



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Steven W. Kerrigan
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723**

JUNE 17, 2019

Regular meeting of the City Council held on Monday, June 17, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 9:39 PM.

ORDERED: That the Minutes of the City Council meeting, June 3, 2019 **FILE**; adopted.

Motion made by Councilor Ossing to move the Communication from the Mayor, re: Promotions within the Fire Department up on the agenda, **APPROVED**; adopted.

ORDERED: That the Communication from the Mayor, re: Promotions within the Marlborough Fire Department, **FILE**; adopted.

At this time the City Clerk administered the oath to Captain Frederick Johannes and Lieutenant Brian Leonard. Council President Clancy then recognized and thanked the two new officers and new Lieutenant Christie Clement who was unable to attend, for their service to the City of Marlborough.

ORDERED: That the PUBLIC HEARING On the Application for LED Sign Special Permit from Attorney Elizabeth McDonough Noonan on behalf of Colbea Enterprises, LLC (Shell Gas Station), 342 Boston Post Road East, Order No. 19-1007670, all were heard who wish to be heard, hearing closed at 8:11 PM; adopted.

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

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment to Chapter 650 §12, Nonconforming Uses, from Attorney Brian Falk on behalf of David Skarin, Order No. 19-1007673, all were heard who wish to be heard, hearing closed at 8:31 PM; adopted.

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

ORDERED: That the Reappointment of Chief David Giorgi as Keeper of the Lockup for a term of one year, **APPROVED**; adopted.

ORDERED: That the Communication from the Mayor, re: Draft Zoning Petition related to the Route 20 East corridor, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Small Cell Antenna Petition of New Cingular Wireless PCS, LLC (AT&T), 28 Concord Road, in proper legal form, **MOVED TO ITEM 33**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, **MOVED TO ITEM 27**; adopted.

ORDERED: That the Communication from DPW Commissioner, John Ghiloni, re: Proposed Easement for Sudbury Street Sewer Project, Phase 4, 55 Hanlon Drive, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from DPW Commissioner, John Ghiloni, re: Proposed Easement for Sudbury Street Sewer Project, Phase 4, 263 Sudbury Street, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from DPW Commissioner, John Ghiloni, re: Proposed Easement for Sudbury Street Sewer Project, Phase 4, 299 Sudbury Street, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Code Enforcement Officer, Ethan Lippitt, re: Request for Sign together with application of, Synopsys, 11 Apex Drive, within the HRMUOD, **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JULY 22, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Attorney Brian Falk, on behalf of St. Mary's Credit Union, for two drive-thru facilities associated with a bank and coffee shop building to be located at 133 South Bolton Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Councilor Delano recused.

ORDERED: That the Communication from Touré Foster, re: Letter of Opposition to Proposed Zoning Amendment – Home Office and Contractor/Landscape Contractor Storage Yards, Order No. 18/19-1007500F, **FILE**; adopted.

ORDERED: That a Communication be sent to the MA State Lottery Commission, in opposition to the issuance of a Keno Monitor to the existing Keno To Go agent, Marlboro Smoke Shop, 170 Pleasant Street, **APPROVED**; adopted.

ORDERED: That the Minutes, Board of Assessors, May 1, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, May 16, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, May 16, 2019, **FILE**; adopted.

ORDERED: That the Minutes, High School Council, June 10, 2019, **FILE**; adopted.

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

- a) Alexandre Cezar, 62 Linda Circle, other property damage and/or personal injury.
- b) Jeff DiBuono, 25 Jacobs Road, residential mailbox claim (2a).
- c) Lauren Jackson, 219 Phelps Street, pothole or other road defect.
- d) Elyse Probst, 22 Broad Street, #225, other property damage and/or personal injury.

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**City Council Finance Committee
Monday June 10, 2019
In Council Chambers**

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

Finance Committee Members Absent: Robey

Other Councilors in Attendance: Councilor Clancy, Landers and Doucette.

The meeting convened at 7:00 PM.

1. **Order #19-1007697 (A&B) – FY19 Capital Project Requests - Bond for \$4,000,000.00 and Undesignated Fund Transfers for \$1,752,958.50:** The Finance Committee reviewed the Mayor's letter dated May 30, 2019 requesting the approval of one bond totaling \$4,000,000.00 for Capital Projects and a transfer of \$1,752,958.50 from the Undesignated Fund Account to purchase Department Equipment. The Finance Committee took the following actions:

- **Order #19-1007697A: Street Construction:** The Finance Committee voted 4 - 0 to approve the \$4,000,000.00 bond for street construction – overlaying and milling.
- **Order #19-1007697B - Transfer \$1,752,958.50 from Undesignated Funds to Purchase Capital Equipment for the Department of Public Works (DPW), Public Facilities, Sewer, Building Department, Fire Department, and Police Department:** The Finance Committee took the following actions:
 - The Finance Committee voted 4 - 0 to approve the \$60,000.00 for Fire Department Protective clothing.
 - The Finance Committee voted 4 - 0 to approve the \$750,000.00 for Sewer Pump Station Upgrades.
 - The Finance Committee voted 4 - 0 to approve the \$201,000.00 for Police Department Equipment (\$193,000.00 for police cruisers and \$8,000 for fitness equipment).
 - The Finance Committee voted 4 - 0 to approve the \$283,958.50 for the DPW for the completion of Glen Street project.
 - The Finance Committee voted 4- 0 to approve the \$28,000.00 for the Building Department for replacement vehicle.
 - The Finance Committee voted 4 – 0 to approve the \$430,000.00 for the DPW Public Facilities for improvements to City Buildings.

Reports of Committee Continued:

The Finance Committee agreed to support suspending the rules at the June 17, 2019 City Council meeting to advertise the bond and approve the Department Equipment transfers.

2. **Order #19-1007698 – Transfer \$49,090.00 from the Reserve for Salaries Account to Fund the DPW Engineers Contract:** The Finance Committee reviewed the Mayor's letter dated May 30, 2019 requesting the transfer of \$49,090.00 from the Reserve for Salaries account to fund the DPW Engineers Contract. The new contract covers FY19, 20 and 21. The Finance Committee voted 4 - 0 to approve the transfer request to fund the DPW Engineers contract for FY19.
3. **Order #19-1007699 – Transfer \$6,000.00 from Reserve for Salaries to Fund City Solicitor:** The Finance Committee reviewed the Mayor's letter dated May 30, 2019 requesting the transfer of \$6,000.00 from Reserve for Salaries to fund the City Solicitor account. The Finance Committee voted 4 - 0 to approve the transfer.

The Finance Committee agreed to support suspending the rules at the June 17, 2019 City Council meeting to approve both transfer request orders.

The Finance Committee adjourned at 7:31 PM.

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

Meeting Name: City Council Public Services Committee
Date: June 10, 2019
Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 6:30 PM – Adjourned: 6:45 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette (arrived 6:34 PM) and Irish; and Councilors Clancy and Ossing

Order No. 19-1007611A: Petition from Comcast, to install new underground 3" PVC conduit for approximately 1055' and (3) 2' x 3' vaults starting at 46 Lizotte Drive to service to 130 Lizotte Drive. Dave Flewelling, Comcast, explained the petition was to extend the Comcast service on Lizotte Drive from #46 by placing 1,055 feet of conduit and three, 2' by 3' manholes to provide future service to 130 Lizotte Drive. Chairman Landers asked if Comcast could use the three-inch conduit to provide service to others and Mr. Flewelling confirmed anyone who wanted service in that building would be able to since there is plenty of capacity in the three-inch conduit. **Motion by Councilor Irish, seconded by Chair, to approve Order No. 19-1007611A. Motion carried 2-0. Motion by Councilor Irish, seconded by the Chair, to request a Suspension of the Rules at the June 17, 2019 City Council Meeting to vote upon the petition. The motion carried 2-0.**

Reports of Committee Continued:

Order No. 19-1007629A: Petition from MA Electric to install a new pole 47-84 to use as a stub pole for poles 47 and 47-5 on Bolton Street. Albert Galvin, Design Engineer, National Grid explained the stub pole is generally five feet shorter than a normal pole in the street and it maintains the stability of the poles, so they do not start slanting. They maintain proper heights above the roads and are generally used if they are unable to use guy wires in the opposite direction to hold the poles in place. President Clancy asked how high it would be when crossing Route 85 and Mr. Galvin responded their minimum standard is eighteen feet and, in this instance, he believed it would be over twenty feet once the height of the poles is considered. **Motion by Councilor Doucette, seconded by Councilor Irish, to approve the petition. Motion carried 3-0. Motion by Councilor Irish, seconded by the Chair, to request a Suspension of the Rules at the June 17, 2019 City Council Meeting to vote upon the petition. The motion carried 3-0.**

Order No. 19-1007690: Petition from Massachusetts Electric and Verizon New England, to relocate Pole and anchor #6 to the opposite side of Boudreau Avenue to accommodate a city road widening project. Albert Galvin, Design Engineer, National Grid, explained this petition would allow the City to widen the road by relocating the pole to the opposite side of the street so it would be in line with the rest of the poles. Responding to Councilor Irish, Mr. Galvin did not have the specific timeline for the project as he is not involved with scheduling. **Motion by Councilor Irish, seconded by the Chair, to approve Order No. 19-1007690. Motion carried 3-0. Motion by Councilor Irish, seconded by the Chair, to request a Suspension of the Rules at the June 17, 2019 City Council Meeting to vote upon the petition. The motion carried 3-0.**

Motion made and seconded to adjourn. The motion carried 3-0. Meeting adjourned at 6:45 PM.

Suspension of the Rules requested – granted.

ORDERED: At the Regular Meeting of the Marlborough City Council on June 17, 2019, the following bond, **ORDERED ADVERTISED**; adopted.

STREET CONSTRUCTION BOND

That the sum of \$4,000,000.00 (four million dollars) be and is hereby appropriated for street construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to borrow the sum of \$4,000,000.00 under and pursuant to the provisions of Chapter 44, Section 7 (1) of the Massachusetts General Laws, as amended and supplemented, or any other enabling authority, and to issue bonds or notes of the City of Marlborough therefor. Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Suspension of the Rules requested – granted.

ORDERED: That Transfer Request in the amount of \$1,752,958.50 for various department Capital Requests, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Various					FISCAL YEAR:	2019	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$6,919,461.00	\$1,752,958.50	10000	35900	Undesignated Fund	\$60,000.00	19300006	58512	Capital Outlay-Fire	\$68,937.45
	Reason:	To fund equipment requests							
					\$750,000.00	19300006	58461	Capital Outlay-Sewer	\$0.00
					\$201,000.00	19300006	58593	Capital Outlay-Police	\$1,716.25
	Reason:								
					\$283,958.50	19300006	58514	Capital Outlay-DPW Projects	\$0.00
	Reason:								
					\$28,000.00	19300006	57102	Capital Outlay-Building	\$0.00
	Reason:								
					\$430,000.00	19300006	58467	Capital Outlay-Public Facilities	\$0.00
	Reason:								
	\$1,752,958.50	Total			\$1,752,958.50	Total			

Suspension of the Rules requested – granted.

ORDERED: That the Transfer Request for the Department of Public Works in the amount of \$49,090.00 00 to fund the recently ratified 3-year contract with the DPW Engineers Local 176 through FY2021, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:					FISCAL YEAR:				
					2019				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$485,582.65	\$49,090.00	11990006	57820	Reserve for Salaries	\$1,560.00	14001101	50108	GIS Administrator	\$5,977.00
	Reason:	Contractual Obligation			Reason:	Contractual Obligation			
					\$3,700.00	14001101	50660	Asst. City Engineer	\$14,219.00
	Reason:				Reason:	Contractual Obligation			
					\$1,110.00	14001101	50700	Grade II Engineering Aide	\$5,573.00
	Reason:				Reason:	Contractual Obligation			
					\$5,630.00	14001101	50710	Junior Civil Engineer	\$29,504.00
	Reason:				Reason:	Contractual Obligation			
					\$230.00	14001103	51430	Longevity	\$109.00
	Reason:				Reason:	Contractual Obligation			
					\$275.00	14001103	51920	Sick Leave Buy Back	\$0.00
	Reason:				Reason:	Contractual Obligation			
					\$1,780.00	14001301	50660	General Foreman	\$6,920.00
	Reason:				Reason:	Contractual Obligation			
					\$630.00	14001303	51430	Longevity	\$206.00
	Reason:				Reason:	Contractual Obligation			

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:						FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
					\$390.00	14001303	51920	Sick Leave Buy Back		\$0.00
	Reason:				Reason:	Contractual Obligation				
					\$1,850.00	14001401	50692	Automotive Maintenance		\$7,017.00
	Reason:				Reason:	Contractual Obligation				
					\$125.00	14001403	51430	Longevity		\$4.00
	Reason:				Reason:	Contractual Obligation				
					\$75.00	14001403	51920	Sick Leave Buy Back		\$0.00
	Reason:				Reason:	Contractual Obligation				
					\$1,850.00	14001501	50680	General Foreman		\$7,017.00
	Reason:				Reason:	Contractual Obligation				
					\$625.00	14001503	51430	Longevity		\$0.00
	Reason:				Reason:	Contractual Obligation				
					\$1,060.00	14001503	51920	Sick Leave Buy Back		\$69.00
	Reason:				Reason:	Contractual Obligation				
					\$1,515.00	60080001	50570	Chemist		\$15,422.00
	Reason:				Reason:	Contractual Obligation				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:						FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
					\$1,150.00	60080001	50580	Asst. Chemist		\$4,404.00
	Reason:				Reason:	Contractual Obligation				
					\$35.00	60080003	51430	Longevity		\$0.00
	Reason:				Reason:	Contractual Obligation				
					\$10.00	60080003	51920	Sick Leave Buy Back		\$194.00
	Reason:				Reason:	Contractual Obligation				
					\$6,210.00	60081001	50850	Treatment Plant Operator		\$27,898.00
	Reason:				Reason:	Contractual Obligation				
					\$1,850.00	60081001	50910	Chief Treatment Plant Oper.		\$7,107.00
	Reason:				Reason:	Contractual Obligation				
					\$300.00	60081003	51430	Longevity		\$0.00
	Reason:				Reason:	Contractual Obligation				
					\$185.00	60081003	51920	Sick Leave Buy Back		\$0.00
	Reason:				Reason:	Contractual Obligation				
					\$5,500.00	60085001	50850	Treatment Plant Operator		\$21,509.00
	Reason:				Reason:	Contractual Obligation				

Suspension of the Rules requested – granted.

ORDERED: That the Transfer Request for the Legal Department in the amount of \$6,000.00 from Reserved for Salaries to City Solicitor to fund the position for the remainder of FY19, **APPROVED**; adopted.

		CITY OF MARLBOROUGH									
		BUDGET TRANSFERS --									
	DEPT:	Legal						FISCAL YEAR:	2019		
		FROM ACCOUNT:					TO ACCOUNT:				
Available											Available
Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:		Balance
\$485,582.65	\$6,000.00	11990006	57820	Reserve for Salaries		\$6,000.00	11510001	50030	City Solicitor		\$11,766.55
	Reason:	To fund City Solicitor line through June 30th due to a retirement									
	\$6,000.00	Total				\$6,000.00	Total				

Suspension of the Rules requested – granted

ORDERED: That the Petition from Comcast, to install new underground 3" PVC conduit for approximately 1055' and (3) 2' x 3' vaults starting at 46 Lizotte Drive to service to 130 Lizotte Drive, **APPROVED**; adopted.

Suspension of the Rules requested – granted.

ORDERED: That the Petition from MA Electric to install a new pole 47-84 to use as a stub pole for poles 47 and 47-5 on Bolton Street, **APPROVED**; adopted.

Suspension of the Rules requested – granted.

ORDERED: That the Petition from Massachusetts Electric and Verizon New England, to relocate Pole and anchor #6 to the opposite side of Boudreau Avenue to accommodate a city road widening project, **APPROVED**; adopted.

ORDERED: That the Transfer Request for the Department of Public Works in the amount of \$1,325,300.00 which moves funds from Undesignated to Overtime-Snow & Ice, Snow Removal and Operating Expenses in the amounts of \$280,300.00, \$395,000.00 & \$650,000.00 respectively to fund FY19 deficit, **APPROVED**; 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
\$6,919,461.00	\$1,325,300.00	10000	35900	Undesignated Fund	\$280,300.00	14001203	51390	Overtime-Snow & Ice	-\$280,292.68
	Reason:	To fund the snow & ice deficit for FY19							
					\$395,000.00	14001206	52960	Snow Removal	-\$392,271.23
	Reason:								
					\$650,000.00	14001206	57040	Operating Expenses	-\$647,654.04
	\$1,325,300.00	Total			\$1,325,300.00	Total			

ORDERED: That the Transfer Request in the amount of \$388,000.00 which moves funds from Meals Tax Revenue Account to fund FY19 bond payments associated with Parks & Recreation improvements, **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
\$3,925,755.96	\$388,000.00	27000	33086	Fund Bal-Parks & Fields Capital	\$388,000.00	19910009	49715	Transfer-Meal Local Option	\$0.00
	Reason:	Local options meals tax funding FY19 bond payments associated with parks & fields as per the recap							
	\$388,000.00	Total			\$388,000.00	Total			

ORDERED: That the Transfer Request for the Department of Public Works in the amount of \$58,000.00 which moves funds to and from various accounts within Public Works, to fund park maintenance, consultant fees and roof and masonry repairs at the DPW, **APPROVED**; adopted.

	CITY OF MARLBOROUGH BUDGET TRANSFERS --										
	DEPT:	Department of Public Works/Public Facilities					FISCAL YEAR:	19			
		FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Available Balance	
\$23,343	\$15,000.00	14001002	50062	Finance Asst.	\$23,000.00	14001506	54640	Park Maintenance		\$49	
	Reason:	Excess due to step increases				Byrne and Korean Veterans Field drainage, Irrigation at Women Veterans Park and Station 1					
\$45,142	\$8,000.00	14001101	50710	Junior Civil Engineer							
	Reason:	Excess due to step increases									
\$26,254	\$11,000.00	60080001	50630	Asst. Comm. Utilities	\$15,000.00	60081004	53174	Contract Services		\$888	
	Reason:	Excess due to vacancy				Consultant fee for Assistant Commissioner duties					
\$18,041	\$4,000.00	60080001	50570	Chemist							
	Reason:	Excess due to maternity leave									
\$34,649	\$20,000.00	13032001	50292	Craftsman	\$20,000.00	11920006	53999	Other Services		\$14	
	Reason:	Excess due to vacancy				Roof and masonry repairs at DPW					
	\$58,000.00	Total			\$58,000.00	Total					

ORDERED: That the Transfer Request for the Human Resources Department in the amount of \$16,900.00 from Reserved for Salaries to Sick Leave Buy Back and Human Resources Director to fund the retirement benefit for David Brumby who will be retiring effective July 1, 2019, **APPROVED**; adopted.

FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$660,632.65	\$16,900.00	11990006	57820	Reserve for Salaries	\$11,900.00	11520001	50530	HR Director	\$13,851.56
Reason:		To fund sick leave buy back & vacation due to a retirement							
					\$5,000.00	11520003	51920	Sick Leave Buy Back	\$0.00
\$16,900.00		Total			\$16,900.00	Total			

ORDERED: That the Transfer Request in the amount of \$4,500.00 which moves funds from Undesignated to Stabilization-Open Space from wireless antenna payments received in FY18, **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
\$6,919,461.00	\$4,500.00	10000	35900	Undesignated Fund	\$4,500.00	83600	32918	Stabilization-Open Space		\$522,426.13
	Reason:	To transfer annual wireless antennae payments received by the City in fiscal year 2018 to Open Space Stabilization								
	\$4,500.00	Total			\$4,500.00	Total				

ORDERED: That no more than seventy-five thousand dollars (\$75,000.00) shall be expended from the Public Safety Revolving Fund during fiscal year 2020, unless otherwise authorized by City Council and Mayor, **APPROVED**; adopted.

ORDERED: That no more than three hundred fifty thousand dollars (\$350,000.00) shall be expended from the Parks and Recreation Revolving Fund during fiscal year 2020, unless otherwise authorized by City Council and Mayor, **APPROVED**; adopted.

ORDERED: That no more than seventy thousand dollars (\$70,000.00) shall be expended from the Council on Aging Revolving Fund during fiscal year 2020, unless otherwise authorized by City Council and Mayor, **APPROVED**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, **FILE**; adopted.

ORDERED:

DECISION FOR SPECIAL PERMIT

THOMAS CODER
21 Patten Drive, Marlborough, MA

CITY OF MARLBOROUGH
CITY COUNCIL ORDER NO. 19-1007612C

DECISION ON AN APPLICATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to Thomas P. Coder of 21 Patten Drive, Marlborough MA 01752, as provided in this Decision and subject to the following Findings of Fact and Conditions:

PROCEDURAL FINDINGS

1. Thomas Coder, with an address of 21 Patten Drive, Marlborough, MA 01752, is the owner of real property located at 21 Patten Drive, Marlborough, MA 01752 (the "Applicant").
2. The Applicant is the owner of said real property which is described in a deed recorded with the Middlesex South District Registry of Deeds at Book 71802, Page 461, and identified on the City of Marlborough Assessor's Maps as Map 5, Parcel 80 (the "Site").
3. The Applicant, on or about March 11, 2019 filed with the City Clerk of the City of Marlborough an Application to City Council for Issuance of Special Permit (the "Application") under Section 12, Paragraph B. of Chapter 650 (Zoning) of the Code of the City of Marlborough to demolish the existing one story single-family dwelling located on the Site and to construct a new two story single-family dwelling on a new poured concrete foundation footprint (the "Project").
4. The Application consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement, (c) Filing Fee check in the amount of \$300.00, (d) Plan Delivery Certification, (e) Tax Payment Certification, (f) Abutters List, (g) Existing and Preliminary Site Plans, (h) Architectural Drawings, (i) Certificate of Completeness of Application, and (j) Zoning Denial Letter (dated March 4th, 2019), (collectively the "Documents"), which Documents are incorporated herein and become a part of this Decision. Eleven sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer, and the Conservation Officer, all in accordance with Section 59 of Chapter 650 of the Zoning Code of the City of Marlborough.
5. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A, Sections 9 and 11, the City Council established a date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the Marlborough Enterprise. All necessary abutters, as certified by the Office of the Marlborough Assessors, were provided notice as required by law.

6. The Marlborough City Council held a public hearing on the Application on April 29th, 2019 in accordance with the published notice (the “Public Hearing”). The time for the City Council to take final action on the Application is July 29th, 2019.
7. The Applicant presented testimony at the Public Hearing detailing the Project, its impact upon the neighborhood, and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the Public Hearing. Subjects of concern were the deteriorated condition of the existing single-family dwelling, the proposed new two-story single-family dwelling, on a new concrete foundation.
8. The Site, located in the A-3 zoning district, has side setback of 11.5’ to the foundation and 9.5’ to the roof. With a rear setback reduced to 22 feet and is comprised of approximately 1,767 SF of land. Chapter 650-41 of the Zoning Code of the City of Marlborough requires 15’ side setback and a lot size of 5,000 SF.
9. The Building Commissioner has determined that the existing single-story single-family dwelling is a legal pre-existing nonconforming structure with respect to lot size and setbacks, and that the proposed two-story single-family dwelling would increase or intensify the nonconformities of said structure. The proposed single-family dwelling would conform to requirements of the City of Marlborough Zoning Code in all respects except for the side yard, back yard setback requirements. Thus, the proposed reconstruction of the dwelling with an additional second floor within setback area intensifies the pre-existing legally non-conformity structure and requires a special permit from the City Council. The Zoning Denial Letter of the Building Commissioner, dated March 4th, 2019, is attached hereto as “**Attachment A.**”
10. The existing site plan submitted with the Application (as thereafter revised to its current attached version, if applicable) is entitled, “ZBA Petition Plan, 21 Patten Drive, Marlborough MA; Prepared for Thomas Coder” by Connorstone Engineering, 10 Southwest Cutoff, Suite 7, Northborough, MA 01532, graphic scale 1” = 20’, dated March 7, 2019, attached hereto as “**Attachment B.**”
11. The architectural drawings submitted with the Application are entitled “Coder Residence, 21 Patten Drive, Marlborough, MA,” by Silver Street Architects. Daniel Wezniak, AIA, dated February 5, 2019 (the “Architectural Drawings” A-0, A-1, A-2, A-3, A-4, A-5) and are attached hereto as “**Attachment C.**”

BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDING OF FACT AND TAKES THE FOLLOWING ACTIONS:

- A. The City Council finds that it may grant a Special Permit subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the “City”).
- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough.
- C. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

- D. The City Council makes these findings subject to the completion and adherence by the Applicant, his successors and/or assigns to the conditions more fully set forth herein.
- E. The City Council finds that the expansion or alteration of the existing legally nonconforming one story single-family structure, by demolition thereof and construction of the proposed new two story single-family dwelling, is not substantially more detrimental to the neighborhood than the existing nonconforming structure, that it is an appropriate use, and that is 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.
- F. 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 Special Permit to build a single-family dwelling as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, his successors and/or assigns:
1. Construction in Accordance with Applicable Laws. 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 approval of the Building Commissioner.
 2. No additional decks. No deck(s) shall be constructed or permitted beyond what is expressly shown on the Plan in Attachment B.
 3. Recording of Special Permit. In accordance with the provisions of Massachusetts General Laws c. 40A, Section 11, the Applicant at his expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the City Council's office, to the Building Department and to the City Solicitor's office.

APPROVED; adopted.

Yea: 10 – Nay: 0 – Abstain: 1

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

Abstain: Delano.

ORDERED: That the City Council for the City of Marlborough hereby accepts from AvalonBay Orchards, Inc., a Maryland corporation, with an address of 671 N. Glebe Road, Suite 800, Arlington, Virginia 22203 (the “Grantor”), a Grant of Public Trail Easement on a certain portion of the Grantor’s land located at 91 Boston Post Road East, Marlborough, Massachusetts. The Public Trail Easement consists of an area of 25,250 s.f. (0.580 acres) and is ten (10) feet in width in the location approximately shown as “Trail Easement” on the plan attached to the Grant of Public Trail Easement as Exhibit A, entitled “Easement Plan, Avalon Orchards, Boston Post Road, Marlborough, Mass.,” dated May 22, 2003, prepared by Harry R. Feldman, Inc., Land Surveyors, 112 Shawmut Avenue, Boston, Mass. 02118; Scale: 1”=50’ (2 sheets) (the “Plan”). The Plan is to be recorded along with the Grant of Public Trail Easement at the Middlesex County (South District) Registry of Deeds.

The Public Trail Easement is for the purpose of providing the perpetual right and non-exclusive easement for the general public to pass and repass on an approximately five (5) foot wide trail located within the Public Trail Easement for walking, hiking, jogging, snowshoeing, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities, **APPROVED**; adopted.

ORDERED: That the Conservation Restriction for AvalonBay Orchards, 91 Boston Post Road East, endorsed by the City Council and the Conservation Commission, **APPROVED**; adopted.

ORDERED: That the Regulatory Agreement for AvalonBay Orchards, 91 Boston Post Road East, which will extend to the year 2045 the ability to count all 156 rental units in the property as affordable units, **APPROVED**; 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, **APPROVED**; 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, **APPROVED**; 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, **APPROVED**; adopted.

ORDERED: That the Petition from TC Systems, Inc., on behalf of AT&T, to install new underground conduits with cable on Forest Street from Pole #24 to Verizon MH #516 for a distance of 65' within the Public Way, **APPROVED**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Small Cell Antenna Petition of New Cingular Wireless PCS, LLC (AT&T), 28 Concord Road, in proper legal form, **FILE**; adopted.

ORDERED: That the City Council for the City of Marlborough, pursuant to M.G.L. c.166, §22, does hereby approve the petition of New Cingular Wireless PCS, LLC ("AT&T") dated October 5, 2017, filed with the City Clerk on October 5, 2017, to grant a location on an existing utility pole (which pole shall first be replaced by National Grid as set forth herein) located at 28 Concord Road in Marlborough, which pole is designated as National Grid pole #2-84, in order for AT&T to deploy a small cell facility thereon by constructing and maintaining telecommunications wires and appurtenances, including a pole top antenna, equipment cabinet, circuit breaker box, electric meter main, related wiring, fiber optic cable, and conduit (the "Small Cell Facility"), all as depicted on plans submitted with AT&T's petition to the City Council's Wireless Communications Committee and Public Services Committee, which plans are attached hereto and incorporated herein;

subject, however, to the following conditions, which conditions shall be binding upon AT&T, its successors and/or assigns:

1. The Small Cell Facility shall be of such material and construction, and all work shall be done in such manner, as to be satisfactory to the City Council and the Engineering Division of the City's Department of Public Works (the "City Engineering Division").
2. AT&T 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 AT&T, its employees, agents and servants in any manner arising out of the rights and privileges granted herein to AT&T for its Small Cell Facility.
3. AT&T shall comply with the requirements of existing City ordinances, including but not limited to Chapter 473 thereof, entitled "Poles, Wires and Conduits," as may be applicable, and such requirements as may hereafter be adopted governing the construction and maintenance of the Small Cell Facility.
4. AT&T shall not install its Small Cell Facility on double poles. If National Grid pole #2-84 becomes a double pole in the future, AT&T shall remove its Small Cell Facility to a single pole as expeditiously as possible within the guidelines then prescribed by National Grid, but in any event no later than December 31 of the year in which National Grid pole #2-84 becomes a double pole; provided, however, that if AT&T is unable to comply with the December 31 deadline for reasons fairly attributable to National Grid, AT&T shall submit to the City Council a letter, to be received by the City Council prior to such deadline, requesting that the Council extend the deadline to a specified date in the subsequent year and providing good cause in support of such request.

5. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of AT&T in conjunction with its Small Cell Facility is prohibited, as is all underground installation associated with the Small Cell Facility; provided, however, that the grounding rod proposed to be installed as part of the Small Cell Facility is permitted as long as 1) AT&T installs the rod immediately adjacent to National Grid pole #2-84 so as to cause minimal disturbance to the surface of the street or sidewalk, and 2) AT&T restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the City Engineering Division.
6. The Small Cell Facility shall be color-coordinated so as to best minimize the visual impact of the Facility.
7. The Small Cell Facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of National Grid pole #2-84 facing away from the roadway.
8. Any future modification of the Small Cell Facility by AT&T shall require further City Council Approval.
9. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of National Grid pole #2-84 shall result in AT&T's moving their Small Cell Facility to another pole in a timely fashion after having been notified by the City Engineering Division about the road project; provided, however, that any such relocation shall require further City Council approval.
10. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T shall provide the City Engineering Division with a written construction and/or installation schedule satisfactory to the Division.
11. Prior to the commencement of construction and/or installation of the Small Cell Facility, AT&T 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 Facility from National Grid pole #2-84 and for the repair and/or restoration of the public way, in the vicinity of National Grid pole #2-84, to the condition the public way was in as of the date of this order, said amount to be determined by the City Engineering Division. The amount of the bond shall be the total of the estimate by the Division plus an annual increase of 3% for the operating life of the Small Cell Facility. AT&T shall notify the City CPO and the Division of any cancellation of, or change in the terms or conditions in, the bond.
12. Prior to commencement of construction and/or installation of the Small Cell Facility, National Grid shall replace the existing pole #2-84 with a new pole as further described in the plans attached hereto. Notwithstanding anything to the contrary, the Small Cell Facility shall not be placed on said existing pole, and this Grant of Location only authorizes the Small Cell Facility to be placed on the new replacement pole.

13. Failure by AT&T to comply with any of the above conditions to the satisfaction of the City Council or, as applicable, the City Engineering Division or the City CPO shall result in the City Council's review of AT&T's petition granted herein.

APPROVED; adopted.

Yea: 11 – Nay: 0

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

ORDERED: That the Proposed Zoning Ordinance Amendment to Chapter 650, §5, §17, & §18 – Home Office and Contractor/Landscape Contractor Storage Yards, refer to **URBAN AFFAIRS COMMITTEE;** adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:39 PM; adopted.