

Councilors-at-Large

Mark A. Oram
Michael H. Ossing
Samantha Perlman
Kathleen D. Robey



Ward Councilors

Ward 1 – Laura J. Wagner
Ward 2 – David Doucette
Ward 3 – J. Christian Dumais
Ward 4 – Robert J. Tunnera
Ward 5 – John J. Irish
Ward 6 – Sean A. Navin
Ward 7 – Donald R. Landers, Sr.

Council President

Michael H. Ossing

Council Vice-President

Kathleen D. Robey

CITY OF MARLBOROUGH CITY COUNCIL MEETING MINUTES MONDAY, MAY 10, 2021

The regular meeting of the City Council was held on Monday, May 10, 2021 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Tunnera, Irish, Navin & Landers. Councilors Participating Remotely: Oram, Perlman & Robey. Meeting adjourned at 9:37 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.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, April 26, 2021, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

Suspension of the Rules requested to allow the Mayor to speak – granted.

Yea: 11 – Nay: 0

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

Mayor Vigeant provided the City Council with an update on the vaccine rollout and the city's efforts regarding COVID-19.

ORDERED: That the PUBLIC HEARING on the Petition from Massachusetts Electric, to install a new Pole 45-2 within the public right of way approximately 103' west of Pole 25-1 on Forest Street, Order No. 21-1008276, all were heard who wish to be heard, hearing closed at 8:19 PM, adopted.

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$5,000.00 from the Office of the Attorney General Natural Gas Fuel Assistance Program awarded to the city to be administered through the Human Services Office to help residents who struggle with gas utility bills; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$44,500.00 from the Metropolitan Area Planning Council (MAPC) awarded to the DPW to be used to plant 93 shade trees on Elm and Pleasant Streets and other locations to help reduce carbon dioxide and beautify areas; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$100.00 from the Justice Resource Institute awarded to the Police Department to benefit the Youth Police Academy and R.A.D Defense Training; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$18,438.70 which moves funds from Reserved TNC Surcharge to Capital Outlay Police for the purchase of additional traffic enforcement equipment, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Police					FISCAL YEAR:	2021	
		FROM ACCOUNT:					TO ACCOUNT:		
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$18,438.70	\$18,438.70	27000	33088	Receipts Reserved-TNC Surchar	\$18,438.70	19300006	58593	Capital Outlay-Police Equip	\$14,707.43
	Reason:	Traffic enforcement equipment purchase							
	\$18,438.70	Total			\$18,438.70	Total			

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the City Council supports the proposed site selection for a new fire station in west side of Marlborough at the location identified by the Fire Station Advisory Committee as Elm Street at Bigelow Street; and further, that on behalf of the City, the Mayor is authorized to negotiate and enter into an agreement to acquire any necessary interests in real property, subject to any applicable laws and a favorable vote of the City Council authorizing the appropriation of sufficient funds for the acquisition of said property, **APPROVED** and is further referred to the **FINANCE AND PUBLIC SAFETY COMMITTEES**; adopted.

Yea: 6 – Nay: 5

Yea: Doucette, Dumais, Irish, Navin, Landers, & Ossing.

Nay: Wagner, Tunnera, Oram, Perlman & Robey.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY, MAY 24, 2021** as date for a **PUBLIC HEARING** for the Proposed FY22 Budget as submitted by Mayor Vigeant in the amount of \$173,983,364.00 which represents a level funded budget compared to the FY 2021 appropriation, referred to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Proposed Tax Increment Financing (TIF) Agreement with BJ's Wholesale Club, Inc. and BH GRP TCAM Owner LLC, in proper legal form, Order No. 21-1008273, **MOVED TO REPORTS OF COMMITTEE** and **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation with Conditions on the Proposed Zoning Ordinance Amendment, Chapter 650, §33 relative to the Results Way Mixed Use Overlay District (RWMUOD), **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY MAY 24, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric, to install 280' of 4-5" conduit from manhole #10 to pole #93 on Donald Lynch Boulevard near Bigelow Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Attorney Robert Buckley on behalf of Marlborough/Northborough Land Realty Trust re: Proposed Amendment to Zoning Code, Chapter 650 by adding a new section to create the "Commercial Village Overlay District", referred to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, JUNE 21, 2021**; adopted.

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

§650 – "COMMERCIAL VILLAGE HOUSING OVERLAY DISTRICT"

A. Purpose and Objectives

The Commercial Village Housing Overlay District (herein, also a “CV Housing Overlay”) allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval (hereinafter any reference to City approval shall be deemed to mean approval by the City Council) as an alternative to land use controls that exist in the underlying zoning district(s). The establishment goals of the CV Housing Overlay are to enhance land use development and encourage desired residential growth patterns for the benefit of the public health, safety and welfare and to allow for the development of higher density housing with potential accessory uses and in close proximity to commercial uses consistent with the stated economic development objectives of the City.

The CV Housing Overlay shall be applicable to the property identified as Map 100, Parcels 24, 25, 26, and 15 (including the private way “Atkinson Drive”) and Map 89, Parcels 80-99 City of Marlborough Assessor’s map dated September 21, 2012 (formerly the property shown on Map 100, Parcels 14 and 15 as shown on City of Marlborough Assessor’s Map in effect on May 2006) and as further described on Exhibit “A” annexed hereto. The CV Housing Overlay shall be superimposed on the other zoning districts existing at the time that any land in any said underlying district is also included in the CV Housing Overlay.

B. Authority of Permit Granting Authority

The City Council shall be the Permit Granting Authority for the Master Plan approval (defined below) and for any Special Permit to be issued in the CV Housing Overlay. In all instances, a development which proceeds under the CV Housing Overlay is subject to Site Plan Approval in accordance with §270-2 of the Marlborough City Code, with the exception that the City Council shall be the Permit Granting Authority for any Special Permit approval in the CV Housing Overlay.

The City Council may elect to vary the dimensional and parking requirements of this Section by Special Permit if, in their opinion, such change shall result in a substantially improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to development and occupancy.

Special Permits within the CV Housing Overlay shall be approved by the City Council. Amendments to any Special Permits issued by the City Council shall be per the requirements of this Section (§650-35 et. seq.).

C. Master Plan

The property owner/developer of the CV Housing Overlay shall, prior to, or simultaneously with, the first application for approval of a site plan and/or special permit for the CV Housing Overlay, file the following with the City Council for approval:

- (1) A Master Plan, or preliminary project plan, inclusive of the following:
 - (a) A project narrative describing the proposed development including, without limitation, the number of units, format, restrictions, if any, of the proposed project.
 - (b) A Master Concept Plan (“Master Plan”) which shall in a general manner show:
 - (i) The location and areas of proposed development and associated uses;
 - (ii) Proposed open space (usable and natural);
 - (iii) Proposed site access curb cuts off of public ways; and
 - (iv) Proposed building “envelope(s)” where construction is anticipated to occur.
 - (c) The following information for the proposed development:
 - (i) Total land area of each development area (building envelope area);
 - (ii) Total development limitations, if any, of uses in any developable area;
 - (iii) Total maximum development (number of units; square footage/use limitations); and
 - (iv) A report/memorandum discussing site circulation and traffic impacts.

The Master Plan shall be approved by a majority vote of the City Council in order to proceed with the proposed development and, if approved, shall thereafter become the general development plan governing development at the CV Housing Overlay. The Master Plan may be amended from time to time by a majority vote of the City Council by application from the property owner/developer to reflect changing development conditions.

- (2) A Development Agreement in recordable form binding upon the developer/property owner. The Development Agreement shall be approved by a majority vote of the City Council prior to the issuances of the first permit/site plan approval for development within the CV Housing Overlay, which Development Agreement may contain, without limitation:
 - (a) Required mitigation (including any traffic demand management initiatives), if any, to address the impacts arising out of the use and occupancy of the proposed project, or if at the time of execution such impacts are not known, the methodology for assessing and addressing such impacts as the development of the CV Housing Overlay progresses.
 - (b) Restrictions on development areas and such other development limitations as may be agreed upon such as, but not limited to, age restrictions and provision for affordable housing units and/or contributions, if any.
 - (c) Proposed phasing of the development of the CV Housing Overlay, if any.
 - (d) Obligations with respect to pedestrian and vehicular interconnectivity within the CV Housing Overlay, if any, to facilitate pedestrian access and circulation efficiencies.
 - (e) The authority of the City Council to retain the necessary professionals to assist in their review of development applications, if needed.

The Development Agreement shall govern the implementation of the Master Plan and development at the CV Housing Overlay.

D. Exclusivity/Control

Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this Section (§650-33 et. seq.) shall continue to remain in full force and effect, provided however that the City Council shall be the Special Permit Granting Authority, if applicable. This Section (§650-35 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the CV Housing Overlay and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District). In the event of any conflict between the provisions of this Section (§650-35 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-35 et. seq.) shall govern and control.

E. Eligible Uses

Except as specifically set forth below, all uses permitted in Residence Districts (RR, A-1, A-2, A-3, RB, RC, and RCR) either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the CV Housing Overlay. If a use requires a Special Permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

- (1) The following additional uses are also permitted BY-RIGHT in the CV Housing Overlay:
 - (a) Multi-family dwelling – up to 120 dwelling units within the entire CV Housing Overlay Zoning if said units are age restricted or age targeted (by design) dwelling units
 - (b) Consumer service and retail establishments accessory and complimentary to the other principal uses at the property
- (2) The following additional uses are also permitted BY-SPECIAL PERMIT in the CV Housing Overlay:
 - (a) Multi-family dwelling within the entire CV Housing Overlay Zoning District including, without limitation, age restricted/ age targeted dwelling units in excess of 120 units
- (3) Single family detached residential use is prohibited in the CV Housing Overlay.

F. Dimensional Requirements

The CV Housing Overlay shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:

- (1) The CV Housing Overlay may consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the CV Housing Overlay so long as a CV Housing Overlay district shall be no less than 10 contiguous acres.
- (2) Minimum Lot Frontage measurement shall be no less than twenty (20) feet for any lot wholly located within the boundaries of the CV Housing Overlay.
- (3) Minimum Front Yard measurement shall be no less than twenty (20) feet for any lot wholly located within boundaries of a CV Housing Overlay.

- (4) No less than fifteen (15) feet shall separate the structural side wall of any two or more structures within the CV Housing Overlay, even if on separate lots. No less than fifteen (15) feet shall separate any area behind and or between structures, and fire suppression vehicles shall have clear and adequate access to all structures.
- (5) Maximum building height in CV Housing Overlay shall not exceed 60 feet; a structure located within 50 feet from the property line of a directly abutting parcel in a residentially zoned district shall not exceed 40 feet in height.
- (6) Maximum Lot Coverage shall be calculated on the entire land area of the CV Housing Overlay and not on an individual lot basis, and shall not exceed 65% percent of the total area of the CV Housing Overlay.

G. Parking and Curb Cut Requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of Section §650-48 and §650-49 of the Zoning Ordinance.

- (1) General - In the CV Housing Overlay adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose.
- (2) Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to permitted uses.
- (3) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit. Where feasible, sharing of parking shall be encouraged among the various uses in the CV Housing Overlay.
- (4) Granting of Relief from Parking Regulations - The City Council may waive any of the foregoing requirements or the requirements of Section §650-48 if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

H. Signage

Except as otherwise provided in this CV Housing Overlay, signage shall conform with the provisions of Chapter 526 of the Marlborough City Code – the Sign Ordinance.

- (1) Granting of Relief from Signage Regulations - The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

I. Application

An application for a Special Permit for a development in the CV Housing Overlay shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance. In the matter of a Site Plan Approval, the application shall comply with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

The City Council in connection with a Special Permit application shall review such applications with respect to the following design criteria:

- (i) Compliance of sidewalks with Americans with Disabilities Act (ADA) Design Standards;
- (ii) Street façade and exterior walls visible from public ways;
- (iii) Public space;
- (iv) Scale of buildings; and
- (v) External Lighting

Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A building elevation shall be submitted prior to the close of the public hearing/meeting.

J. Standards for Roadways and Drainage

- (1) Roadways – Internal CV Housing Overlay roadways shall be private ways and shall be maintained by the owners/developers of the CV Housing Overlay and portions thereof. Private ways within the CV Housing Overlay, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the dimensional or material requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Storm Water Management System - The CV Housing Overlay shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended. This system shall be privately maintained.

K. Amendments

After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a Special Permit may be made with approval by the City Code Enforcement Officer. A major amendment, consisting of any changes not approved as a minor amendment, shall be approved by a majority vote of the City Council at a public hearing. If amendments are referred to the City Council by the Code Enforcement Officer, it shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a minor or major amendment. In general, a minor modification shall not produce more than an immaterial increase in the scale of a project nor produce more than an immaterial increase in impact on City services, the environment or the neighborhood. If it is determined that revisions to a Special Permit are not minor, per Section 650-59 of the Zoning Ordinance, an application for an amended Special Permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of Section 650-59.

Exhibit “A”

- A) Lots 1-23 as shown on a plan entitled a Definitive Subdivision Plan “Commonwealth Heights in Marlborough, MA. Endorsed by the City of Marlborough Planning Board on April 9, 2007 and recorded with the Middlesex South Registry of Deeds as Plan 549 of 2007; and
- B) The property on Forrest Avenue shown on the above referenced plan as being owned by “N/F David E. Silva”

Yea: 11 – Nay: 0

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

Motion by Councilor Landers, seconded by the Councilor Dumais to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY JUNE 7, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on Pole #19 within the layout of Boston Post Road West (Route 20), referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Landers, seconded by the Chair to adopt the following:

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

Yea: 11 – Nay: 0

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

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Application for Renewal of Junk Dealer/Secondhand Dealer License, ecoATM, LLC, 601 Donald J. Lynch Boulevard (kiosk in Solomon Pond Mall), referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

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 August 24, 2021 at 10:00 PM, on the Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, 339 Boston Post Road East (McGee Farm), **APPROVED**; adopted.

Yea: 8 – Nay: 3

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Attorney Brian Falk on behalf of Global Montello Group Corp., re: Request to Extend Time Limitations to August 24, 2021 at 10:00 PM, on the Application for Special Permit, to construct and operate a drive-thru facility to serve the current Alltown Convenience Store on the site, 656 Boston Post Road East, **APPROVED**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

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

- a) Board of Assessors, April 2, 2021.
- b) Conservation Commission, April 1, 2021, April 13, 2021 & April 28, 2021.

Yea: 11 – Nay: 0

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

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

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

- a) Kathy Klotz, 38 Avon Drive, Hudson, pothole or other road defect.
- b) Brian Theis, 26 Walnut Street, other property damage and/or personal injury.

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
May 3, 2021
Minutes and Report**

The meeting convened at 6:30 PM and was held virtually with Councilors attending in person and/or remotely per the Governor's orders and began with a Roll Call vote of committee members present. Chair Irish called the Roll – All members present:

Chair Irish, Councilors Dumais and Tunnera in Chamber; Councilors Oram and Perlman participating remotely.

Also Present in Chamber: Councilors Navin, Ossing, Landers and Doucette; Mayor Vigeant. Councilors Wagner and Robey participating remotely.

Others Participating Remotely: Mayoral Aide Trish Bernard, Meredith Harris of MEDC, David Picot, Laura Felice and Mark Griffin representatives of BJ's Wholesale Club.

Reports of Committee Continued:

Order No. 21-1008273: Proposed Tax Increment Financing (TIF) Agreement with BJ's Wholesale Club, Inc. who will be leasing two buildings, comprising of 168,581 square feet located at 350 Campus Drive and 19,244 square feet located at 100 Campus Drive, Map 111, Parcel 1.

The Mayor and members of BJ's spoke in support of the TIF, explaining the advantages of the move of the headquarters from Westboro to Marlborough's industrial area. The relocation will include the construction of a new parking garage to exclusively service many of the current 800 employees relocating to Marlborough. The Mayor explained this is a local TIF and although new jobs are not being created, the current employees will frequent Marlborough's restaurants, gas stations, hotels and many more, bringing great value to our business community.

The City Solicitor will place the corrected documents in a final package to be placed on the City Council agenda for the final vote of the body.

Councilor Oram stated he is waiting for comparison information he requested before he decides on the merits of the TIF.

Motion by Councilor Tunnera, seconded by Chair, to recommend approval of the Tax Increment Financing (TIF) Agreement together with Resolution to be amended by the City Solicitor.

Chair Irish called the Roll: Motion carried 3-1-1; (Oram/Abstained; Perlman/Opposed).

It was moved and seconded to adjourn; Chair Irish the Roll: Motion carried 5-0

The meeting adjourned at 7:26 PM

Councilor Dumais reported the following out of the Personnel Committee:

**City Council Personnel Committee
May 3, 2021
Minutes and Report**

The meeting convened at 7:30 PM.

All members of the Personnel Committee were present in the Chamber:

Chair Dumais, Councilors Landers and Doucette.

Councilors present in Chamber: Councilors Ossing, Navin, and Irish.

Also Present in the Chamber were Mayor Vigeant, Building Commissioner Designee Tin Htway, Conservation Commission member Dennis Demers and Conservation Commission member David Williams.

Participating remotely were Councilors Perlman, Robey, and Wagner; Conservation Commission Chair Edward Clancy; License Board members Gregory Mitrakas and David Bouvier, and License Board Appointee MaryJo Nawrocki; Mayoral Aide Patricia Bernard; HR Director Purple present for review of Tin Htway.

Reports of Committee Continued:

Order No. 21-1008269: Appointment of Tin Htway as Building Commissioner for a 3-year term from the date of confirmation.

Motion by Councilor Doucette, seconded by Chair, to recommend approval of the appointment of Tin Htway for a 3-year term from the date of confirmation. Vote 3-0.

Order No. 21-1008272: Reappointments to the Conservation Commission of Edward Clancy term to expire April 26, 2024 and Dennis Demers and David Williams for 2-year terms to expire April 23, 2023.

Motion by Councilor Landers, seconded by Chair, to recommend approval of the reappointments of all members for 3-year terms to expire April 26, 2024. Vote 3-0.

Order No. 21-1008270 and Order No. 21-1008271: The License Board appointment of MaryJo Nawrocki and Reappointments of Gregory Mitrakas and David Bouvier were postponed in committee until the next Personnel Committee for an opinion by the City Solicitor regarding staggered terms by a motion by Councilor Doucette, seconded and adopted. Vote 2-1 Chair Dumais opposed.

Chair Dumais announced the continued review of the proposed amendments to the Youth Commission would be postponed until the next Personnel Committee meeting due to late hour.

It was moved and seconded to adjourn; Motion carried 3-0. The meeting adjourned at 8:50 PM.

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

**City Council Public Services Committee
May 4, 2021
Minutes and Report**

The meeting convened at 6:30 PM and was held virtually with Councilors attending in person and/or remotely per the Governor's orders and began with a Roll Call vote of committee members present.

Chair Landers called the Roll – All members present:

Chair Landers and Councilor Irish in Chamber; Councilor Perlman participating remotely.

Also Present in Chamber: Councilors Navin, Ossing, Wagner and Doucette
Councilor Robey participating remotely.

Order No. 21-1008258: Petition from Massachusetts Electric and Verizon New England, to install a new #5 and anchor which will allow for the removal of the pole and tree guy wire at 43 Berlin Road. Public Hearing held April 26, 2021.

Motion to approve made and seconded – Roll call Vote: In favor: Irish, Perlman and Landers

Police Chief Giorgi has reviewed each of the CORI reports and recommended approval of renewal of the follow Junk Dealer Licenses:

Reports of Committee Continued:

Order No. 21-1008259: Application for Renewal of Junk Dealer/Secondhand Dealer License, Antoine Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard.

Motion to approve made and seconded – Roll call Vote: In favor: Irish, Perlman and Landers

Order No. 21-1008278: Application for Renewal of Junk Dealer/Secondhand Dealer License, TVI, Inc., d/b/a Savers, 222A East Main Street.

Motion made and seconded to approve, subject to the longstanding conditions attached to the license. Roll call Vote: In favor: Irish, Perlman and Landers

Order No. 21-1008279: Application for Renewal of Junk Dealer/Secondhand Dealer License, Gerald Dumais, d/b/a Dumais & Sons Secondhand Store, 65 Mechanic Street.

Motion to approve made and seconded – Roll call Vote: In favor: Irish, Perlman and Landers

Order No. 21-1008280: Application for Renewal of Junk Dealer/Secondhand Dealer License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street.

Motion to approve made and seconded – Roll call Vote: In favor: Irish, Perlman and Landers

Motion made and seconded to adjourn; Roll Call Vote: In favor: Perlman, Irish, Landers

Meeting adjourned at 7:10 PM

Councilor Robey reported the following of the Urban Affairs Committee:

**City Council Urban Affairs Committee
Tuesday, May 4, 2021; 7:00 PM
Via Teams & Council Chambers
Minutes and Report**

Per the Governor's orders, this meeting began with a Roll Call vote of committee members present and the chair identifying other councilors participating in the meeting.

Roll Call-Chairman Katie Robey, present; Councilor Landers, present; Councilor Wagner, present; Councilor Doucette, present; and Councilor Navin, present.

Other councilors present were Councilors Irish, Ossing, and Perlman. Councilor Dumais joined for the 2nd item.

Others attending this meeting are included with each order's information.

Order No. 21-1008255-Request for Approval of a Flat Wall Sign, Best Value Kitchen & Bath, 796 Boston Post Road East, Wayside District

Participating in this item via Teams was Marc Mallegni, owner of the business.

This item is before us because the business is located within the Wayside District which has language for signs to be externally illuminated, where possible. The sign requested is for an internally illuminated sign. The applicant had provided a new design with no internal illumination. After discussion of committee members that this would be only sign in the complex that was not internally illuminated, it was felt that having this be illuminated should be allowed.

Reports of Committee Continued:

Councilor Doucette moved to approve the application for Best Value Kitchen & Design application dated 3/18/21 for a 170" X 29.5" internally illuminated sign; it was seconded. Chair Robey called the Roll call; all committee members voted yes, and the motion carried 5-0.

The chair will ask for a Suspension of Rules at the May 10 Council meeting to have this acted on that evening.

Order No. 21-1008222-That the City Solicitor be invited to future Urban Affairs meeting to provide general information regarding the approval and denial of special Permit Applications that may be referred to the committee.

The chair asked that the Solicitor be allowed to go through his slides and then questions could be asked. She recognized Solicitor Grossfield and he went through slides offering some general information of zoning and how the city's Table of Uses, Section 17 of Chapter 650 of the City code delineates zoning in its various districts; the process; criteria for making a finding; conditions that are permissible; how to ensure fairness in process; requirements for a decision, both grant and denial; litigation of special permits; and a review of 2 specific cases in MA Land Court. Questions ranged from definition of mixed use which is found in our code. Can a condition be specific, i.e., \$50 for a fire station? It can if it is voluntary and proposed by petitioner. Concern about making subjective decisions and how to quantify things. Question on language in new legislation regarding bus stops which still needs to be clarified. If a special permit is denied but court votes to approve, do conditions carry forward?

If conditions were part of permit, yes. If conditions were part of court case, then they could be remanded back to SPGA for review. How does a municipality have a study done or have oversight for a study? There is a procedure where a municipality can obtain outside experts paid for by the applicant. Who else can be a SPGA? Who is the SPGA is established in zoning and is usually the council, the ZBA or the Planning Board. How quickly do legal challenges get dealt with? In land court it moves pretty quickly but can take a few years or can go quicker. If it goes to Housing Court or Superior court, it can be much longer as they don't usually handle this. Are there examples of cases where the city would have won the case? There are and the solicitor can provide some examples. Can a group/neighborhood entity file an appeal? Yes, there can be several appeals-the applicant could appeal conditions and others could appeal for various reasons. Can it be a group vs an individual? The question would be if the entity suffered damage due to approval. The chair brought up another addition to changes by legislature where a court can request up to a \$50,000 surety or cash bond be posted by a plaintiff.

Councilor Doucette moved to accept and place on file the presentation; it was seconded. Chair Robey called the Roll call; all committee members voted yes and the motion carried 5-0.

It was moved and seconded to adjourn. Chair Robey called the Roll; all committee members voted yes, and the meeting adjourned at 8:11 pm.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

Suspension of the Rules requested to allow action on the TIF Agreement – granted.

Yea: 10 – Nay: 1

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

Nay: Perlman.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED:

RESOLUTION

WHEREAS, the City Council of the City of Marlborough desires a beneficial economic use creating jobs for local residents, expanding business within the City, and developing a healthy robust economy and stronger tax base for Map 111, Parcel 1 (including portions thereof) on the Marlborough Assessor's Map; and

WHEREAS, the City Council of the City of Marlborough intends to use tax increment financing as an economic development tool created by the Massachusetts Economic Development Incentive Program based on the ability of the City of Marlborough, in accordance with needs and community benefits of a specific project, that are reasonably proportional to the economic development incentives from State and local government and the resulting economic development benefits;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Marlborough that the following activities which are necessary to pursue a Certified Project designation be authorized:

1. The City Council of the City of Marlborough hereby requests that the Massachusetts Economic Assistance Coordinating Council approve BJ's Wholesale Club, Inc.'s application for an EDIP Certified Project; and further, that:
 - a. The project is consistent with the City of Marlborough's economic development objectives and is likely to increase employment opportunities for Marlborough residents;
 - b. The project will not overburden the City of Marlborough's infrastructure and utilities;
 - c. The project as described in the proposal has a strong likelihood that it will cause a significant influx or growth in business activity, will create a significant number of jobs, and will contribute significantly to the resiliency of the Marlborough economy; and
 - d. The City Council approves BJ's Wholesale Club, Inc.'s request that the project be designated by the Massachusetts Economic Assistance Coordinating Council as an EDIP Certified Project for twenty (20) years.
2. The City Council of the City of Marlborough agrees to authorize the use of tax increment financing, authorizes the Mayor to enter into a tax increment financing agreement with BJ's Wholesale Club, Inc. and BH GRP TCAM OWNER LLC, and authorizes submission of the tax increment financing agreement (attached hereto) to the Massachusetts Economic Assistance Coordinating Council.

APPROVED; adopted.

Yea: 8 – Nay: 3

Yea: Doucette, Dumais, Tunnera, Irish, Navin, Landers, Ossing, & Robey.

Nay: Wagner, Oram & Perlman.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules requested to allow action on the Request for a Sign – granted.

Yea: 11 – Nay: 0

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

Councilor Doucette indicated that he would like to make an amendment to the approval to require the sign to be turned off outside of business hours. A discussion took place, regarding the Council's authority to add conditions to the approval of a sign application. This matter will be held until the May 24, 2021 meeting to allow for clarification on the addition of conditions to the sign application approval.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the inaugural meeting of the Marlborough City Council Climate Resiliency Committee will include the discussion of current and future city projects that address climate change and improve the climate resiliency of the city and identify and discuss how state and federal programs and policies impact our community in reducing local emissions, referred to the **CLIMATE RESILIENCY COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Wagner, seconded by the Chair to adopt the following:

ORDERED: That the Human Services Committee hold a public meeting to allow the Marlborough Hospital leadership to present additional details regarding the Mass General Brigham proposed expansion, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

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

Yea: 11 – Nay: 0

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