Chair, to approve the proposed Executive Residential Overlay District (EROD) zoning petition, as amended. The motion carried 5-0.**

Order No. 18-1007484: Communication from Peter Bemis on behalf of Stephen Vigeant, Trustee 22 Englewood Trust, regarding Rezoning land off Mill Street South. The Urban Affairs Committee met with Neil Vigeant for a discussion of the rezoning of land off Mill Street South by extending a zoning line. They are not creating new zoning language or requesting an overlay but seeking to extend the adjacent CA zoning line to include the Englewood Trust property now currently located in the I zone. The Councilors were in support of Mr. Vigeant’s request and believed it would be a positive change for the property. **Motion made by Councilor Juaire, seconded by the Chair, to approve the zoning map change of the land off Mill Street South from I to CA. The motion carried 5-0.**

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 6:26 PM.

Reports of Committee Continued:

Meeting Name: City Council Urban Affairs Committee

Date: April 9, 2019

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

Convened: 5:31 PM – Adjourned: 7:37 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, Doucette, and Tunnera; Councilors Clancy, Dumais, Irish, Ossing, and Robey; Mayor Arthur Vigeant; Pamela Wilderman (Code Enforcement Officer, City of Marlborough).

Order No. 18/19-1007500: Proposed Zoning Ordinance Amendment, Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards.

The Urban Affairs Committee met on February 26th, March 19th, March 26th, April 2nd, and April 9th to discuss the Proposed Zoning Ordinance Amendment to Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards. The City currently has no ordinance for Home Offices and Contractor Yards, therefore according to regulations if there is no existing ordinance, then the use is not allowed in the community. The City Council must put reasonable rules in place which are fair to the business owners and residents affected by those same businesses. Over the course of those meetings, the Councilors made suggested changes to the proposed zoning ordinance amendment which was presented at a Public Hearing on February 11, 2019.

- The Home Office definition was updated.
- Table of Uses updated to allow Contractor's Storage Yard and Landscape Contractor's Storage Yard by right in Commercial Automotive and Limited Industrial zones.
- Condition for Uses – (47) Home Offices updated to allow no more than two employees at a home office, restrictions on use of an accessory building as a home office, prohibiting more than one commercial vehicle with restrictions on its size and weight, and restrictions on hours of operation.
- Condition for Uses – (48) Contractor's storage yards and landscape contractor's storage yards updated to remove the section titled (a) Applications and include the following:
 - (a) Design Standards.
 - (1) Proximity to existing residential zoning districts.
 - (2) Abutting residential lots.
 - (3) Screening.
 - (4) Minimum lot area.
 - (5) Maximum size of storage yard.
 - (6) Vehicles, Equipment and/or Materials.
 - (b) Grandfathering.
 - (c) Previous Special Permit or Site Plan Approval.
 - (d) All others.

The original proposed zoning amendment changed significantly during the course of the Urban Affairs Committee meetings, therefore the amended zoning amendment will appear on the April 29, 2019 City Council meeting where it will be ordered advertised and a new Public Hearing date will be set.

Reports of Committee Continued:

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

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:37 PM.

Suspension of the Rules requested – granted to allow City Solicitor Rider to speak.

ORDERED: That the Transfer Request for the Fire Department in the amount of \$60,000.00 which moves funds from various accounts within the Fire Department to Vehicle Repair and Maintenance, **APPROVED**; 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 Open Space Covenant and Restriction for certain land on a plan entitled "Open Space Exhibit for Apex Center, 240 Boston Post Road West, Marlborough, in proper legal form, Order No. 16/17/18/19-1006443D-6, **FILE**; adopted.

ORDERED: That the City of Marlborough does hereby approve, and accept the gift thereof, from Walker Realty LLC, Marlboro Hospitality LLC and 11 Apex LLC, of the Open Space Covenant and Restriction for the perpetual conservation and preservation of open space, passive recreation, and assurance that the subject land will be retained in perpetuity in its natural, scenic, wetlands and wooded conditions in accordance with the terms of said Open Space Covenant and Restriction, concerning that certain land designated and labeled as “Open Space” on a plan entitled “Open Space Exhibit, for Apex Center, 240 Boston Post Road W, Marlborough, MA, Prepared for: Walker Realty, LLC, 4 Lan Drive, Westford, MA, Scale 1' = 200”, dated March 21, 2018, [Prepared by] Hancock Associates, 315 Elm Street, Marlborough, MA 01752,” said Plan to be recorded as Exhibit A to the Open Space Covenant and Restriction, and this Order to be recorded as Exhibit B to the Open Space Covenant and Restriction, with the Middlesex County South Registry of Deeds.

This Order supersedes Order No. 16/17/18-1006443D-4, approved by vote of Council on October 15, 2018.

APPROVED; adopted.

ORDERED: That the 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, **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, **APPROVED;** 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, **APPROVED;** adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Application for Special Permit by Main Street Bank, to further modify the Bank’s original 2009 Special Permit by removing condition #4 which prohibits electronic signs, in proper legal form, Order No. 18/19-1007461C, **FILE;** adopted.

ORDERED:

**DECISION ON AN APPLICATION TO FURTHER MODIFY A SPECIAL PERMIT
IN CITY COUNCIL**

Further Modified Special Permit
Main Street Bank
Order No. 18/19-1007461D
X09-1002152C
X12-1004081C

**DECISION ON AN APPLICATION TO FURTHER MODIFY A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 18/19-1007461D**

The City Council of the City of Marlborough hereby GRANTS the application to further modify a previously modified special permit to Main Street Bank (the “Applicant”) for the property located at 81 Granger Boulevard, Marlborough, Massachusetts, as provided in this decision (“Decision”) and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant is the lessee of the property located at 81 Granger Boulevard, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 70, Parcel 152 (the “Site”), and maintains a stand-alone bank facility with drive-through ATM and teller services. The Site’s owner is Stephen M. Fitzpatrick, Trustee of Fitzgerald Family Investment Trust, u/d/t December 4, 2007 and recorded with the Middlesex South District Registry of Deeds in Book 50587, Page 296.
2. The Site is subject to a special permit issued by the City Council of the City of Marlborough dated June 22, 2009, Order No. 09-1002152C (the “Original Special Permit,” attached hereto as Exhibit A), as modified by Council Order No. 12-1004081C (the “Modified Special Permit”) attached hereto as Exhibit B.
3. In light of the amendment to the Marlborough City Code creating § 526-13 entitled, “Electronic message center signs; digital display signs,” the Applicant seeks to amend the Original Special Permit, as modified by the Modified Special Permit, by removing Condition #4 which prohibits signs on the Site which have “so-called message board or LCD components” or equivalent features; and inserting in place thereof a new Condition #4 requiring that such signs comport with § 526-13 (the “Application”).
4. In connection with the Application, the Applicant has submitted a certified list of abutters, filing fees, and the existing approved site plan for the Site entitled, “Permit Site Plan, Marlborough Savings Bank”, prepared for Marlborough Savings Bank, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1 " = 20', dated March 5, 2009, with a final revision date of May 29, 2009 (the “Plan”).

5. The Plan was certified by the acting City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
6. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
7. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on February 25, 2019.
8. The Applicant, through its representatives, presented testimony at the public hearing detailing the Application. No individual in attendance at the public hearing spoke in opposition to the Application.

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

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed further modified use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns, to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS the Applicant a further modified special permit (the "Further Modified Special Permit"), SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:
 1. The Original Special Permit, as modified by the Modified Special Permit, is further modified by removing Condition #4 in its entirety and inserting in place thereof the following:
 - 4) The location and design of any signage on the Site shall be reviewed and approved by the City of Marlborough in accordance with § 526-13 entitled, "Electronic message center signs; digital display signs," as set forth in the City Code of the City of Marlborough.

2. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant, its successors and/or assigns shall, at its expense, record this Further Amended Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Further Amended Special Permit has elapsed with no appeal having been filed, and before the Applicant, its successors and/or assigns, has applied to the Building Commissioner for any building permit that may be required concerning the Sign. The Applicant, its successors and/or assigns shall also furnish proof of the Further Amended Special Permit's recording to the City Solicitor's Office and the City Council immediately subsequent to recording.
3. Except as amended by this Decision, the Original Special Permit, as modified by the Modified Special Permit, remains in full force and effect.

APPROVED; adopted.

Yea: 10 – Nay: 0 – Absent: 1

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

Absent: Delano.

ORDERED: That the Communication from City Solicitor, Donald Rider, re Application for LED Sign Special Permit by Main Street Bank, 81 Granger Boulevard, Order No. 18/19-1007423D, **FILE**; adopted.

ORDERED: That the Application for LED Sign Special Permit, Main Street Bank, 81 Granger Boulevard, refer back to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:55 PM; adopted.