

REGULAR MEETING
APRIL 29, 2019
TIME: 8:00 PM

IN CITY COUNCIL
ABSENT
LOCATION: CITY HALL, 140 MAIN STREET, 2ND FLOOR

CONVENED:
ADJOURNED:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 25 P 2:05

1. Minutes, City Council Meeting, April 8, 2019.
2. PUBLIC HEARING On the Petition from Massachusetts Electric, to install a new pole 47-84 to use as a stub pole for poles 47 and 47-5 on Bolton Street, Order No. 19-1007629.
3. PUBLIC HEARING On the Petition from Comcast, to install new underground 3" PVC conduit for approximately 1055 feet and (3) 2'x3' vaults starting at 46 Lizotte Drive to provide service to 130 Lizotte Drive, Order No. 19-1007611.
4. PUBLIC HEARING On the Application for Special Permit from Thomas Coder, to demolish the existing single story home and construct a new two story home at 21 Patten Drive, Order No. 19-1007612.
5. PUBLIC HEARING On the Proposed Zoning Map Amendment from Councilor Clancy on behalf of the Mayor re: Proposed Rezoning of land off Williams Street, identified as Map 113, Parcels 5 & 6, Order No. 19-1007587.
6. Communication from the Mayor, re: Department of Public Works transfer request in the amount of \$397,000.00 which moves funds from and to various accounts within Public Works to fund ongoing projects, step increases and overtime.
7. Communication from the Mayor, re: Transfer request in the amount of \$88,500.00 to fund the recently ratified 3-year contract with the Police Patrol Officers Association (MPPOA) through FY2021.
8. Communication from the Mayor, re: Transfer request in the amount of \$59,300.00 to fund the recently ratified 3-year contract with the Police Command Officers Association (MPCOA) through FY2021.
9. Communication from the Mayor, re: Police Department transfer request in the amount of \$11,000.00 from 2018 Multi-Purpose account to City Hall Equipment to purchase a new K-9 Unit vehicle.
10. Communication from the Mayor, re: Department of Public Works transfer request in the amount of \$27,250.00 from Reserve for Salaries to Sick Leave Buy Back to fund the retirement benefit of a recently retired member of DPW.
11. Communication from the Mayor, re: Order Transferring Care, Custody, Management and Control of a portion of the Wilson Street Cemetery land to the Historical Commission for the purpose of obtaining a perpetual historic preservation restriction.
12. Communication from the Mayor, re: Grant Acceptance in the amount of \$1,163.00 from the Massachusetts Board of Library Commissioners awarded to the Public Library to be used for a summer program at the library called Tween Arts Exploration for children ages 8-13.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.

13. Communication from City Solicitor, Donald Rider, re: Acceptance of Deed Conveying 10.09 Acres of land located on Berlin Road identified as Map 41, Parcel 37B.
14. Communication from City Solicitor, Donald Rider, re: Revised Zoning Amendment to Chapter 650, §5, §17, & §18 – Home Office and Contractor/Landscape Contractor Storage Yards.
15. Communication from City Solicitor, Donald Rider, re: Application for Special Permit by Main Street Bank, to further modify the Bank’s original 2009 Special Permit by removing condition #4 which prohibits electronic signs, in proper legal form, Order No. 18/19-1007461C.
16. Communication from City Solicitor, Donald Rider, re: Application for LED Sign Special Permit by Main Street Bank, 81 Granger Boulevard, Order No. 18/19-1007423D.
17. Communication from City Solicitor, Donald Rider, re: Proposed Open Space Covenant and Restriction for certain land on a plan entitled “Open Space Exhibit for Apex Center, 240 Boston Post Road West, Marlborough, in proper legal form, Order No. 16/17/18/19-1006443D-6.
18. Communication from the Planning Board, re: Favorable Recommendation on the Proposed Zoning Map Amendment, land off Mill Street South, Order No. 18/19-1007484B.
19. Communication from Ayoub Engineering on behalf of Colbea Enterprises, LLC, re: Removal of existing underground storage tanks (USTs) and installation of new underground storage tanks which will result in a decrease of storage capacity at 342 Boston Post Road East.
20. Application for Renewal of Junk Dealer/Second Hand Dealer License, Jean Rabelo, d/b/a Post Road Used Auto Parts, 785 Boston Post Road East.
21. Application for Renewal of Junk Dealer/Second Hand Dealer License, Gerald Dumais, d/b/a Dumais & Sons Second Hand Store, 65 Mechanic Street.
22. Application for Renewal of Junk Dealer/Second Hand Dealer License, Best Buy Stores LP #820, d/b/a Best Buy, 769 Donald J. Lynch Boulevard.
23. Communication Department of Public Utilities, re: Condensed Financial Return for year-ending December 31, 2018, NStar Gas Company.
24. Minutes, School Committee, February 26, 2019.
25. Minutes, Board of Assessors, April 3, 2019.
26. Minutes, Commission on Disabilities, March 12, 2019.
27. Minutes, Conservation Commission, March 21, 2019.
28. Minutes, Historical Commission, April 11, 2019.
29. Minutes, Library Board of Trustees, February 5, 2019.
30. Minutes, Municipal Aggregation Committee, March 21, 2019.
31. Minutes, Planning Board, March 25, 2019.
32. Minutes, Zoning Board of Appeals, March 26, 2019.

33. CLAIMS:

- a) Elaine Alden, 70 Kelleher Street, residential mailbox claim (2b).
- b) Raymond Degaetano, 153 Mechanic Street, pothole or other road defect.
- c) Bill Dehner, 89 Kelleher Street, residential mailbox claim (2a).
- d) Steven Kinz, 98 Kelleher Street, residential mailbox claim (2b).
- e) Frank Thetonia, 30 Johansen Drive, other property damage and/or personal injury.

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From Finance Committee

34. **Order No. 19-1007607 – Transfer \$60,000.00 for Fire Department Vehicle Maintenance:** The Finance Committee reviewed the Mayor’s letter dated March 20, 2019 requesting a \$60,000.00 transfer from various Fire Department Accounts to the Fire Department Vehicle Maintenance and Repair account due to an increased number of repairs for existing (older) apparatus. **The Finance Committee voted 4 – 0 to approve the transfer.**

From Legislative & Legal Affairs Committee

35. **Order No. 16/17/18/19-1006443D-6: Open Space Covenant and Restriction for certain land on a plan entitled “Open Space Exhibit for Apex Center, 240 Boston Post Road West, Marlborough, MA, dated March 21, 2018.”** The item was removed from the table. The chairman reminded those attending this item had been approved by city council but wasn’t signed by Walker Realty as they had an issue with one of the conditions. With the Conservation Commission, having finalized the Snow Storage Plan for the site, the attorneys were able to craft satisfactory language to cover the City Council’s concern about snow being dumped in the Open Space area. **It was moved and seconded to approve the Order which will become Exhibit B, the Open Space Exhibit which will become Exhibit A and to approve and accept the gift thereof, the amended Open Space Covenant And Restriction as follows: Section III Prohibited and Permitted Acts and Uses, A. Prohibited Acts and Uses -remove the words “and snow” in #5, add in a new #6 to read, “The stockpiling of snow, except in accordance with an approved snow management plan, which plan shall be on file with the City of Marlborough Conservation Commission.” Renumber remainder of the items in A as 7-10. Motion carried 3-0.**

From Public Services Committee

36. **Order No. 19-1007568A: Petition from Massachusetts Electric, to install 461 feet of underground primary from P13 on Framingham Road up to Pad 1-99 on Beverly Drive and to install 262 feet of underground secondary from Pad 1-99 to HH 0-2, all work to remain in the public way.** The Public Services Committee met with Albert Galvin of National Grid regarding their petition to install 461 feet of underground primary from P13 on Framingham Road up to Pad 1-99 on Beverly Drive and to install 262 feet of underground secondary from Pad 1-99 to HH 0-2. Mr. Galvin explained the purpose is to install upgraded wire with all new conduit. They were requested to stay off the sidewalks since the area was recently repaved and the plan is to hug the curb with the installation to bring to the residents on Beverly Drive. Chairman Landers expressed the concern about cutting into new streets that were recently done. The road cut is on Framingham Road at Pole 13 across to Beverly Drive where it will be on the road against the sidewalk as the request was for them not to touch the sidewalk and minimize disturbance to the road. **Motion made by Councilor Doucette, seconded by the Chair, to approve the petition. The motion carried 3-0.**
37. **Order No. 19-1007609: Application for Renewal of Junk Dealer/Second Hand Dealer License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard.** Police Chief Giorgi approved the CORI report for Tony Bitar and had no objection to his application for a Junk Dealer's/Second Hand License. Mr. Bitar stated his business does not do much in the way of buying used jewelry, but he keeps the license as a service to his customers. He informed the committee most of the people who try to use the service are scammers attempting to sell fake jewelry. Mr. Bitar stated they always test the product and he is experienced enough to tell the difference. He provided an update of the business and explained how they do a good business on jewelry repair. **Motion made by Councilor Doucette, seconded by the Chair, to approve the license renewal. The motion carried 3-0.**
38. **Order No. 19-1007610: Application for Renewal of Junk Dealer/Second Hand Dealer License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street.** Police Chief Giorgi approved the CORI report for Roman Kimyagarov and had no objection to his application for a Junk Dealer's/Second Hand License. Mr. Kimyagarov explained his business is to buy jewelry, gold, and precious metals. He buys scrap gold, broken jewelry, and items people no longer wish to wear. The business of buying gold and silver has been up and down this past year and not as busy as in the past. He also shared some of his experiences with people trying to sell fake gold/silver jewelry as well as gold and silver-plated items. Mr. Kimyagarov discussed the leather repair portion of his business. **Motion made by Councilor Irish, seconded by the Chair, to approve the license renewal. The motion carried 3-0.**

From Urban Affairs Committee

39. **Order No. 18/19-1007461C (X18/19-1007423): Application for Special Permit from Attorney Sem Aykanian to modify existing Special Permit issued to Main Street Bank, 81 Granger Boulevard on June 22, 2009, Order No. 09-1002152C, to modify permit to allow for an electronic digital display (electronic message board) sign.** The Urban Affairs Committee met with attorney Sem Aykanian regarding Main Street Bank's request to modify their existing special permit to allow for an electronic digital display sign. Mr. Aykanian explained when the original special permit was issued in June of 2009, these types of signs were not done. Since that time, several other banks have applied for and received approval for their own electronic digital display signs and they are requesting the same treatment as these other businesses. They will follow all the City's regulations regarding the operation of their sign.

The Original Special Permit is amended by removing Condition #7 in its entirety and inserting in place thereof the following:

- 7) The location and design of any signage on the Site shall be reviewed and approved by the City of Marlborough in accordance with § 526-13 entitled, Electronic Message Center Signs and Digital Display Signs, as set forth in the City Code of the City of Marlborough.

Motion made by Councilor Doucette, seconded by Councilor Landers, to approve the application for Special Permit. The motion carried 3-0.

40. **Order No. 18/19-1007423D (X18/19-1007461): Application for LED Sign Special Permit, Main Street Bank, 81 Granger Boulevard.** The Urban Affairs Committee met with attorney Sem Aykanian regarding Main Street Bank's request for a LED Sign Special Permit. There was one condition for the operation of the sign as follows:

1. The Sign shall be operated in accordance with the EMC and Digital Display Sign Ordinance of the City of Marlborough.

Motion made by Councilor Doucette, seconded by the Chair, to approve the application for LED Sign Special Permit. The motion carried 3-0.