



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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SEPTEMBER 23, 2019

Regular meeting of the City Council held on Monday, September 23, 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 9:37 PM.

ORDERED: That the Minutes of the City Council meeting, SEPTEMBER 9, 2019, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Nicholas Masso of Indo Laboratories, to operate an independent Marijuana Testing Laboratory at 257 Simarano Drive, Order No. 19-1007757, 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.**

Certification filed by Councilor Tunnera and read into the record, pursuant to Chapter 79 of the Acts of 2006.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$7,000.00 from BayPath Elder Services for the Council on Aging to assist seniors with hoarding or other clutter situations; adopted.

ORDERED: That the Reappointment of Elizabeth Evangelous to the Board of Registrars for a term of three-years to expire on April 1, 2022, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Reappointment of Pamela Wilderman to the Historical Commission for a three-year term from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield on behalf of Councilor Delano, re: Proposed Amendment to Chapter 526 "Signs", relative to electronic signage including, specific regulations for multi-product LED price pump topper and video graphics array (VGA) color screen signs at gasoline stations, refer **URBAN AFFAIRS COMMITTEE, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, OCTOBER 21, 2019**; adopted.

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 526, ENTITLED "SIGNS," AS FOLLOWS:

I. Chapter 526, entitled "SIGNS", is hereby amended as follows (new text shown as underlined, deleted text shown as ~~strikethrough~~):

A. Section 526-2, entitled "Definitions," is amended by **inserting** the following definitions:

GAS STATION MULTI-PRODUCT LED PRICE PUMP TOPPER: An EMC sign that incorporates light emitting diode (LED) to display exclusively digital gasoline prices on the top of a gasoline filling station pump.

GAS STATION VIDEO GRAPHICS ARRAY (VGA) COLOR SCREEN: A digital screen that displays video content and is placed on a gasoline filling station pump.

B. Section 526-13(B), entitled "Standards," relative to Electronic Message Center and Digital Display Signs," stating an EMC sign or Digital Display sign shall be allowed by special permit, but only pursuant to the following standards, is **amended** as follows:

(8) Effects. The EMC message or the digital display shall not grow, melt, X-ray, scroll, write on, travel, inverse, roll, twinkle, snow, rotate, flash, blink, move, spin, wave, rumble or present pictorials or other animation and/or intermittent illumination. Subject to the foregoing restrictions, temperature and time may change as necessary. The message shall be limited to alphanumeric characters, one color per message. Displaying videos or simulated images is prohibited on a Digital Display sign or EMC sign.

(9) Operational limitations. Such EMC sign or Digital dDisplay sign shall contain static messages only and shall not have movement of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the slashing, scintillating or varying of light intensity.

(a) Sequential messages are prohibited. Only complete messages shall be allowed.

- C. Section 526-13, entitled Electronic message center signs; digital display signs, is **amended** by inserting the following new sub-section E:

E. Gasoline Filling Stations. Notwithstanding anything to the contrary in Chapter 526, the following signs may be placed at a gasoline filling station and are exempt from the special permit requirement in §526-13, provided that said signs comply with the following regulations:

- (1) One (1) Gas Station Multi-Product LED Price Pump Topper shall be permitted to be installed on the top of each pump and oriented to face the fueling vehicle. The LED digits shall not exceed eight (8) inches in height. The color of the LED digits for the price numerals only may be either: one color for all prices, or one color for gasoline price and one color for diesel price to conform with industry standards. No audio component or audio is permitted.
- (2) One (1) Gas Station Video Graphics Array (VGA) Color Screen shall be permitted to be installed on each pump and oriented to face the fueling vehicle. The screen size shall not exceed twelve (12) inches diagonally. The screen shall only be in use during point of sale transactions for fueling and shall be used for video display, public service announcements, and point of sale transactions only. A gasoline filling station electing to install one or more screens shall not be permitted to maintain window signs with an aggregate display surface covering more than ten percent (10%) of the window area at the gasoline filling station. The screen shall be turned off outside of posted business hours. No audio component or audio is permitted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Acceptance of a Utility Easement, 34 St. Martin Drive, refer **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that the permanent utility easement shown as “Proposed 22’ Wide Utility Easement”, constituting a portion of land located at 34 St. Martin Drive, Marlborough, Middlesex County, Massachusetts, on a plan entitled “Easement Plan of Land in Marlborough, MA” as referenced below, containing 1,595+/- square feet, (0.04 acres, more or less), according to the plan, be accepted as a municipal easement as shown on the plan and as hereinafter described:

DESCRIPTION

The 22’ wide utility easement shown as “Proposed 22’ Wide Utility Easement”, on a plan of land entitled “Easement Plan of Land in Marlborough, MA”, Prepared by: Bruce Saluk & Associates, Inc. Civil Engineers & Surveyors, 576 Boston Post Road East, Marlborough, MA 01752, Date: July 12, 2017, last revised September 17, 2019 (the “Plan”), said Plan to be recorded herewith. Easement containing 1,595+/- square feet (0.04 acres, more or less), according to the Plan. Being a portion of the property owned in Marlborough by the Grantor and described in a deed recorded in the Middlesex South District Registry of Deeds in Book 72843, Page 197.

IT IS THEREFORE ORDERED THAT:

The 22' wide utility easement shown as "Proposed 22' Wide Utility Easement" on the Plan, constituting a portion of land located at 34 St. Martin Drive, containing 1,595+/- square feet (0.04 acres, more or less), being a portion of the property owned by Marlborough Technology Partners, LLC, a Delaware limited liability company with the usual address of 2765 Sand Hill Road, Suite 200, Menlo Park, California 94025 and described in a deed recorded in the Middlesex South District Registry of Deeds in Book 72843, Page 197, be accepted as a municipal easement in the City of Marlborough.

ORDERED: That the Communication from City Clerk Steven Kerrigan, re: Preliminary Municipal Election Call, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, August 8, 2019 & August 22, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Library Trustees, June 4, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, August 26, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, July 31, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, August 27, 2019, **FILE**; adopted.

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**City Council Finance Committee
Monday September 16, 2019
In Council Chambers**

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

Finance Committee Members Absent: None

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

The meeting convened at 7:00 PM.

1. **Order No. 19-1007687B-2 – Increase Parks and Recreation Revolving Fund to \$800,000.00 for FY20:** The Finance Committee reviewed the Mayor's letter dated August 22, 2019 requesting an increase to the spending limit for the Parks and Recreation Revolving Fund for the remainder of Fiscal Year 2020 to \$800,000.00. The funds will be used to improve Stevens and Ghiloni Park. **The Finance Committee voted 5 - 0 to approve the order to increase the Parks and Recreation Revolving Fund spending limit to \$800,000.00 for the remainder of FY20.**

Reports of Committee Continued:

2. **Order No. 19-1007751 – Transfer \$30,000.00 from the PEG Fund to WMCT Cable Station for Capital Equipment:** The Finance Committee reviewed the Mayor's letter dated August 22, 2019 requesting the transfer of \$30,000.00 from the Cable TV Public, Education and Government (PEG) Fund to the WMCT-TV Cable Station for the purchase of capital equipment. Councilor Ossing discussed the disclosure that was filed with the City Clerk's office per MGL c. 268A section 23(b)(3) on September 16, 2019. **The Finance Committee voted 5 - 0 to approve the transfer request.**
 - The Finance Committee agreed to support suspending the rules at the September 23, 2019 City Council meeting to approve the transfer for the Cable Station equipment.
3. **Order No. 18/19-1007366B – Authorize Increased Funding for Acquisition of 49 West Main Street:** The Finance Committee reviewed the DPW Commissioner's letter dated August 21, 2019 requesting the approval of the amended purchase price for the acquisition of the property at 49 West Main Street related to the library construction project. Recent additional negotiations have resulted in certain amendments to the purchase and sales agreement, including modification to the sale price and terms. **The Finance Committee voted 5 - 0 to approve the order to authorize the City to acquire 49 West Main Street for \$461,000.00.**

The Finance Committee adjourned at 7:34 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: September 18, 2019

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

Convened: 5:34 PM – Adjourned: 7:25 PM

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

Order No. 19-1007738: Proposed Zoning Map Amendment from Attorney Michael Norris on behalf of Renato Fontes, regarding Rezoning of land off 269 Mechanic Street identified as Map 56, Parcel 125.

Reports of Committee Continued:

The Urban Affairs Committee met with Attorney Michael Norris and Peter Bemis of Engineering Design Consultants, Inc. regarding Renato Fontes' request to rezone the land identified as Map 56, Parcel 125 from Limited Industrial to Residence B. The property at 269 Mechanic Street is split into two parcels. The front parcel, Map 56, Parcel 125A, is the entrance to the property off Mechanic Street and is zoned Residence B. It is a forty-foot strip of land that leads to the rear portion of the property or the rear parcel, Map 56, Parcel 125. The rear portion of the property contains a warehouse and is currently zoned Limited Industrial. Their request is to rezone that rear portion of the property to residential so it is the same zone as the front portion which would allow them to petition the City Council for a Special Permit to convert the existing building into eight condominium units. The whole property must be zoned RB to permit their residential project. Because their frontage on Mechanic Street is twelve feet where forty feet is required their project will also require a variance from the Zoning Board of Appeals before they apply for the special permit. Councilors supported the zoning map change indicating their preference for the proposed residential use of the property over limited industrial uses such as a moving company, warehousing or similar uses incompatible with abutting residential properties.

Motion made by Councilor Juaire, seconded by the Chair, to approve the zoning map change to rezone the portion of land off 269 Mechanic Street identified as Map 56, Parcel 125 from Limited Industrial to Residence B. The motion carried 5-0.

Order No. 18/19-1007135B (X19-1007571, X16-1006668): Updated Site Plan Approval Submission from Attorney Brian Falk, on behalf of E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street.

The Urban Affairs Committee met with Attorney Arthur Bergeron, engineer, Bruce Saluk of Bruce Saluk & Associates Inc., architect, Ken Feyl of J.D. LaGrasse and Associates, Inc., and property owner, Enza Sambataro to review the Site Plan Submission for E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street. The City's professional Site Plan Review Committee recommended changes to Section "J. Stair Case Property, 4" to include manholes and language that the applicant was responsible for building the stairs and drain and sewer lines. The amended J. 4. would read as:

"J.4. Prior to the issuance of a building permit for the construction of the building, the Applicant shall submit plans, deemed acceptable to the City Engineer, for the reconstruction of the City stairs in their entirety from Main Street to Devens Street and the reconstruction and relocation of drain and sewer lines and manholes located below the existing stairs. The relocation and reconstruction of the stairs, and the drain and sewer lines are to be completed by the applicant's licensed contractors as part of the building project."

Reports of Committee Continued:

There was further discussion regarding the stairs as to their size, proposed materials, required easements, and responsibility of petitioner for the maintenance of that section from the second deck opening down.

Motion made by Councilor Juaire, seconded by the Chair, to approve the Site Plan Decision as amended. The motion carried 5-0.

Order No. 19-1007571 (X18/19-1007135B): Application for Special Permit from Attorney Brian Falk, on behalf of E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street.

The Urban Affairs Committee met with Attorney Arthur Bergeron, engineer, Bruce Saluk of Bruce Saluk & Associates Inc., architect, Ken Feyl of J.D. LaGrasse and Associates, Inc., and property owner, Enza Sambataro to review the Application for a Special Permit for E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street. The building is allowed by right and the special permit pertains to the extra height of the building for the additional units and roof deck amenities as outlined in the application materials. Based on prior comments and concerns regarding the roof deck amenities and potential conflict with neighbors to the rear of the site, the proposed fire pit, outdoor kitchen, and larger gathering spaces have been moved to the Main Street side of the building away from the rear neighbors. The roof deck is subject to City of Marlborough Noise Ordinance for any noise generated when the deck is in use. There was lengthy discussion concerning the use of the roof deck for uses other than open space by the residents. The applicant agreed that the use of the roof deck would be limited to residents of the residential portion of the building with an exception to permit up to six charitable events per year to be sponsored by non-residents of the building, without rental or fee for its use. Councilor Clancy questioned the amenities space on the 2nd floor. Applicant replied that the amenities room was removed to make way for a larger unit now consisting of a 2 plus bedroom unit.

Motion made and seconded to approve the amended decision. The motion carried 4-1. (Juaire opposed to the use of the roof deck for events by non-residents)

Motion made by Councilor Doucette, seconded by the Chair, to recommend approval of the Special Permit as amended. The motion carried 5-0.

Motion made and seconded to adjourn. The meeting adjourned at 7:25 PM.

Suspension of the Rules requested – granted.

ORDERED: That the Transfer Request in the amount of \$30,000.00 from PEG Funds to Marlboro Cable Trust, to fund capital equipment purchases for WMCT, **APPROVED**, adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:	Mayor						FISCAL YEAR:	2020		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$206,164.96	\$30,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$30,000.00	89000	25581	Marlboro Cable Trust		\$0.00
	Reason:	To fund WMCT's capital request for FY20 with PEG fees								
	\$30,000.00	Total			\$30,000.00	Total				

Suspension of the Rules requested – granted.

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

That, rear land at 269 Mechanic Street currently owned by Carmi Greb, LLC on Assessors Map 56, Parcel 125 presently zoned Limited Industrial "LI" be rezoned as Residential B as it is contiguous to the Assessors Map 56, Parcels 131, 130, 129, 128, 127, and 123, that are all currently zoned Residential B.

Referred back to **URBAN AFFAIRS COMMITTEE**; adopted.
(Due to Planning Board concerns)

Suspension of the Rules requested – granted.

Motion made by Councilor Delano to send the Application for Special Permit from E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street, as approved by the Urban Affairs Committee, to the City Solicitor to be placed In Proper Legal Form for the October 7, 2019 Council Meeting – **Motion WITHDRAWN by Councilor Delano.**

President Clancy called a recess at 9:20 PM and returned to open meeting at 9:26 PM.

Suspension of the Rules requested – granted.

Motion made by Councilor Delano to amend the Application for Special Permit from E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street, to remove the condition to allow use of the rooftop deck and replace it with the following *“The rooftop will be for the exclusive use of the residents and/or their guests and it could not be utilized for outside events or could not be rented or leased.”*; **adopted.**

Suspension of the Rules requested – granted.

ORDERED: That the Application for Special Permit from E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street, as amended, refer to **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE OCTOBER 7, 2019 COUNCIL MEETING**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:37 PM; adopted.