

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 FEB 21 P 3:00

1. Communication from the Mayor, re: Request to address the City Council to provide an update on the state of the City.
2. Minutes, City Council Meeting, February 11, 2019.
3. PUBLIC HEARING On the 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, Order No. 18/19-1007461A, X09-1002152C, X12-1004081C.
4. PUBLIC HEARING On the Application for Sign Special Permit, from Main Street Bank, 81 Granger Boulevard to operate an electronic message center sign at its bank located at 81 Granger Boulevard, Order No. 18/19-1007423B, X18-1007461A.
5. PUBLIC HEARING On the Application for Special Permit from Marc Buchan to raze an existing one story single family residence and build a new two story single family residence on the same existing foundation footprint, 180 Cullinane Drive, Order No. 19-1007512.
6. Communication from the Mayor, re: Transfer request in the amount of \$510,832.30 which moves funds from PEG Fees to Marlborough Cable Trust to fund the operation of WMCT for FY20.
7. Communication from the Mayor, re: Transfer request in the amount of \$182,500.00 which moves funds from Free Cash to IT Equipment to purchase, install and maintain security cameras at the Jaworek and Richer Elementary Schools.
8. Communication from the Mayor, re: Grant Acceptance in the amount of \$825.00 from the Massachusetts Cultural Council awarded to the Mayor's Office to be used to beautify an electrical box utilizing the wrap technique.
9. Communication from City Solicitor, Donald Rider, re: Amendments to the Master Concept Plan and Development Agreement relative to the Results Way Mixed Use Overlay District (RWMUOD), in proper legal form, Order No. 18/19-1007313A.
10. Communication from City Solicitor, Donald Rider, re: Site Plan Approval with conditions for AvalonBay Communities, Inc. for 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the RWMUOD, in proper legal form, Order No. 18/19-1007315A.
11. Communication from City Solicitor, Donald Rider, re: Special Permit for AvalonBay Communities, Inc., for a 123-unit Luxury Apartment Community located on a portion of Forest Street within the RWMUOD, in proper legal form, Order No. 18/19-1007314E.
12. Communication from City Solicitor, Donald Rider, re: Special Permit for Marlborough TOTG, LLC, to construct a mixed-use project at 57 Main Street to exceed by 4% the maximum lot coverage of 80% allowed in the Marlborough Village District, in proper legal form, Order No. 18/19-1007424D.

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: Site Plan Approval with conditions for Marlborough TOTG, LLC, to construct a mixed-use project at 57 Main Street, in proper legal form, Order No. 18/19-1007425A.
14. Communication from the Planning Board, re: Favorable Recommendation of Cider Mill Estates Subdivision, Acceptance of Goodwin Street and McDermot Way as Public Ways, Order No. 19-1007530.
15. 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.
16. Communication from Attorney Brian Falk on behalf of St. Mary's Credit Union, re: Proposed Rezoning of land located at 31 and 35 John Street.
17. Application for Special Permit from Fabricio DaSilva, to construct a new 5 x 18 front porch on an existing structure, 3 Jonas Court.
18. Application for Special Permit and Updated Site Plan Approval Submission from Attorney Brian Falk, on behalf of E on Main, to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space at 161-175 Main Street, X16-1006668A.
19. Minutes, Ad-Hoc Municipal Aggregation Committee, February 11, 2019.
20. Minutes, Board of Health, December 3, 2018 & January 14, 2019.
21. Minutes, Conservation Commission, January 10, 2019 & January 24, 2019.
22. Minutes, Council on Aging, January 8, 2019.
23. Minutes, Planning Board, January 28, 2019.
24. CLAIMS:
 - a) Rocco DeVito, 39 Girard Street, pothole or other road defect.
 - b) Matheus DeSouza, 109 Edinboro Street, pothole or other road defect.
 - c) Paul Graves, 239 Ridge Road, other property damage and/or personal injury.
 - d) William MacCormac, 168 Farm Road, residential mailbox claim (2b).
 - e) Corey Marsh, 96 Bunker Hill Parkway, West Boylston, pothole or other road defect.
 - f) Chanchal Patil, 37 Littlefield Lane, residential mailbox claim (2b).
 - g) Neftali Pena, 302 North Street, Leominster, pothole or other road defect.
 - h) Naila Ramirez, 201 Broad Street, #2L, pothole or other road defect.
 - i) Majid Sairafi, 81 Woodland Drive, pothole or other road defect.
 - j) Lan Sun, 102 Milk Street, Westborough, other property damage and/or personal injury.
 - k) Andrew Zupan, 14 Brigham Road, Framingham, pothole or other road defect.

REPORTS OF COMMITTEES:

25. ORDERED:

1. This order supersedes Order No. 17-1006881 dated April 10, 2017.
2. The goal of the Ad-Hoc Municipal Aggregation Committee is to obtain competitive electric supply offers that will provide stability and predictability and on a yearly average be lower than the National Grid Fixed Basic Service Rates during the same period.
3. Establish an Ad-Hoc Municipal Aggregation Committee that will review competitive electric supply agreements and make recommendations to the Mayor. The Municipal Aggregation Committee will consist of 5 members including:
 - The Mayor
 - Two City Councilors (appointed by the City Council President)
 - The Chief Procurement Officer
 - The DPW Commissioner (or designee)
 - A quorum shall consist of a minimum of 3 members
4. The Ad-Hoc Municipal Aggregation Committee will provide periodic updates to the City Council on Municipal Aggregation implementation.
5. All suppliers of electricity licensed by the Department of Public Utilities and qualified to do business in the Commonwealth of Massachusetts can participate in the City's Municipal Aggregation Program.

BACKGROUND:

On October 15, 2018, the City Council approved Order No. 18-1007435 to have the Ad-Hoc Municipal Aggregation Committee review Council Order 17-1006881 regarding item #2 "The goal of Municipal Aggregation is to require that the R-1 (residential) class rates be lower than the prevailing National Grid Fixed Basic Service Rate" and report back to the City Council. The purpose of the review was to determine if there may be a financial benefit to the residents of Marlboro by entering into agreements for longer electricity supply contracts that may contain savings over the long run but may be occasionally higher than the National Grid Fixed Basic Service Rate. The Ad-Hoc Municipal Aggregation Committee meeting minutes from February 11, 2019 document the Committee's unanimous decision to revise the order to allow the City to enter into longer electrical supply contracts to provide stability and predictability for electrical supply rates while potentially providing greater savings to Marlboro residents than the current process. Recommend the above order be referred to the Finance Committee, set a public hearing for March 11, 2019 and advertise. Submitted by Councilor Ossing

UNFINISHED BUSINESS:

From Public Services Committee

26. **Order No. 18/19-1007499A: Communication from the City Solicitor, Donald Rider, regarding Walker Brook Estates Subdivision – Acceptance of Allis Road & Bemis Road as Public Ways.**

The Public Services Committee met with City Solicitor Donald Rider and City Engineer Tom DiPersio regarding the Walker Brook Estates Subdivision and the acceptance of Allis Road and Bemis Road as public ways. Chairman Landers read the letter dated December 13, 2018 from the City Solicitor as well as the letter dated January 10, 2019 from the Planning Board that recommended Allis Road and Bemis Road be accepted as public ways and their appurtenant easements be accepted as municipal easements in the City of Marlborough. The City Engineer worked closely with the Planning Board on their acceptance procedures and was satisfied the subdivision completed its one-year maintenance procedures.

Motion made by Councilor Doucette, seconded by the Chair, to approve the acceptance of Allis Road and Bemis Road as public ways. The motion carried 3-0.

From Finance Committee

27. **Order No. 19-1007524 – Transfer \$62,800.00 from Reserve for Salaries to Police Department Sick Leave Buy Back.**

The Finance Committee reviewed the Mayor's letter dated January 22, 2019 requesting the transfer of \$62,800.00 from Reserve for Salaries to the Police Department Sick Leave Buy back account to cover the retirement of a Command Officer.

The Finance Committee voted 5 – 0 to approve the transfer.

28. **Order No. 19-1007525 – Transfer \$11,000.00 from Police Department Educational Incentive account to the Initial Equipment account.**

The Finance Committee reviewed the Mayor's letter dated January 22, 2019 requesting the transfer of \$11,000.00 from Police Department Educational Incentive account to the Police Initial Equipment account to cover initial equipment for new Police Officers.

The Finance Committee voted 5 – 0 to approve the transfer.

From Urban Affairs Committee

29. **Order No. 18/19-1007313: Communication from the Attorney Buckley regarding the Results Way Mixed Use Overlay District and changes to the Master Concept Plan and Development Agreement.**

The Urban Affairs Committee met with representatives of Atlantic Management and AvalonBay Communities for review of the Master Concept Plan and Development Agreement for the Results Way Mixed Use Overlay District. A revised Master Concept Plan was submitted by Attorney Buckley in compliance with the Results Way Mixed Use Overlay (RWMUOD) District as requested by Councilor Robey and will accurately reflect the acreage and parking ratios.

The Development Agreement had several modifications:

- Include a payment of \$3,000.00 per residential unit providing flexibility to the City Council and its use of those funds to provide mitigation in terms of structures and services at the discretion of the City Council.
- Reflect the total construction of 473-units at the site.
- The original Development Agreement cites a plan drawn by SMMA, labeled Forest Ave. Master Plan dated April 16, 2013, which shall be updated to appropriately reference the most recently revised Master Concept Plan, submitted February 1, 2019.

Chairman Delano read through item number two of the First Amendment to the Development Agreement which contained the substantive changes:

“For each unit of residential housing in excess of the 350 units already built, the owner of any Development Parcel containing residential use shall make a one-time payment to the City equal to Three Thousand Dollars (\$3,000.00) per residential dwelling unit (hereinafter, such amounts being referred to as the “Residential Development Contribution”) to be used by the City, acting by and through the City Council, to contribute to the cost of mitigation structures and/or services. The Residential Development Contribution shall be made in two (2) installments for each residential unit. The first payment installment shall be in the amount of One Thousand Dollars (\$1,000.00) and shall be due and payable upon the issuance of the building permit for the construction of the applicable residential dwelling unit and the second payment installment shall be in the amount of Two Thousand Dollars (\$2,000.00) and shall be due and payable upon the issuance of a Certificate of Occupancy for the applicable residential dwelling unit. The payment of the Residential Development Contribution by the owner of any Development Parcel containing residential use is made in recognition of the benefits to the Property of such undertakings by the City. The payment of the Residential Development Contribution made pursuant to this Paragraph 4 shall be the exclusive payment required for the subject matter of this paragraph (including without limitation, towards the production of affordable housing) notwithstanding anything in the City of Marlborough Zoning ordinance to the contrary, as the same may be amended. Notwithstanding anything in the City of Marlborough Zoning ordinance to the contrary, as the same may be amended, upon completion of the proposed multi-family housing of up to a maximum of 473 dwelling units within the entire RWMUOD, no more multi-family housing (of any type) shall be permitted within the RWMUOD.”

Motion made by Councilor Tunnera, seconded by Chair, to approve the First Amendment to the Development Agreement as amended pending review by the Legal Department. The motion carried 4-0.

Motion made by Councilor Tunnera, seconded by Chair, to approve the Master Concept Plan as updated. The motion carried 4-0.

30. Order No. 18/19-1007315: Communication from AvalonBay Communities, Inc., regarding Site Plan for Avalon Marlborough II, a 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed-Use Overlay District.

The Urban Affairs Committee met with representatives of Atlantic Management and AvalonBay Communities for review of the Site Plan Review Committee Report dated January 30, 2019. The following changes were discussed and recommended for inclusion in the Site Plan Decision:

- Detention Basin requires an adequate fence agreeable to the City Engineer.
- Removal of item # 36.
- Item #22 shall be revised to be the same as the Development Agreement.
- Add a General Provision for “Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plans. The City Council delegates to the Building Commissioner the authority to approve changes to the approved Site Plans consistent with future amendments to the Zoning Ordinance enacted by the City Council.”

Motion made by Councilor Doucette, seconded by Chair, to approve the Site Plan Decision as amended and to suspend the rules on February 11, 2019 to forward to the Conservation Officer and to the City Solicitor to place in proper form for placement on the February 25, 2019 City Council Agenda. The motion carried 4-0.

31. **Order No. 18/19-1007314D: Communication from AvalonBay Communities, Inc., regarding Special Permit Application for Avalon Marlborough II, a 123-unit Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed-Use Overlay District.**

The Urban Affairs Committee met with representatives of Atlantic Management and AvalonBay Communities for review of the Special Permit Application for Avalon Marlborough II for 123-residential units. City Solicitor Rider noted paragraph 6 of the "Findings of Fact and Conditions" will be updated to reflect the residential development contribution as written in the "First Amendment to the Development Agreement." They discussed a truck exclusion on the property but determined since they are private roads, it was at the Developer's discretion whether to include one on their property. Scott Dale, on behalf of AvalonBay, stated that the site plan had been amended to remove the gate and allow for free flow access around the entire overlay as initially envisioned. The site had several lots which were consolidated into one lot and it will be properly referenced in the Special Permit as well as the plan described in paragraph 6 of the "Findings of Fact and Conditions."

Motion made by Councilor Tunnera, seconded by Chair, to approve the Special Permit as amended for AvalonBay Communities, Inc. The motion carried 4-0.

Motion made and seconded to Suspend the Rules on February 11, 2019 to refer to the Legal Department the First Amendment to the Development Agreement dated February 4, 2019 as amended, the Master Concept Plan as amended, the Special Permit Decision as amended, and the Site Plan Decision as amended, together with renderings, studies, exhibits and other evidence submitted to the Urban Affairs Committee and to place in proper form on the February 25, 2019 City Council Agenda. The motion carried 4-0.

32. **Order No. 18/19-1007424B: Application for Special Permit from Marlborough TOTG, LLC d/b/a MCO & Associates, Inc. to increase lot coverage area of 80% to 84% for patio area of proposed restaurant at 57 Main Street.**

The Urban Affairs Committee met with Mark O'Hagan for a review of the application for a special permit for 57 Main Street to increase the lot coverage area from 80% to 84%. The special permit application was previously reviewed at a meeting on January 22, 2019 where it was explained the applicant was providing an easement to the City of Marlborough for the reconstruction of Exchange Street and thereby reducing the area available to meet the lot coverage requirements. The Urban Affairs Committee approved the special permit application however the Site Plans did not accurately reflect the site conditions with regards to a bicycle rack location as well as bedroom counts and units. The applicant updated the Site Plans and Architectural Plans and submitted them for review. The special permit language requires updating for conditions eleven and twelve to properly reference the correct plans.

Motion made by Councilor Tunnera, seconded by Chair, to approve the special permit application granting an increase in lot coverage from 80% to 84% as amended. The motion carried 4-0.

33. Order No. 18/19-1007425: Site Plan Application for Tavern on the Green, 57 Main Street.

The Urban Affairs Committee met with Mark O'Hagan for City Council review of the Site Plan Application for Tavern on the Green at 57 Main Street. As part of the Site Plan Application, the proponent requested a waiver of the open space requirement for the site as the ordinance requires 5,500 square feet for a project of this size (100 square feet per unit x fifty-five units), half of which must be ground level open space and the other half may be private patio open space. This site has private patio space and within the building on the second floor, community-residence common space area totaling 8,200 square feet but not meeting the requirement of 2,750 square feet of outdoor patio space. The Committee reviewed the Site Plan Approval draft decision, and changes are required to accurately reference the architectural plans and site plans and properly reference each in the draft decision.

In response to Councilor Robey's inquiries, the applicant is required to assign each residential unit with one (1) parking space. The parking plan includes adequate parking spaces to meet the residential parking requirement with additional spaces remaining and available for the proposed commercial use.

Motion made by Councilor Doucette, seconded by Chair, to approve the open space waiver request for 57 Main Street. The motion carried 4-0.

Motion made by Councilor Tunnera, seconded by Chair, to approve the Site Plan Decision as amended. The motion carried 4-0.

Motion made and seconded to Suspend the Rules on February 11, 2019 to refer to the Legal Department the Special Permit Decision and the Site Plan Decision as amended to place in proper legal form for the February 25, 2019 City Council meeting. The motion carried 4-0.