

REGULAR MEETING  
MAY 20, 2019  
TIME: 8:00 PM

IN CITY COUNCIL  
ABSENT  
LOCATION: CITY HALL, 140 MAIN STREET, 2<sup>ND</sup> FLOOR

CONVENED:  
ADJOURNED:  
RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2019 MAY 16 P 1:55

1. Minutes, City Council Meeting, May 6, 2019.
2. PUBLIC HEARING On the Petition from TC Systems, Inc., on behalf of AT&T, to install new underground conduits with cable on Forest Street from Pole #24 To Verizon MH #516 for a distance of 65' within the Public Way, Order No. 19-1007672.
3. PUBLIC HEARING On the Proposed FY20 Budget Recommendation from Mayor Vigeant, in the amount of \$169,023,174.00 which represents a 3.8 % increase over the FY19 appropriation, Order No. 19-1007668.
4. Communication from President Clancy, re: Election of Steven W. Kerrigan as City Clerk for a 3-year term effective immediately upon confirmation.
5. Communication from the Mayor, re: DPW Transfer Request in the amount of \$1,325,300.00 which moves funds from Undesignated to Overtime-Snow & Ice, Snow Removal and Operating Expenses in the amounts of \$280,300.00, \$395,000.00 & \$650,000.00 respectively to fund FY19 deficit.
6. Communication from the Mayor, re: Transfer Request in the amount of \$388,000.00 which moves funds from Meals Tax Revenue Account to fund FY19 bond payments associated with Parks & Recreation improvements.
7. Communication from the Mayor, re: Transfer Requests in the amounts of \$58,000.00 for the DPW to fund park maintenance, consultant fees and roof and masonry repairs at the DPW and \$15,000.00 for the Fire Department to fund the purchase of a new command vehicle.
8. Communication from the Mayor, re: Transfer Request in the amount of \$16,900.00 from Reserved for Salaries to Sick Leave Buy Back and Human Resources Director to fund the retirement benefit for David Brumby who will be retiring effective July 1, 2019.
9. Communication from the Mayor, re: Transfer Request in the amount of \$4,500.00 which moves funds from Undesignated to Stabilization-Open Space from wireless antenna payments received in FY18.
10. Communication from the Mayor, re: Revolving Fund Spending Limits for the Public Safety Revolving Fund, the Parks and Recreation Revolving Fund and the Council on Aging Revolving Fund for FY20.
11. Communication from City Solicitor, Donald Rider, re: Proposed Zoning Amendment to Chapter 650 which will create the Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road area, in proper legal form, Order No. 19-1007533C.
12. Communication from City Solicitor, Donald Rider, re: Proposed Conservation Restriction and Proposed Regulatory Agreement, Avalon Orchards, 91 Boston Post Road East.

**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 the Retirement Board re: Consideration of a cost of living increase (COLA) pursuant to MGL Chapter 32, §103(j).
14. Communication from the Planning Board, re: Favorable Recommendation on the Proposed Zoning Map Amendment, relative to land off Williams Street identified as Map 113, Parcels 5 & 6, Order No. 19-1007587A.
15. Petition from Massachusetts Electric and Verizon New England, to relocate Pole and anchor #6 to the opposite side of Boudreau Avenue to accommodate a city road widening project.
16. Communication from Attorney Michael Dolan on behalf of New Cingular Wireless PCS, LLC (AT&T), re: Small Cell Antenna Petition, 28 Concord Road, Order No. 17-1007055B.
17. Communication from Attorney Brian Falk, on behalf of Vincenza Sambataro, re: Request to Extend Time Limitations to August 27, 2019 at 10:00 PM on the Application for Special Permit to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space, 161-175 Main Street, Order No. 19-1007571A (X18/19-1007135B).
18. Communication from Attorney Brian Falk on behalf of Post Road Residential, LLC, re: Proposed Zoning Amendment relative to the Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road area, Order No. 19-1007533C.
19. Communication from Hunter Bjorkman on behalf of ecoATM, re: Information on the Renewal of Junk Dealer/Second Hand Dealer License, 601 Donald J. Lynch Boulevard, Order No. 19-1007588.
  - a. Email from Police Chief Giorgi, re: Review of CORI and no objection on the renewal of Junk Dealer/Second Hand Dealer License, ecoATM, 601 Donald J. Lynch Boulevard.
20. Minutes, Council on Aging, March 12, 2019.
21. Minutes, Planning Board, April 29, 2019.
22. CLAIMS:
  - a) Lynn Formica, 110 Woerd Avenue, Waltham, pothole or other road defect.
  - b) Kelsey Maley, 80 Newton Street, pothole or other road defect.

## REPORTS OF COMMITTEES:

## UNFINISHED BUSINESS:

From Public Services Committee

23. **Order No. 19-1007588: Application for Renewal of Junk Dealer's/Second Hand Dealer's License, ecoATM, LLC, 601 Donald J. Lynch Boulevard.** The company, ecoATM, LLC, with headquarters in California, has a machine located at the Solomon Pond Mall which collects used cell phones and other small electronic devices and provides payment to its customers. It is a good way to dispose of old electronic devices. The junk dealer license was first issued in 2012 to permit the installation of the kiosk at the mall. A representative appeared to speak in behalf of ecoATM prior to the issuance of the first junk dealer license. Because there were no problems associated with the siting of the kiosk the first year and in subsequent years, the applicant has been allowed to submit a letter detailing the activity of the device for the previous year. Additionally, an ecoATM employee has annually submitted a CORI to the Police Chief. Other than the first year, their application for a junk dealer license has been approved without an employee being present at the committee meeting, pending receipt of the required CORI and activity report. **Motion made by Councilor Doucette, seconded by the Chair, to approve the license renewal pending receipt of the necessary documents and materials from ecoATM, LLC. The motion carried 3-0 (Documents received from applicant and Chief of Police as requested).**
24. **Order No. 19-1007628: Application for Renewal of Junk Dealer/Second Hand Dealer License, TVI, Inc., d/b/a Savers, 222A East Main Street.** Police Chief Giorgi approved the CORI report from the store manager since 2018, Jerry A. Moore Jr., and had no objection to the renewal of Savers' application for a Junk Dealer's/Second Hand License. David Manoogian, an Attleboro attorney, once again appeared on behalf of applicant, TVI, Inc., d/b/a Savers. Attorney Manoogian stated the store has been operating smoothly for the past twelve-month period, and they were prepared to answer questions from the committee. Atty. Manoogian and Mr. Moore discussed the history of the store since its first junk dealer license was issued in 2013 and its positive impact on the community.

The following conditions and waivers are part of their license:

Conditions

1. The license shall not be transferred without prior review and approval of the City Council.
2. The license hereby granted is issued to TVI, Inc. d/b/a Savers only and is applicable only to the 222A East Main Street location.
3. There will be no exterior storage, display or sales of merchandise, other than a recycle trailer, a cloth delivery trailer with items waiting to be processed, and a local trailer from one of Savers' charitable partners delivering merchandise to the store. No more than three such trailers and trucks shall be parked at the loading dock area in the rear of the building at any one time, and no such trailers or trucks shall be parked on any other side of the building at any time.
4. Donations shall take place only during the hours of operation which shall be 9:00 A.M to 9:30 P.M. Monday through Saturday and 10:00 A.M. to 7:00 P.M. on Sundays, and during the month of October from 9:00 A.M. to 10:00 P.M. Monday through Saturday and 10:00 A.M. to 10:00 P.M. on Sundays.
5. No Savers' donation boxes shall be permitted outside of the building.
6. No scrolling or rotating message signs shall be permitted as part of Savers' signage plans.

7. Glue boards shall be installed at locations within the business premises satisfactory to the Marlborough Board of Health and Savers, and a monthly monitoring program shall be implemented consisting of a log book for said glue boards satisfactory to the Board of Health.
8. This license shall be subject to revocation or suspension for noncompliance of the above conditions or other applicable local ordinances or state laws.
9. The waivers granted as part of this license shall no longer be applicable should Savers commence paying the general public for merchandise delivered without first obtaining the review and approval of the City Council.

#### Waivers

1. The waiver of Section 377-4 of the Ordinance as requested by Savers is not granted because Section 377-4 is not applicable to Savers' operations.
2. The waiver of Section 377-5 of the Ordinance is granted with respect to the last sentence thereof requiring the City Clerk to keep a list of persons employed by Savers. All other provisions of Section 377-5, other than the duty of the City Clerk to keep a record of the name and residence of each dealer, are not applicable to Savers.
3. The provisions of Sections 377-6, 377-7 and 377-9 of the Ordinance are waived in their entirety.

**Motion made by Councilor Doucette, seconded by the Chair, to approve the license renewal with all conditions and waivers. The motion carried 3-0.**

#### From City Council

25. **Order No. 19-1007533C: Proposed Zoning Amendment, to add to Chapter 650 a new section §36, which will create an Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road Area. ITEM WAS REFERRED TO THE LEGAL DEPARTMENT TO PLACE IN PROPER LEGAL FORM FOR THE MAY 20, 2019 CITY COUNCIL MEETING.**