

### **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, AUGUST 23, 2021**

The regular meeting of the City Council was held on Monday, August 23, 2021 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 9:57 PM.

City Council President Ossing asked all in attendance to stand for a moment of silence for Lawrence R. Foti former Clerk of Committees for the City Council who recently passed away.

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

**ORDERED:** That the Minutes of the City Council meeting, July 19, 2021, **FILE**; adopted.

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

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

Mayor Vigeant provided the City Council with an update regarding COVID-19.

That the PUBLIC HEARING on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on the existing Pole within the public right of way at 123 Boston Post Road West, Pole #7, Order No. 21-1008355, all were heard who wish to be heard, hearing closed at 8:20 PM, adopted.

**Councilors Present: 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 Tolling Agreement between Verizon Wireless and the City of Marlborough to extend time limitations to September 28, 2021 for approval of small cell wireless facility, 123 Boston Post Road West, Pole #7, **APPROVED**; adopted.

That the PUBLIC HEARING on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on the existing Pole within the public right of way at 493 Boston Post Road West, Pole #1, Order No. 21-1008356, all were heard who wish to be heard, hearing closed at 8:24 PM, adopted.

**Councilors Present: 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 Tolling Agreement between Verizon Wireless and the City of Marlborough to extend time limitations to September 28, 2021 for approval of small cell wireless facility, 493 Boston Post Road West, Pole #1, **APPROVED**; adopted.

That the PUBLIC HEARING on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on replacement Pole within the public right of way at 11 Atkinson Drive, Pole #22 (Pole located on Ames Street), Order No. 21-1008357, all were heard who wish to be heard, hearing closed at 8:26 PM, adopted.

**Councilors Present: 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 Tolling Agreement between Verizon Wireless and the City of Marlborough to extend time limitations to September 28, 2021 for approval of small cell wireless facility, 11 Atkinson Drive, Pole #22, **APPROVED**; adopted.

That the PUBLIC HEARING on the Application for Special Permit from Attorney Christopher Flood, on behalf of Post Road Mobile Home Park and Sales, Inc., to create a second mobile home park by dividing an existing permitted mobile home park at 181 Boston Post Road East, Order No. 21-1008354, all were heard who wish to be heard, hearing closed at 8:35 PM, adopted.

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

Motion by Councilor Robey, seconded by the Chair to move up for action, agenda item # 15 and agenda item # 38, **APPROVED**; adopted.

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

ORDERED: Communication from Solicitor Jason Grossfield, re: 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), in proper legal form, Order No. 20/21-1007995, **MOVED TO ITEM 38** and **FILE**; adopted.

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

ORDERED: That 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), Order No. 20/21-1007995, be approved, **DENIED**; adopted.

**Yea: 5 – Nay: 6**

**Yea: Dumais, Tunnera, Landers, Ossing, & Robey.**

**Nay: Wagner, Doucette, Irish, Navin, Oram, & Perlman.**

President Ossing called a recess at 9:17 PM and returned to open meeting at 9:23 PM.

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 BayPath Elder Services awarded to the Council on Aging to assist with the transportation needs for Marlborough Seniors; adopted.

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 \$10,000.00 from the late Paul & Marie Winske to the Council on Aging to assist seniors that participate in Senior Center activities; adopted.

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

ORDERED: That the Appointment of Linda Warren to the Council on Aging Board for a 3-year term from date of Council confirmation, referred to the **PERSONNEL COMMITTEE**; adopted.

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

ORDERED: That the Notification of Mayoral appointment of Kevin McLaughlin to the Cultural Council for a 3-year term effective September 1, 2021 pursuant to MGL Chapter 10 §58, **FILE**; adopted.

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

ORDERED: That the Proposed Amendment to the City Code, Chapter 67 §11(A) amending “Tax Collector; appointment, terms and duties” and Chapter 125 §6 “Salary Schedule” along with a Proposed Job Description pursuant to Chapter 125 §5 for the position of Tax Collector/Assistant Director of Finance, referred to **FINANCE COMMITTEE AND ADVERTISE**; 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 AS FOLLOWS:

- I. By amending Section 67-11(A), entitled “Tax Collector; appointment, term and duties.”, by inserting the following sentences at the end of the existing paragraph: Alternatively, the Mayor may, subject to confirmation of the City Council, appoint a City Collector/Assistant Finance Director for a term of two years to expire the day following his/her approval by the City Council. The City Collector/Assistant Finance Director shall assist in the oversight of financial management operations and shall perform all duties of the Tax Collector and City Collector as delineated by City Code.
- II. By amending Chapter 125, entitled “Personnel”, by adding to the salary schedule referenced in Section 125-6, the following:

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
	Start	6 months of service	1 year of service	2 years of service	3 years of service	4 years of service	5 years of service
City Collector / Assistant Finance Director	\$79,668.17	\$81,261.53	\$82,886.76	\$84,544.50	\$86,235.39	\$87,960.10	\$89,618.17

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

ORDERED: That the Proposed Amendment to the City Code, Chapter 7, Article IV “Department of Public Works” by adding a new §31(D) relative to the position of Assistant Commissioners, along with a Proposed Job Description pursuant to Chapter 125 §5 for the position of Assistant Commissioner of Facilities; referred to **FINANCE COMMITTEE AND ADVERTISE**; 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 AS FOLLOWS:

- I. By amending Chapter 7, Article IV, entitled “Department of Public Works”, by inserting the following new section 7-31(D):

Section 7-31(D). Assistant Commissioners.

There shall be an Assistant Commissioner of Operations, an Assistant Commissioner of Utilities, and an Assistant Commissioner of Facilities, who shall perform their respective duties under the supervision of the Commissioner of Public Works. Each position shall be appointed by the Commissioner of Public Works, and the term of office shall be coterminous with the term of the Commissioner. These positions shall be compensated in accordance with the Salary Ordinance for the position of Assistant Commissioner - DPW.

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

ORDERED: That the Proposed Amendment to the City Code, Chapter 125 §6 “Salary Schedule” to amend the salaries for the Police and Fire Chiefs to be effective July 1, 2021, referred to **FINANCE COMMITTEE AND ADVERTISE**; 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 125, ENTITLED “PERSONNEL,” AS FOLLOWS:

- I. By adding to the salary schedule referenced in Section 125-6, the following:

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
	Start	6 months of service	1 year of service	2 years of service	3 years of service	4 years of service	5 years of service
Chief of Police							\$200,000.00
Fire Chief							\$200,000.00

- II. This ordinance shall supersede and replace any existing rate for said position (if applicable) in the current salary schedule.

- III. The effective date of these amendments shall be July 1, 2021.

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

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Request for Special License for Temporary Charitable Purposes Sales – FEMARA, Inc., pursuant to MGL Chapter 101 §12A, **MOVED TO ITEM 23** and **FILE**; adopted.

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

ORDERED: That the Communication from Solicitor Jason Grossfield, re: 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), in proper legal form, Order No. 21-1008294B, **MOVED TO ITEM 37** and **FILE**; adopted.

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

ORDERED: That Request for Approval of a Free-Standing Sign, Local Roots, 910 Boston Post Road East, within the Wayside District, **APPROVED**; adopted.

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

ORDERED: That the Request for Approval of two (2) Flat Roof Signs, Val's Plaza, 561 Boston Post Road East, within the Wayside District referred to **URBAN AFFAIRS COMMITTEE**; adopted.

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

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 13, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install a new jointly owned Pole #15-5 (45-2) and permission for NGRID to solely install at 9-411, install three (3) 50K (120/208) transformers and 3-15k cutouts, install riser-perm connection to customer underground at 121 Bolton Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

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

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 13, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install a new jointly owned Pole #15-15 at 181 Cedar Hill Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

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

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 13, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric, to replace direct buried cable with cable in conduit using directional drill method on Ferrecchia Drive, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

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

ORDERED: That the Communication from Diane Nelligan of One Energy, Inc., re: Request for expedited processing of request from MA Electric and Verizon for the installation of a jointly owned pole, transformers, and underground riser-perm connection at 121 Bolton Street, **FILE**; adopted.

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

**Suspension of the Rules requested –to remove from the Urban Affairs Committee, Order No. 21-1008293, Proposed Zoning Amendment – granted.**

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

ORDERED: That the Proposed Zoning Amendment to Chapter 650 of the Code, to add a new section to create the "Commercial Village Housing Overlay District", as amended by the Urban Affairs Committee, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 CITY COUNCIL MEETING**; adopted.

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

ORDERED: That the Communications from various residents in opposition of 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), Order No. 20-1007995, **FILE**; adopted.

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

ORDERED: Under authority of MGL Chapter 101, §12A, the City Council hereby **GRANTS** FEMARA, Inc., for a three-day period, from September 10 through 12, 2021, inclusive, and consistent with the charitable purpose of FEMARA, Inc., a license to conduct under their control a temporary or transient business at their convention being held at the Best Western Royal Plaza Hotel & Trade Center in which transient vendors participating in such sale shall not be subject to the provisions of §§3 to 12 inclusive; adopted.

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

ORDERED: That the Communication from Central MA Mosquito Control Project, re: Personnel will be in the community responding to residents' concerns about mosquitos on various dates in August & September 2021, **FILE**; adopted.

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

ORDERED: That the Communication from Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid re: Approval of Deferral of major storm threshold amounts for calendar year 2020, DPU file # 21-75, **FILE**; adopted.

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

ORDERED: That the Communication from Commonwealth of Massachusetts Division of Banks, re: Public comment period on a proposed license application filled by Marlboro Services, Inc., d/b/a Brasil Remessa, to operate a check casher location at 38 Main Street pursuant to MGL Chapter 169A §3, **FILE**; adopted.

**Councilor Dumais recused.**

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

ORDERED: That the Communication from a resident of Forest Street, in support of the Proposed Zoning Amendment to Chapter 650 of the Code, to add a new section to create the "Commercial Village Housing Overlay District", Order No. 21-1008293, **FILE**; adopted.

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) Conservation Commission, July 1, 2021.
- b) Cultural Council, June 30, 2021.
- c) Traffic Commission, May 26, 2021.

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

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

- a) David Ringland, 77 Lincoln Street, Hudson, pothole or other road defect.

Reports of Committees:

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

**City Council Urban Affairs Committee  
Tuesday, July 26, 2021; 6:30 PM–Council Chambers  
Minutes and Report**

Urban Affairs & Housing Committee members present were Chairman Katie Robey, Councilor Landers, Councilor Wagner, Councilor Doucette, and Councilor Navin. Other councilors present in Chambers were Councilor Ossing and Councilor Dumais. Others attending this meeting are included with each order's information.

**Order No. 21-1008328: Special Permit Application, Edgewood entertainment LLC to operate X-Golf, an indoor golf simulator recreational facility with bar area in an existing building at 229 Boston Post Road West.**

Attending the meeting were Holly Irvine-Salvi, co-officer Edgewood Entertainment who with her husband plan to renovate an existing building into an X-Golf franchise. Due to its location in a Business Zone, a Special Permit is required, but Site Plan approval is not required from professional Site Plan Review members. The facility would provide family friendly indoor golf simulators for rent as well as food and beverages, both alcoholic and non-alcoholic. There would also be instruction by PGA pros, leagues, tournaments, golf camps and private parties.

The chair reviewed the draft Special Permit. There was discussion on the hours of operation proposed as 7 am to 12 am and the availability of liquor during all hours. The franchise requires a full, all service liquor license for the operation of the business. The petitioners stated they would be extremely cautious in serving alcohol to maintain their license in good standing. The committee agreed that the solicitor would be asked to review any conditions on hours for serving liquor that apply to Apex Entertainment and add appropriate conditions when putting the Special Permit in proper form. It was pointed out that the numbers in Item C need to be corrected to remove double #9 and the solicitor would fill in the yellow highlight of Decision filing as well as #13 in Findings of Facts.

**Councilor Doucette moved to recommend approval of the Special Permit as amended; the motion was seconded by chair. The motion carried 5-0.** The chair will ask for a Suspension of Rules at the August 23<sup>rd</sup> meeting to refer this to solicitor to be placed in proper form.

**Order No. 21-1008293 (X18-1007134B): Petition from Attorney Robert Buckley on behalf of Marlborough/Northborough Land realty trust re Proposed Amendment to zoning code, Chapter 650 by adding to Article VI section 650-35 commercial Village Overlay District in accordance with exhibit A attached.**

Presenting were Attorney Robert Buckley, Riemer and Braunstein and Attorney Scott Weiss, The Gutierrez Company. They stated that although a residential single-family housing subdivision was approved for this property by the Planning Board, the owner would prefer to develop the property as a transitional zone with this proposal designed to offer a buffer between a commercial property nearby and the existing housing to north of property. An attempt to do this was presented in 2018 with Planning Board sending a negative recommendation. The matter was never taken up by Urban Affairs.

The chair read the June 22, 2021 letter from Planning Board into the record with their negative recommendation on the proposed zoning amendment. It did include some suggested amendments if the council chose to approve the zoning change.

## Reports of Committee Continued:

The chair read thru the draft noting that 650-35 has been used so the number should be amended. The chair questioned the ability to approve amending zoning by a petitioner that doesn't own land that would be affected. The chair read thru the draft and noted changes recommended by Priscilla Ryder and Tom DiPersio. The committee agreed with the following: B-Authority of Permit Granting Authority, *change Special Permit approval to Site Plan approval in last sentence*; C Master Plan (2) add a new (f) *Confirmation that the soil management plan for dealing with the contaminated soil related to this old apple orchard will be addressed*.

Councilor Doucette moved to amend E-Eligible Uses 1a from "up to 120 dwelling units" to 90 units and 2a from "120 units" to 90 units; the motion was seconded and carried 5-0.

Mr. DiPersio recommended adding at end of F-Dimensional requirements (3) the following: *Add minimum side yard and rear yard measurements shall be less than 150 feet with a vegetated or landscaped buffer of 100 feet to be provided*. Councilor Doucette moved to approve the changes; chair seconded. Motion carried 5-0.

Councilor Doucette moved to amend F-Dimensional requirements (5) "not to exceed 60 feet" to be *not to exceed 3 stories*. *The remainder of sentence would be deleted as we changed the setbacks in (3)*; chair seconded. Motion carried 5-0.

Priscilla Ryder recommended amending K-Amendments which currently reads in 2 places "approval by the City Code Enforcement Officer" to read *Building Commissioner*. The committee agreed to that recommendation.

Councilor Doucette brought up the issue of property that is not owned by Marlborough/Northborough Land Realty Trust. The petitioner will reach out to owner to make sure they are aware of the proposal. Issues still remain with the underlying zoning uses of this proposal for all Residence districts even though this parcel is zoned A-3, the language of "age restricted, or age targeted," what can be built by right for consumer service/retail establishments as well as single family housing vs proposed condominiums.

Although several changes to the draft Special Permit were approved, this matter remains in committee.

It was moved and seconded to adjourn. The vote was 5-0 and the meeting adjourned at 7:59 PM.

**City Council Urban Affairs Committee  
Monday August 16, 2021; 6:30 PM–Council Chambers  
Minutes and Report**

Urban Affairs & Housing Committee members present were Chairman Katie Robey, Councilor Landers, Councilor Wagner, Councilor Doucette, and Councilor Navin. Other councilors present were Councilor Ossing and Councilor Irish. Others attending this meeting are included with each order's information.

**Order No. 21-1008307: Application for Special Permit from Attorney Brangwyn on behalf of Raising Cane's Restaurants, LLC to construct and operate a restaurant with two drive-thru service lanes on site at 141 Boston Post Road West.**



Reports of Committee Continued:

Attending the meeting were Michael Brangwyn, Attorney w/Fletcher Tilton and Eric Dubrule, Bohler Engineering and Jason Adams, McMahon Association (traffic plan). Attorney Brangwyn briefly discussed the plans for the site and Raising Cane's operations. He brought up a letter received from William Squires, Attorney w/Mints on behalf of abutter, McDonald's Corporation. Mr. Dubrule discussed the letter in more detail.

The chair reviewed the comments from Department Managers as well as the letter from William Squires which asked that the committee continue the hearing to allow representatives of McDonald's to attend or if we vote on this to include the five conditions recommended in the letter. Committee members were comfortable with what we had for information and were ready to proceed.

The chair reviewed the draft Special Permit pointing out that this will go back to Site Plan review committee for their final sign-off if this Special Permit is approved. Discussion was held on the hours of operation, both at restaurant and the drive-thru but in end no changes were recommended.

**Councilor Landers moved to recommend approval of the draft Special Permit as submitted; the chair seconded. Motion carried 5-0.** The chair will ask for a Suspension of Rules at the August 23 Council meeting to have this referred to solicitor to be placed in proper form.

**Order No. 21-1008345: Application for Special Permit by Attorney Falk on behalf of Dasilva Landscaping Inc. to construct and operate a landscaper's yard at the Airport Industrial Park, 685 Farm Road, Unit 17.**

Presenting was Attorney Falk. He mentioned changes to conditions based on comments from the public hearing. The chair reviewed the comments received from Department Managers and then asked if anyone needed a full review of the conditions. Councilor Doucette asked for clarification of the Locus Map on the Proposed Site Plan; Attorney Falk clarified that Number 17 should be in the bottom row, 4<sup>th</sup> block from Farm Road. It will be corrected for Site Plan Review Committee's final approval. The dates on Findings of Fact #5 need to be filled in and will be updated to match the revision to the Site Plan.

**Councilor Doucette moved to recommend approval of the Special Permit with the amended Site Plan; chair seconded. The motion carried 5-0.** The chair will ask for a Suspension of Rules at the August 23 Council meeting to have this referred to solicitor to be placed in proper form.

**Order No. 21-1008346: Application for Special Permit by Attorney Falk on behalf of Lourival Masonry, LLC to construct and operate a contractor's yard at the Airport Industrial Park, 685 Farm Road, Unit 18.**

The chair read a Disclosure of Appearance of Conflict of Interest from Councilor Doucette. Presenting was Attorney Falk. He mentioned changes to conditions based on comments from the public hearing. The chair reviewed the comments received from Department Managers and asked if anyone needed a full review of the conditions.

**Councilor Navin moved to recommend approval of the Special Permit; the chair seconded. The motion carried 5-0.** The chair will ask for a Suspension of Rules at the August 23 Council meeting to have this referred to solicitor to be placed in proper form.

Reports of Committee Continued:

**Order No. 21-1008353: Application for Site Plan Review and Approval from Attorney Falk on behalf of Global Montello Group Corp., to add a patio with seating next to its newly renovated Alltown Convenience Store, 656 Boston Post Road East within the Wayside Zoning District.**

Attorney Falk introduced Kevin Doyle, VP Construction for Global and Zack Poisson, Bohler Engineering. He went through some slides describing the revised site improvements including a 12 seat outdoor patio and connecting the site to the city trail system with pedestrian/bike path, and adding a few seats indoors to comply with code requiring indoor seats if having outdoor seats.

The chair reviewed the draft Site Plan approval and the proposed amendments provided by Priscilla Ryder, Conservation Officer. Her recommended changes included: *B. Construction, #1 adding in City Engineer as member of preconstruction meeting; deleting #3 in its entirety as it is not needed and renumbering; D General Provisions, adding new #7 to read "As this trail will allow public to access through Alltown Fresh property and connect the city's public trail to the sidewalk, the applicant will allow for the city's appropriate trail signage to be attached to sign posts along the way. These shall be installed by the Conservation Officer in conjunction with the project team prior to the issuance of the occupancy permit."*

The petitioner met with professional Site Plan members for informal review, but the City Council has jurisdiction over final site plan approval in the Wayside Zoning District.

**Councilor Doucette moved to recommend approval of the Site Plan with conditions as amended; the chair seconded. The motion carried 5-0.** The chair will check to see if the site plan decision document should be forwarded to the Solicitor to place placed on the next agenda in proper form. If so, chair will ask for suspension of the rules at the August 23 Council meeting to do so. If not, she will ask for a suspension to approve the Site Plan as amended.

**Order No. 20-1008046: request from William Camuso on behalf of Camuso enterprises, LLC to operate a gas station, Shell Station, 431 Lincoln St. on a 24-hour basis pursuant to Chapter 342, s2 of the Code of City of Marlborough.**

Mr. Camuso was present as petitioner. The chair reminded members that this had been on hold since August 24, 2020 when the City Council approved a Message Board electronic sign for the station and held the 24-hour request in committee awaiting a photometric analysis due to concerns about the brightness of the lights at the station. The station lights have been changed to reduce the overall brightness of the site and were reviewed by city engineer. The chair read his email stating he had visited site, that he would defer to Commissioner Htway for a final zoning decision, but felt the lights were less bright and appear to be in compliance with general requirements of the city code.

If this waiver request is approved, it would be done as an order to grant an exemption to the city code which states gas stations are allowed to open for business no earlier than 6:00 am and close no later than 11:00 pm daily. Councilor Doucette asked if we could approve this 24-hour operation for a one-year test and extend if no issues; the chair said it was possible. The chair read thru a council order from 2002 which included multiple conditions. Discussion occurred around the need to have an employee available to help a handicapped customer if there was only one employee inside the store. It was felt the employee could lock the door, go help customer, and return to store.

Reports of Committee Continued:

Councilor Irish stated he was opposed to the 24-hour operation of this station. He did support a compromise for longer hours but not 24-hour.

**Councilor Doucette moved to postpone this in committee so the chair can draft a document listing the conditions as discussed; the chair seconded. The motion carried 5-0.**

It was moved and seconded to adjourn. The vote was 5-0 and the meeting adjourned at 7:45 pm.

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

**Suspension of the Rules – granted.**

ORDERED: That the Application for Special Permit as amended from Edgewood Entertainment, LLC, to operate indoor golf simulators and a bar area in the existing building at 229 Boston Post Road West, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

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

**Suspension of the Rules requested – granted.**

ORDERED: That the Application for Special Permit from Attorney Michael Brangwynne, on behalf of Raising Cane's Restaurants, LLC, to construct and operate a restaurant with two drive-thru service lanes on the site at, 141 Boston Post Road West, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

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

**Suspension of the Rules requested – granted.**

ORDERED: That the Application for Special Permit with the amended Site Plan from Attorney Brian Falk, on behalf of Dasilva Landscaping, Inc., to construct and operate a landscaper's yard at the Airport Industrial Park, 685 Farm Road, Unit 17 referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

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

**Suspension of the Rules requested – granted.**

ORDERED: That the Application for Special Permit from Attorney Brian Falk, on behalf of Lourival Masonry, LLC, to construct and operate a contractor's yard at the Airport Industrial Park, 685 Farm Road, Unit 18, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

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

**Suspension of the Rules requested – granted.**

ORDERED: That the Application for Site Plan Review as amended from Attorney Brian Falk on behalf of Global Montello Group Corp., to add a patio with seating next to its newly renovated convenience store within the Wayside District, 656 Boston Post Road East, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

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

ORDERED: That the City Council President establish a City Council Re-Precincting Committee consisting of three members to review the 2020 census data provided by the Secretary of State's office and report back to the City Council by October 4, 2021, **APPROVED**; adopted.

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

ORDERED: That the Appointment of William Fowler to the Planning Board for a 5-year term to expire on February 2, 2026, **APPROVED**; adopted.

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

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

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

ORDERED: That the Reappointment of William Dunbar to the Conservation Commission for 3-year term to expire on February 2, 2024, **APPROVED**; adopted.

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

ORDERED: That 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, **APPROVED WITH THE FOLLOWING CONDITION**; adopted.

1. The new pole must be located behind the sidewalk and not within the sidewalk, and no excavation of the sidewalk will be allowed.

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

ORDERED: That 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, **APPROVED WITH THE FOLLOWING CONDITIONS**; adopted.

1. This work must be completed before the city commences with resurfacing work on that portion of Donald Lynch Boulevard. The proposed location is not within the section of Donald Lynch Boulevard which will be resurfaced this year.
2. The work will require a road opening permit from the Department of Public Works, Engineering Division. The exact location of the proposed conduit shall be approved of in the field as part of the permitting, and pavement and line painting repair requirements will be set forth in the permit.

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

ORDERED: That the City Council for the City of Marlborough, pursuant to MGL Chapter.166, §22 and Chapter 473, Article III of the City of Marlborough General Code entitled "Small Cell Wireless Facilities Within Public Rights-of-Way," does hereby approve the petition of Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") dated May 3, 2021, filed with the City Clerk on May 3, 2021, to grant a location on an existing utility pole located in the layout of State Highway Route 20 (Boston Post Road West) adjacent to 219-237 Boston Post Road West in Marlborough, which pole is designated as National Grid pole #19, in order for Verizon Wireless to deploy a small cell facility thereon by constructing and maintaining telecommunications wires and appurtenances, including a pole top canister antenna, remote radio heads and associated wires, cables, fiber demarc box, electric meter and associated equipment (the "Small Cell Facility"), all as depicted on plans submitted with Verizon Wireless' petition and in photo simulations submitted to the City Council and Public Services Committee, which plans are attached hereto and incorporated herein; subject, however, to the following conditions, which conditions shall be binding upon Verizon Wireless, its successors and/or assigns:

1. The Small Cell Facility shall be of such material and construction, and all work shall be done in such manner, as to be satisfactory to the City Council and the Engineering Division of the City's Department of Public Works (the "City Engineering Division").
2. Verizon Wireless shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of Verizon Wireless, its employees, agents and servants in any manner arising out of the rights and privileges granted herein to Verizon Wireless for its Small Cell Facility.
3. Verizon Wireless shall comply with the requirements of existing City ordinances, including but not limited to Chapter 473, Article III, entitled "Small Cell Wireless Facilities Within Public Rights-of-Way," as may be applicable, and such requirements as may hereafter be adopted governing the construction and maintenance of the Small Cell Facility.
4. Verizon Wireless shall not install its Small Cell Facility on double poles. If National Grid pole #19 becomes a double pole in the future, Verizon Wireless shall remove its Small Cell Facility to a single pole as expeditiously as possible within the guidelines then prescribed by National Grid, but in any event no later than December 31st of the year in which National Grid pole #19 becomes a double pole; provided, however, that if Verizon Wireless is unable to comply with the December 31st deadline for reasons fairly attributable to National Grid, Verizon Wireless shall submit to the City Council a letter, to be received by the City Council prior to such deadline, requesting that the Council extend the deadline to a specified date in the subsequent year and providing good cause in support of such request.

5. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of Verizon Wireless in conjunction with its Small Cell Facility is prohibited, as is all underground installation associated with the Small Cell Facility; provided, however, that the grounding rod proposed to be installed as part of the Small Cell Facility is permitted as long as 1) Verizon Wireless installs the rod immediately adjacent to National Grid pole #19 so as to cause minimal disturbance to the surface of the street or sidewalk, and 2) Verizon Wireless restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the City Engineering Division.
6. The Small Cell Facility shall be color-coordinated so as to best minimize the visual impact of the Facility.
7. The Small Cell Facility's remote radio heads and associated wires, cables, fiber demarc box, electric meter and associated equipment shall be mounted on the side of National Grid pole #19 facing away from the roadway.
8. Any future modification of the Small Cell Facility by Verizon Wireless shall require further City Council Approval.
9. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of National Grid pole #19 shall result in Verizon Wireless moving their Small Cell Facility to another pole in a timely fashion after having been notified by the City Engineering Division about the road project; provided, however, that any such relocation shall require further City Council approval.
10. Prior to the commencement of construction and/or installation of the Small Cell Facility, Verizon Wireless shall provide the City Engineering Division with a written construction and/or installation schedule satisfactory to the Division.
11. Prior to the commencement of construction and/or installation of the Small Cell Facility, Verizon Wireless shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the Small Cell Facility from National Grid pole #19 and for the repair and/or restoration of the public way, in the vicinity of National Grid pole #19, to the condition the public way was in as of the date of this order, said amount to be determined by the City Engineering Division. The amount of the bond shall be the total of the estimate by the Division plus an annual increase of 3% for the operating life of the Small Cell Facility. Verizon Wireless shall notify the City CPO and the Division of any cancellation of, or change in the terms or conditions in, the bond.
12. Each year on July 1st, Verizon Wireless shall submit an affidavit that the Small Cell Facility remains in use and that the Small Cell Facility remains covered by liability insurance naming the City as an additional insured.
13. Each year on July 1st, Verizon Wireless shall pay to the City of Marlborough an annual recertification fee of \$250.00 for each year that the Small Cell Facility remains in use.

14. If the Small Cell Facility is no longer in use, it shall be removed by Verizon Wireless, at its expense, within 60 days. If the Small Cell Facility is not removed by Verizon Wireless within 60 days of it no longer being in use, Verizon Wireless shall pay a fine of \$100.00 per day until such installation is removed by Verizon Wireless.
15. Failure by Verizon Wireless to comply with any of the above conditions to the satisfaction of the City Council or, as applicable, the City Engineering Division or the City CPO shall result in the City Council's review of Verizon Wireless' petition granted herein.

**APPROVED;** adopted.

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 9:57 PM; adopted.