



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

**DECEMBER 7, 2020**

Regular meeting of the City Council was held on Monday, December 7, 2020 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Doucette, Dumais, Tunnera, Irish, Navin & Landers. Councilors Participating Remotely: Wagner, Oram, Perlman & Robey. Meeting adjourned at 9:31 PM.

Council President Ossing explained that this meeting is being held under the Emergency Order of the Governor allowing relief from the Open Meeting Law (MGL c. 30A §20). The Emergency Order allows for remote participation by public bodies. President Ossing further stated that all votes of the City Council will be taken by roll call vote pursuant to 940 CMR 29.10.

The City Council President asked for a roll call to confirm attendance of all City Councilors.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

**ORDERED:** That the Minutes of the City Council meeting, November 16, 2020, **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

**ORDERED:** That the JOINT TAX CLASSIFICATION PUBLIC HEARING with Board of Assessors to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2021, all were heard who wish to be heard, hearing closed at 8:37 PM; adopted.

**Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.**

**Assessor's Present: Silverstein.**

**Assessor's Absent: Arruda & Manzello.**

ORDERED: That the Transfer of \$49,725.00 (forty-nine thousand, seven hundred twenty-five dollars) from Sale of Graves to Reduce the FY 2021 Tax Levy, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Mayor's Office				FISCAL YEAR:	2021		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$49,725.00	\$49,725.00	27000	33020	Sale of Graves	\$49,725.00	To reduce FY21 Tax Levy			\$0.00
	Reason:	Sale of Graves revenue from FY20 to reduce FY21 tax levy							
	\$49,725.00	Total			\$49,725.00	Total			

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Transfer of \$1,163,659.01 (one million, one hundred sixty-three thousand, six hundred fifty-nine dollars & one cent) from Overlay Reserve to reduce the FY 2021 Tax Levy, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Mayor's Office				FISCAL YEAR:	2021		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$1,163,659.01	\$1,163,659.01	10000	32200	Overlay Reserve	\$1,163,659.01	To reduce FY21 Tax Levy			\$0.00
	Reason:	Excess overlay from FY17 to reduce FY21 tax levy							
	\$1,163,659.01	Total			\$1,163,659.01	Total			

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Marlborough City Council votes in accordance with MGL, Chapter 40, §56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2021 tax rates and set the Residential Factor at 0.8063 with a corresponding CIP shift of 1.43 pending approval of the City's annual tax recap by the Massachusetts Department of Revenue, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

**Suspension of the Rules requested to allow Mayor Vigeant to make a presentation to outgoing Assessor Anthony Arruda – granted**

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

President Ossing called a recess at 8:48 PM and returned to open meeting at 8:50 PM.

**Suspension of the Rules requested to allow Assistant DPW Commissioner Ted Scott to speak– granted**

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$21,600.00 from the Department of Environmental Protection awarded to the Department of Public Works to offset the rising costs of processing recyclable materials, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$7,500.00 from Digital Federal Credit Union (DCU) donated to the Police Department to support the departments youth programming efforts and the Christmas Heroes for Helpers program, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Proposed Ordinance Amendment to Chapter 270 Building and Site Development §9 "Fees" as recommended by the Mayor and Building Commissioner, in proper legal form, Order No. 20-1008134, **MOVED TO AGENDA ITEM 19**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from Assistant City Solicitor Jason Piques, re: Application for LED Sign Special Permit, from ViewPoint Sign & Awning on behalf of Dunkin Donuts, 269 East Main Street, in proper legal form, Order No. 20-1008085B, **MOVED TO AGENDA ITEM 20**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from Assistant City Solicitor Jason Piques, re: Application for Modification of Special Permit from Attorney Brian Falk, on behalf of Garden Remedies, Inc., to amend condition #8 relative to the hours of operation for the medical and adult use marijuana retail establishment located at 416 Boston Post Road East, in proper legal form, Order No. 18/20-1007318H, **MOVED TO REPORTS OF COMMITTEE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Request for Approval of a Flat Wall Sign, Emporium Brasil, 581 Boston Post Road East, within the Wayside District, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from Attorney Brian Falk on behalf of WP Marlborough MA Owner, LLC (Waypoint Residential), re: Request to Extend Time Limitations to February 28, 2021 at 11:00 PM, on the Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, consisting of 188 units in 4 buildings at 339 Boston Post Road East (McGee Farm), **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from the Public Employee Retirement Administration Commission (PERAC) re: Required FY22 Appropriation in the amount of \$9,524,575.00, **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from Central MA Mosquito Control Project, re: Notice of 2021 Commission meeting dates, **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) School Committee, October 13, 2020, October 27, 2020 & November 10, 2020.
- b) Commission on Disabilities, October 6, 2020.
- c) Conservation Commission, October 15, 2020 & November 5, 2020.
- d) Council on Aging Board, October 13, 2020.
- e) Marlborough Historical Commission, August 20, 2020 & October 15, 2020.
- f) Library Board of Trustees, October 6, 2020.
- g) Parks & Recreation Commission, October 7, 2020.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

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

- a) Flavia Sousa, 15 Hunter Avenue, #6A, residential mailbox claim (2b).

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

Reports of Committees:

Councilor Irish reported the following out of the Finance Committee:

City Council Finance Committee  
Monday, November 23, 2020; 7:05 PM  
In Council Chambers and via Microsoft Teams

**Finance members in Chamber:** Chair Irish; Councilors Tunnera and Dumais

**Finance members participating remotely:** Councilors Oram and Perlman

**Other members in Chamber:** Councilors Landers, Ossing, Navin, Doucette

**Other members participating remotely:** Councilor Wagner

**Also present in Chamber:** Mayor Vigeant

**Also present remotely:** IT Director Gibbs, City Auditor Diane Smith, Finance Director Patrick Jones

Chair Irish called the meeting to order at 7:05 p.m. calling the roll – Councilors Dumais, Tunnera, Oram, Perlman and Irish in attendance.

11-16-20 – Order No. 20-1008140: Communication from Mayor Vigeant with Transfer request in the amount of \$80,000.00 which moves funds from PEG Fund to IT Equipment to fund upgrades for Accela for various departments.

IT Director Gibbs addressed the transfer.

Councilor Oram asked if paying permit fees online when making application could be investigated.

On motion by Councilor Oram, seconded by Chair, the committee recommends approval of the transfer in the amount of \$80,000.00 from PEG Fund to IT Equipment to fund upgrades for Accela for various departments. Vote 5-0

Roll Call – all in favor: Irish, Dumais, Tunnera, Oram, Perlman

Motion made and seconded to adjourn;

Roll Call – all in favor: Irish, Dumais, Tunnera, Oram, Perlman

Meeting adjourned at 7:21PM

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

City Council Public Services Committee  
Monday November 23, 2020; 6:15 PM  
In Council Chambers and via Microsoft Teams

**Public Services members in Chamber:** Chair Landers and Councilor Irish

**Other members in Chamber:** Councilors Dumais, Ossing and Navin

**Public Services member participating remotely:** Councilor Perlman

Chair Landers called the meeting to order at 6:15 PM calling the roll – Councilors Irish, Perlman and Landers in attendance.

11-16-20 – Order No. 20-1008143: Application for renewal of Junk Dealer/Secondhand Dealer License from ecoATM, LLC, 601 Donald J. Lynch Boulevard

By email dated November 12, 2020, Police Chief Giorgi informed the committee he received the CORI report for ecoATM and is without objection to the renewal of the license.

By email dated November 19, 2020, Karen Wang, Regulatory Affairs Coordinator, ecoATM submitted the annual report for the kiosk inside the Solomon Pond Mall indicating so far in 2020 they have collected/recycled 280 devices, paying members of the community close to \$9,000.00.

On motion by Councilor Irish, seconded by Chair, the committee recommends approval of the renewal of the Junk Dealer/Secondhand Dealer License to ecoATM, LLC, 601 Donald Lynch Boulevard. Vote 3-0 Roll Call – all in favor: Perlman, Irish, Landers

11-02-20 – Order No. 20-1008136: Petition from Eversource Energy to install approximately 465' of 8" Intermediate Pressure Gas Main as part of a system improvement on South Street between 417 South Street and Maple Street.

By email dated November 13, 2020, City Engineer DiPersio submitted the following for consideration:

- ✓ A field visit with Eversource and Engineering shall be conducted prior to the start of work so that the location of the new main within the roadway can be approved.
- ✓ Final trench paving conditions shall be set forth in the Road Opening Permit.
- ✓ This work shall not be permitted to start until the Spring of 2021.

On motion by Councilor Irish, seconded by Chair, the committee recommends approval of the petition from Eversource Energy to install 465' of 8" Intermediate Pressure Gas Main as part of a system improvement on South Street between 417 South Street and Maple Street, subject to the following three conditions from the City Engineer:

1. A field visit with Eversource and Engineering shall be conducted prior to the start of work so that the location of the new main within the roadway can be approved;
2. Final trench paving conditions shall be set forth in the Road Opening Permit;
3. This work shall not be permitted to start until the Spring of 2021.

Vote 3-0 Roll Call – all in favor: Perlman, Irish, Landers

Motion made and seconded to adjourn; All in favor by Roll Call vote – Meeting adjourned: 6:26PM

Councilor Dumais reported the following out of the Personnel Committee:

City Council Personnel Committee  
Monday November 23, 2020  
In Council Chambers and via Microsoft Teams

**Personnel members in Chamber:** Chair Dumais; Councilors Doucette and Landers;

**Other members in Chamber:** Councilors Ossing, Irish, Navin and Tunnera/arrived at 6:50PM

**Members participating remotely:** Councilor Perlman; Councilor Oram/arrived at 6:48PM

**Also present in Chamber:** Mayor Vigeant

10-5-20 – Order No. 20-1008108: Communication from Mayor Vigeant with proposed amendments to the City Code, Chapter 125, PERSONNEL:

Section 125-10 Starting Minimum Rate, by inserting a new section 125-10 (C) Notwithstanding anything contrary in this chapter, for all other employees (non-union) in order to reflect an employee's prior experience or performance, the Mayor is authorized to waive any (2) two steps on a salary schedule established under this chapter, at time of hiring or during employment; and also to add

Section 125-18 Vacations, by inserting a new section 125-18 (A) (4) Notwithstanding anything contrary in this chapter, for all other employees (non-union) in order to credit an employee's experience in prior public or private employment, the Mayor is authorized to grant an increase of up to one (1) additional week of annual vacation time which may be made effective at any time of employment, pro-rated per completed month in that calendar year and thereafter received annually.

Any increase in annual vacation time above one week shall require City Council approval.

Chair Dumais called the meeting to order at 6:30PM.

Councilor Doucette supported the proposal with an amendment that would authorize the Mayor to waive two steps on the salary schedule but only at the time of hiring and to strike the words, 'or during employment' and to authorize the Mayor to grant an increase of up to one additional week of vacation but only at the time of hiring and not at any time of employment and any additional waiving of steps and vacation time would require City Council approval.

Councilor Landers supported the Mayor's proposal re steps but did not support adding vacation time except during initial employment or when the appointment is being renewed.

Councilor Irish supported the Mayor's proposal with sunset clause.

Councilor Ossing supported granting authorization to the Mayor to waive two steps and to grant a week of vacation but only at the time of hiring given the potential for abuse.

Councilor Navin agreed with granting the Mayor some flexibility at the time of hiring, agreeing with President Ossing.

Councilor Perlman stated she is less concerned about the timing than the transparency— because taxpayer dollars are involved there should be a reporting mechanism to the City Council, not necessarily when negotiations are ongoing but when the Mayor uses this authorization so that councilors know when the steps are waived or vacation time is granted.

Councilor Oram agreed with Councilor Perlman regarding the reporting mechanism as councilors should be aware when inequities exist as it might be necessary to have salary surveys on a more regular basis to ensure equity between new hires and longstanding employees.

On a motion by Councilor Doucette, seconded by Chair, the committee recommends approval of Section 125-10C as amended by deleting the words, ‘**or during employment**’ which would authorize the Mayor to waive two steps but only at the time of initial hiring and to remove the word ‘**any**’ in new section 125-18 (A)(4)Vacations which will authorize the Mayor to grant an increase of up to one (1) additional week of annual vacation time which may be effective at (strike out the word ‘**any**’) time of employment. Vote 3-0

Motion made and seconded to adjourn;  
Meeting adjourned at 7:03PM

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

City Council Urban Affairs Committee  
Thursday, November 19, 2020; 7:00 PM  
In Council Chambers and via Microsoft Teams

The chair called meeting to order and stated that with some in chambers and some virtual, all votes would be by Roll Call.

The chair took Roll Call of voting members to confirm attendance: **present via Microsoft Teams**-Chairman Katie Robey, Councilor Wagner; **present in Chambers**-Councilor Landers, Councilor Doucette, and Councilor Navin.

**Also attending in Chambers:** Councilor Ossing.

Councilor Oram and Councilor Perlman joined via Teams later in the meeting.

Others attending via Microsoft Teams: Tom DiPersio, City Engineer; Attorney Brian Falk for both items; for Garden Remedies Dr. Karen Munkacy, Jeffrey Herold and Mark Curtin; for WP Marlborough MA Tom Moran, Carlton Quinn, Dennis Hargis and Bob Buckley.

**Order No. 18/20-1007318G: Application for Modification of special permit from Attorney Brian Falk on behalf of Garden Remedies, Inc to amend condition #8 relative to the hours of operation for the medical and adult use marijuana retail establishment located at 416 Boston Post Road East.**



Applicant reminded all that the public hearing was just held and reminded the committee this is to modify the hours of operation. The chair read into record all comments from the department heads with none having an issue with the change, but the Board of Health reminded them that they must meet the governor's regulations to close at 9:30 PM.

Councilor Doucette moved to add another condition to read: The dispensary shall provide addiction related material to the public; the motion was seconded by Councilor Landers. Roll call vote: Councilor Landers-no, Councilor Navin-no, Councilor Wagner-no, Councilor Doucette-yes, Councilor Robey-no. The vote was 4-1; the motion did not carry.

Councilor Navin moved to recommend approval of the modification of special permit to amend the hours of operation; it was seconded by chair.

Roll Call vote: Councilor Doucette-yes, Councilor Navin-yes, Councilor Landers-yes, Councilor Wagner-yes, Councilor Robey-yes. The motion carries 5-0.

The chair called for a recess.

**Order No. 20-1001007995B: Application for Special Permit by WP Marlborough MA Owner LLC, 339 Boston Post Road East to construct a multifamily dwelling residential project.**

Applicant began the meeting with a PowerPoint highlighting the changes to the plans which include a 25% reduction of the project, eliminates one of the four buildings, reduces the unit count from 188 to 140, adjusts the setback on Rt.20 from 50 feet to 120 feet, and removes the satellite parking lot. In addition, this amended plan will leave 70% of site as greenspace-the riding ring will become a walking trail for residents with interior maintained under a meadow management plan monitored by the Conservation commission and the southeastern parcel will be restricted open space. The chair then read thru the amended Special Permit decision submitted by applicant and highlighted the changes: adding language to make it clear the applicant would hire an independent Erosion Control Expert as specified in the Conservation Commission conditions; adding in the final design of the site's access driveways would incorporate designs planned by MADOT and approved by both MADOT and the City Engineer; the applicant would conduct a traffic signal warrant analysis; the applicant would provide payment not to exceed \$35,000 to be used for installation of an in-line sewage grinder at the Boston Post Road pump station near site; and that on-site storage of snow would be removed from site if it created a shortage of parking spots for residents.

After discussion by voting committee members and others, it was decided that the next steps would be to have formal plans submitted to Site Plan with comments from department heads to come to this committee and then set up meeting to continue discussion. Conservation Officer Ryder, as a member of Site Plan discussion, will determine if this also needs to go back to Conservation Commission for review. Applicant did not speak in opposition to this procedure.

Councilor Doucette moved to extend the time limit to February 28, 2021; the motion was seconded. Roll Call vote: Councilor Landers-yes, Councilor Doucette-yes, Councilor Wagner-yes, Councilor Navin-yes, Councilor Robey-yes.

Councilor Doucette moved to adjourn; it was seconded. Roll Call: Councilor Navin-yes, Councilor Landers-yes, Councilor Wagner-yes, Councilor Doucette-yes, Councilor Robey-yes. The meeting adjourned at 8:27 PM.

ORDERED: That the Communication from Assistant City Solicitor Jason Piques, re: Application for Modification of Special Permit from Attorney Brian Falk, on behalf of Garden Remedies, Inc., to amend condition #8 relative to the hours of operation for the medical and adult use marijuana retail establishment located at 416 Boston Post Road East, in proper legal form, Order No. 18/20-1007318H, **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

**Suspension of the Rules requested – granted**

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED:

**IN CITY COUNCIL**

**DECISION ON AMENDMENT TO SPECIAL PERMIT  
GARDEN REMEDIES, INC.  
ORDER NO. 18/20-1007318I**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Garden Remedies, Inc. (the “Applicant”) to amend an existing special permit to build and operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at 416 Boston Post Road, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant is a duly organized and existing corporation having a business address of 307 Airport Road, Fitchburg, MA 01420.
2. The Applicant is the tenant of a commercial retail unit located at 416 Boston Post Road East, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 73 as Parcel 30 (the “Site”). The Site's owner is Marlboro Square, LLC with a business address of 449 Boston Post Road East, Suite 6, Marlborough, MA 01752.
3. On November 5, 2018, the City Council of the City of Marlborough voted to grant a special permit authorizing the Applicant to build and operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at the Site (the “Use”) in accordance with Article VI, § 650-17, § 650-18(45), § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough, as further described in a document recorded at the Middlesex South District Registry of Deeds in Book 71986, Page 90 (the “Original Special Permit”).
4. On October 1, 2020, the Applicant, by and through its counsel, filed with the City Clerk of the City of Marlborough an application to modify Condition No. 8 of the Original Special Permit in order to change the maximum hours of operation of the Use, under the provisions of MGL c. 40A, § 9 and the Marlborough Zoning Ordinance (the “Application”).

5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a copy of the existing special permit dated November 5, 2018, and existing site plans for the Site in accordance the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit attached hereto as **“Attachment A.”**
6. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 7, of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
8. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, November 16, 2020. The public hearing was held at the Marlborough City Hall, 140 Main Street, and by remote access in accordance with Section 17(d) of Chapter 53 of the Acts of 2020 and “An Order Suspending Certain Provisions of the Open Meeting Law, MGL c. 30A, § 20” issued by Governor Charles D. Baker on March 12, 2020. The public hearing was conducted by remote participation, allowing the City Council, members of the public, and the Applicant to participate in the hearing through real-time audio and video conferencing, telephone access, and live internet streaming. The hearing was closed on November 16, 2020.
9. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
10. At the public hearing, no members of the public spoke about the Use or submitted written comments about the Use.
11. The Procedural Findings of Fact specified above supplement those made in the Original Special Permit, which are expressly incorporated in this Decision by reference.

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

- A. The Applicant has complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
- B. The City Council finds that the proposed Use of the Site, with the modified operating hours set forth in the conditions below, 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 in this Decision and in the Original Special Permit. 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 in this Decision and in the Original Special Permit.
- C. The City Council incorporates by reference Finding C in the Original Special Permit.

- D. The City Council incorporates by reference Finding D in the Original Special Permit.
- E. 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 an amendment to modify Condition No. 8 of the Original Special Permit, as follows:
1. By deleting Condition No. 8 in its entirety and inserting in its place the following condition:
    8. Hours. The maximum hours of operation of the Use shall be Monday through Saturday, 9:00 AM to 10:00 PM, and Sunday from 10:00 AM to 8:00 PM.

All other conditions of the Original Special Permit shall continue in full force and effect and are incorporated by reference as part of this Decision.

In accordance with the provisions of Massachusetts General Laws, Chapter 40A, § 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex County South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Reappointment of Eileen Bristol as City Collector, for a 2-year term effective from date of Council confirmation, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Appointment of Mary Watson Avery to the Cultural Council for a 3-year term from date of Council confirmation, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Appointment of Patrick Jones as Finance Director/Treasurer, for a 3-year term effective from date of Council confirmation, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Appointment of Barbara Pellegrini Allen to the Commission on Disabilities for a 3-year term from date of Council confirmation, **APPROVED**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: Communication from City Solicitor Jason Grossfield, re: Proposed Ordinance Amendment to Chapter 270 Building and Site Development §9 “Fees” as recommended by the Mayor and Building Commissioner, in proper legal form, Order No. 20-1008134, **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED At a regular meeting of the City Council held on Monday, DECEMBER 7, 2020, the following proposed amendment to the City Code, Chapter 270 Building and Site Development, section 9 “Fees” with proposed changes as recommended by the Mayor and the Building Commissioner, having been read was **ORDERED ADVERTISED**.

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 AS FOLLOWS:

I. Chapter 270, Section 270-9(A), is hereby amended to read as follows:

Construction costs for all new buildings and structures will be determined from values as listed in the most current ICC Building Valuation Data. ICC Building Valuation Data is updated every six months. Permit fee is based on entire "Estimate Cost of Construction". Proof of costs is a signed contract.

II. Chapter 270, Section 270-9(E), entitled “Fees”, is hereby amended to read as follows:

**Type of Permit**

**Fee**

<b>Building Residential</b>		
	1 or 2 Family Residential Construction	\$10 per \$1,000, \$50 Minimum
	Renewable Energy (PV, Wind, Hydro) Storage Excluded	\$0.03 per watt Direct Current, \$50 Minimum
<b>Building Commercial</b>		
	All Commercial Construction	\$10 per \$1,000, \$100 Minimum
	Suppression, Fire Alarm, HVAC, Sheet Metal, and/or Mechanical	\$10 per \$1,000, \$100 Minimum. If Permit Application is associated with active building permit, \$50
	Renewable Energy (PV, Wind, Hydro) Storage Excluded	\$0.03 per watt Direct Current, \$100 Minimum

<b>Building Miscellaneous</b>		
	Demolition, residential	\$10 per Thousand of Total Construction Cost, \$50 Minimum. Accessory structures less than 200 SF, \$25
	Demolition, commercial	\$10 per Thousand of Total Construction Cost, \$100 Minimum
	Solid Fuel/Wood/Coal Stoves/Fireplaces	\$50
	Tents	\$50 Residential, \$100 per year Non-residential
	Pools, above ground and in ground	\$50 Above Ground, \$100 In Ground
	Amusements	\$15 per booth and/or ride, \$100 Minimum
	Fences	\$25
	Sign Structure	\$10 per Thousand, \$50 Minimum
	Work/Jobsite Trailer	\$100 per trailer
<b>Occupancy</b>		
	Occupancy and Use Certificate to occupy existing space	\$50 when no building permit is required
	Occupancy and Use Certificate to occupy new space	Included in Building Permits for new buildings
	Temp CO Residential	\$50 per 30 days, max 90 days
	Temp CO Commercial	\$200 per 30 days, max 90 days
<b>Gas Residential</b>		
	New Construction 1 or 2 Family	\$150 per unit
	New Construction 3+ units	\$100 per unit
	Appliance replacement or addition	\$40 + \$15 per unit after the 1st
<b>Gas Commercial</b>		
	All Commercial Gas Work	\$10 per Thousand, \$100 Minimum
<b>Plumbing Residential</b>		
	Residential 1 or 2 Family	\$150 per unit
	Residential 3+ units	\$100 per unit
	Residential Alterations (new or replacements)	\$40 + \$8 per unit after the 1st
	Residential Trailer Water or Sewer	\$40

<b>Plumbing Commercial</b>		
	All Commercial Plumbing	\$10 per Thousand, \$100 Minimum
<b>Wiring Residential</b>		
	New house construction 1 or 2 Family	\$150 per unit
	Service change	\$50 per 100 AMP, +\$25 per additional 100 AMPS
	Renewable Energy Permit Fee	\$0.03 per watt Direct Current, \$50 Minimum
	Minimum Permit Fee	\$10 per \$1000 of contract cost, minimum \$75
<b>Wiring Commercial</b>		
	New Construction or Addition	The greater of \$100 OR \$10 per \$1000 of wiring job cost
	Carnivals	\$250
	Signs and billboards	\$75
	Temporary service	\$100
	Renewable Energy (Not Storage)	\$0.03 per watt Direct Current, \$100 Minimum
	Institutional (Maintenance Permit)	\$250 annually
<b>Inspections</b>		
	Work Beginning before obtaining a Permit	DOUBLE PERMIT FEE
	Reinspection fee (ALL TRADES), each inspector	\$50 Minimum
	After Hours Inspection - Detail	\$400 Minimum
	Gas Test	\$40
<b>Administrative Related Fees</b>		
	Commercial Plan Review Fee	2 cents per SF over 5,000 SF, 1st 5,000 SF included in base fee
	Permit Extension	\$50
	Permit Revision with no added construction costs	\$50
	Administrative Fee (Replacement Building Card, Zoning Letter, Change of Use Letter)	\$25

<b>110 ANNUAL INSPECTIONS – Fee Schedule</b>					
Use Group	Use Group	Use Group Descriptions	Minimum Inspections	Maximum Certification Period	Fees for Maximum Certification Period
A-1	Assembly - Theaters over 400 Capacity	With Stage and Scenery Movie Theater	Semi-Annual	One Year	\$150
		Movie Theater	Semi-Annual	One Year	\$150
A-1	Assembly - Theaters 400 or less Capacity	With Stage and Scenery Movie Theater	Annual	One Year	\$75
		Movie Theater	Annual	One Year	\$75
A-2	Restaurants, Assembly Night Clubs or similar uses	Over 400 Capacity	Semi-Annual	One Year	\$150
A-3	Assembly Lecture Halls, Recreation Centers, Terminals, Locations of Worship.	Over 400 Capacity	Semi-Annual	One Year	\$125
		400 or Less Capacity	Annual	One Year	\$50
A-4	Assembly	Low Density, Recreation & Similar Uses	Prior to Issuance of each new Certificate	Five Years	\$40
A-5	Assembly	Stadiums, Bleachers, Places of outdoor assembly	Prior to Issuance of each new Certificate	One Year	\$40+\$15 per 1000 over 5000.
E	Educational	Educational	Prior to Issuance of each new Certificate	One Year	\$50
E	Day Care	Child Day Care Centers	Prior to Issuance of each new Certificate	One Year	\$50
I-1	Group Home		Prior to Issuance of each new Certificate	One Year	\$50



I-2	Residents incapable of self-preservation: hospitals, nursing homes, mental hospitals, certain day care facilities		Prior to Issuance of each new Certificate	Two Years	\$75 per 100 beds, +\$2 per 10 beds over 100.
I-3	Residents Restrained: prisons, jails, detention centers, etc.		Prior to Issuance of each new Certificate	Two Years	\$75 per 100 beds, +\$2 per 10 beds over 100.
I-4	Adult and/or child day care facilities.		Prior to Issuance of each new Certificate	One Year	\$50
R-1	Hotels, Motels, Boarding Houses, etc.		Prior to Issuance of each new Certificate	One Year	\$40 per 10 rooms, +\$1 per room over 10 rooms, Minimum \$100.
R-1	Detoxification Facilities		Prior to Issuance of each new Certificate	Two Years	\$75
R-2	Multi-Family		Prior to Issuance of each new Certificate	Five Years	\$75 per 3 dwelling units, +\$2 per dwelling after 3.
R-2	Dormitories and R-2 Congregate Living		Prior to Issuance of each new Certificate	One Year	\$40 per 10 rooms, +\$1 per room over 10 rooms, Minimum \$100.
R-2	Summer Camps for Children		Annual	One Year	\$15 per 100 beds, +\$8 per 100 beds after the first 100 beds, +\$15 for each assembly building
R-3	Residential Care facilities licensed by DDS or DMH		Annual	One Year	\$75 per 100 beds, +\$2 per 10 beds over 100.
R-4	Residential care/assisted living facilities ( $\leq 16$ persons)		Annual	One Year	\$75 per 100 beds, +\$2 per 10 beds over 100.
R-5	Residential Special Occupancy	Limited Group Residence	Annual	One Year	\$75 per 100 beds, +\$2 per 10 beds over 100.
Any	Facilities licensed by the Alcohol Beverage Control Commission where alcoholic beverages are served and consumed.		Annual as per M.G.L. c. 10, §74	One Year as per M.G.L. c. 10, § 74	\$75

Any	House Museums (as recognized by Massachusetts Historical Commission)	Annual	One Year	\$50
Any	Fire Escapes, etc. per 780 CMR 10.00: <i>Means of Egress</i>	Five Years	Five Years	\$50

III. Effective Date. These amendments shall take effect on July 1, 2021.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED That the Communication from Assistant City Solicitor Jason Piques, re: Application for LED Sign Special Permit, from ViewPoint Sign & Awning on behalf of Dunkin Donuts, 269 East Main Street, in proper legal form, Order No. 20-1008085B, **FILE**; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED

#### **DECISION ON AN LED SIGN SPECIAL PERMIT IN CITY COUNCIL**

LED Sign Special Permit  
Andrade/Lisa Realty LLC  
Dunkin' Donuts Restaurant  
269 East Main Street  
Order No. 20-1008085C

#### **DECISION ON AN LED SIGN SPECIAL PERMIT CITY COUNCIL ORDER NO. 20-1008085C**

The City Council of the City of Marlborough hereby **GRANTS** the application for a Sign Special Permit to Andrade/Lisa Realty LLC – Dunkin' Donuts (the "Applicant") for the property located at 269 East Main Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings, Findings of Facts and Conditions.

#### **PROCEDURAL FINDINGS**

1. The Applicant is the owner of the property located at 269 East Main Street in Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 58, Parcel 69A (the "Site") and maintains a stand-alone fast food restaurant with drive-through service lanes.
2. The Applicant seeks a LED Sign Special Permit, pursuant to Section 526-13 of the Code of the City of Marlborough entitled, "Electronic Message Center Signs; Digital Display Signs" (the "EMC and Digital Display Sign Ordinance"), to operate electronic message center signs (the "Signs") at the Site (the "Application").

3. The Signs are two menu boards each of which is no larger than 29.53” by 59.06” (the product specifications are attached hereto as “**Attachment A**”). The Signs are to be located in the same location as the existing menu boards.
4. In connection with the Application, the Applicant submitted a picture of the existing menu board and drive thru at the Site, as well as a photo and drawing of the LED menu as proposed for the Site, attached hereto as “**Attachment B.**”
5. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, September 21, 2020. The public hearing was held at the Marlborough City Hall, 140 Main Street, and by remote access in accordance with Section 17(d) of Chapter 53 of the Acts of 2020 and “An Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20” issued by Governor Charles D. Baker on March 12, 2020. The public hearing was conducted by remote participation, allowing the City Council, members of the public, and the Applicant to participate in the hearing through real-time audio and video conferencing, telephone access, and live internet streaming. The hearing was closed on November 16, 2020.
6. The Applicant, through its representatives, presented testimony at the public hearing detailing the proposed changes to the Signs.
7. At the public hearing, no members of the public spoke about the signs or submitted written comments about the signs.

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

- A. The Applicant has complied with all the rules and regulations promulgated by the Marlborough City Council as they pertain to an application for an LED sign special permit under Section 526-13 of the Sign Ordinance.
- B. The City Council finds that the proposed Signs comply with the standards set forth in Section 526-13.B of the Sign Ordinance.
- C. The City Council finds, pursuant to Section 526-13.B(16) of the Sign Ordinance, that: all other signage on the Site is in compliance with zoning requirements; the Signs do not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street; the Signs do not substantially block visibility of signs on abutting lots; the Signs do not substantially block solar access of, or view from, windows of residential dwellings on abutting lots; the proposed illumination is appropriate to the Site and is appropriately located with respect to the character of the surrounding neighborhood; the scale and/or location of the Signs are appropriate; and the dimensions of the Signs complies with the area limitations of the Sign Ordinance.
- D. The City Council, pursuant to its authority under Section 526-13 of the Sign Ordinance, hereby **GRANTS** the Applicant an LED Sign Special Permit for the Signs, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Owner, its successors and/or assigns:

1. The Signs shall be operated in accordance with the Sign Ordinance of the City of Marlborough; and in addition, the Signs shall be turned off when the restaurant is not open for business.
2. All plans and/or other documentation provided by the Applicant as part of the Application, and as amended during the Application/hearing process before the City Council, are incorporated into and become part of this LED Sign Special Permit, and become conditions and requirements of the same, unless otherwise altered by the City Council.
3. The Applicant shall install a clearance sign at the entrance of the drive thru, per attached drawing from Viewpoint Sign & Awning, shown as **“Attachment C.”**

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 9:31 PM; adopted.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**