

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

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

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 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.



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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 19 A 9:10

CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Steven W. Kerrigan
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723

APRIL 8, 2019

Regular meeting of the City Council held on Monday, April 8, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 10:35 PM.

ORDERED: That the Minutes of the City Council meeting, MARCH 25, 2019, **FILE**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Communication from Fabricio DaSilva, re: Request to **WITHDRAW WITHOUT PREJUDICE**, Application for Special Permit to construct a new 5 x 18 front porch on an existing structure, 3 Jonas Court, **FILE**; adopted.

ORDERED: That the Application for Special Permit from Fabricio DaSilva, to construct a new 5 x 18 front porch on an existing structure, 3 Jonas Court, **WITHDRAWN WITHOUT PREJUDICE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Proposed Zoning Ordinance Amendment, Chapter 650, §5, §17, §18 & §48 relative to adding Food Trucks to the Table of Uses, Order No. 19-1007543, all were heard who wish to be heard, hearing closed at 8:05 PM; adopted.

Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juare, Oram, Ossing & Robey.

ORDERED: That the **PUBLIC HEARING** On the Proposed Zoning Map Amendment from Attorney Brian Falk on behalf of St. Mary's Credit Union, re: Rezoning of land located on John Street, Order No. 19-1007569, all were heard who wish to be heard, hearing closed at 8:18 PM; adopted.

Councilor Delano recused.

Councilors Present: Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juare, Oram, Ossing & Robey.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Donation Acceptance in the amount of \$3,000.00 for the Fire Department from Dwayne Thompson, Michael Burnell and Andrew Eick of Cummings Properties, LLC to be used for employee appreciation; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Donation Acceptance in the amount of \$20.00 for the Police Department from Marilyn Gaudette to be used for summer programs; adopted.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit 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, Order No. 19-1007571, all were heard who wish to be heard, hearing closed at 8:51 PM; adopted.

Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juair, Oram, Ossing & Robey.

ORDERED: That the Communication from Councilor Ossing, re: Municipal Aggregation – Six-month fixed price contract with DYNEGY, May, 2019 through October, 2019, **FILE**; adopted.

ORDERED: That the Transfer Request in the amount of \$699,088.00 which moves funds from Economic Development to MEDC Funding to fund the FY20 operations, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Mayor				FISCAL YEAR:		2019		
Available Balance		FROM ACCOUNT:				TO ACCOUNT:				Available Balance
	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		
\$1,661,109.48	\$699,088.00	27000099	42440	Economic Development	\$699,088.00	11740006	53950	MEDC Funding	\$0.00	
Reason:		To allow the MEDC to continue it's work in promoting the economic development of the City for FY20								
	\$699,088.00	Total			\$699,088.00	Total				

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Reimbursement Acceptance for the Fire Department in the amount of \$7,409.02 from FEMA for storm expenditures from the snow event of March 13, 2018; adopted.

ORDERED: That the City Council, upon reconsideration, hereby removes the conditions currently set forth in Order No. 18-1007441A for acceptance of a grant in the amount of \$6,219.00 awarded to the DPW to fund 50% of the cost to purchase two Level 2 Electric Vehicle Charging Stations and imposes the following new conditions in place thereof, **APPROVED**; adopted.

- 1) The two (2) charging stations will be set up for City vehicle use only.
- 2) The charging stations will be installed on the first floor of the parking garage or a location that the DPW Commissioner sees fit.

President Clancy declared a hand count of six Councilors in favor (Doucette, Irish, Clancy, Landers, Oram & Ossing) and five Councilors opposed (Delano, Dumais, Tunnera, Juaire & Robey).

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit for Marc Buchan, to demolish the existing one story single-family dwelling and construct a new two-story single-family dwelling on the same foundation footprint at 180 Cullinane Drive, in proper legal form, Order No. 19-1007512B, **MOVED TO ITEM 32**; adopted.

ORDERED: That the proposed amendment to Chapter 650 as outlined in Order No. 18/19-1007452D is hereby further amended by striking out in 650-22 C (i) 5 the words “and any approved ancillary residential community are” and inserting in place thereof the word “is”, so the section would now read “The lot or lots on which an RCO-D/T community is located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.”, **APPROVED**; adopted.

ORDERED: That the proposed amendment to Chapter 650 as outlined in Order No. 18/19-1007452D is hereby further amended by striking out in 650-22 C (i) 9 the words “and in any permitted ancillary residential community”, so the section would now read “Maximum combined lot coverage in an RCO-D/T community shall not exceed 40% of the total lot size.”, **APPROVED**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed Zoning Ordinance Amendment, Chapter 650 §22 & §5, relative to Multifamily Retirement Community, 90 Crowley Drive, in proper legal form, Order No. 18/19-1007452D (X18-1007198G), **MOVED TO ITEM 31**; adopted.

ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation on the Proposed Zoning Amendment to Chapter 650 which will create the Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road area, Order No. 19-1007533A, **FILE**; adopted.

ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation on the Proposed Zoning Map Amendment, land off Valley Street, Order No. 19-1007552A, **FILE**; adopted.

ORDERED: That the Communication from the Planning Board, re: Decision for Colbea Enterprises, LLC, Request for Sign Variance, 342 Boston Post Road East, **FILE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer/Second Hand Dealer License, TVI, Inc., d/b/a Savers, 222A East Main Street, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY APRIL 29, 2019** as **DATE FOR PUBLIC HEARING** Petition from MA Electric to install a new pole 47-84 to use as a stub pole for poles 47 and 47-5 on Bolton Street, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, School Committee, March 12, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, March 20, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, March 7, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, February 11, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, March 7, 2019, **FILE**; adopted.

ORDERED: That the Minutes, License Board, February 11, 2019, February 27, 2019 & March 21, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, March 11, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Retirement Board, February 26, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, February 27, 2019, **FILE**;

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

- a) Meryl Cheney, 5 Whispering Pine Drive, Milford, pothole or other road defect.
- b) Andrea Kotufo, 103 Cook Lane, pothole or other road defect.
- c) Christine McCarthy, 73 Wayside Inn Road, residential mailbox claim (2b).

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee
Monday April 1, 2019
In Council Chambers**

Finance Committee Members Present: **Chairman Ossing; Councilors Robey, Oram and Irish.**

Finance Committee Members Absent: **Councilor Dumais**

Other Councilors in Attendance: **Councilors Delano, Landers and Doucette.**

The meeting convened at 7:12 PM.

1. **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 all the transfers.

2. **Order No. 19-1007618 – Review FY19 Abbreviated Budget and Recommend FY20 Budget Format** – The FINANCE COMMITTEE reviewed an order submitted by Councilor Ossing that appeared on the March 25, 2019 City Council agenda (Agenda item 19) to review the results of the FY19 abbreviated budget process and approve the abbreviated budget authorization format for all departments for the FY20 City budget.

By way of background information, the City Council approved the abbreviated budget process for FY18 on April 24, 2017 (Order Number 17-1006856A) and FY19 on April 23, 2018 (Order No. 18-1007236). In its 2006 Financial Management Review of the City of Marlboro, the Massachusetts Department of Revenue recommended that the City adopt several best financial practices including approving the City budget with the salary and expenditure accounts for each department as opposed to the past practice of approving each individual line item. This recommendation was also made in the City's Fiscal Year 2016 audit performed by Roselli, Clark & Associates. Department heads would not be able to add funds to their approved salary or expenditure accounts without City Council approval. The Auditor will provide a summary of all transfers within a department's budget each month to the City Council.

- The FINANCE COMMITTEE reviewed the FY19 abbreviated budget process (summarized in Attachment 1) and voted 4 - 0 that the process was working properly.
 - The FINANCE COMMITTEE voted 4 - 0 to approve the order for the abbreviated budget format for the FY20 budget process that includes the sunset clause to have the City Council assess the results in April 2020 to determine if the practice will continue.
 - The FINANCE COMMITTEE agreed to support suspending the rules at the April 8, 2019 City Council meeting to approve the Order to review the results of the FY19 abbreviated budget process and approve the abbreviated budget authorization format for all departments for the FY20 City budget.
3. **FY20 Finance Committee Budget Review Schedule:** The Finance Committee reviewed the timeline and schedule for the upcoming Finance Committee meetings to review the Mayor's FY20 budget. The Finance Committee agreed to meet on May 9, 13 and 14, 2019 to review the FY20 budget.

The Finance Committee adjourned at 7:35 PM.

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

Meeting Name: City Council Public Services Committee

Date: April 1, 2019

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 6:00 PM – Adjourned: 6:55 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette and Irish; and Councilor Oram, Ossing, and Robey; Donald Rider (City Solicitor, City of Marlborough)

Reports of Committee Continued:

Order No. 19-1007568: On 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 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.

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.

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.

Reports of Committee Continued:

Order No. 19-1007605: Communication from President Clancy, regarding Proposed Amendment to Chapter 473 of the City Code, Small Cell Wireless Facilities Within Public Rights of Way. Councilor Ossing provided some background on this proposed amendment to the City Code. Recently through the Wireless Communications Committee, there were petitions for pole-mounted, wireless, 5G facilities. During the review of those petitions, the City Solicitor discovered recently issued FCC rules in October 2018 that gave communities 90-days to implement or 180-days to put rules in place for their locality for aesthetic type requirements, i.e. where to locate, how to mount, and color. Through research in other communities, it was decided to implement the process for application fees, application review, what the community is looking for, etc. The City Solicitor compiled the proposed amendment to the City Code based on those from several communities and the FCC knowing it would require some revision going forward. The deadline was 180-days from the FCC rules otherwise the community would be subject to those issued by the FCC. City Solicitor Rider explained the four new sections proposed for the City Code, Chapter 473. The committee discussed the proposed amendment to the City Code and acknowledged it needed approval by their next meeting on April 8, 2019 but had at least two concerns they wanted to review for future revisions. Those two concerns were no small cell facilities be allowed on leaning poles and the timing of a recertification fee in relation to when the initial fee was paid.

Motion made by Councilor Irish, seconded by Councilor Doucette, to approve Order No. 19-1007605. The motion carried 3-0.

Motion made by Councilor Irish, seconded by the Chair, to request a suspension of the rules at the April 8, 2019 City Council meeting to vote on the Proposed Amendment to Chapter 473 of the City Code, Small Cell Wireless Facilities Within Public Rights of Way. The motion carried 3-0.

Motion made and seconded to adjourn. The motion carried 3-0. Meeting adjourned at 6:55 PM.

Councilor Robey reported the following out of the Legislative & Legal Affairs Committee:

City Council Legislative and Legal Affairs Committee
Monday, April 1, 2019 – 7:05 PM
In Council Chambers
Minutes and Report

Present: Chairman Katie Robey, Councilor Landers, and Councilor Delano.
Other attendees: Councilors Doucette, Irish, Oram and Ossing; City Solicitor Donald Rider; Conservation Officer Priscilla Ryder; and Attorney Kevin Eriksen from Walker Realty LLC.

Order No. 16/17/18/19-1006443D-5: 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.”

Reports of Committee Continued:

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.**

A Suspension of Rules will be requested on April 8 to refer this to the City Solicitor to be placed in proper legal form.

It was moved and seconded to adjourn; motion carried 3-0. The meeting adjourned at 7:15 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: March 26, 2019

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Convened: 6:57 PM – Adjourned: 7:04 PM

Present: Chairman Juaire (Acting); Urban Affairs Committee Members Councilors Landers and Doucette; Councilor Clancy.

Absent: **Chairman Delano (recused) and Councilor Tunnera.**

Order No. 18/19-1007461 (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.

Reports of Committee Continued:

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.

Order No. 18/19-1007423 (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.

Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 7:04 PM.

Suspension of the Rules requested – granted

ORDERED: That pursuant to Order No. 18-1007236 the City Council Finance Committee reviewed the abbreviated budget process utilized for FY19 and concluded that it worked effectively and further recommends to the full City Council that the practice be continued for FY20, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the City Council hereby approves the Massachusetts Department of Revenue Financial Review Recommendation for adopting an abbreviated budget authorization format for all departments for the FY20 budget.

It is further moved that the City Council will assess the results in April, 2020 to determine if the practice will continue.

APPROVED; adopted.

Suspension of the Rules requested – granted

ORDERED: 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 473, ENTITLED "POLES, WIRES AND CONDUITS," AS FOLLOWS:

- I. By adding to Chapter 473 a new Article III, entitled "Small Cell Wireless Facilities within Public Rights of Way," as follows:

Sec. 473-27. Purpose.

A. The purpose and intent of this Article III is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of small cell wireless telecommunications facilities in the City of Marlborough. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with small cell wireless facilities. This Article III provides standards necessary to:

- (1) preserve and promote harmonious land uses and the public rights of way in the City;
- (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City;
- (3) provide for the orderly, managed, and efficient development of small cell wireless telecommunications facilities in accordance with federal and state laws, rules, and regulations; and
- (4) encourage new and more efficient technology in the provision of small cell wireless telecommunications facilities.

B. This chapter is not intended, nor shall it be interpreted or applied, to:

- (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
- (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;
- (3) unreasonably discriminate among providers of functionally equivalent services;
- (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; or
- (5) otherwise authorize the City to preempt any applicable federal or state law.

Sec. 473-28. Application Process.

Applications for permits to install small cell wireless facilities shall be processed as follows.

- A. Fees. Applications shall be submitted to the City Council by filing with the City Clerk's Office in accordance with subsection D below, accompanied by the application filing fee of \$500.00 per application, payable to the City of Marlborough. The \$500.00 fee will cover up to five (5) locations. Each application for more than 5 installations is subject to a separate fee of \$100.00 per installation.

- B. Public Hearing Notices. The applicant must also pay for legal notices of the public hearing to be mailed to abutters directly abutting, and across the street from, the property where the pole for the proposed small cell wireless facility currently is, or is proposed to be, located. The applicant is responsible for obtaining the abutters list for each pole location contained within the application.
- C. Pre-Submittal Verification by DPW Engineering. No application will be filed as provided in subsection D below unless and until the Engineering Division of the City’s Department of Public Works (“DPW Engineering”) shall have first verified that the applicant has assembled, to DPW Engineering’s satisfaction, all of the application contents listed in subsection E below.
- D. Payment of Application Filing Fees and Number of Application Copies. The applicant shall pay all application filing fees to the City Clerk’s Office and shall file the following number of sets of application materials at the offices set forth below:

Number of Sets	Office
3	City Clerk’s Office
1	City Engineer
1	Building Commissioner
12	City Council Office

- E. Contents of Application. Applications shall include the following information:
 - (1) Applicant’s name, address, telephone number and email address.
 - (2) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with respect to the application.
 - (3) Detailed drawings and descriptions of the equipment to be mounted on the pole(s) in question, including:
 - a. Type of equipment;
 - b. Specifications of equipment (including but not limited to dimensions and weight);
 - c. Equipment mount type and material;
 - d. Power source or sources for equipment, including necessary wires, cables, and conduit;
 - e. Expected life of equipment;
 - f. Coverage area of equipment, including:
 - i. Amount of antennas
 - ii. Antenna model
 - iii. Antenna length
 - iv. Antenna height
 - v. Typical coverage area radius;
 - g. Hardening, including:
 - i. If there is a battery backup
 - ii. If there is a generator backup; and
 - h. Renderings/photo simulations and elevation of equipment.

- (4) Detailed map with locations of the poles on which equipment is to be located, including specific pole identification number, if applicable, and the geographic areas the equipment will service.
 - (5) Detailed map showing existing and proposed small cell installations within 500 feet of the application site.
 - (6) Certification by a registered professional engineer that the pole will safely support the proposed equipment.
 - (7) Written consent by the pole owner to the proposed installation.
 - (8) Affidavit from a radio frequency engineer outlining the network/network service requirements in Marlborough and how each installation addresses that need in Marlborough. Such affidavit should characterize, through or with coverage maps, the current level of coverage and how the desired installation(s) will change the current level of coverage, including current and proposed coverage, and the breakdown of “excellent,” “good,” and “poor” reception areas.
 - (9) Liability insurance certificate, naming the City of Marlborough as an additional insured.
 - (10) Description as to why the desired location is superior to other similar locations, from a community perspective, including but not limited to:
 - a. Visual aspects; and
 - b. Proximity to single-family residences.
 - (11) Description of efforts to locate the equipment on existing poles which currently exist or are under construction. A good faith effort to locate on such poles is required and evidence of such efforts must be included within the application.
 - (12) An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within sixty (60) days of being no longer in good repair or no longer in use.
- F. Placement of Application on Agenda. Once the application has been submitted and all filing fees have been paid, the City Clerk’s Office will place the application on the City Council agenda for the scheduling of a public hearing.

- G. Shot Clocks. The City Council shall have sixty (60) days from the application's filing date for processing an application for collocation of a small cell wireless facility using a pre-existing pole, and ninety (90) days for processing an application for attachment of small cell wireless facility proposing a new pole. These shot clocks may be extended by mutual written agreement of the City Council and the applicant, such agreement to be timely filed with the City Clerk's Office and a copy of that filing to be submitted for informational purposes on the agenda for the next regular Council meeting; provided, however, that by vote of the standing Council committee to which any given application has been referred by the full Council, that committee may, by simple majority vote at a duly noticed public meeting, authorize the following committee members to sign the written extension agreement on behalf of the full Council: a) the chairman of the committee; or, b) in his or her absence or incapacity, its vice-chairman; or, c) when a quorum of the committee is otherwise not present, the Council President or Vice-President sitting for that meeting as an ex officio member of that committee.
- H. Council Decision. The City Council may grant, grant with conditions, or deny the application based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, and/or failure to meet applicable aesthetic requirements as hereinbelow set forth.

Sec. 473-29. Annual Re-Certification and Affidavit.

- A. Annual Re-Certification and Affidavit. Each year on July 1, the small cell wireless equipment owner shall submit an affidavit which shall list, by location, all small cell wireless installations it owns within the City of Marlborough, and shall certify:
- (1) each such installation that remains in use;
 - (2) that such in-use installations remain covered by liability insurance naming the City as an additional insured; and
 - (3) each such installation which is no longer in use.
- B. Annual Re-Certification Fee. The equipment owner shall pay to the City of Marlborough an annual re-certification fee of \$250.00 per installation which remains in use.
- C. Facility No Longer in Use. Any small cell wireless facility which is no longer in use shall be removed by the owner, at the owner's expense, within sixty (60) days of the City Council's receipt of the annual re-certification affidavit.
- D. Non-Removal of Facility No Longer in Use. Any small cell wireless installation which is not removed by the owner, at the owner's expense, within sixty (60) days after being listed in the annual re-certification affidavit as no longer in use shall be subject to a fine of \$100/day until such installation is removed by the owner.

- E. Failure to Timely Submit Re-Certification/Remove Facility No Longer in Use. Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the 60-day period, no further applications for small cell wireless installations will be accepted by the City Clerk's Office until such time as the annual re-certification has been submitted and all fees and fines have been paid.

Sec. 473-30. Aesthetics and Additional City Requirements.

A. Poles.

- (1) No small cell wireless equipment shall be installed on double poles.
- (2) Within the public right of way, only pole-mounted antennas shall be permitted and all telecommunications towers within the meaning of City Code sec. 650-25.A are prohibited.
- (3) Absent City Council permission, no new poles are permitted within the public right of way that are not replacing an existing pole. If an applicant proposes to replace a pole in order to accommodate the small cell wireless facility, the pole shall match the appearance of the original pole to the extent feasible, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven (7) feet.
- (4) If a new pole is permitted by the City Council to be placed within the public right of way, the new pole shall be designed to resemble existing poles in the right of way, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such new poles that are not replacement poles shall be located no closer than ninety (90) feet to an existing pole.
- (5) Small cell wireless installation equipment (meters, boxes, etc.) shall be mounted on the pole a minimum of eleven (11) feet above ground level.
- (6) No small cell wireless installation equipment shall be replaced or altered on a pole without a re-application, hearing and approval from the City Council, unless the equipment is no longer functioning and it is being replaced with the same or substantially similar equipment.
- (7) The maximum height of any antenna mounted to an existing pole shall not exceed 24 inches above the height of the then-existing pole; provided that in any event:
 - a. no small cell wireless facility shall be located on a pole that is less than twenty-six (26) feet in height; and
 - b. no facility shall exceed thirty-five (35) feet in height, including but not limited to the pole and any antenna that protrudes above the pole.
- (8) Pole-mounted equipment shall not exceed six (6) cubic feet in dimension.
- (9) Not more than one (1) small cell wireless facility shall be mounted per pole.

B. Location.

- (1) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right of way, or safety hazards to pedestrians and motorists.
- (2) A facility shall not be located within any portion of the public right of way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
- (3) Each pole-mounted small cell wireless telecommunications facility must be separated by at least 1,500 feet.
- (4) All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing pole so as to not exceed the diameter and height of the existing pole.

C. Americans with Disabilities Act Compliance. All facilities shall be built and maintained in compliance with the Americans with Disabilities Act (ADA)/Architectural Access Board (AAB).

D. Residential Neighborhoods. If an applicant seeks to place a small cell wireless facility in a residentially-zoned neighborhood, the applicant:

- a. Should seek to avoid attaching to poles that are within twenty-five (25) feet of an existing driveway so that the property owner can plant trees that could shield the wireless equipment from view; and
- b. Should seek to avoid poles where the installation and/or ongoing maintenance will require significant tree trimming due to the wireless equipment.

E. Satisfactory Material, Construction and Work. The small cell wireless facility shall be of such material and construction, and all installation and maintenance work shall be done in such manner, as to be satisfactory to the City Council and DPW Engineering. If the DPW Engineering shall determine that such material, construction and/or work is (a) placing or tending to place at risk the public health, safety, and welfare, (b) interfering or tending to interfere with pedestrian and/or vehicular traffic, and/or (c) causing or tending to cause damage to the public right of way or any property adjacent to the location of the pole in question, the DPW Engineering shall forthwith notify the City Council, which shall review that determination for possible further action as to the applicant.

F. Indemnification. The applicant 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 the applicant, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to the applicant for its small cell wireless facility. Such indemnification shall not be limited by the amount of the applicant's liability insurance naming the City as an additional insured.

- G. City Streets and/or Sidewalks. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of an applicant in conjunction with its small cell wireless facility is prohibited, as is all underground installation associated with the small cell wireless facility; provided, however, that the grounding rod proposed to be installed as part of the small cell wireless facility is permitted as long as:
- 1) The applicant installs the rod immediately adjacent to the pole so as to cause minimal disturbance to the surface of the street or sidewalk; and
 - 2) The applicant restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the DPW Engineering.
- H. Repair of Damage. The applicant shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right of way. The applicant shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the applicant fails to complete such repair within the number of days stated on a written notice from the City Engineering Division, the Division shall cause such repair to be completed at the applicant's sole cost and expense.
- I. Visual Impact Minimization. The small cell wireless facility shall be color-coordinated so as to best minimize the visual impact of the facility.
- J. Side of Pole on which to Mount Equipment. The small cell wireless facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of the pole facing away from the roadway.
- K. Future Road Reconstruction/Repair. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of the pole shall result in the applicant's moving its small cell wireless facility to another pole in a timely fashion after having been notified by the DPW Engineering about the road project; provided, however, that any such relocation shall require further City Council approval.
- L. Construction and/or Installation Schedule. Prior to the commencement of construction and/or installation of the small cell wireless facility, the applicant shall provide the DPW Engineering with a written construction and/or installation schedule satisfactory to DPW Engineering.

- M. Removal Bond. Prior to the commencement of construction and/or installation of its small cell wireless facility, an applicant 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 wireless facility from the pole in question and for the repair and/or restoration of the public way, in the vicinity of the pole in question, to the condition the public way was in as of the date when the relevant application was submitted to the City Clerk's Office, said amount to be determined by DPW Engineering. The amount of the bond shall be the total of the estimate by DPW Engineering plus an annual increase of 3% for the operating life of the small cell wireless facility. The applicant shall notify the City CPO and DPW Engineering of any cancellation of, or change in the terms or conditions in, the bond.
- N. Each Requirement a Permit Condition. Each and every requirement set forth in sections 29 and 30 of this Chapter 473 shall be deemed to be continuing conditions on the applicant's pole location permit granted by the City Council.
- O. Failure to Comply with Conditions. An applicant's failure to comply with any of the City Council's conditions to the Council's satisfaction or, as applicable, DPW Engineering or the City CPO, shall result in the City Council's review of the applicant's pole location permit(s).
- II. This amendment shall become effective immediately upon passage.

APPROVED; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

Suspension of the Rules requested – granted

ORDERED: That the 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, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE APRIL 29, 2019 CITY COUNCIL MEETING;** adopted.

Suspension of the Rules requested – granted

ORDERED: That 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, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE APRIL 29, 2019 CITY COUNCIL MEETING;** adopted.

Councilor Delano recused.

Suspension of the Rules requested – granted

ORDERED: That the Application for LED Sign Special Permit, Main Street Bank, 81 Granger Boulevard, refer to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE APRIL 29, 2019 CITY COUNCIL MEETING**; adopted.

Councilor Delano recused.

ORDERED: That the Reappointment of Patricia Pope as Executive Director of the Council on Aging for a three-year term to expire from date of City Council approval, **APPROVED**; adopted.

Councilor Juaire recused.

ORDERED: That the Order relative to Municipal Aggregation that was approved by the City Council on April 10, 2017 (Order No. 17-1006881) is hereby replaced and the following adopted in place thereof:

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.

APPROVED; adopted.

Councilor Doucette opposed.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed Zoning Ordinance Amendment, Chapter 650 §22 & §5, relative to Multifamily Retirement Community, 90 Crowley Drive, in proper legal form, Order No. 18/19-1007452D (X18-1007198G), **FILE**; adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS 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 BY AMENDING AND ADDING THERETO AS FOLLOWS:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended by striking out in its entirety the definition of “retirement community” and inserting in place thereof the following new definitions:

RETIREMENT COMMUNITY - DETACHED AND TOWNHOMES
– A community consisting of detached or attached (only alongside walls in so-called “townhouse” style) structures, constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

RETIREMENT COMMUNITY - MULTIFAMILY – A community consisting of a single multiple unit structure constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

- II. Section 650-22, entitled “Retirement Community Overlay Districts,” is hereby amended as follows:

- a. By striking out in its entirety subsection A thereof, entitled “Purpose,” and inserting in place thereof a new subsection A, entitled “Purpose,” as follows:

Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities that provide housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community

- b. By amending subsection C thereof, entitled “Permitted uses,” as follows:

- i. by striking out in the introduction thereto the words “retirement community” and inserting in place thereof the following words:

Retirement Community - Detached and Townhomes, or
a Retirement Community – Multifamily

- ii. by striking out the numbered provisions in subsection C which follow the introduction thereto and inserting in place thereof a new sub-subsection (i), entitled "Retirement Community - Detached and Townhomes (RCO-D/T)," as follows:

(i) Retirement Community - Detached and Townhomes (RCO-D/T).

- (1) No building in an RCO-D/T community shall be more than 2 1/2 stories in height.
- (2) Each building in an RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by airline distance between the nearest points of the buildings.
- (3) No dwelling in an RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.
- (4) All dwelling units in an RCO-D/T community shall be detached from the others or attached only alongside walls in the so-called "townhouse" style.
- (5) The lot or lots on which an RCO-D/T community is located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.
- (6) No part of any principal building in an RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.
- (7) Each dwelling unit in an RCO-D/T community shall have its own attached yard area.

- (8) Required off-street parking for each dwelling unit in an RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in an RCO-D/T community, either entirely or except in designated locations, of boats, boat trailers, campers, or other recreational vehicles.
- (9) Maximum combined lot coverage in an RCO-D/T community shall not exceed 40% of the total lot size.
- (10) Each lot or contiguous lots upon which an RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.
- (11) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in an RCO-D/T community and limiting or prohibiting the presence in a RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

- (12) The City Council may, as a permit condition, require that a proposed RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (13) No unit in an RCO-D/T community shall have more than three bedrooms.
- (14) If an RCO/DT community is proposed which contains at least 30 acres of land, the following provisions shall supersede those found elsewhere in § 650-22:
- (a) The lot or lots on which an RCO/DT community is located shall contain at least 5,000 square feet per unit in the RCO/DT community;
 - (b) Maximum lot coverage in the RCO/DT community shall not exceed 50% of the total lot size, excluding from the lot size any land which, prior to development of the site as a RCO/DT community, would be defined as a "resource area," as that term is defined in M.G.L. c. 131, §40.
 - (c) Each lot or contiguous set of lots upon which a RCO/DT community is located shall have total frontage on an existing public way, or on a private way laid out by the City Council pursuant to M.G.L. c. 82, §21, of at least 250 feet; provided, however, that said frontage need not be continuous.
- iii. by inserting after new sub-subsection (i), entitled "Retirement Community – Detached and Townhomes (RCO-D/T)," a new sub-subsection (ii), entitled "Retirement Community - Multifamily (RCO-MF)," as follows:
- (ii) Retirement Community - Multifamily (RCO-MF).

- (1) The total area of the tract of contiguous parcels to be developed as an RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with West Hill Road; then easterly along West Hill Road to the intersection with Pleasant Street; then north along Pleasant Street to the intersection with Fitchburg Street; then north along Fitchburg Street to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.
- (2) An RCO-MF may contain one (1)- and two (2)-bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barber shop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.
- (3) No building in an RCO-MF shall be more than 3 stories in height.
- (4) The total number of dwelling units in an RCO-MF shall be limited to 12 units per acre.
- (5) No part of any principal building in an RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any public way.
- (6) Maximum combined lot coverage in an RCO-MF, including any permitted accessory structures, shall not exceed 40% of the tract or contiguous parcels.

- (7) The tract or contiguous parcels upon which an RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.
- (8) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (9) The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (10) A minimum of 1.0 parking space per dwelling unit shall be provided in an RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (11) No dwelling unit in an RCO-MF shall contain less than 500 square feet of living area or more than 1300 square feet of living area.

- (12) No building in an RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.
- (13) In an RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.

APPROVED; adopted.

Councilor Irish opposed.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit for Marc Buchan, to demolish the existing one story single-family dwelling and construct a new two-story single-family dwelling on the same foundation footprint at 180 Cullinane Drive, in proper legal form, Order No. 19-1007512B, **FILE**; adopted.

ORDERED:

DECISION ON A SPECIAL PERMIT

MARC BUCHAN
180 Cullinane Drive, Marlborough, MA

CITY OF MARLBOROUGH
CITY COUNCIL ORDER NO. 19-1007512C

DECISION ON AN APPLICATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Marc Buchan of 180 Cullinane Drive, Marlborough, MA 01752, as provided in this Decision and subject to the following Findings of Fact and Conditions:

PROCEDURAL FINDINGS

1. Marc Buchan, with an address of 180 Cullinane Drive, Marlborough, MA 01752, is the owner of real property located at 180 Cullinane Drive, Marlborough, MA 01752 (the "Applicant").
2. The Applicant is the owner of said real property which is described in a deed recorded with the Middlesex South District Registry of Deeds at Book 68745, Page 400, and identified on the City of Marlborough Assessor's Maps as Map 6, Parcel 115 (the "Site").
3. The Applicant, on or about December 18, 2018, filed with the City Clerk of the City of Marlborough an Application to City Council for Issuance of Special Permit (the "Application") under Section 12, Paragraph B of Chapter 650 (Zoning Ordinance) of the Code of the City of Marlborough to demolish the existing one story single-family dwelling located on the Site and to construct a new two-story single-family dwelling on the same existing foundation footprint (the "Project").
4. The Application consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement, (c) Filing Fee check in the amount of \$300.00, (d) Plan Delivery Certification, (e) Tax Payment Certification, (f) Abutters List, (g) Existing and Preliminary Site Plans, (h) Architectural Drawings, (i) Certificate of Completeness of Application, and (j) Zoning Denial Letter (dated November 20, 2018), (collectively the "Documents"), which Documents are incorporated herein and become a part of this Decision. Eleven sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer, and the Conservation Officer, all in accordance with Section 59 of Chapter 650 of the Zoning Ordinance of the City of Marlborough.
5. In accordance with the Rules and Regulations of the City Council and M.G.L. c. 40A, §§ 9 and 11, the City Council established a date for a public hearing on the Application, and caused to be advertised notice of said hearing and the date thereof in the Main Street Journal. All necessary abutters, as certified by the Office of the Marlborough Assessors, were provided notice as required by law.

6. The Marlborough City Council held a public hearing on the Application on February 25, 2019 in accordance with the published notice (the "Public Hearing"). The time for the City Council to take final action on the Application is May 26, 2019, a Sunday; per M.G.L. c. 4, § 9 the next succeeding business day for final action is Tuesday, May 28, 2019.
7. The Applicant presented testimony at the Public Hearing detailing the Project, its impact upon the neighborhood, and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the Public Hearing. Subjects of concern were the deteriorated condition of the existing single-family dwelling, the proposed new two story single-family dwelling, and the existing foundation side setback. A direct abutter, Shawn McCarthy of 185 Cullinane Drive, spoke in support of the Project.
8. The Site is located in the A-3 zoning district.
9. The Building Commissioner has determined that the existing one-story single-family dwelling, which is located on a nonconforming lot, is a legal pre-existing nonconforming structure with respect to side yard setback; and that the proposed two-story single-family dwelling would increase or intensify the setback nonconformity. Specifically, the A-3 zoning district, where the Site is located, requires a side yard setback of 15', whereas the existing one-story single-family dwelling does not conform because of its existing side yard setback of 5'. The proposed reconstruction of the dwelling would add an additional second floor within the side yard setback area, thereby intensifying the setback nonconformity and requiring a special permit from the City Council. The Zoning Denial Letter of the Building Commissioner, dated November 20, 2018, is attached hereto as "Attachment A."
10. The existing site plan submitted with the Application is entitled, "Existing Conditions Plan, Located at 180 Cullinane Drive, Marlborough MA; Prepared for: Marc Buchan, 65 Country Lane, Marlborough, MA 01752;" Prepared by: Land Planning, Inc., 167 Hartford Ave., Bellingham, MA 02019; graphic scale 1" = 10'; dated April 30, 2018 (Sheet No. 1) (the "Existing Conditions Plan"), attached hereto as "Attachment B."
11. The site plan submitted with the Application is entitled, "Site Plan, Located at 180 Cullinane Drive, Marlborough MA; Prepared for: Marc Buchan, 65 Country Lane, Marlborough, MA 01752;" Prepared by: Land Planning, Inc., 167 Hartford Ave., Bellingham, MA 02019; graphic scale 1" = 10'; dated March 24, 2017 (Sheet No. 1) (the "Site Plan"), attached hereto as "Attachment C."
12. The architectural drawings submitted with the Application are entitled "Private Residence, 180 Cullinane Drive, Marlborough, MA;" Prepared by: VU Architecture, 167 Annie Moore Road, Bolton, MA 01740; dated August 31, 2017 (Drawing Nos. A-1, A-2, A-3, A-4) (the "Architectural Drawings") attached hereto as "Attachment D."

BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDING OF FACT AND TAKES THE FOLLOWING ACTIONS:

- A. The City Council finds that it may grant a Special Permit subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").

- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough.
- C. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- D. The City Council makes these findings subject to the completion and adherence by the Applicant, his successors and/or assigns to the conditions more fully set forth herein.
- E. The City Council finds that the expansion or alteration of the existing legally nonconforming one story single-family structure at the Site, by demolition thereof and construction of the proposed new two-story single-family dwelling, is not substantially more detrimental to the neighborhood than the existing non-conforming use and structure, that it is an appropriate use, and that is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein.
- F. The City Council, pursuant to its authority under M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS the Applicant a Special Permit to build a single-family dwelling as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, his successors and/or assigns:
 - 1. Demolition and Construction in Accordance with Applicable Laws. Demolition and construction of all structures on the Site is to be in accordance with all applicable building codes and zoning regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Site Plan and Architectural Drawings as may be subject to minor modifications with prior written approval of the Building Commissioner.
 - 2. Work in Conformance with Special Permit. All work performed at the Site shall be done in compliance with this Special Permit decision.
 - 3. Recording of Special Permit. In accordance with the provisions of M.G.L. c. 40A, Section 11, the Applicant at his expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the City Council's office, to the Building Department and to the City Solicitor's office.

APPROVED; adopted.

Yea: 11 – Nay: 0

Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

ORDERED: It is moved, in conformance with MGL c. 30A, § 21(a)(3), that the Marlborough City Council conduct an executive session for the purpose of discussing strategy in litigation involving property off Williams Street, as an open meeting may have a detrimental effect on the litigating position of the City Council, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the City Council will re-convene in open session after the executive session for the purposes of adjournment only.

APPROVED; adopted.

Yea: 11 – Nay: 0

Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Oram, Ossing & Robey.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:35 PM; adopted.



IN CITY COUNCIL

Marlborough, Mass., APRIL 8, 2019

ORDERED:

That there being no objection thereto set **MONDAY APRIL 29, 2019** as **DATE FOR PUBLIC HEARING** Petition from MA Electric to install a new pole 47-84 to use as a stub pole for poles 47 and 47-5 on Bolton Street, be and is herewith refer to **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 19-1007629



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019

ORDERED:

That there being no objection thereto set **MONDAY APRIL 29, 2019** as **DATE FOR PUBLIC HEARING** Petition from Comcast, to install new underground 3" PVC conduit for approximately 1055 feet and (3) 2' x 3' vaults starting at 46 Lizotte Drive to provide service to 130 Lizotte Drive, be and is herewith refer to **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 19-1007611



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019

ORDERED:

That there being no objection thereto set **MONDAY, APRIL 29, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Thomas Coder, to demolish existing single story home and construct a new two story home at 21 Patten Drive, be and is herewith refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE.**

Ninety days after public hearing is 07/28/19 which falls on a Sunday, therefore 07/29/19 would be considered the 90th day.

ADOPTED

ORDER NO. 19-1007612
X 18-1007244D



IN CITY COUNCIL

Marlborough, Mass., _____ MARCH 11, 2019

ORDERED:

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:

- I. Section 650-8, entitled "Boundaries established; Zoning Map," is hereby amended:
 - a. by re-zoning the following property, presently zoned within the Limited Industrial District, as being zoned within the Residence A-1 District:

Map 113, Parcel 5.
 - b. by re-zoning the following property, presently zoned within the Limited Industrial District and the Retirement Community Overlay District, as being zoned within the Residence A-1 District:

Map 113, Parcel 6.
- II. The effective date of this zoning map amendment shall be the date passed by the City Council and signed by the Mayor.

Be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, APRIL 29, 2019.**

ADOPTED

ORDER NO. 19-1007587



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
Arthur G. Vigeant
MAYOR
2019 APR 25 AM 11:14

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 25, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Department of Public Works

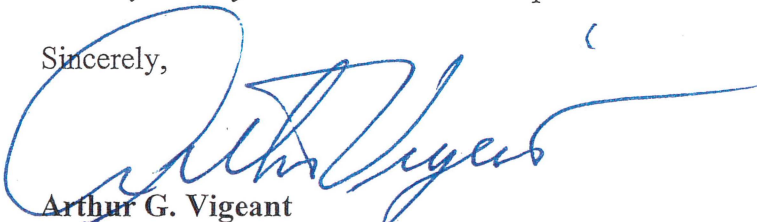
Honorable President Clancy and Councilors:

I am submitting for your review transfer requests from the Department of Public Works totaling \$397,000. These requests are being funded from surpluses within the Department of Public Works operating budget.

These funds will be used for ongoing projects, step increases and over time. Please see enclosed a letter from John Ghiloni and the transfer sheets.

Thank you for your consideration and please do not hesitate to contact John Ghiloni with any questions.

Sincerely,


Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough
Department of Public Works

135 NEIL STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. 508-624-6910
*TDD 508-460-3610

JOHN L. GHILONI
COMMISSIONER

April 24, 2019

Mayor Arthur G. Vigeant
City Hall
140 Main Street
Marlborough, MA 01752

Re: Transfer Requests

Dear Mayor Vigeant:

Enclosed herewith are the Department of Public Works and Public Facilities Department transfers for Fiscal Year 2019. These requests are being funded from surpluses within the operating budget.

Explanations for transfers have been included with each line item.

Please contact me if you require any additional information.

Sincerely,

John L. Ghiloni,
Commissioner

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Department of Public Works/Public Facilities

FISCAL YEAR: 2019

FROM ACCOUNT:

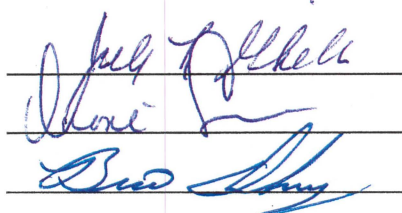
TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$41,747	\$24,000.00	13032001	50690	Foreman	\$75,000.00	11920006	53999	Other Services	\$0
	Reason:	<u>Excess due to vacancy</u>				<u>Ongoing projects</u>			
\$40,079	\$20,000.00	13032001	50386	HVAC					
	Reason:	<u>Excess due to vacancy</u>							
\$43,082	\$16,000.00	13032001	50385	Electrician					
	Reason:	<u>Excess due to medical leave</u>							
\$26,564	\$15,000.00	60080001	50630	Asst. Comm. Utilities					
	Reason:	<u>Excess due to vacancy</u>							
\$221,032	\$50,000.00	14001503	50740	Equipment Operator	\$90,000.00	14001504	53140	Contract Services	\$473
	Reason:	<u>Excess due to vacancy</u>				<u>Ongoing projects</u>			
\$295,449	\$40,000.00	61090001	50740	Equipment Operator					
	Reason:	<u>Excess due to vacancy</u>							
	\$165,000.00	Total			\$165,000.00	Total			

Department Head signature:

Auditor signature:

Comptroller signature:


 Department Head signature: _____
 Auditor signature: _____
 Comptroller signature: _____

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Department of Public Works/Public Facilities

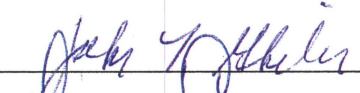
FISCAL YEAR: 2019

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$295,449</u>	<u>\$59,300.00</u>	<u>61090001</u>	<u>50740</u>	<u>Equipment Operator</u>	<u>\$2,300.00</u>	<u>60085001</u>	<u>50850</u>	<u>Treat. Plant Op.</u>	<u>\$45,868</u>
	Reason:	<u>Excess due to vacancy</u>				<u>Due to step increase</u>			
					<u>\$7,000.00</u>	<u>60085001</u>	<u>50910</u>	<u>Chief Treat. Plant Op.</u>	<u>\$8,686</u>
	Reason:					<u>Due to step increase</u>			
					<u>\$3,000.00</u>	<u>60085003</u>	<u>51310</u>	<u>Overtime</u>	<u>\$0</u>
	Reason:					<u>Due to increased flow</u>			
					<u>\$40,000.00</u>	<u>60085006</u>	<u>55980</u>	<u>West Waste Water Tr.</u>	<u>\$29,782</u>
	Reason:					<u>Due to new permit from DEP / increased flow</u>			
					<u>\$7,000.00</u>	<u>14001303</u>	<u>51310</u>	<u>Overtime</u>	<u>\$3,112</u>
	Reason:					<u>Due to vacancy</u>			
	<u>\$59,300.00</u>	Total			<u>\$59,300.00</u>	Total			


Department Head signature:



Auditor signature:



Comptroller signature:



CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Department of Public Works/Public Facilities

FISCAL YEAR: 2019

FROM ACCOUNT:

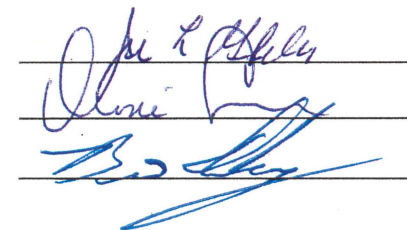
TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$295,449	\$35,000.00	61090001	50740	Equipment Operator	\$50,000.00	60081006	55950	East Waste Water Tr.	\$9,522
	Reason:	Excess due to vacancy				Due to new permit from DEP / increased flow			
\$78,150	\$15,000.00	60081001	50850	Treatment Plant Op.					
	Reason:	Excess due to vacancy							
\$41,747	\$17,700.00	13032001	50690	Foreman	\$15,000.00	11920003	51300	Additional Gross-OT	\$0
	Reason:	Excess due to vacancy				Due to vacancies			
					\$2,700.00	14001403	51470	Interim Foreman	\$0
	Reason:					Due to medical leave			
\$295,449	\$45,000.00	61090001	50740	Equipment Operator	\$105,000.00	61090006	55710	Water Maintenance	\$37,899
	Reason:	Excess due to vacancy				Ongoing projects			
\$101,211	\$60,000.00	61090001	50690	Foreman					
	Reason:	Excess due to vacancy							
\$172,700.00	Total				\$172,700.00	Total			

Department Head signature:

Auditor signature:

Comptroller signature:





City of Marlborough Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 APR 25 AM 11:14
Arthur G. Vigeant
MAYOR

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Funding of MPPOA Contract

Honorable President Clancy and Councilors:

I am happy to report to you that the City of Marlborough and the Marlborough Police Patrol Officers Association (MPPOA) have reached an agreement on a new three year contract through Fiscal Year 2021.

This new contract is mutually beneficial to both sides. In keeping with previous agreements reached with other unions, this contract calls for a 6.5% cost of living increase over the term of the contract at 2% for 2019, 2.5% for 2020 and 2% for 2021. I have enclosed a transfer request totaling \$88,500.00.

I wish to thank the leadership of the patrol officers association for their willingness to work with the city in reaching a new contract. Thank you in advance for your consideration and do not hesitate to let me know if you have any questions.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosures

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT:		Comptroller			FISCAL YEAR:		2019		
Available Balance		FROM ACCOUNT:			TO ACCOUNT:		Available Balance		
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Amount	
<u>\$660,632.65</u>	<u>11990006</u>	<u>57820</u>	<u>Reserve for Salaries</u>	<u>\$63,000.00</u>	<u>12100001</u>	<u>50420</u>	<u>Police Officers</u>	<u>\$753,091.08</u>	
			Reason: <u>Budgeted for contracts</u>				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$4,000.00</u>	<u>12100003</u>	<u>51360</u>	<u>Overtime - Training</u>	<u>\$8,905.21</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$2,000.00</u>	<u>12100003</u>	<u>51310</u>	<u>Overtime - Regular</u>	<u>\$57,318.52</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$6,000.00</u>	<u>12100003</u>	<u>51320</u>	<u>Overtime - Court</u>	<u>\$50,896.31</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$3,000.00</u>	<u>12100003</u>	<u>51319</u>	<u>Overtime - Cell watch</u>	<u>\$1,259.66</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$500.00</u>	<u>12100003</u>	<u>51329</u>	<u>On-Call Pay</u>	<u>\$3,279.74</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$500.00</u>	<u>12100003</u>	<u>51920</u>	<u>Sick Leaave Buy Back</u>	<u>\$7,314.95</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$1,000.00</u>	<u>12100003</u>	<u>51490</u>	<u>Holiday</u>	<u>\$67,566.67</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$4,000.00</u>	<u>12100003</u>	<u>51450</u>	<u>Night Shift Differential</u>	<u>\$28,114.55</u>	
			Reason: _____				Reason: <u>Contract</u>		
<u>\$0.00</u>				<u>\$2,000.00</u>	<u>12100003</u>	<u>51440</u>	<u>Education Incentive</u>	<u>\$108,743.22</u>	
			Reason: _____				Reason: <u>Contract</u>		

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Comptroller

FISCAL YEAR: 2019

FROM ACCOUNT:

TO ACCOUNT:

_____ \$0.00 _____ \$1,500.00 12100003 51410 First Responder _____ \$13,888.89

Reason: _____

Reason: _____

Contract _____

_____ \$0.00 _____ \$1,000.00 12100001 50435 Police Specialists _____ \$10,801.88

Reason: _____

Reason: _____

Contract _____

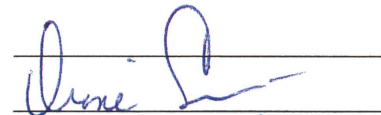


\$88,500.00 Total

\$88,500.00 Total

Department Head signature: _____

Auditor signature: _____

Comptroller signature: _____

Memorandum of Agreement

By and Between the
New England Police Benevolent Association, Inc., Local 81,
And
The City of Marlborough

WHEREAS, the City of Marlborough (the "City") and the New England Police Benevolent Association, Inc., Local 81 (the "Union"), have bargained collectively for a new collective bargaining agreement (the "New Agreement") for the period July 1, 2018 through June 30, 2021; this offer and Agreement shall be considered off-the-record until ratified by Local 81's membership and the City. The bargaining teams shall sponsor and support such ratification;

WHEREAS, the City and Union have reached an agreement;

NOW THEREFORE, in consideration of the mutual promises herein, the Union and the City agree that the following changes will be incorporated into the collective bargaining agreement, subject to the required ratifications:

1. Article XIX – Salaries

Amend paragraphs one and two to read as follows:

The base salaries of Patrol Officers shall be increased by the following percentages and amounts on the dates indicated:

Effective July 1, 2018 – 2%
Effective July 1, 2019 – 2.5%
Effective July 1, 2020 – 2 %

The wage rates are set forth in Schedule A of this Agreement. All employees shall be paid by way of electronic, paperless, direct deposit on a no less than biweekly basis. All references in this contract to weekly compensation shall mean biweekly compensation.

2. Years of Service (New Article)

Insert a new article that provides as follows:

"Unless otherwise explicitly provided, years of service or service time shall mean only service as a full-time Marlborough Police Officer and employees shall not receive credit as a provisional or permanent reserve officer in Marlborough, or for service in any other community.

Nothing in this section shall affect the calculation of creditable service for retirement benefits for members of the bargaining unit as of July 1, 2018."

3. Light Duty (New Article)

Insert a new Article XXV entitled "Temporary Modified Work Program (Light Duty) that provides as follows:

"Section 1. Work-related Illness or Injury

If a physician designated by the City of Marlborough determines that a police officer is eligible for temporary modified work, the Chief may assign that police officer to a Temporary Modified Work Program. Failure of the police officer to comply with the Temporary Modified Work Program may result in suspension or termination of IOD benefits. The physician designated by the City shall be Board-certified or otherwise be a specialist or have expertise in the relevant area of injury or illness. Any determination that an officer can do temporary modified work shall be made only after a review of the specific duties that the officer will be asked to perform. The City-designated physician shall give his or her opinion as to whether the officer can perform the specific tasks enumerated.

An officer may challenge the City-designated physician's determination of TMWP eligibility within 15 days of such determination by providing an evaluation report from his/her physician to the Chief. The officer's physician shall be provided the same information as was supplied to the City-designated physician, in addition to the evaluation by the City-designated physician.

If the two physician determinations conflict and the parties do not agree with respect to the officer's eligibility to perform TMWP, the parties shall endeavor to jointly select a third physician within ten days of said disagreement. Failing agreement within that timeframe, the City shall, within seven days, designate a third physician from among physicians specializing in the area of medicine who conduct such examinations under the workers compensation or retirement statutes, who shall conduct an evaluation of the officer, with all of the information provided to each physician and both physician's evaluations. The decision of the third physician shall be final and binding for the period of time in question and not subject to the grievance and arbitration procedure.

Section 2. Non-Occupational Illness or Injury

Upon release to the City of the medical reports necessary to make a determination of ability to perform temporary modified work, an employee on NOSL may request a temporary modified work assignment. If the employee's physician determines that the employee is eligible for TMWP, the Chief of Police may assign that employee to a

temporary modified work program. The City shall have the right to require that the employee be examined by a City-designated physician in order to confirm the employee's ability to return to temporary modified work.

Section 3. General Provisions

(a) Temporary modified work duties shall be related to law enforcement and may include, but not be limited to, the following: dispatching, house officer, data entry, report writing, community education, research, and training.

(b) The Chief of Police, at his or her sole discretion, may limit the number of police officers on temporary modified work plans at any given time. TMWP shall be reviewed on a periodic basis and notice shall be provided to the police officer whether or not the TMWP is to continue. In no event will a police officer be authorized for TMWP in excess of six (6) consecutive months without the advance written approval of the Mayor or his or her designee.

(c) The Chief of Police may change the work schedule of the officer if the work assignment clearly requires an alternative shift schedule. Such work shift shall remain only for the period of the TMWP. Schedules will be developed in order to accommodate the officer's need for on-going treatment. No officer regularly assigned to a shift shall be involuntarily reassigned in order to accommodate an employee on Temporary Modified Work Program.

(d) Police officers on TMWP shall not be eligible for any overtime (excluding court time) or detail assignments except in extraordinary circumstances with the advance approval of the Chief of Police or his or her designee.

(e) Timeframes in this Article may be extended by mutual agreement of the Parties."

4. Educational Incentive (Article XIX)

Effective upon the first pay period following ratification and appropriation of this Memorandum of Agreement by the City Council, amend Article XIX, Section 4 B. by removing the stricken language and inserting the bolded language below:

"Patrol Officers, not eligible for the Educational Incentive Payments pursuant to Section 108L, shall receive the following annual educational incentive payment from the Police Department, ~~if the Patrol Officer holds a qualifying degree (as defined by Section 108L):~~

Master/Law Degree — \$6,000 (annually)
Bachelor Degree — \$3,750 (annually)

Master's Degree in Criminal Justice/Law Degree	\$7,000
Bachelor's Degree in Criminal Justice	\$5,000
Associates Degree in Criminal Justice	\$2,000
Master's Degree (Non Criminal Justice)	\$5,000
Bachelor's Degree (Non Criminal Justice)	\$2,000

The Chief of Police will have the sole discretion to determine whether an officer's degree is sufficiently related to the duties and job of a Police Officer to warrant eligibility to receive the above-referenced criminal justice versus non criminal justice incentive payments. The Chief of Police's decision as to such matters shall not be grievable or arbitrable.

Officers with at least four years of active Military Service and no less than an honorable discharge will be entitled to an annual education incentive of \$2,000. Said stipend shall, for promotional purposes only, be considered the equivalent of a non-criminal justice Bachelor's Degree. Officers that have both four years of Military Service and any other degree described above shall only be eligible for one stipend.

~~Above described payments shall be distributed in two (2) equal payments on July 1 and January 1. The above described payments shall be distributed equally throughout the year during each pay period of employment."~~

5. First Responder Stipend (Article XIX)

Amend Article XIX Section 5 by inserting the following language:

Effective July 1, 2019, add \$400 to the annual amount that each bargaining unit member was receiving as of June 30, 2019. The total of this number shall be the new annual amount that each bargaining unit member shall receive as First Responder pay. In recognition of this payment, the Parties agree that officers will no longer receive a First Responder stipend calculated as a percentage of their base pay. All officers hired as of July 1, 2019 shall receive an annual First Responder payment of \$1,314.16.

6. Side Letters of Agreement

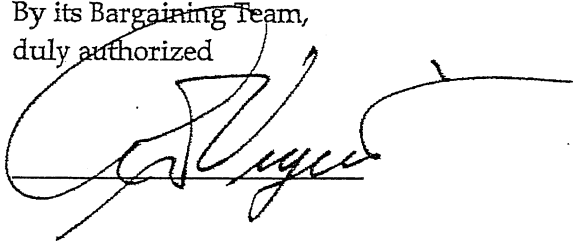
The Parties agree that they will work together in good faith during the term of the current contract to develop Side Letters of Agreement regarding the following matters: a Fitness Incentive Program, Training Time System, and a one-time payment (amount to be determined) to the MPD FIT program.

This Agreement is subject to ratification by the City of Marlborough and by the New England Police Benevolent Association, Inc., Local 81 and to appropriation. This Agreement shall not be implemented unless the parties have ratified and fully executed the Agreement.

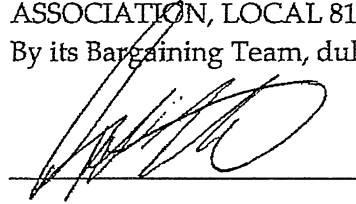
This Agreement has been duly executed by authorized representatives of the City of Marlborough and by New England Police Benevolent Association, Inc., Local 81.

IN WITNESS WHEREOF, the Union and the City, by their authorized representatives, have set their hands to this Memorandum of Agreement on this 29 day of March 2019.

CITY OF MARLBOROUGH,
By its Bargaining Team,
duly authorized



NEW ENGLAND POLICE BENEVOLENT
ASSOCIATION, LOCAL 81
By its Bargaining Team, duly authorized,





City of Marlborough Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
Arthur G. Vigeant
MAYOR
2019 APR 25 AM 11:14

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Funding of MPCOA Contract

Honorable President Clancy and Councilors:

I am happy to report to you that the City of Marlborough and the Marlborough Police Command Officers Association (MPCOA) have reached an agreement on a new three year contract through Fiscal Year 2021.

This new contract is mutually beneficial to both sides. In keeping with previous agreements reached with other unions, this contract calls for a 6.5% cost of living increase over the term of the contract at 2% for 2019, 2.5% for 2020 and 2% for 2021. I have enclosed a transfer request totaling \$59,300.00.

I wish to thank the leadership of the command officers association for their willingness to work with the city in reaching a new contract. Thank you in advance for your consideration and do not hesitate to let me know if you have any questions.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosures

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT:		Comptroller			FISCAL YEAR:		2019		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$660,632.65</u>	<u>\$59,300.00</u>	<u>11990006</u>	<u>57820</u>	<u>Reserve for Salaries</u>	<u>\$34,000.00</u>	<u>12100001</u>	<u>50500</u>	<u>Police Captains</u>	<u>\$36,368.77</u>
	Reason:	<u>Budgeted for contracts</u>			Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$8,500.00</u>	<u>12100003</u>	<u>51440</u>	<u>Educational Incentive</u>	<u>\$108,743.22</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$500.00</u>	<u>12100001</u>	<u>50510</u>	<u>Police Lieutenants</u>	<u>\$63,584.51</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$500.00</u>	<u>12100001</u>	<u>50820</u>	<u>Sergeants</u>	<u>\$128,608.15</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$4,500.00</u>	<u>12100003</u>	<u>51920</u>	<u>Sick Leave Buy Back</u>	<u>\$7,314.95</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$200.00</u>	<u>12100003</u>	<u>51360</u>	<u>Overtime - Training</u>	<u>\$8,905.21</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$5,500.00</u>	<u>12100003</u>	<u>51310</u>	<u>Overtime - Regular</u>	<u>\$57,318.52</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$700.00</u>	<u>12100003</u>	<u>51320</u>	<u>Overtime - Court Time</u>	<u>\$50,896.31</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$100.00</u>	<u>12100003</u>	<u>51319</u>	<u>Overtime - Cell Watch</u>	<u>\$1,259.66</u>
	Reason:				Reason:	<u>Contract</u>			
	<u>\$0.00</u>				<u>\$2,200.00</u>	<u>12100003</u>	<u>51490</u>	<u>Holiday</u>	<u>\$67,566.67</u>
	Reason:				Reason:	<u>Contract</u>			

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Comptroller

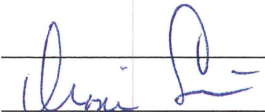
FISCAL YEAR: 2019

FROM ACCOUNT:

TO ACCOUNT:

<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	\$0.00			\$1,800.00	12100003	51342	Longevity	\$30,726.90
Reason:	<u> </u>			Reason:	<u>Contract</u>			
<u> </u>	\$0.00			\$700.00	12100003	51450	Night Shift Differential	\$28,114.55
Reason:	<u> </u>			Reason:	<u>Contract</u>			
<u> </u>	\$0.00			\$100.00	12100003	51410	First Responder	\$13,888.89
	\$59,300.00	Total		\$59,300.00	Total			

Department Head signature:



Auditor signature:



Comptroller signature:

Memorandum of Agreement

By and between the

Marlborough Police Command Officers Local 366, MASSCOP, IUPA,
AFL-CIO

And

The City of Marlborough, Massachusetts

WHEREAS, the City of Marlborough (the "City") and the Marlborough Police Command Officers, Local 366, MASSCOP, AFL-CIO (the "Union"), have bargained collectively for a new collective bargaining agreement (the "New Agreement") for the period July 1, 2018 through June 30, 2021; This offer and Agreement shall be considered *off-the-record* until ratified by Local 366's membership and the City. The bargaining teams shall sponsor and support such ratification.

WHEREAS, the City and the Union have reached an agreement;

NOW THEREFORE, in consideration of the mutual promises herein, the Union and the City agree that the following changes will be incorporated into the collective bargaining agreement, subject to the required ratifications:

1. Term of New Agreement

The New Agreement shall be effective for the three (3) year period from July 1, 2018 through June 30, 2021. Applicable date changes shall be made in the cover page, and in other appropriate provisions of the Contract in order to reflect the terms of the New Agreement.

2. Provisions of New Agreement

Except as modified by the changes provided in this Memorandum of Agreement, and/or except for such technical matters as date changes, all other provisions of the July 1, 2015 through June 30, 2018 Contract shall be carried over intact into the New Agreement.

3. Article VI (Union Activity)

Amend Section I by inserting the following italicized language:

"A union official and an aggrieved Command Officer shall be granted a reasonable amount of time, in pay status, *when the Union Official or Command Officer is scheduled to work*, to attempt to resolve problems or grievances. Permission to leave one's station or job to accomplish the foregoing must be requested of the immediate supervisor of said official

and/or Command Officer. Said requested permission to be granted within a reasonable time by the immediate supervisor of said official and/or Command Officer.”

4. Article VII (Grievance Procedure)

Amend Step IV of the grievance procedure by removing the stricken language below:

“If the grievance remains unresolved, the Union may refer the grievance for the final and binding determination upon the parties to the American Arbitration Association in accordance with its rules and regulations, with the cost of same borne equally by both parties.

A grievance shall be deemed waived unless it is submitted at Step 1 within twenty (20) working days after the employee or the Union has knowledge or reason to know of its occurrence or unless it is submitted to arbitration at Step IV within twenty (20) working days after the Mayor’s answer is received at Step III. ~~The Union reserves the right to submit a grievance to arbitration when more than twenty (20) working days have elapsed after the Mayor’s answer is due.”~~

5. Article XIX (Salaries)

The Parties agree to amend this Article as follows:

a) The Parties agree to increase base wages as follows:

Effective July 1, 2018	2% base wage increase
Effective July 1, 2019	2.5% base wage increase
Effective July 1, 2020	2% base wage increase

The wage rates are set forth in Addendum A of this Agreement. All employees shall be paid by way of electronic, paperless, direct deposit on a no less than biweekly basis. All references in this contract to weekly compensation shall mean biweekly compensation.

b) Insert a new Section X that provides as follows:

In exchange for agreeing to the drug testing policy and light duty provisions, the wage scale (ADDENDUM) shall be adjusted to reflect a one-time \$2,000 increase to the base salaries of all Command Officers effective on the first payroll after ratification.

6. New Article XXV (Light Duty)

Insert a new Article XXV entitled “Temporary Modified Work Program (Light Duty)” that provides as follows:

“Section 1. Work-related Illness or Injury

If a physician designated by the City of Marlborough determines that a police officer is eligible for temporary modified work, the Chief may assign that police officer to a Temporary Modified Work Program. Failure of the police officer to comply with the Temporary Modified Work Program may result in suspension or termination of IOD benefits. The physician designated by the City shall be Board-certified or otherwise be a specialist or have expertise in the relevant area of injury or illness. Any determination that an officer can do temporary modified work shall be made only after a review of the specific duties that the officer will be asked to perform. The City-designated physician shall give his or her opinion as to whether the officer can perform the specific tasks enumerated.

An officer may challenge the City-designated physician's determination of TMWP eligibility within 15 days of such determination by providing an evaluation report from his/her physician to the Chief. The officer's physician shall be provided the same information as was supplied to the City-designated physician, in addition to the evaluation by the City-designated physician.

If the two physician determinations conflict and the parties do not agree with respect to the officer's eligibility to perform TMWP, the parties shall endeavor to jointly select a third physician within ten days of said disagreement. Failing agreement within that timeframe, the City shall, within seven days, designate a third physician from among physicians specializing in the area of medicine who conduct such examinations under the workers compensation or retirement statutes, who shall conduct an evaluation of the officer, with all of the information provided to each physician and both physician's evaluations. The decision of the third physician shall be final and binding for the period of time in question and not subject to the grievance and arbitration procedure.

Section 2. Non-Occupational Illness or Injury

Upon release to the City of the medical reports necessary to make a determination of ability to perform temporary modified work, an employee on NOSL may request a temporary modified work assignment. If the employee's physician determines that the employee is eligible for TMWP, the Chief of Police may assign that employee to a temporary modified work program. The City shall have the right to require that the employee be examined by a City-designated physician in order to confirm the employee's ability to return to temporary modified work.

Section 3. General Provisions

(a) Temporary modified work duties shall be related to law enforcement and may include, but not be limited to, the following: dispatching, house officer, data entry, report writing, community education, research, and training.

(b) The Chief of Police, at his or her sole discretion, may limit the number of police officers on temporary modified work plans at any given time. TMWP shall be reviewed on a periodic basis and notice shall be provided to the police officer whether or not the TMWP is to continue. In no event will a police officer be authorized for TMWP

in excess of six (6) consecutive months without the advance written approval of the Mayor or his or her designee.

(c) The Chief of Police may change the work schedule of the officer if the work assignment clearly requires an alternative shift schedule. Such work shift shall remain only for the period of the TMWP. Schedules will be developed in order to accommodate the officer's need for on-going treatment. No officer regularly assigned to a shift shall be involuntarily reassigned in order to accommodate an employee on Temporary Modified Work Program.

(d) Police officers on TMWP shall not be eligible for any overtime (excluding court time) or detail assignments except in extraordinary circumstances with the advance approval of the Chief of Police or his or her designee.

(e) Timeframes in this Article may be extended by mutual agreement of the Parties."

7. New Article XXVI (Drug Testing)

Insert a new Article XXVI entitled "Drug Testing" that provides as follows:

I - Purpose

The purpose of this policy is to provide employees and officials of the City of Marlborough ("City") with notice of the provisions of the City's Drug and Alcohol Testing Policy ("Policy") as it affects them. It is the policy of the City that a drug and alcohol-free work place must be maintained by City employees at all times and this requirement justifies the use of reasonable employee drug and alcohol testing program. The use of controlled substances and other forms of drug and alcohol abuse seriously impair an employee's physical and mental health, and thus safety and job performance. To ensure high standards of performance for performing City business and to preserve public trust and confidence in the City's workforce, there shall be a testing program to detect drug and alcohol use in the workplace.

II - Application

This Policy applies to all Command Police Officers in the City of Marlborough.

III - Definitions

Prohibited Substances

Prohibited substances include, but are not limited to: cocaine, opiates (e.g., heroin, codeine), phencyclidine (PCP), cannabinoids (marijuana), amphetamines, and alcohol. The City will test for all of these substances. For the purposes of this Policy, alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low

molecular weight alcohols including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Legal and Prescribed Drugs

A legal prescription means a prescription or other written approval from a physician for the use of a drug by an individual in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The appropriate use of legally prescribed and non-prescription medications is not prohibited so long as it does not impair the officer in the performance of his/her duties. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, before performing work-related duties. The misuse or abuse of legally prescribed drugs or the use of illegally obtained prescription drugs shall be considered prohibited conduct. This prohibition includes the use of medication that is prescribed to an individual other than the employee.

IV – Prohibited Conduct

The following conduct is prohibited:

- A. Unauthorized use, possession, manufacture, distribution, dispensation, purchase, or sale of a prohibited substance or alcohol on City business, in City-owned vehicles, in vehicles being used for City purposes, during working hours, effecting work in the workplace, or on City property (except for use of alcohol on City property during non-working hours where use is permitted, and where such use does not affect work performance).
- B. Unauthorized storage of any prohibited substance or drug paraphernalia in a desk, locker, City vehicle or vehicle used for City business or other repository on City property.
- C. Reporting to work under the influence of alcohol or prohibited substance while on City business, in City supplied vehicles, in vehicles being used for City business, during working hours, or on City property.
- D. Possession, use, manufacture, distribution or sale of a prohibited substance while off-duty.
- E. Switching or adulterating any blood, urine, hair or other test sample collected pursuant to this Policy.
- F. Refusing consent to testing or refusing to submit a breath, urine, blood, hair or other test sample for testing, provided that such testing is ordered and such sample is required in accordance with the provisions of this Policy.
- G. Failing to adhere to the terms of any rehabilitation agreement which the employee has signed.

- H. Conviction, guilty plea or charge that is continued without a finding (CWOF) under any state or federal drug or alcohol statute.
- I. Failure to immediately notify the appropriate City official of any arrest or conviction for a drug or alcohol offense.
- J. Refusing to comply with the terms of a rehabilitation agreement entered into in accordance with the provisions of this Policy.

Note: Employees shall notify a supervisor if they are taking prescription drugs that could impair performance.

V – Reasons for Testing

Testing of employees for drug and/or alcohol use will be conducted in the following circumstances:

- A. All covered employees will be subject to drug and/or alcohol testing where there is reasonable suspicion to believe that the employee is under the influence of alcohol or a prohibited substance in violation of this Policy. A determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. The observations must be recent, and a supervisor who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or alcohol misuse, must be able to express clearly those observations. The behavior leading to the determination must be documented, as witnessed by the supervisor, within 24 hours. Examples of reasonable suspicion include, but are not limited to the following:
 - Overt signs and symptoms of impairment
 - The detectable odor of alcohol
 - Evidence of drug use, including, but not limited to possession of drug paraphernalia

No test based on reasonable suspicion will be conducted without the written approval of the Mayor or his/her designee.

- B. Each surviving driver involved in an on-duty vehicular accident shall be subject to post-accident drug and alcohol testing if any one of the following conditions is met:
 - There is a fatality; or
 - The driver is cited for a moving violation AND either:
 - The vehicle is towed from the scene; or
 - Someone is medically evacuated from the scene.

VI – Consequences of a Policy Violation

A positive test in violation of this Policy will result in discipline in accordance with the disciplinary procedures detailed below. Additional violations of this Policy will result in further disciplinary action, up to and including termination from employment.

The following disciplinary actions will be taken for violation of this Policy:

1. First Violation: Depending on the specific circumstances of the case, an employee may receive a suspension without pay for his first violation of this Policy. Employees will be advised that subsequent violations of the Policy may result in further discipline, up to and including immediate termination of employment. Prior to returning from the unpaid leave, the employee shall seek assistance through the Employee Assistance Program (EAP), and provide a certificate to the Mayor establishing that he/she has successfully completed the program.

Note: The City may proceed directly to a more advanced step where there are compelling reasons to justify immediately termination. Follow-up testing shall be conducted after first offense to include a minimum of six random tests during the first 12 months back to work and follow-up testing may continue for up to five years.

2. Subsequent Violations: May result in termination of employment.

VII – Testing Procedures

Drug and alcohol Testing will be conducted by an approved National Institute of Drug Abuse (NIDA) and/or Department of Health and Human Services (DHHS) laboratory. Collection of samples will follow accepted “chain of custody” procedures and include bifurcated samples to assure that the donor will be provided with a sample at his/her request. For positive drug screen results, a representative from the testing laboratory will contact the donor, conduct a medical history, and coordinate with the employee’s personal physician, as necessary, to make a final determination of presence of illegal drugs in a test.

Drug and alcohol testing for City employees under this Policy will be conducted as follows:

1. Upon notification that an employee is subject to testing under this Policy, the Department Head or his designee will contact the Mayor who will arrange for the drug and/or alcohol testing.
2. The Mayor or his/her designee or the Department Head or his/her designee will promptly set up an appointment for the appropriate tests to be conducted.
3. The employee will go to the appropriate testing facility, will present a picture I.D. and provide the necessary test samples.
4. Urine samples will be used to test for controlled substances. Split test samples will be maintained under accepted chain of custody procedures. Breath tests will be used for alcohol testing

5. Test results will be provided to the Mayor or his/her designee. The following initial cutoff levels shall be used when screening specimens to determine whether a specimen is negative:

TetraHydraCannabinol (THC)	50 ng/ml
Amphetamines	500 ng/ml
Methamphetamines	500 ng/ml
Cocaine	150 ng/ml
MDMA (Ecstasy)	500 ng/ml
Opiates	2,000 ng/ml
Monoacetyl morphine	10 ng/ml
Phencyclidine (Angel dust, PCP)	25 ng/ml
Codeine	300 ng/ml

If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the employee's file. Only specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GS/MS) techniques at the following listed cutoff values.

TetraHydraCannabinol (THC)	15 ng/ml
Amphetamines	250 ng/ml
Methamphetamines	250 ng/ml
Cocaine	100 ng/ml
MDMA (Ecstasy)	250 ng/ml
Opiates	2,000 ng/ml
Monoacetyl morphine	10 ng/ml
Phencyclidine (Angel dust, PCP)	25 ng/ml
Codeine	300 ng/ml

A breathalyzer or similar test equipment shall be used to screen for alcohol use. This screening test shall be performed by a qualified individual.

0.02 and below is negative

0.021 – 0.049 requires 24 hours off work

0.05 and above is positive

6. If an employee tests positive for drugs, he/she at his/her own expense may within twenty-four (24) hours have the second sample, held under chain of custody, tested at another NIDA and DHHA-approved laboratory and shall provide the test results to the City.
7. If an employee tests positive in a single test, the employee will be referred to a certified Substance Abuse Counselor for appropriate counseling and completion of the EAP. Failure to abide by the requirements of the EAP or the directives of the SAC will result in further discipline, up to and including termination of

employment. The Substance Abuse Counselor will be a member of the staff of the City-provided Employee Assistance Program. Nothing in this provision shall be construed to limit the City's authority to discipline an employee who has tested positive under this Policy.

VIII – Amendments

The City expressly reserves the right to amend this Policy.

IX – Confidentiality

Results of tests conducted pursuant to this Policy, as well as documents related to treatment or participation in EAP shall remain strictly confidential and shall remain separate from other personnel material.

8. Article XIX (Salaries)

Insert a new Section X entitled "Canine Stipend" that provides as follows:

A. The Police Chief, in his sole discretion, shall select an officer to serve as a full time canine handler who will work a 4 day on 2 day off schedule. Said selection shall not be the subject of a grievance or arbitration. The canine handler will receive a six thousand dollar (\$6,000.00) annual stipend for the care of said canine. Care will consist of, but not limited to: feeding, grooming, brushing, bathing, at home training, exercising, and administering medicine for the canine. The stipend described above will also compensate for the canine handler's preparation of court related documents; police cruiser care, and home kennel care. In addition, this will cover the canine handler's time spent updating and maintaining records, completing and submitting canine deployment reports as well as addressing any canine needs that might arise both on and off duty.

B. The canine handler will have sole responsibility of the canine during both on and off duty hours and maintain sole custody of said canine. If the canine should suffer an injury and is unable to perform duties or the canine reaches an age where policing is not feasible, the handler shall have the option upon release, to take full custody of said canine.

C. The canine handler will attend two (2) eight (8) hour training sessions per month, twelve (12) months per year, to comply with national standards in order to maintain canine and handler's certifications. The canine handler will work in *Lieu of Shift* on training days set forth by the canine training group. The canine handler will provide appropriate notice to their supervisor of monthly trainings. Additionally, the canine handler agrees to schedule all trainings during his/her work day. If a said training conflict is unavoidable, canine handler will inform his/her supervisor in order to make necessary schedule adjustments to avoid overtime.

D. Notwithstanding the provisions of Article XIX Section 2, should the canine handler be recalled or called out for any canine related calls, the canine handler shall submit a minimum of two (2) hours of overtime and then receive OT pay beyond 2 hours for actual time worked.

E. The canine handler will not be compensated for the canine's care and maintenance on the canine handler's scheduled days off *unless* providing transportation to and from veterinarian and like health care facilities whenever the canine should need any medical treatment. If said medical care is needed, the canine handler will submit for two (2) hours of overtime.

F. If the canine handler is on recognized leave of absence, including injured on duty, and cannot perform basic care and maintenance of the canine, the stipend described above in paragraph A shall be prorated during said period.

9. Article XIX (Salaries)

Amend Section III by inserting the following italicized language and removing the stricken language below:

~~Effective July 1, 1999,~~ all Command Officers with ten (10) or more years of police service *with the City of Marlborough* shall receive a weekly differential equal to five (5%) percent of their annual base salary in addition to regular weekly compensation and any other differential to which they may be entitled."

10. Article XII (Vacations)

Amend Section VIII by inserting the following italicized language:

Command Officers who were Police Officers in the Marlborough Police Department shall observe an anniversary date for vacations and years of service for vacations consistent with the date and years they have enjoyed as *Marlborough* Police Officers.

11. Article XXII (Promotions and Vacancies for Captains, Lieutenants, and Sergeants)

Amend Section entitled "Eligibility" by inserting the following italicized language below:

"To be eligible for promotion to the rank of Lieutenant the candidate must be a permanent full time member of the Marlborough Police department for a minimum of five years full time service with the department and with a minimum of two years of service as a Sergeant with the Marlborough Police as of the assessment date and have a minimum of a bachelor's degree. *Alternatively, candidates without a bachelor's degree will become eligible upon three or more years of service as a Sergeant with the Marlborough Police Department.*

12. Duration of Agreement (Former Article XXV)

Renumber former Article XXV entitled "Duration of Agreement" to Article XXVII and revise language such that it reads as follows:

This Agreement shall be in force and effect from July 1, 2018 through, to and including June 30, 2021. On mutually agreed dates at the Mayor's convenience, negotiations shall start for a new Command Officer Agreement. All portions of this agreement shall remain in full force and effect until such changes or revisions have been agreed upon by both parties.

This Agreement has been duly executed by authorized representatives of the City of Marlborough and by Marlborough Police Command Officers, Local 366.

IN WITNESS WHEREOF, the Union and the City, by their authorized representatives, have set their hands to this

Memorandum of Agreement on this 12th day of April 2019

CITY OF MARLBOROUGH,
By its Bargaining Team,
duly authorized,

MARLBOROUGH POLICE COMMAND
OFFICERS, LOCAL 366
By its Bargaining Team, duly authorized,



City of Marlborough Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
Arthur G. Vigeant
MAYOR
2019 APR 25 AM 11:14

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Marlborough Police Department

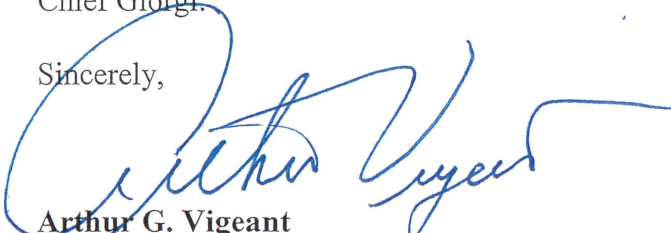
Honorable President Clancy and Councilors:

Please find enclosed for your review a transfer request in the amount of \$11,000.00 for the purchase of a K-9 Unit vehicle for the Marlborough Police Department. The Comptroller recommends the funds be transferred from the 2018 Multi-Purpose account to the City Hall Equipment account.

Upon inspection of the vehicle at the Department of Public Works a few weeks ago, it was determined that the vehicle was not viable for front line use. Due to the high cost of repairs the vehicle has been out of service as well as the K-9 Unit. These funds would allow for the purchase of a safe and operational K-9 Unit vehicle enabling our K-9 Unit to continue to serve the City.

Thank you in advance for your consideration. Should you have any questions please contact Chief Giorgi.

Sincerely,


Arthur G. Vigeant
Mayor

Enclosures



**City of Marlborough
POLICE DEPARTMENT**

355 Bolton St
Marlborough, Ma. 01752
Phone: 508-485-1212 Fax: 508-624-6949



DAVID A. GIORGI
Chief of Police

Mayor Arthur G. Vigeant
City Hall
140 Main Street
Marlborough, MA 01752

April 24, 2019

Dear Mayor Vigeant:

Per the attached transfer request form, the Comptroller's Office is requesting a transfer of \$11,000.00 to allow for sufficient funds to be used for the purchase of a new K-9 Unit cruiser. The request is to transfer funds into the City Hall Equipment account from the 2018 Multi Purpose account. Approximately four weeks ago, the K-9 Unit cruiser was brought to the Fleet Maintenance division of the D.P.W. for repair. I was informed that the cruiser is no longer viable for front line use and the cost to repair it would be high. Since that time, the cruiser has been out of service and subsequently the K-9 Unit has been out of service as well as we do not have another cruiser which is equipped to house and transport Kaiser. Sgt. McKenzie has tried to keep Kaiser active and working and has resorted to alternative means to respond to emergency situations. Although this transfer request is not from within the police department budget, it is in my opinion a needed request in order to continue to allow the K-9 Unit to provide its important services to the residents of our City.

Please let me know if you have any questions.

Sincerely,

David A. Giorgi
Chief of Police

Cc: D. Smith; B. Doheny

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: Comptroller

FISCAL YEAR: 2019

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$1,065,000.00</u>	<u>\$11,000.00</u>	<u>17110006</u>	<u>59968</u>	<u>2018 Muti Purpose</u>	<u>\$11,000.00</u>	<u>19300006</u>	<u>58595</u>	<u>City Hall Equipment</u>	<u>\$49,953.74</u>
	Reason:	<u>Excess due to favorable interest rate</u>			Reason:	<u>For Police K-9 unit vehicle</u>			
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City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
Arthur G. Vigeant
MAYOR
2019 APR 25 A 11: 14

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Marlborough Department of Public Works

Honorable President Clancy and Councilors:

I am pleased to submit for your review a transfer request in the amount of \$27,250.00 for the sick leave retirement benefit of a recently retired Department of Public Works employee. Upon your approval, these funds will be moved from the Reserve for Salaries account into the Sick Leave Buy Back account.

Please see enclosed a letter from John Ghiloni and the transfer sheet.

Thank you for your consideration and please do not hesitate to contact John Ghiloni with any questions.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough
Department of Public Works

135 NEIL STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. 508-624-6910
*TDD 508-460-3610

JOHN L. GHILONI
COMMISSIONER

Mayor Arthur G. Vigeant,
City Hall
140 Main Street
Marlborough, MA 01752

Re: Transfer Request

Dear Mayor Vigeant:

Enclosed herewith is a transfer request from the Department of Public Works for a contractual obligation due to the retirement of an employee.

Please let me know if require any additional information.

Sincerely,

John L. Ghiloni,
Commissioner

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT: DPW

FISCAL YEAR: 2019

FROM ACCOUNT:

TO ACCOUNT:

Available
Balance

Amount

Org Code Object

Account Description:

Amount

Org Code Object

Account Description:

Available
Balance

\$660,632.65

\$27,250.00

11990006

57820

Reserve for Salaries

\$27,250.00

14001503

51920

DPW-Sick Leave Buy Back

\$3.08

Reason:

To fund sick leave buy back due to a retirement

Reason:

Reason:

Reason:

Reason:

\$27,250.00

Total

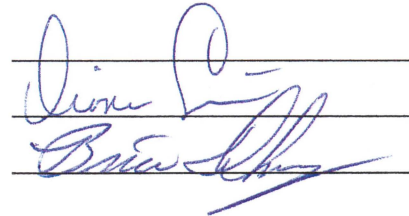
\$27,250.00

Total

Department Head signature:

Auditor signature:

Comptroller signature:





City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
Arthur G. Vigeant
MAYOR
2019 APR 25 A 11:14

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Land Transfer – Department of Public Works

Honorable President Clancy and Councilors:

Please find enclosed a letter from Department of Public Works Commissioner John Ghiloni requesting to transfer the care, custody, management and control of a portion of the Wilson Street Cemetery land to the Marlborough Historical Commission for the purpose of obtaining a perpetual historic preservation restriction from the City.

In order to preserve this historic location, the Department of Public Works has applied to the Massachusetts Historical Commission for grant monies that would enable the city to preserve and restore the cemetery. In return, the City would grant a historic preservation restriction encumbering the cemetery land.

Thank you for your consideration of this request. If you have any questions, please do not hesitate to contact John Ghiloni.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough
Department of Public Works

135 NEIL STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. 508-624-6910
*TDD 508-460-3610

JOHN L. GHILONI
COMMISSIONER

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Wilson Street Cemetery –
Proposed Historic Preservation Restriction

Dear President Clancy and Councilors:

The City of Marlborough has long held the fee interest in land located off Wilson Street, identified on Marlborough Assessors Map 60 as Parcel 35, and known as the Wilson Street Cemetery. Containing approximately 1.22 acres, the Cemetery's origins date back to at least 1844, when some portion of this land had already been acquired by the Town of Marlborough as a "Grave Yard." Later, in 1852, the Town acquired about half an acre to occupy and use as a burying ground, and between 1844 and 1865 acquired another half an acre for what was then called the "Farm Cemetery." For your convenience, a printout of the GIS graphic for Map 60, Parcel 35 is enclosed.

As such, the Cemetery has a substantial historical value well worth preserving and enhancing. This is why the Department of Public Works has applied to the Massachusetts Historical Commission for grant monies that would enable the City to restore and repair the Eames Tomb, other grave markers throughout the cemetery and install historically correct fencing around the cemetery. In return, the City would grant to MHC a historic preservation restriction encumbering the Cemetery land in perpetuity.

Accordingly, please let this letter serve as notice under M.G.L. c. 40, § 15A that the DPW, having charge of the Wilson Street Cemetery land, has determined that it wishes to transfer the care, custody, management and control of that land from the DPW for the purpose of a cemetery, to the City Council for the purpose of a cemetery and for the additional purpose of conveying a perpetual historic preservation restriction to MHC. A proposed order drafted by the Legal Department is enclosed for your consideration.

As a follow-up matter for the Council's consideration at a later date, the Council may wish to transfer the care, custody, management and control of the Cemetery land back to the DPW, once the grant application has been processed and hopefully approved by MHC and the grant monies have been received by the DPW.

Sincerely,

John L. Ghiloni
Commissioner

Enclosures (GIS graphic, order)

cc: Arthur G. Vigeant, Mayor
Donald V. Rider, Jr., Solicitor

THEODORE L. SCOTT, P.E.
ASST. COMMISSIONER, OPERATIONS

THOMAS DIPERSIO, JR. P.E., P.L.S.
CITY ENGINEER

ORDERED:

That the City Council of the City of Marlborough hereby orders:

That, by a two-thirds vote of all its members pursuant to M.G.L. c. 40, § 15A, the City Council, having received notice from the Commissioner of the Department of Public Works that the DPW, having charge of the Wilson Street Cemetery located on land bordering Wilson Street and identified on Marlborough Assessors Map 60 as Parcel 35 (the "Land"), has determined that it wishes to transfer the care, custody, management and control of the Land from the DPW for the purpose of a cemetery, to the City Council for the purpose of a cemetery and for the additional purpose of conveying to the Commonwealth of Massachusetts, acting by and through the Massachusetts Historical Commission ("MHC"), a perpetual historic preservation restriction encumbering the Land, does hereby transfer the Land to the City Council for such purposes.

Further, by a simple majority vote subsumed by the two-thirds vote above, a separate vote being unnecessary, the City Council hereby:

- (a) declares, pursuant to M.G.L. c. 30B, § 16(a), that the Land is available for disposition by conveyance of the said historic preservation restriction to MHC;
- (b) determines, pursuant to M.G.L. c. 30B, § 16(e)(2), that advertising for the proposed conveyance of the said historic preservation restriction to MHC will not benefit the City's interest because of the unique qualities and location of the Land, namely, that the Land has been used as a cemetery since at least 1844, will continue to be used for that purpose in perpetuity, and is in need of MHC grant monies that would be used to repair and restore a tomb and other grave markers, as well as to procure and install a wrought iron fence along the Land's perimeter with the abutting Evergreen Cemetery; and
- (c) authorizes the Mayor, pursuant to M.G.L. c. 40, § 3, to convey to the Commonwealth of Massachusetts, acting by and through the Massachusetts Historical Commission, a perpetual historic preservation restriction encumbering the Land, on such terms and conditions in the City's best interests as the Mayor deems appropriate.

ADOPTED

In City Council

Order No. 19-100

Adopted

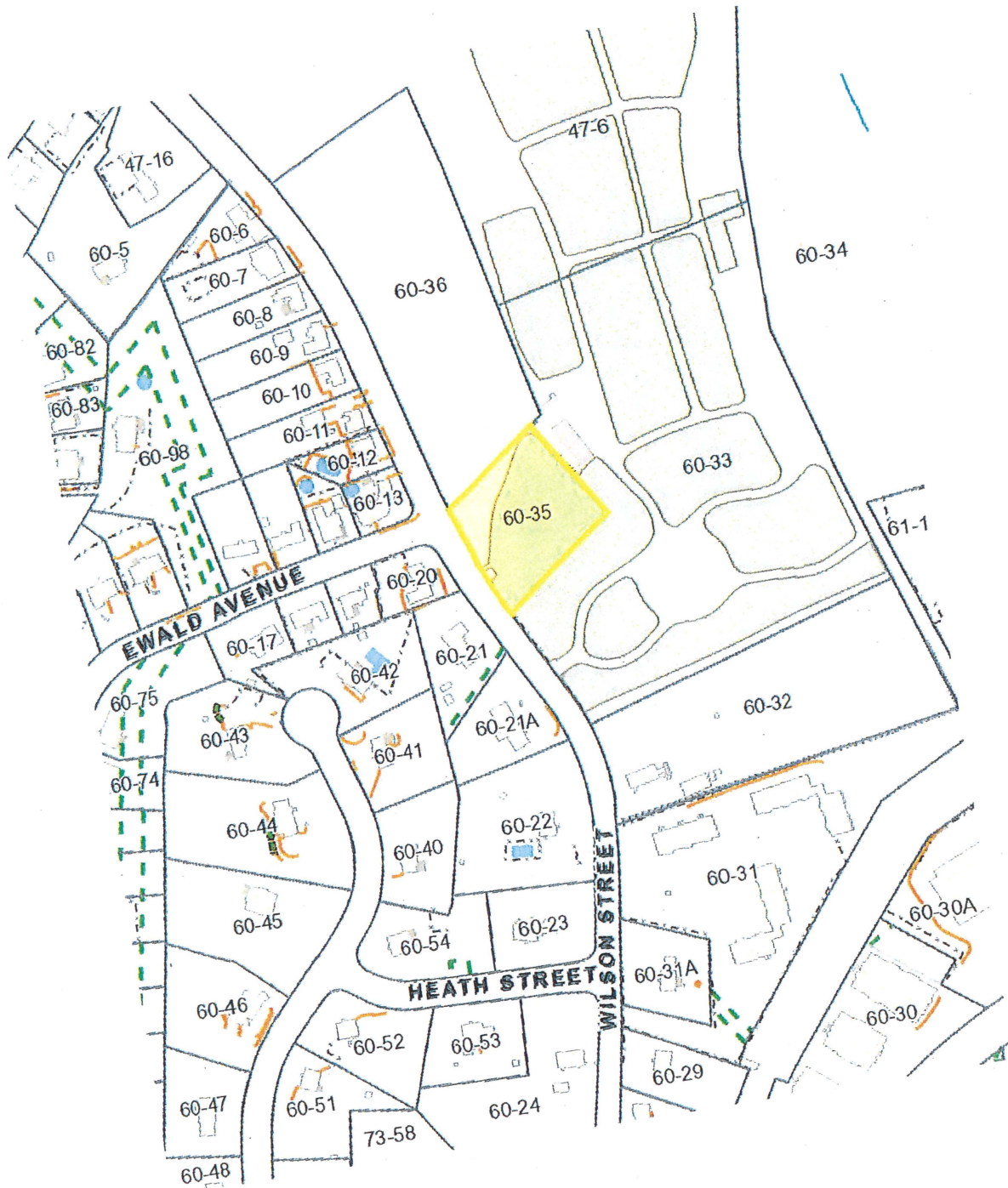
Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:





City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
508.460.3770 Fax 508.460.3698 TDD 508.460.3610
www.marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
Arthur G. Vigeant
CITY OF MARLBOROUGH
MAYOR

2019 APR 25 A 11:15
Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 24, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Grant Acceptance – Marlborough Public Library

Honorable President Clancy and Councilors:

Please find enclosed for your acceptance a grant from the Massachusetts Board of Library Commissioners for the Marlborough Public Library in the amount of \$1,163.00.

These funds will be used for a summer program at the library called Tween Arts Exploration for children aged 8-13. The series of programs will run throughout the summer.

Thank you for your consideration of this request. If you have any questions, please do not hesitate to contact Margaret Cardello.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough
Marlborough Public Library
35 West Main Street
Marlborough, MA 01752
Phone 508-624-6900 FAX 508-485-1494
TDD 508-460-3610

Margaret Cardello
Director

April 9, 2019

Mayor Arthur G. Vigeant
City Hall
140 Main Street
Marlborough, MA 01752

Dear Mayor Vigeant,

The Marlborough Public Library has been awarded a grant in the amount of \$1,163 from the Massachusetts Board of Library Commissioners. The grant notification email is attached.

This grant will fund a summer program called Tween Arts Exploration aimed at children aged 8-13. A series of programs throughout the summer months will allow participants to gather together to create free-form art projects that will be displayed in the library.

We request the City Council's approval of this grant.

If you need any additional information please let me know.

Sincerely,

Margaret Cardello

From: Forbes, Lyndsay (BLC) [mailto:lyndsay.forbes@state.ma.us]
Sent: Tuesday, January 15, 2019 2:26 PM
To: Jennie Simopoulos <jsimopoulos@cwmares.org>
Cc: Margaret Cardello <mcardello@marlborough-ma.gov>; camatrudo@cwmares.org
Subject: summer learning expanded

Dear Jennie,

The pilot year of summer learning grants received numerous applications and the MBLC is only able to fund a small portion of applicants. We are pleased to inform you that your grant proposal is among those that have been selected for funding. This is a provisional award in the amount of \$1,163.00 and is contingent on your completion of the contract materials, which will be sent to you in the next few weeks.

We look forward to working with you on your project in the coming months.

Lyndsay Forbes

Project Manager & Grants Specialist

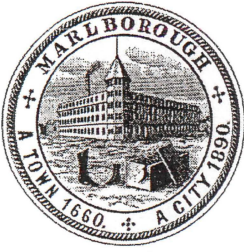
Massachusetts Board of Library Commissioners

98 North Washington Street, Suite 401

Boston, MA 02114

617-725-1860 x252

lyndsay.forbes@mass.gov



City of Marlborough
Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 25 A 11:56
DONALD V. RIDER, JR.
CITY SOLICITOR

April 25, 2019

Edward Clancy
President
Marlborough City Council

RE: 0 Berlin Road – Acceptance of Deed Conveying 10.09 Acres
Order No. 19-1007584C

Dear President Clancy and Members:

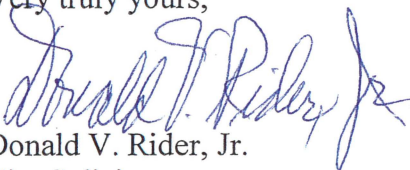
As you recall, the City Council voted last month to authorize the Mayor to move forward with a deed for the City to purchase a parcel of land located on Berlin Road, containing 10.09 acres, and identified as Assessors Map 41, Parcel 37B. The land is proposed to be managed and controlled by the Conservation Commission “for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space.”

The closing for this transaction is scheduled to occur tomorrow, April 26, at which time the current owner of the land, Ernest Houde, Jr., will sign the deed conveying the property to the City for \$150,000.00 as previously appropriated by Council.

A copy of the as-yet unsigned deed is enclosed, along with a proposed acceptance order for your approval. Once approved, the signed deed and the acceptance order will then be recorded.

Thank you for your attention to this matter.

Very truly yours,



Donald V. Rider, Jr.
City Solicitor

Enclosures

cc: Arthur Vigeant, Mayor
Priscilla Ryder, Conservation Officer

ORDERED:

That the City of Marlborough, acting by and through its City Council, does hereby accept from Ernest A. Houde, Jr., the deed of the fee interest in a parcel of land containing 10.09 acres and situated on the easterly side of Berlin Road, described as Map 41, Parcel 37B of the Marlborough Assessors Maps, and more particularly described as Lot 37-2B on a plan entitled "Plan of Land in Marlborough, Massachusetts; Owner: Ernest A. Houde, Jr., 399 Berlin Road, Marlborough, MA; Prepared by: Connorstone Consulting Civil Engineers and Land Surveyors, 276 West Main Street, Northborough, MA 01532; Scale: 1" = 50'; Dated: April 21, 2000, revised: May 1, 2000," and recorded at Middlesex South District Registry of Deeds as Book 31403, Page 364, Plan Book 2000, Plan 513, said plan attached hereto along with said deed.

The above-described parcel is conveyed to the City under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space.

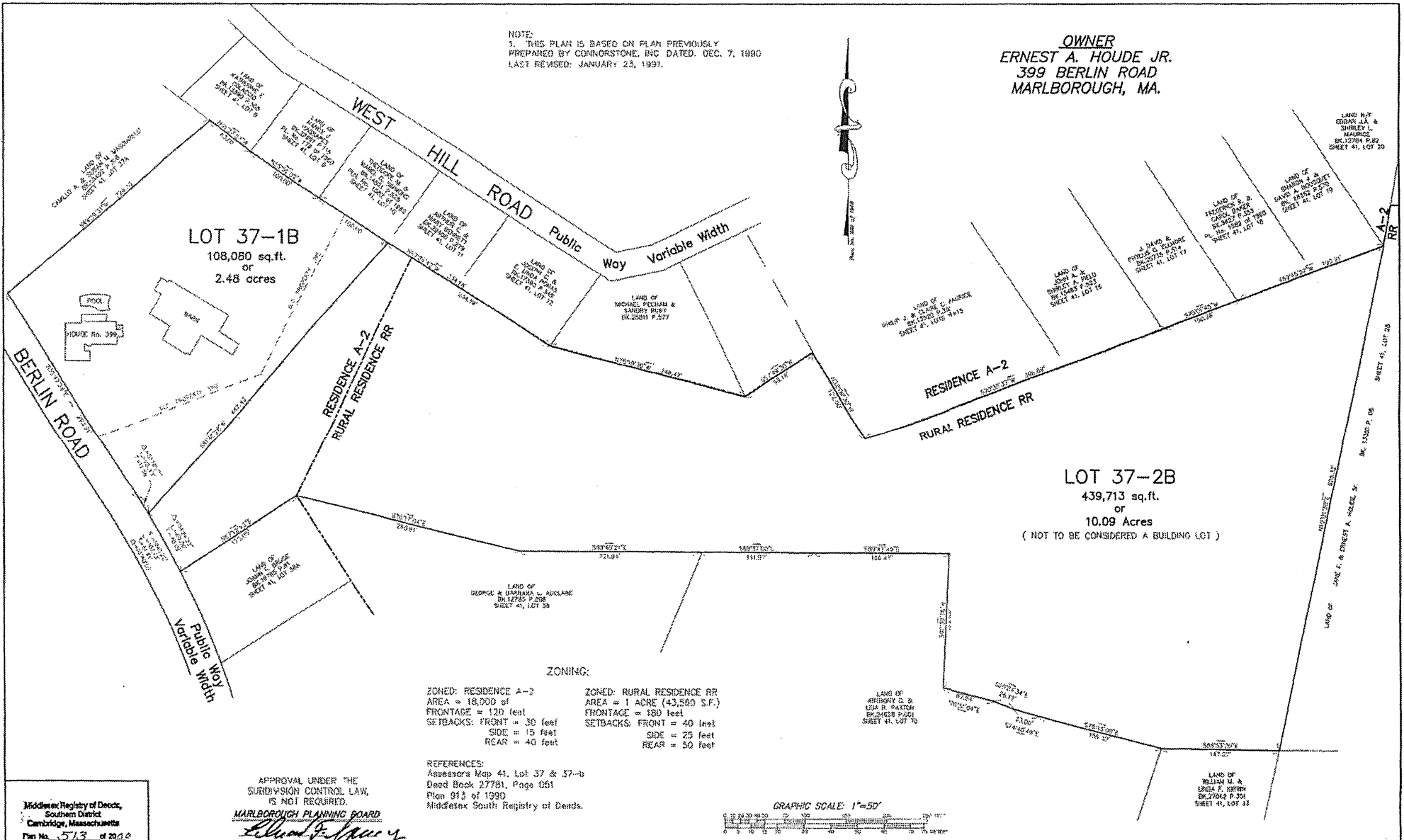
ADOPTED
In City Council
Order No. 19-1007584C

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

NOTE:
 1. THIS PLAN IS BASED ON PLAN PREVIOUSLY
 PREPARED BY CONNORSTONE, INC DATED, DEC. 7, 1990
 LAST REVISED: JANUARY 23, 1991.

OWNER
ERNEST A. HOUE JR.
399 BERLIN ROAD
MARLBOROUGH, MA.



ZONING:
 ZONED: RESIDENCE A-2 AREA = 18,000 sq' FRONTAGE = 120 feet SETBACKS: FRONT = 30 feet SIDE = 15 feet REAR = 40 feet
 ZONED: RURAL RESIDENCE RR AREA = 1 ACRE (43,560 S.F.) FRONTAGE = 180 feet SETBACKS: FRONT = 40 feet SIDE = 25 feet REAR = 50 feet

REFERENCES:
 Assessor's Map 41, Lot 37 & 37-b
 Deed Book 27781, Page 651
 Plan 813 of 1990
 Middlesex South Registry of Deeds.

APPROVAL UNDER THE
 SUBDIVISION CONTROL LAW,
 IS NOT REQUIRED.
MARLBOROUGH PLANNING BOARD
[Signature]

I HEREBY CERTIFY THAT THIS PLAN
 WAS PREPARED IN CONFORMANCE WITH
 THE RULES AND REGULATIONS OF THE
 REGISTERS OF DEEDS.
[Signature] 5-1-00
 BRUCE K. KIRSHMAN, P.L.S. 34677 DATE:



Middlesex Registry of Deeds,
 Southern District
 Cambridge, Massachusetts
 Plan No. 513 of 2000
 Book 27781, Page 651
 at 2:42 PM on Dec 14, 2000
 Recd. BK 27781, Page 651
 Attest
[Signature]
 Register

CONNORSTONE
 AN N.E.I. COMPANY
 CONSULTING CIVIL ENGINEERS
 AND
 LAND SURVEYORS
 276 WEST MAIN STREET
 NORTHBOROUGH, MASSACHUSETTS 01552

HAD THIS NAME: BERLIN ROAD
 DESIGNED BY: N.E.S.
 CHECKED BY: N.E.S.
 COMPUTED BY: N.E.S.
 FIELD SURVEY: L.E.S.
 DRAWN BY: S.E.C.
 SCALE: 1" = 50'
 SHEET 1 OF 1

PLAN OF LAND
 IN
MARLBOROUGH, MASSACHUSETTS

MAY 1, 2000
 REVISIONS
 DATE: APRIL 21, 2000

513

QUITCLAIM DEED

Ernest A. Houde, Jr., of 322 Framingham Road, Marlborough, MA 01752,

in consideration of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00),

grants to the **City of Marlborough**, a municipal corporation having a principal place of business at 140 Main Street, Marlborough, Massachusetts 01752,

with quitclaim covenants,

a certain parcel of land situated on the easterly side of Berlin Road in Marlborough, Middlesex County, Commonwealth of Massachusetts, described as Parcel 37B on Map 41 of the Marlborough Assessors Maps, and more particularly described as Lot 37-2B on a plan entitled "Plan of Land in Marlborough, Massachusetts; Owner: Ernest A. Houde, Jr., 399 Berlin Road, Marlborough, MA; Prepared by: Connorstone Consulting Civil Engineers and Land Surveyors, 276 West Main Street, Northborough, MA 01532; Scale: 1" = 50'; Dated: April 21, 2000, revised: May 1, 2000," and recorded at Middlesex South District Registry of Deeds as Book 31403, Page 364, Plan Book 2000, Plan 513.

The above-described parcel contains 439,713 square feet, or 10.09 acres, more or less.

This conveyance is subject to any and all easements, rights, restrictions and encumbrances, insofar as the same affects title, except for grantor's outstanding mortgages to Avidia Bank, recorded on November 7, 2014 at the Middlesex South District Registry of Deeds, Book 64482, Page 112, and recorded on December 13, 2018 at the Middlesex South District Registry of Deeds, Book 72002, Page 279, both of which mortgages remain the obligation solely of the grantor.

The above described parcel is conveyed to said City under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space.

Being a portion of the premises conveyed to the grantor by deed from Ernest A. Houde, Sr. and Jane F. Houde, dated October 1, 1997, and recorded on October 20, 1997 at the Middlesex South District Registry of Deeds, Book 27781, Page 051.

Property location: 0 Berlin Road, Marlborough, MA 01752

WITNESS my hand and seal this _____ day of April, 2019.

Ernest A. Houde, Jr.

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of April, 2019, before me, the undersigned notary public, Ernest A. Houde, Jr. personally appeared, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on this document, and acknowledged to me that he signed it voluntarily for its stated purpose as his voluntary act.

Notary Public

My Commission Expires: _____



City of Marlborough
Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DONALD V. RIDER, JR.
CITY SOLICITOR
2019 APR 25 A 11: 56

April 25, 2019

Edward Clancy
President
Marlborough City Council

RE: Proposed Zoning Amendment –
Home Offices and Contractor/Landscape Contractor Storage Yards

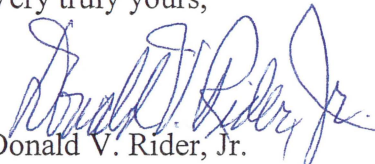
Dear President Clancy and Members:

As you know, the Urban Affairs Committee has met recently on numerous occasions to deliberate upon the zoning ordinance being proposed for home offices and contractor/landscape contractor storage yards.

I am enclosing the revised version of that proposal which represents the culmination of the many comments and efforts that have been made by the Committee members and other Councilors attending the UA meetings. That version is in proper legal form for advertising the new public hearing that will need to be held on the proposed ordinance as revised to date.

Thank you for your attention to this matter.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Arthur Vigeant, Mayor
Jeffrey Cooke, Building Commissioner

ORDERED:

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:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended, as follows:
- a. By amending the definition in subsection B of “HOME OCCUPATION,” by inserting at the end thereof the following sentence:

A home occupation shall not include a home office, as defined in Section 650-5.

- b. By amending the definition in subsection B of “OUTDOOR STORAGE,” by inserting at the end thereof the following sentence:

Outdoor storage shall not include either a contractor’s storage yard or a landscape contractor’s storage yard, as defined in Section 650-5.

- c. By inserting the following new definitions:

CONTRACTOR - Any person or firm engaged in construction, building trades, landscaping services or maintenance, on a contract basis, either licensed or unlicensed.

CONTRACTOR’S STORAGE YARD - An outdoor area used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation; but not including a landscape contractor’s storage yard. A contractor’s storage yard shall not include outdoor storage, as defined in Section 650-5.

HOME OFFICE - An office in a dwelling unit or accessory building within which ancillary activities are performed for a business whose primary services are conducted by the residents at offsite locations. Home offices are permitted if they conform to each of the conditions set forth in Section 650-18(47).

LANDSCAPE CONTRACTOR’S STORAGE YARD – An outdoor area used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary

to support or sustain the landscaped surface of the grounds being otherwise landscaped. A landscape contractor's storage yard shall not include outdoor storage, as defined in Section 650-5.

II. Section 650-17, entitled "Table of Uses," is hereby amended by adding the following new uses:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV	NB
Contractor's Storage Yard (48)	N	N	N	N	N	N	N	N	Y	Y	N	N	N
Home Office (47)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Landscape Contractor's Storage Yard (48)	N	N	N	N	N	N	N	N	Y	Y	N	N	N

III. Section 650-18, entitled "Conditions for uses," is hereby amended as follows:

a. By inserting in subsection A thereof a new paragraph (47), pertaining to home offices:

(47) Home offices.

Home offices are permitted if they conform to each of the following conditions:

- (a) The home office use must be secondary to the principal use of the property as a residence.
- (b) The proprietor of the home office, whether a contractor or otherwise, must reside in the dwelling unit comprising the principal building.
- (c) Anyone associated with the home office must reside in the dwelling unit comprising the principal building, except that not more than two (2) non-residents may be permitted when the home office is on a property principally used as a residence by the proprietor, whether a contractor or otherwise, unless it is located in the Commercial Automotive or Limited Industrial zoning districts, in which case three (3) non-residents may be permitted.
- (d) No more than 25% of the floor area of the residence or, if an accessory building is used, no more than 30% of the floor area of the accessory building and residence combined, is to be used for the purposes of the home office.

- (e) There shall be no external evidence of the home office except for a sign that conforms to the requirements for a home occupation sign set forth in City Code Section 526-8.A(2), and no major structural change shall be made to the exterior so as to alter the appearance and character of the residence or that of the accessory building if used for the home office.
- (f) The proprietor of a home office, whether a contractor or otherwise, shall be allowed to have not more than either i) one (1) commercial vehicle having a gross vehicle weight rating (GVWR) not exceeding 10,000 pounds or one (1) heavy-duty pickup truck having a GVWR not exceeding 14,000 pounds, or ii) one (1) commercial trailer not to exceed sixteen (16) feet in length, parked at the home office, whether that vehicle or that trailer, as the case may be, is used by the proprietor of the home office and/or by anyone associated with the home office, except that not more than three (3) commercial vehicles each having a GVWR not exceeding 10,000 pounds, or three (3) commercial trailers each not exceeding sixteen (16) feet in length, or any combination of such vehicles and trailers not to exceed three (3) in total number, may be permitted when the home office is on a property located in the Commercial Automotive or Limited Industrial zoning districts. No such vehicle or trailer shall be parked on the street(s) fronting the premises where the home office is located, but instead shall be parked on the premises. Vehicles and equipment must be parked and accessed on impervious surfaces such as concrete or asphalt (dust-free surfaces) and may never be parked on the lawn or other pervious parts of a property on which the home office is located.
- (g) A home office shall be permitted to store equipment and/or materials, but only indoors in the principal building or accessory building. In no event shall a home office, even when on a property located in the Commercial Automotive or Limited Industrial zoning districts be used for a contractor's storage yard or a landscape contractor's storage yard. No activity in conjunction with the business associated with the home office, including but not limited to loading and unloading of equipment and/or materials, is permitted Monday through Friday except from 7:00 a.m. until 7:00 p.m. and Saturday except from 7:00 a.m. until 5:00 p.m., and no such activity is permitted on Sunday at any hour; provided, however, that essential emergency services as reasonably needed may operate outside previously established hours. All such activity, when permitted, shall otherwise comply with Chapter 431 of the City Code, entitled "Noise."
- (h) A home office shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting

requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.

- b. By inserting in subsection A thereof a new paragraph (48), pertaining to contractor's storage yards and landscape contractor's storage yards:

(48) Contractor's storage yards and landscape contractor's storage yards.

(a) Design Standards. Contractor's storage yards and landscape contractor's storage yards, as defined in Section 650-5, are allowed in the Commercial Automotive or Limited Industrial zoning districts only after having been granted site plan approval by the City of Marlborough Site Plan Review Committee, whose review shall include but not be limited to the following design standards.

(1) *Proximity to existing residential zoning districts*. A storage yard, if created after February 11, 2019, shall not be located on a lot less than two hundred (200) feet from a residential zoning district.

(2) *Abutting residential lots*. A storage yard, if created after February 11, 2019, shall not be located on any lot if a residential use is being made of any abutting lot(s).

(3) *Screening*. The proposed storage yard shall be adequately screened from the street and adjacent properties to obscure the vehicles parked thereon, and the equipment and/or materials stored therein.

(4) *Minimum lot area*. The minimum area of the lot being proposed for the storage yard shall be 22,500 square feet.

(5) *Maximum size of storage yard*. The maximum size of the storage yard, when combined with all structures, parking and driveways on the lot being proposed for the lot on which the storage yard is proposed to be located, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the lot is located.

(6) *Vehicles, Equipment and/or Materials*. All vehicles, equipment and/or materials associated with the storage yard must be stored on and accessed from impervious or otherwise dust-free surfaces.

(7) *Flammable, Combustible or Dangerous Substances*. A storage yard shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.

- (b) Grandfathering. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that existed before the City of Marlborough Zoning Code was enacted on January 27, 1969, or that exist as legal pre-existing nonconforming uses or structures, shall not be required to submit to Site Plan Review; provided, however, that such yards shall not be permitted to expand or alter any legal pre-existing nonconforming use or structure, unless such expansion or alteration is otherwise authorized by zoning relief.
- (c) Previous Special Permit or Site Plan Approval. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that are in compliance with a previously-granted special permit, or that are in compliance with a previously-granted site plan approval by the Site Plan Review Committee, shall not be required to submit to Site Plan Review, so long as such yards remain in compliance with the dimensional, landscaping and parking requirements of Chapter 650.
- (d) All others. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that satisfy neither subsections (b) nor (c) of this section 650-18(48) shall be required to complete the Site Plan Review process within twelve (12) months of the effective date of approval of this zoning amendment.

ADOPTED
In City Council
Order No. 18/19-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:



City of Marlborough
Legal Department

140 MAIN STREET

MARBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARBOROUGH-MA.GOV

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 25 A 11:55

DONALD V. RIDER, JR.
CITY SOLICITOR

April 25, 2019

Edward Clancy
President
Marlborough City Council

RE: Order No. 18/19-1007461C, X09-1002152C, X12-1004081C
Application to Further Modify a Special Permit
Main Street Bank
81 Granger Boulevard, Marlborough

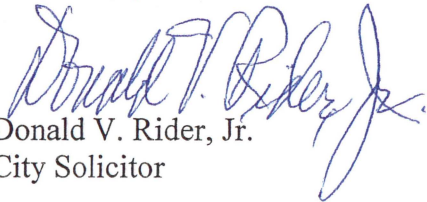
Dear President Clancy and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by Main Street Bank seeking to further modify the Bank's original 2009 special permit, as modified by the Bank's 2012 special permit, by removing Condition #4 which prohibits signs on the site which have "so-called message board or LCD components" or equivalent features, and replacing it with a new Condition #4 requiring that such signs comport with the City's sign ordinance governing electronic message center signs and digital display signs.

Please note that the Bank's draft decision reviewed by the Urban Affairs Committee at its March 26 meeting inadvertently referred to condition #7 as the condition to be removed and replaced. But the Bank's inadvertent reference to condition #7 (which turns out to involve snow storage and removal) is of no legal effect, since both the Bank's original special permit application, as well as the newspaper ad for the public hearing, clearly and correctly referred to condition # 4.

I have enclosed a copy of the proposed decision. I certify that the decision is in proper legal form.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Sem Aykanian, Esquire

**DECISION ON AN APPLICATION TO FURTHER MODIFY A SPECIAL PERMIT
IN CITY COUNCIL**

Further Modified Special Permit
Main Street Bank
Order No. 18/19-1007461D
X09-1002152C
X12-1004081C

**DECISION ON AN APPLICATION TO FURTHER MODIFY A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 18/19-1007461D**

The City Council of the City of Marlborough hereby GRANTS the application to further modify a previously modified special permit to Main Street Bank (the "Applicant") for the property located at 81 Granger Boulevard, Marlborough, Massachusetts, as provided in this decision ("Decision") and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant is the lessee of the property located at 81 Granger Boulevard, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 70, Parcel 152 (the "Site"), and maintains a stand-alone bank facility with drive-through ATM and teller services. The Site's owner is Stephen M. Fitzpatrick, Trustee of Fitzgerald Family Investment Trust, u/d/t December 4, 2007 and recorded with the Middlesex South District Registry of Deeds in Book 50587, Page 296.
2. The Site is subject to a special permit issued by the City Council of the City of Marlborough dated June 22, 2009, Order No. 09-1002152C (the "Original Special Permit," attached hereto as Exhibit A), as modified by Council Order No. 12-1004081C (the "Modified Special Permit") attached hereto as Exhibit B.
3. In light of the amendment to the Marlborough City Code creating § 526-13 entitled, "Electronic message center signs; digital display signs," the Applicant seeks to amend the Original Special Permit, as modified by the Modified Special Permit, by removing Condition #4 which prohibits signs on the Site which have "so-called message board or LCD components" or equivalent features; and inserting in place thereof a new Condition #4 requiring that such signs comport with § 526-13 (the "Application").
4. In connection with the Application, the Applicant has submitted a certified list of abutters, filing fees, and the existing approved site plan for the Site entitled, "Permit Site Plan, Marlborough Savings Bank", prepared for Marlborough Savings Bank, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA,

scale 1 " = 20', dated March 5, 2009, with a final revision date of May 29, 2009 (the "Plan").

5. The Plan was certified by the acting City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
6. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
7. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on February 25, 2019.
8. The Applicant, through its representatives, presented testimony at the public hearing detailing the Application. No individual in attendance at the public hearing spoke in opposition to the Application.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed further modified use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns, to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS the Applicant a further modified special permit (the "Further Modified Special Permit"), SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:
 1. The Original Special Permit, as modified by the Modified Special Permit, is further modified by removing Condition #4 in its entirety and inserting in place thereof the following:
 - 4) 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; digital display signs," as set forth in the City Code of the City of Marlborough.

2. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant, its successors and/or assigns shall, at its expense, record this Further Amended Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Further Amended Special Permit has elapsed with no appeal having been filed, and before the Applicant, its successors and/or assigns, has applied to the Building Commissioner for any building permit that may be required concerning the Sign. The Applicant, its successors and/or assigns shall also furnish proof of the Further Amended Special Permit's recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

3. Except as amended by this Decision, the Original Special Permit, as modified by the Modified Special Permit, remains in full force and effect.

Yea: _____ - Nay: _____ - Absent: _____

ADOPTED

In City Council

Order No. 18/19-1007461D

Adopted: _____ 2019

A TRUE COPY

ATTEST: _____ City Clerk

EXHIBIT A

AG



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass.

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT



2009 00196888

Bk: 53650 Pg: 542 Doc: DEC18
Page: 1 of 9 10/08/2009 10:20 AM

In City Council
Order No.09- 1002152C

Application of:
Marlborough Savings Bank
166 Main St.
Marlborough, MA 01752

Locus:
81 Granger Blvd. and 51 Howe St.
Map 70, Parcels 152, 157, 209

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Marlborough Savings Bank as provided in the **DECISION** and subject to the following **FINDINGS OF FACTS AND CONDITIONS**.

Decision filed: July 7, 2009.

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on July 7, 2009.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.
Given at Marlborough this 28th day of July, 2009.

Given under Chapter 40A sec. 11 of the General Laws.

A TRUE COPY
ATTEST:

City Clerk

SEM AYKANIAN ESQ.
74 MAIN STREET
MARLBOROUGH, MA 01752



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass.,

PAGE 1

ORDERED:

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Marlborough Savings Bank, 166 Main Street, Marlborough, MA for ATM and banking services drive-through facilities, in connection with a proposed stand alone bank facility, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. Marlborough Savings Bank is hereinafter referred to as "Applicant".
2. Applicant is a party to contracts calling for the acquisition of the premises known and numbered as 81 Granger Boulevard and 51 Howe Street, Marlborough, Massachusetts described on Marlborough Assessor's Map 70, Parcels 152, 157 and 209 (hereinafter the "Site") and proposes to construct a stand alone bank facility with ATM and banking services drive-through.
3. Applicant, by and through its site engineer, Hancock Associates, has filed with City Clerk of the City of Marlborough an application for a Special Permit. Pursuant to Section 650-16 of the Zoning Ordinance of the City of Marlborough (2008 Code) Applicant is seeking permission for the drive-through facility.
4. The Site is located in a Business zone as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Special Permit Application, Applicant has submitted a traffic impact and access study, certified list of abutters, filing fees, fire truck access, and a detailed site plan entitled "Permit Site Plan, Marlborough Savings Bank", prepared for Marlborough Savings Bank, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1'=20', dated March 5, 2009 and consisting of seven pages, with a final revision dated May 29, 2009 and consisting of eight pages.
6. The site plan was certified by the acting City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the application for a Special Permit and the City Clerk for the City of Marlborough caused notice of the same to advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass.,

PAGE 2

ORDERED:

8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on April 6, 2009.
9. Applicant presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

- A. Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the special permit application.
- B. The City Council finds that the proposed use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS Applicant a Special Permit to construct and operate drive through banking services as shown on the plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:
 1. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and Commonwealth of Massachusetts and shall be built according the site plan entitled "Permit Site Plan, Marlborough Savings Bank", prepared for Marlborough Savings Bank, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1"=20', dated March 5, 2009 and consisting of seven pages, with a final revision dated May 29, 2009 and consisting of eight pages.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass., _____ PAGE 3

ORDERED:

2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit and no Occupancy Permit shall be issued until Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.
3. Applicant agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant's facility.
4. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough without variance therefrom. Notwithstanding the foregoing, in no event shall the signage contain so-called message board or LCD components. It is a further condition that the location of the signage shall not be substantially different than that shown on the plans submitted herewith allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.
5. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.
6. All illuminations of individual parking lot light fixtures shall not exceed 200 watt fixtures and shall be screened from abutting residential property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass.,

PAGE 4

ORDERED:

7. Snow storage and removal is to be maintained and conducted on site by Applicant, its successors and/or assigns in accordance with the terms of snow removal plan as submitted with the Application for Special Permit. Applicant, its successors and/or assigns shall provide off-site snow removal as required and if deemed necessary by the City of Marlborough Commissioner of Public Works.
8. There shall be no overnight parking at the Site.
9. All catch basins shall be installed in accordance with the plans submitted to the City Council and/or the City Council's Urban Affairs Committee. The catch basins shall be monitored on a semi-annual basis with reports given to the City Engineer annually. The catch basins are to be cleaned by Applicant, its successors and/or assigns annually, or at more frequent intervals as determined necessary by the City Engineer.
10. Applicant, its successors and/or assigns agrees to plant and maintain the Project landscaping as shown on the Site Plan as submitted to the City Council and/or the City Council's Urban Affairs Committee as may be amended during Site Plan Review.
11. The drive-through teller window shall employ a pedestal speaker system of a quality that seeks to minimize the noise emanating from the speaker system and with full compliance of the noise ordinance of the City of Marlborough. The drive-through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential District in accordance with the noise ordinance of the City of Marlborough.
12. Applicant, its successors and/or assigns agrees to screen the Project's trash area by constructing a six foot (6') white vinyl fence screen. Applicant, its successors and/or assigns further agrees that the dumpsters located on Site will be covered. No trash pickup shall occur before 7:00 AM or after 6:00 PM or at any time during weekends.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass., _____ PAGE 5

ORDERED:

13. Applicant, its successors and/or assigns agrees that the Site will be subject to a review of the traffic configuration after one-year from the issuance of the Occupancy Permit to determine whether any alterations need to be made to the entrances and egresses to the Site to accommodate traffic flow and ensure public safety and agrees to make changes in compliance with the Marlborough Department of Public Works and Traffic Commission's recommendations.
14. (a.) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

(b.) Notwithstanding condition (a.) hereof, engineering changes may be made to said plans by the Site Plan Review Committee so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow or increase the size of the building shown on the plan.
15. In connection with the installation of improvements within public right-of-ways which requires a street opening permit, the City Engineer shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant, its successors and/or assigns, and not the City of Marlborough, will bear the costs of any police detail for any work performed within the public way.
16. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Pursuant to the provisions of Massachusetts General Laws, Chapter 90 Sec. 18, Applicant, its successors and/or assigns shall submit a written request and grant of authority to the Marlborough Traffic Commission (the "Commission") to promulgate legally enforceable rules and regulations for the control of on-site and off-site traffic and parking. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the standards of the Uniform Manual On Traffic Control Devices.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass., _____ PAGE 7

ORDERED:

23. Prior to construction, utility easements shall be established and granted to the City for construction, maintenance or repair of existing City infrastructure including, but not limited to, water, sewer, drain, and traffic control. Landscaping in the area of such easements shall be coordinated by the Applicant, its successors and/or assigns with the Engineering Division of the City's Department of Public Works in the field so as to avoid conflicts with existing infrastructure.
24. All trenching shall be in compliance with Massachusetts Law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.
25. The hand hole which is currently within the proposed driveway layout of Granger Boulevard shall be relocated by Applicant, its successors and/or assigns as approved by the City of Marlborough's Department of Public Work's Engineering Division. If the reinforced concrete sidewalk panels are impacted because of said work, Applicant, its successors and/or assigns shall replace the concrete panels to the limits indicated by the City Engineer.
26. Applicant, its successors and/or assigns shall erect and maintain fencing in accordance with the plans and the fence ordinance for the City of Marlborough.
27. During construction, all workers shall park their personal vehicles either on the Site or on the upper levels of the City's parking garages. Any construction vehicles shall be parked on Site.
28. During construction, no vehicles shall be staged on public ways.
29. Applicant, its successors and/or assigns shall utilize HVAC equipment and an emergency generator on the roof of the structure with advanced acoustical technology by which excessive sound emanating from said equipment will be substantially abated in accordance with the noise ordinance for the City of Marlborough and therefore protect the public health, welfare, safety and quality of life for abutting residential properties. Testing of the emergency generator shall be limited to Applicant, its successors and/or assigns' hours of operation as set forth in Condition 19(a) herein.



IN CITY COUNCIL

JUNE 22, 2009

Marlborough, Mass., _____

PAGE 8

ORDERED:

- 30. Applicant, its successors and/or assigns shall be required to hire a site engineer who shall be competent in stormwater and erosion control management. This individual(s) credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan, the approved erosion control plan, and, if applicable, the Conservation Commission's Order of Conditions. The Applicant, its affiliates, successors and/or assigns shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

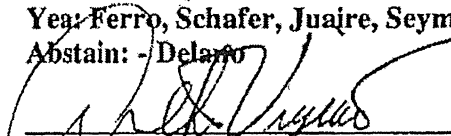
- 31. If the drainage system (during construction and post-construction) constructed by Applicant, its successors and/or assigns fails and the failure is the cause of damage to another's property, Applicant, its successors and/or assigns shall be responsible to pay the owner of said damaged property the full cost of the repair and or replacement of the damaged property. In the event Applicant, its successors and/or assigns does not pay for the damage, it shall be a violation of this Special Permit.

- 32. In accordance with the provisions of M.G.L. c.40A, Sec.11, Applicant, its successors and/or assigns at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before a Building Permit is issued. Applicant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

Yea: 10 – Nay: 0

Yea: Ferro, Schafer, Juajre, Seymour, Clancy, Landers, Ossing, Pope Vigeant, Levy

Abstain: - Delano



 Signed by City Council President
 Arthur G. Vigeant

ADOPTED
 In City Council
 Order No. 09-1002152C

EXHIBIT B



IN CITY COUNCIL

MAY 7, 2012

Marlborough, Mass.

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of
Marlborough Savings Bank
81 Granger Blvd.
Marlborough, MA 01752
Order No. 12-1004081C

Locus:
81 Granger Blvd.
Map 70, Parcel 152

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Marlborough Savings Bank as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

Decision filed: **May 10, 2012**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **10th** day of **May, 2012**.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 31st day of May, 2012.

Given under Chapter 40A sec. 11 of the General Laws.

A TRUE COPY

ATTEST:

A handwritten signature in black ink, appearing to read "Lisa M. [unclear]", is written over the printed name of the City Clerk.

City Clerk



IN CITY COUNCIL

Marlborough, Mass., _____

MAY 7, 2012

PAGE 1

ORDERED:

DECISION ON AN APPLICATION TO MODIFY A SPECIAL PERMIT

**MARLBOROUGH SAVINGS BANK
81 GRANGER BOULEVARD
MARLBOROUGH, MA**

CITY COUNCIL ORDER NO. 12-1004081C

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 09-1002152C submitted by Marlborough Savings Bank, 81 Granger Boulevard, Marlborough, Massachusetts, as provided in this Decision and subject to the following Evidence, Findings of Fact, and Conditions.

EVIDENCE

1. Marlborough Savings Bank is hereinafter referred to as "Applicant."
2. Applicant is the lessee of the premises known and numbered as 81 Granger Boulevard, Marlborough, Massachusetts, as further described on Marlborough Assessor's Map 70, Parcel 152 (hereinafter the "Site"), and maintains a stand-alone bank facility with drive-through ATM and teller services. The Site's owner is Stephen M. Fitzpatrick, Trustee of Fitzgerald Family Investment Trust, u/d/t December 4, 2007 and recorded with the Middlesex South District Registry of Deeds in Book 50587, Page 296.
3. The Applicant, by and through its attorney, Sem Aykanian, Esq., has filed with the City Clerk of the City of Marlborough an application for a modification of a special permit (hereinafter, the "Application"), to wit, A Notice of Decision Grant of Special Permit issued by the City Council for the City of Marlborough dated June 22, 2009 by Council Order No. 09-1002152C (hereinafter, the "Original Special Permit"). In the Application, the Applicant seeks to extend the hours of operation of both the drive-through teller as well as the drive-through ATM.
4. The Site is located in a Business zone as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Application to modify the Original Special Permit, the Applicant has submitted a certified list of abutters, all appropriate filing fees, and provided copies of the Application to all appropriate parties in accordance with Rules and Regulations promulgated by the City Council for the issuance of a special permit.



IN CITY COUNCIL

MAY 7, 2012

Marlborough, Mass., _____ PAGE 2

ORDERED:

6. The Application was certified by the Building Inspector for the City of Marlborough, acting for and on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m) of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.

7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the application to modify the Original Special Permit, and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Mass. Gen. Laws c. 40A, held a public hearing on the Application on March 26, 2012.

9. The Applicant presented testimony at the public hearing detailing the Application, and describing the projected impact of the extended hours upon municipal services, the neighborhood, and traffic.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS

A. The City Council finds that the Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council, Chapter 650 (Zoning Code) of the City of Marlborough, and Mass. Gen. Laws c. 40A, §§ 9 and 11, as they pertain to modification of the Original Special Permit.

B. The City Council finds that the proposed modified use of the Site does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough or Mass. Gen. Laws c. 40A.

C. The City Council finds that the proposed modified use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided below.



IN CITY COUNCIL

Marlborough, Mass.,

MAY 7, 2012

PAGE 3

ORDERED:

D. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS the Applicant the modification of the Original Special Permit to extend the hours of operation of both the drive-through ATM as well as the drive-through teller (hereinafter, the "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 4**, which conditions shall be binding on Applicant, its successors and/or assigns:

1. The Original Special Permit (No. 09-1002152C) is hereby affirmed, is deemed to be in full force and effect, and applies to the Site without change or modification, except as provided for herein.
2. Condition 19 of the Original Special Permit shall be deleted in its entirety, and in place thereof the following shall be inserted:
 19. (a) The hours of operation of the drive-through teller at the Site shall not exceed the following times: Monday through Saturday, 8:00 AM to 8:00 PM; Sunday, 8:00 AM to 6:00 PM.
 - (b) The hours of operation of the drive-through ATM at the Site shall be 24 hours per day, seven days per week.
3. In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed. Upon said recording, Applicant shall forthwith provide a copy of the recorded Modified Special Permit to the City Council's office and to the City Solicitor's office.
4. As per the Permit Site Plan and the Project Narrative submitted in 2009 by Applicant as part of its application for the Original Special Permit, all of Applicant's employees shall use only the parking spaces provided at either of the City of Marlborough's municipal parking garages located on Granger Boulevard, and Applicant's employees shall refrain from using municipal ground-level parking spaces that are more suited to high turn-over patrons of other downtown businesses. Notwithstanding the foregoing, the Applicant may use the 3 parking spaces on the southerly side of the premises (at the southwest corner thereof) for its employees.



IN CITY COUNCIL

Marlborough, Mass.,

MAY 7, 2012

PAGE 4

ORDERED:

Yea: 10- Nay: 0

Yea: Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

Abstained: Delano

A handwritten signature in cursive script that reads "Patricia A. Pope".

Signed by City Council President
Patricia A. Pope

ADOPTED

In City Council

Order No. 12-1004081C



City of Marlborough
Legal Department

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

DONALD V. RIDER, JR.
CITY SOLICITOR

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

2019 APR 25 A 11: 58

April 25, 2019

Edward Clancy
President
Marlborough City Council

RE: Order No. 18/19-1007423D
Application for LED Sign Permit
Main Street Bank
81 Granger Boulevard, Marlborough

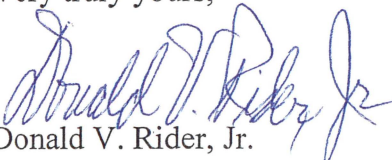
Dear President Clancy and Members:

You will recall that Main Street Bank has applied to the City Council seeking a permit to operate an LED sign at its location on 81 Granger Boulevard. Presently I am not in a position to certify that the proposed decision for that permit is in proper legal form. This is due to the apparent absence of Bank-provided documentation in the Council's file that would confirm the sign's dimensions as specified in the permit decision that was drafted by the Bank. Moreover, those dimensions are in any event different from the dimensions previously provided by the Bank in its sign application denied by the Building Department.

At this point, my recommendation would be for this matter to be referred back to Urban Affairs so that the Bank can clarify the dimensions issue for the Council's eventual vote.

Thank you for your attention to this matter.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

cc: Sem Aykanian, Esquire



City of Marlborough
Legal Department

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 APR 25 A 11:56

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

April 25, 2019

Edward Clancy
President
Marlborough City Council

RE: Apex Center – Proposed Open Space Covenant and Restriction
Order No. 16/17/18/19-1006443D-6

Dear President Clancy and Members:

Enclosed in connection with the Apex Center project is a proposed order to accept the Open Space Covenant and Restriction (“OSCAR”) from the fee owners of the open space in question, namely, Walker Realty LLC, Marlboro Hospitality LLC, and 11 Apex LLC. The order states that it supersedes Order No. 16/17/18-1006443D-4, approved by vote of Council on October 15, 2018, which did not set forth all 3 of these LLCs.

The OSCAR, also enclosed, is called for by paragraph 20 of the July 25, 2016 Development Agreement by and between Walker Realty LLC and the City. Paragraph 20 requires that the City be granted “a perpetual easement for an additional non-disturbance area, to be left as undevelopable Open Space,” due to “permanent encroachment of impervious surface into the fifty-foot Water Supply Protection District.” Among other prohibited acts and uses, the OSCAR specifies that the above LLCs are prohibited from stockpiling snow within the open space, “except in accordance with an approved snow management plan, which plan shall be on file with the City of Marlborough Conservation Commission.” Exhibit A to the OSCAR is the plan depicting the open space; OSCAR Exhibit B would be the enclosed order.

Once approved, the OSCAR will be signed by all parties and then recorded.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosures

cc: Priscilla Ryder, Conservation Officer
Thomas DiPersio, City Engineer
Kevin Eriksen, Esquire

ORDERED:

That the City of Marlborough does hereby approve, and accept the gift thereof, from Walker Realty LLC, Marlboro Hospitality LLC and 11 Apex LLC, of the Open Space Covenant and Restriction for the perpetual conservation and preservation of open space, passive recreation, and assurance that the subject land will be retained in perpetuity in its natural, scenic, wetlands and wooded conditions in accordance with the terms of said Open Space Covenant and Restriction, concerning that certain land designated and labeled as "Open Space" on a plan entitled "Open Space Exhibit, for Apex Center, 240 Boston Post Road W, Marlborough, MA, Prepared for: Walker Realty, LLC, 4 Lan Drive, Westford, MA, Scale 1' = 200", dated March 21, 2018, [Prepared by] Hancock Associates, 315 Elm Street, Marlborough, MA 01752," said Plan to be recorded as Exhibit A to the Open Space Covenant and Restriction, and this Order to be recorded as Exhibit B to the Open Space Covenant and Restriction, with the Middlesex County South Registry of Deeds.

This Order supersedes Order No. 16/17/18-1006443D-4, approved by vote of Council on October 15, 2018.

ADOPTED

In City Council

Order No. 16/17/18/19-1006443D-7

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:

OPEN SPACE COVENANT AND RESTRICTION

This OPEN SPACE COVENANT AND RESTRICTION (hereinafter, the “Covenant”) is entered into this ____ day of _____ 2019 by Walker Realty LLC, a Massachusetts limited liability corporation with a usual address of 4 Lan Drive, Westford, MA 01886, Marlboro Hospitality LLC, a Massachusetts limited liability company with a usual address of 4 Lan Drive, Westford, MA 01886, and 11 Apex LLC, a Massachusetts limited liability company with a usual address of 4 Lan Drive, Westford, MA 01886, their respective successors as fee owners of the hereinafter described Restricted Land (hereinafter, collectively, the “Covenanting Party”), and the City of Marlborough, a municipal corporation with an address of 140 Main Street, Marlborough, MA 01752 (hereinafter, the “Benefitted Party”).

Reference is made to the following facts which set forth the background to this Covenant:

- A. The Covenanting Party is the fee owner of certain property located off Boston Post Road West, Marlborough, Massachusetts known as Lots 11, 12, 13A and 14 and Parcel 13B as shown on a plan entitled “Subdivision Plan of Land in Marlborough, Massachusetts” prepared by VHB Inc., dated May 4, 2017, revised through June 14, 2017 and recorded at Middlesex County South Registry of Deeds at Plan Book 2017, Plan 574 (the “Property”), said Restricted Land being a portion thereof.
- B. Pursuant to Section 650-35 of the City of Marlborough Zoning Ordinance, the Property is located within the Hospitality and Recreation Mixed Use Overlay District (hereinafter, the “HRMUOD”).
- C. Pursuant to the provisions of Section 650-35 of the City of Marlborough Zoning Ordinance, the Marlborough City Council approved a Development Agreement, which is recorded with the Middlesex South Registry of Deeds in Book 68164, Page 152, for the development of the Property as permitted in the HRMUOD.
- D. Pursuant to paragraph 20 of said Development Agreement, the Covenanting Party is required as a condition of site plan approval to grant to the Benefitted Party a perpetual easement for an additional non-disturbance area to be left as undevelopable Open Space (hereinafter, the “Restricted Land”) at the Property (hereinafter, the “Covenant Requirement”).
- E. In connection with site plan approval, pursuant to the Development Agreement the Covenanting Party desires to restrict 638,500 square feet or 14.6 acres of land, more or less, more particularly described on the plan entitled “Open Space Exhibit, For: Apex Center, 240 Boston Post Road W, Marlborough, MA, Prepared for: Walker Realty, LLC, 4 Lan Drive, Westford, MA, Scale 1' = 200”, dated March 21, 2018, [Prepared by]

Hancock Associates, 315 Elm Street, Marlborough, MA 01752,” and designated as Exhibit A attached hereto and incorporated herein as the Restricted Land consisting of open space left substantially in its natural state as undevelopable open space in accordance with the terms of this Covenant and in fulfillment of the Covenant Requirement.

NOW THEREFORE for good and valuable consideration, which is acknowledged, the undersigned hereby COVENANTS with the City of Marlborough, acting by and through its Mayor, duly authorized by the Marlborough City Council, as follows:

I. COVENANTING PARTY

Walker Realty LLC, a Massachusetts limited liability company, Marlboro Hospitality LLC, a Massachusetts limited liability company and 11 Apex LLC, a Massachusetts limited liability company, are the fee owners of the Restricted Land.

II. PURPOSES

The purposes of this Open Space Covenant and Restriction (hereinafter, this “Covenant”) are for the perpetual conservation and preservation of open space, passive recreation, and to assure that the Restricted Land will be retained, in perpetuity, in its natural, scenic, wetlands and wooded condition.

III. PROHIBITED AND PERMITTED ACTS AND USES

A. Prohibited Acts and Uses: Subject to the exceptions set forth hereinafter, the Covenanting Party will not perform or permit the following acts and uses which are expressly prohibited on, above, and below the Restricted Land:

1. Constructing or placing any buildings, constructing or placing parking, roadways or walkways or other structures or pads from asphalt, stone, synthetic or concrete or other materials, fences, signs, billboards or other advertising displays, antennas, utility poles, towers, cabinets, telecommunications equipment of any kind, conduits, lines or other temporary or permanent structures, facilities or accessory uses whatsoever, including portions thereof, on, below, or above the Restricted Land;
2. Mining, excavating, dredging or removing from the Restricted Land soil, loam, peat, gravel, sand, rock or other mineral resources or natural deposits;
3. Placing, filling, storing or dumping on the Restricted Land of soil, refuse, trash, vehicle bodies or parts, rubbish, chemicals, debris, junk, waste or other objects, substances or materials whatsoever or the installation of underground storage tanks;
4. Cutting, removing or otherwise destroying trees, grasses or other vegetation;

5. The stockpiling and composting of stumps, trees, shrubs, grasses, brush limbs or similar materials;
 6. 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;
 7. Any uses or acts which would impair or be detrimental to the public walking trail easements recorded with the Middlesex County South Registry of Deeds in Book 70162, Page 310 and Book 70162, Page 318, and to the sewer easement, recorded with the Middlesex County South Registry of Deeds in Book 70162, Page 327;
 8. Activities detrimental to drainage, flood control, water conservation, wildlife habitat, erosion control or soil conservation;
 9. Hunting, trapping and fishing;
 10. Any other use of the Restricted Land or activity adverse to conservation or which would materially impair the character of the land as open space left substantially in its natural state, unless necessary for protection of the land as such land left substantially in its natural state; and
 11. Use of motorized vehicles including but not limited to trucks, cars, all-terrain vehicles, dirt bikes, motorcycles, campers, trailers and snowmobiles.
- B. Exceptions to Otherwise Prohibited Acts and Uses: Notwithstanding anything to the contrary contained in Paragraph A. above, the following acts and uses are permitted:
1. The maintenance and modification of vegetation, excavation, dredging, removal of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposits on the Restricted Land for conservation, habitat management or scientific purposes;
 2. Construction, reconstruction, modification, inspection, maintenance, repair and use of easements of record, drainage facilities, wastewater facilities and other utilities and rights of way, if any, to service the Property, of which the Restricted Land is a part, and/or to service any other land outside of the Property which is Benefitted by these appurtenances, together with any and all rights and easements of record necessary and desirable to effectuate the foregoing;
 3. Drainage from adjoining land;
 4. The erection and maintenance of signs identifying ownership of the Restricted Land, its status as land subject to an Open Space Covenant and Restriction, the restrictions on the use of the Restricted Land, the identity of areas of interest, natural features or other characteristics of the Restricted Land, and the aforementioned public walking trail easements recorded with the Middlesex County South Registry of Deeds;

5. With the prior approval of the Tree Warden of the City of Marlborough, the removal of hazardous, downed, dead or dying trees or tree limbs, although some deadfall may remain as den trees and to otherwise support wildlife; the de minimus cutting and removal of shrubs and other vegetation, the planting of native trees, shrubs and other vegetation, and the removal of debris or trash for normal maintenance of the Restricted Land in a natural condition and to prevent threat of injury or damage to persons or property;
6. Measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare and or endangered species including selective planting of native trees, shrubs and plant species, and removal of non-native and invasive plant species;
7. The placing of fences and benches that do not interfere with the purposes of this Covenant;
8. Trapping to control nuisance wildlife species pursuant to M.G.L. c. 131, § 80A;
9. The maintenance, removal or replacement of utilities, underground structures, good drainage, soil conservation or to other permissible uses of the Restricted Land;
10. On the aforementioned public walking trails only, the use of the Restricted Land by the public for passive recreational activities such as walking, snowshoeing, biking, cross-country skiing, nature study, bird watching, and the like;
11. The repair, maintenance, and reconstruction of the walking trails and the sewer easement, and appurtenances thereto, in conformance with the recorded walking trail easements and sewer easement, recorded at the Middlesex County South Registry of Deeds as provided herein, including but not limited to upgrading the surface of the walking trails, and as reasonably necessary such fences, bridges, gates, and stonewalls, if any, as may be located on the Restricted Land; and
12. Motorized vehicles necessary for public safety (e.g., fire, police, ambulance and other government officials) in carrying out their lawful duties or as necessary in furtherance of any use permitted under this Section III (B).

IV. MAINTENANCE AND STEWARDSHIP OF THE RESTRICTED LAND

The Benefitted Party, its agents and assigns, may enter upon the Restricted Land at reasonable times and with reasonable advanced written notice to monitor the Covenanting Party's compliance with this Covenant and to otherwise enforce the terms thereof, provided, however, that the Benefitted Party shall provide reasonable notice of entry to the Covenanting Party.

V. MISCELLANEOUS

- A. The burdens of this Covenant shall run with the Restricted Land in perpetuity and shall be enforceable against the Covenanting Party and the successors and assigns of the Covenanting Party holding any interest in the Restricted Land, provided however, Covenanting Party and each successive owner of the Restricted Land (or portion(s) thereof) shall be liable only for those matters arising during the respective party's ownership of the Restricted Land (or portion(s) thereof) and only to the extent of its ownership of the Restricted Land (or portion(s)

thereof). Nothing contained in this Covenant shall be construed to entitle the Benefitted Party to bring any action against the Covenanting Party for any injury or change in the Restricted Land resulting from causes beyond the Covenanting Party's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Covenanting Party under emergencies, conditions to abate, prevent or mitigate significant injury to the Restricted Land from such causes.

- B. The rights hereby granted shall include the right to enforce this Covenant by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations. The Covenanting Party covenants and agrees to reimburse the Benefitted Party all reasonable costs and expenses (including reasonable attorney's fees) incurred in enforcing this Covenant or in taking reasonable measures to remedy, correct, or abate any violation thereof, provided that a violation of this Covenant is acknowledged by the Covenanting Party to have occurred or determined by a court of competent jurisdiction to have occurred.
- C. Any election by the Benefitted Party as to the manner and timing of its right to enforce this covenant and restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.
- D. This Covenant may be amended to permit additional uses permitted within open space land in the City of Marlborough by the recording of an instrument executed by the Covenanting Party and the Benefitted Party, with approval of the Marlborough City Council and the Mayor of the City of Marlborough.
- E. This Covenanting Party and the Benefitted Party, on their own behalf and on behalf of their successors and assigns, agree and represent as follows: (i) pursuant to M.G.L. c. 184, § 23, the foregoing Covenant is a gift for the public purpose of preservation of land in its natural state with rights of public access thereto as provided in the above-referenced walking trail easements; and (ii) pursuant to M.G.L. c. 184, § 26, the foregoing Covenant is a restriction held by a governmental body, which shall be duly recorded and indexed in the grantor index on the registry of deeds or registered in the registry of deeds in the registry district of the land court for the county or district wherein the land lies so as to affect its title, and which describes the land by metes and bounds or by reference to a recorded or registered plan showing its boundaries. Accordingly, the foregoing Covenant shall remain in effect in perpetuity, and shall not be subject to the limitation on the period of a covenant of unlimited duration set forth in M.G.L. c 184, § 23 on the periods of its enforceability set forth in M.G.L. c. 184, § 27.
- F. The Benefitted Party is authorized to record or file notices or instruments, if any, appropriate to assuring the perpetual enforceability of this Covenant. Without limiting any of the foregoing, the Covenanting Party its successors and assigns agree to execute any such reasonable instruments within a commercially reasonable period of time after written request of the Benefitted Party.
- G. The foregoing is not intended to constitute a conservation restriction under M.G.L. c. 184, §§ 31 and 32.

- H. The foregoing Covenant is not intended to be a disposition of land or easement and is not intended to be subject to the provisions of Article 97 of the Constitution of the Commonwealth. Further, by acceptance hereof, the Benefitted Party hereby specifically contractually agrees with the Covenanting Party, in consideration for the grant of this Covenant, to retain the right to release or modify the terms of this Covenant without being subject to the provisions of Article 97 of the Constitution of the Commonwealth.
- I. By Order of the Marlborough City Council, attached hereto as Exhibit B, this Covenant has been approved, and the gift thereof accepted, by the Marlborough City Council in accordance with paragraph 20 of the Development Agreement, which paragraph concerns the recording of a perpetual easement for an additional non-disturbance area at the Property to be left as undevelopable Open Space.
- J. This Covenant shall be and is binding upon the grantee's or successors in title to the Covenanting Party, which agrees to incorporate by reference the terms of this Open Space Covenant and Restriction in any deed or other legal instrument by which it divests itself of any interest in all or any portion of the Restricted Land, it being the express intention and understanding and agreement that this covenant shall constitute a covenant running with the land. Without limitation, the Covenanting Party, on its own behalf and on behalf of its successors and assigns, waives and relinquishes any right to assert that the Covenant does not constitute a gift to a governmental body for a public purpose.

The Marlborough City Council shall be the Benefitted Party under this Covenant until the City Council transfers, if at all, said status as Benefitted Party to the Conservation Commission of the City of Marlborough, after which the Conservation Commission shall be the Benefitted Party under this Covenant, or until the City Council transfers said status as Benefitted Party under this Covenant, if at all, to itself or to another department, board or commission of the City of Marlborough.

- K. If any provision of this Covenant shall to any extent be held invalid, the remainder shall not be affected.
- L. The Covenanting Party and the Benefitted Party intend that the covenants and restrictions arising hereunder take effect on the day and year this Restriction is recorded in the official records of the Middlesex County South Registry of Deeds, after all signatures have been affixed hereto. This document and any exhibits thereto shall be recorded in a timely manner by the Benefitting Party, at its sole expense, upon execution by all parties.

THE REST OF THIS PAGE INTENTIONALLY BLANK. SIGNATURE PAGES FOLLOW.

Witness our hands and seals this ____ day of _____, 2019.

FOR THE COVENANTING PARTY:

FOR THE BENEFITTED PARTY:

WALKER REALTY LLC

THE CITY OF MARLBOROUGH
By and through its duly authorized Mayor:

Robert Walker, Manager

Arthur G. Vigeant, Mayor
In his official capacity

MARLBORO HOSPITALITY LLC

Robert Walker, Manager

11 APEX LLC

Robert Walker, Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of _____, 2019, before me, the undersigned notary public, personally appeared Robert A. Walker, in his capacity as Manager of Walker Realty LLC, Marlboro Hospitality LLC and 11 Apex LLC, proved to me through satisfactory evidence of identification, which was personal knowledge to be the person whose name is signed on the preceding/attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of _____, 2019, before me, the undersigned notary public, personally appeared Arthur G. Vigeant, in his capacity as Mayor of the City of Marlborough, proved to me through satisfactory evidence of identification, which was

_____ (source of identification) to be the person whose name is signed on the preceding/attached document in his official capacity as the Mayor of the City of Marlborough, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires

EXHIBIT A

EXHIBIT B



City of Marlborough Planning Board

Administrative Offices
135 Neil St.
Marlborough, MA 01752

PLANNING BOARD

Barbara L. Fenby, Chair
Philip Hodge
Sean N. Fay
George LaVenture
Christopher Russ
Matthew Elder
Krista Holmi, Administrator
(508) 624-6910 x33200
kholmi@marlborough-ma.gov

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 APR 23 7:42

April 19, 2019

Mr. Edward Clancy
Council President
140 Main St.
Marlborough, MA 01752

RE: City Council Order No. 18-1007484, Proposed Zoning Map Amendment to Sec. 650-8, Rezoning Map 104, Parcels 29 and 29A (Mill St. South and Brigham St.) from Industrial (I) Zoning District to Commercial Automotive (CA) Zoning District.

Honorable President Clancy and Members:

At its regularly scheduled meeting on April 8, 2019, the Planning Board took the following action regarding the above-referenced Council order:

On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted 3-2 in favor of the proposed zoning amendment. (Fay, Elder Russ in favor, Fenby, LaVenture opposed, Hodge abstained.)

Should you need further information, don't hesitate to contact me.

Sincerely,

Barbara L. Fenby
Chairperson

City Clerk ✓

AYOUB ENGINEERING, INC
ENGINEERING AND ARCHITECTURAL CONSULTANTS
WWW.AYOUBENGINEERING.COM

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR -5 A 11:45

PH. 401-728-5533
FAX 401-724-1110

414 BENEFIT STREET
PAWTUCKET, RHODE ISLAND 02861

April 3, 2019

Mr. Steven W. Kerrigan
Acting City Clerk
City of Marlborough
140 Main Street
Marlborough, Massachusetts 01752

**RE: Colbea Enterprises, LLC/Shell Station
342 Boston Post Road East
AEI Project No. 1728.215**

Our client Colbea Enterprises, LLC is proposing to remove the existing three (3) 12,000 gallon gasoline underground storage tanks (USTs) and replace them with two (2) new 15,000 gallon USTs (1-15,000 gasoline, 1-9,000, 6,00 split gasoline/diesel), at the referenced Shell location.

The current UST license for this location permits storage of 36,000 gallons of gasoline. We are proposing with the new tanks: 24,000 gallons of gasoline and 6,000 gallons of diesel, totaling 30,000 gallons total storage.

Please note that the contractor will address the necessary submittals/permits pertaining to the removal/installation of tanks.

Should there be any further questions, or need for any further information concerning the proposed fire suppression plan, please do not hesitate to contact me at 401-728-5533.

Very truly yours,


Paul A. Sylvia, P.E.
Vice President/Engineer

10
125
OK # 65039



**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 16 A 9 55

**Lisa M. Thomas
City Clerk**

MARLBOROUGH, MA

DATE: 4/12/19

To the City Council:

Owner Name: Jean Rabelo

Residential Address: 24 Causeway St Hudson MA 01749

Telephone Number: 978-310-7971

Business Name: POST ROAD Used AUTO PARTS of Marlboro, INC

Business Address: 785 BOSTON POST RD

Business Telephone Number: 508-485-1538

Email Address: pruapjes@aol.com

Owner Signature: Jean EC Rabelo

The above-signed Jean Rabelo respectfully requests that he/she be

granted a Junk Dealer/Second Hand Dealer License.

In City Council

id
p25
Money order
AK



**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 18 A 10:31

**Lisa M. Thomas
City Clerk**

MARLBOROUGH, MA

DATE: 4/18/19

To the City Council:

Owner Name: GERALD DUMAIS

Residential Address: 6 HIGH STREET MARLBOROUGH MA 01712

Telephone Number: 508-400-4647

Business Name: DUMAIS & SONS SECOND HAND STORE

Business Address: 65 MECHANIC STREET MARLBOROUGH

Business Telephone Number: 508 485-4864

Email Address: DUMAISANDSONS@GMAIL.COM

Owner Signature: Gerald Dumais

The above-signed _____ respectfully requests that he/she be

granted a Junk Dealer/Second Hand Dealer License.

In City Council



RECEIVED
City of Marlborough, Massachusetts
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
CITY CLERK DEPARTMENT

2019 APR 25 A 8:04

Lisa M. Thomas
City Clerk

MARLBOROUGH, MA

DATE: 4/17/2019

To the City Council:

Owner Name: Best Buy Stores LP #820

Residential Address: PO Box 9450 Minneapolis MN 55440

Telephone Number: 612/291-4863

Business Name: Best Buy Stores LP #820

Business Address: 769 Donald Lynch Blvd, Marlborough, MA 01752

Business Telephone Number: 508-460-3775

Email Address: businesslicense@bestbuy.com

Officer
Owner Signature: *Kristi Carlson*

The above-signed Kristi Carlson respectfully requests that he/she be granted a Junk Dealer/Second Hand Dealer License.

In City Council

Marlborough City Clerk's Office • 140 Main St. • Marlborough, Massachusetts 01752
Telephone (508) 460-3775 • Fax (508) 460-3723

CB

DEPARTMENT OF PUBLIC UTILITIES

This statement is filed in accordance with Chapter 164, Section 84A

CONDENSED FINANCIAL RETURN

FOR YEAR ENDED DECEMBER 31, 2018

NSTAR GAS COMPANY
Doing Business as Eversource Energy

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR 22 A 11:13

FULL NAME OF COMPANY _____

LOCATION OF PRINCIPAL BUSINESS OFFICE 800 BOYLSTON STREET

BOSTON, MA 02199

STATEMENT OF INCOME FOR THE YEAR

Item	Current Year	Increase or (Decrease) from Preceding Year
OPERATING INCOME		
Operating Revenues		
Operating Expenses		
Operation Expense		
Maintenance Expense		
Depreciation Expense		
Amortization of Utility Plant		
Amortization of Regulatoru Debits		
Amortization of Investment Tax Credit		
Taxes other than Income Taxes		
Income Taxes		
Provisions for Deferred Federal Income Taxes		
Federal Income Taxes Deferred In Prior Years..(Credit)		
Total Operating Expenses		
Net Operating Revenues		
Income from Utility Plant Leased to Others		
Other Utility Operating Income		
Total Utility Operating Income		
OTHER INCOME		
Income from Mdse. Jobbing & Contract Work		
Income from Nonutility Operations		
Nonoperating Rental Income		
Interest and Dividend Income		
Miscellaneous Nonoperating Income		
Total Other Income		
Total Income		
MISCELLANEOUS INCOME DEDUCTIONS		
Miscellaneous Amortization		
Other Income Deductions		
Total Income Deductions		
Income Before Interest Charges		
INTEREST CHARGES		
Interest on Long-Term Debt		
Amortization of Debt Discount and Expense		
Amortization of Premium on Debt-Credit		
Interest on Debt to Associated Companies		
Other Interest Expense		
Interest Charged to Construction-Credit		
Total Interest Charges		
Net Income		

SEE THE ATTACHED INCOME STATEMENT FOR 2018 AS FILED IN THE DPU ANNUAL RETURN

STATEMENT OF INCOME FOR THE YEAR

Line No.	Account (a)	Current Year (b)	Increase or (Decrease) from Preceding Year (c)
1	OPERATING INCOME		
2	Operating Revenues (400) P.43.....	\$ 509,747,981	\$ 64,192,038
3	Operating Expenses:		
4	Operation Expense (401) P.42,47.....	362,162,487	56,567,116
5	Maintenance Expense (402) P.42,47.....	7,694,891	100,430
6	Depreciation Expense (403) P.34.....	33,956,971	1,876,776
7	Amortization of Utility Plant (404 and 405).....	432,679	(67,722)
8	Amortization of Regulatory Credits, net (407.3, 407.4).....	7,244,934	1,108,013
9	Amortization of Investment Tax Credit (406).....	-	-
10	Taxes Other Than Income Taxes (408) P.49.....	25,355,887	2,374,618
11	Income Taxes (409) P.49.....	6,175,102	7,157,283
12	Provision for Deferred Fed. Inc. Taxes (410) P.36.....	16,720,181	(23,453,710)
13	Fed. Inc. Taxes Def. in Prior Yrs.-Cr. (411) P.36.....	(8,690,839)	9,562,702
14	Total Operating Expenses.....	451,052,293	55,225,506
15	Net Operating Revenues.....	58,695,688	8,966,532
16	Income from Utility Plant Leased to Others (412)-Net.....	-	-
17	Other Utility Operating Income (414) P.50.....	-	-
18	Total Utility Operating Income.....	58,695,688	8,966,532
19	OTHER INCOME		
20	Income from Mdse. Job & Contract Work (415) P.51.....	-	-
21	Income from Nonutility Operations (417).....	41,164	(1,675)
22	Nonoperating Rental Income (418).....	83,375	-
23	Interest and Dividend Income (419).....	(2,137)	(46,308)
24	Miscellaneous Nonoperating Income (421).....	1,321,020	49,181
25	Total Other Income.....	1,443,422	1,198
26	Total Income.....	60,139,110	8,967,730
27	MISCELLANEOUS INCOME DEDUCTIONS		
28	Miscellaneous Amortization (425).....	-	-
29	Other Income Deductions (426).....	1,037,075	458,690
30	Total Income Deductions.....	1,037,075	458,690
31	Income Before Interest Charges.....	59,102,035	8,509,040
32	INTEREST CHARGES		
33	Interest on Long-Term Debt (427) P.31.....	15,968,944	(252,055)
34	Amortization of Debt Disc. & Expense (428).....	97,609	(12,431)
35	Amortization of Prem. on Debt-Credit (429) P.26.....	-	-
36	Int. on Debt to Associated Companies (430) P.32.....	3,210,269	2,169,003
37	Other Interest Expense (431).....	1,353,826	913,453
38	Interest Charged to Construction-Credit (432).....	(364,887)	(201,255)
39	Total Interest Charges.....	20,265,761	2,616,715
40	Net Income.....	38,836,274	5,892,325
41	EARNED SURPLUS		
42	Unappropriated Earned Surplus (at beginning of period) (216).....	(78,997,560)	(75,146,009)
43	Balance Transferred from Income (433).....	38,836,274	5,892,325
44	Miscellaneous Credits to Surplus (434).....	62,566	52,524
45	Miscellaneous Debits to Surplus (435).....	-	-
46	Appropriations of Surplus (436).....	-	-
47	Net Additions of Earned Surplus.....	38,898,840	5,944,849
48	Dividends Declared-Preferred Stock (437).....	-	-
49	Dividends Declared-Common Stock (438).....	19,200,000	(88,900,000)
50	Unappropriated Earned Surplus (at end of period) (216).....	\$ (59,298,720)	\$ 19,698,840

NOTES: SEE THE ATTACHED BALANCE SHEET FOR 2018 AS FILED IN THE DPU ANNUAL RETURN

BALANCE SHEET

Title of Account	Balance End of Year	Title of Account	Balance End of Year
UTILITY PLANT		PROPRIETARY CAPITAL	
Utility Plant.....		CAPITAL STOCK	
		Common Stock Issued.....	
OTHER PROPERTY AND INVESTMENTS		Preferred Stock Issued.....	
Nonutility Property.....		Capital Stock Subscribed.....	
Investment in Associated Companies.....		Premium on Capital Stock.....	
Other Investments.....		Total.....	
Special Funds.....			
Total Other Property and Investments		SURPLUS	
		Other Paid-In Capital.....	
CURRENT AND ACCRUED ASSETS		Earned Surplus.....	
Cash.....		Surplus Invested in Plant.....	
Special Deposits.....		Total.....	
Working Funds.....			
Temporary Cash Investments.....		Total Propriety Capital.....	
Notes and Accounts Receivable.....			
Receivables from Associated Companies.....		LONG-TERM DEBT	
Materials and Supplies.....		Bonds.....	
Prepayments.....		Advances from Associated Companies.....	
Interest and Dividends Receivable.....		Other Long-Term Debt.....	
Rents Receivable.....		Total Long-Term Debt.....	
Accrued Utility Revenues.....			
Misc. Current and Accrued Assets.....		CURRENT AND ACCRUED LIABILITIES	
Total Current and Accrued Assets.....		Notes Payable.....	
		Accounts Payable.....	
DEFERRED DEBITS		Payables to Associated Companies.....	
Unamortized Debt Discount and Expense.....		Customer Deposits.....	
Extraordinary Property Losses.....		Taxes Accrued.....	
Preliminary Survey and Investigation Charges.....		Interest Accrued.....	
Clearing Accounts.....		Dividends Declared.....	
Temporary Facilities.....		Matured Long-Term Debt.....	
Miscellaneous Deferred Debits.....		Matured Interest.....	
Total Deferred Debits.....		Tax Collections Payable.....	
		Misc. Current and Accrued Liabilities.....	
CAPITAL STOCK DISCOUNT AND EXPENSE		Total Current and Accrued Liabilities.....	
Discount on Capital Stock.....		DEFERRED CREDITS	
Capital Stock Expense.....		Unamortized Premium on Debt.....	
Total Capital Stock Discount and Expense.....		Customer Advances for Construction.....	
		Other Deferred Credits.....	
REACQUIRED SECURITIES		Total Deferred Credits.....	
Reacquired Capital Stock.....			
Reacquired Bonds.....		RESERVES	
Total Reacquired Securities.....		Reserves for Depreciation.....	
		Reserves for Amortization.....	
Total Assets and Other Debits.....		Reserves for Uncollectible Accounts.....	
		Operating Reserves.....	
		Reserve for Depreciation and Amortization of Nonutility Property.....	
		Reserves for Deferred Income Taxes.....	
		Total Reserves.....	
		CONTRIBUTIONS IN AID OF CONSTRUCTION	
		Contributions in Aid of Construction.....	
		Total Liabilities and Other Credits.....	

COMPARATIVE BALANCE SHEET Assets and Other Debits

Line No.	Title of Account (a)	Balance Beginning of Year (b)	Balance End of Year (c)	Increase or (Decrease) (d)
1	UTILITY PLANT			
2	Utility Plant (101-107) P.13.....	\$ 1,357,847,490	\$ 1,505,844,513	\$ 147,997,023
3	OTHER PROPERTY AND INVESTMENTS			
4	Nonutility Property (121) P.19.....	2,983,419	2,983,419	-
5	Investments in Associated Companies (123) P.20.....	-	-	-
6	Other Investments (124) P.20.....	6,000	6,000	-
7	Special Funds (125,126,127,128,129) P.21.....	21,484,742	23,326,967	1,842,225
8	Total Other Property and Investments.....	24,474,161	26,316,386	1,842,225
9	CURRENT AND ACCRUED ASSETS			
10	Cash (131).....	-	-	-
11	Special Deposits (132,133,134) P.21.....	-	-	-
12	Working Funds (135).....	-	-	-
13	Temporary Cash Investments (136) P.20.....	-	-	-
14	Notes and Accounts Receivable (141,142,143) P.22.....	62,020,229	66,069,497	4,049,268
15	Receivables from Assoc. Companies (145,146) P.23.....	15,196,368	15,752,654	556,286
16	Material and Supplies (151-159,163,164) P.24.....	15,920,871	13,424,683	(2,496,188)
17	Prepayments (165).....	1,732,370	4,843,434	3,111,064
18	Interest and Dividends Receivable (171).....	-	-	-
19	Rent Receivable (172).....	8,820	10,027	1,207
20	Accrued Utility Revenues (173,175).....	41,228,521	31,266,631	(9,961,890)
21	Misc. Current and Accrued Assets (174).....	-	-	-
22	Total Current and Accrued Assets.....	136,107,179	131,366,926	(4,740,253)
23	DEFERRED DEBITS			
24	Unamortized Debit Discount and Expense (181) P.26.....	590,641	825,799	235,158
25	Extraordinary Property Losses (182) P.27.....	-	-	-
26	Preliminary Survey and Investigation Charges (183).....	-	-	-
27	Clearing Accounts (184).....	-	-	-
28	Temporary Facilities (185).....	-	-	-
29	Miscellaneous Deferred Debits (186) P.27.....	304,057,774	295,381,111	(8,676,663)
30	Matured Interest (240).....	-	-	-
31	Total Deferred Debits.....	304,648,415	296,206,910	(8,441,505)
32	CAPITAL STOCK DISCOUNT AND EXPENSE			
33	Discount on Capital Stock (191) P.28.....	-	-	-
34	Capital Stock Expense (192) P.28.....	-	-	-
35	Total Capital Stock Discount and Expense.....	-	-	-
36	REACQUIRED SECURITIES			
37	Reacquired Capital Stock (196).....	-	-	-
38	Reacquired Bonds (197).....	-	-	-
39	Total Reacquired Securities.....	-	-	-
40	Total Assets and Other Debits.....	\$ 1,823,077,245	\$ 1,959,734,735	\$ 136,657,490

COMPARATIVE BALANCE SHEET Liabilities and Other Credits

Line No.	Title of Account (a)	Balance Beginning of Year (b)	Balance End of Year (c)	Increase or (Decrease) (d)
1	PROPRIETARY CAPITAL			
2	CAPITAL STOCK			
3	Common Stock Issued (201) P.29.....	\$ 71,425,000	\$ 71,425,000	\$ -
4	Preferred Stock Issued (204) P.29.....	-	-	-
5	Capital Stock Subscribed (202,205).....	-	-	-
6	Premium on Capital Stock (207) P.29.....	-	-	-
7	Total.....	71,425,000	71,425,000	-
8	SURPLUS			
9	Other Paid-In Capital (208-211) P. 12.....	341,408,483	433,908,483	92,500,000
10	Earned Surplus (215,216,219) P. 12.....	(78,997,560)	(59,298,720)	19,698,840
11	Surplus Invested In Plant (217).....	-	-	-
12	Total.....	262,410,923	374,609,763	112,198,840
13	Total Proprietary Capital.....	333,835,923	446,034,763	112,198,840
14	LONG TERM DEBT			
15	Bonds (221) P.31.....	285,000,000	385,000,000	100,000,000
16	Advances from Assoc. Companies (223) P.31.....	-	-	-
17	Other Long-Term Debt (224) P.31.....	-	-	-
18	Total Long-Term Debt.....	285,000,000	385,000,000	100,000,000
19	CURRENT AND ACCRUED LIABILITIES			
20	Notes Payable (231) P.32.....	-	-	-
21	Accounts Payable (232).....	56,103,523	62,487,397	6,383,874
22	Payables to Associated Companies (233,234) P.32.....	226,113,465	121,874,673	(104,238,792)
23	Customer Deposits (235) P.80C.....	1,167,060	1,240,987	73,927
24	Taxes Accrued (236).....	3,980,679	1,347,434	(2,633,245)
25	Interest Accrued (237).....	4,524,226	4,354,548	(169,678)
26	Dividends Declared (238).....	-	-	-
27	Matured Long-Term Debt(239).....	-	-	-
28	Matured Interest (240).....	-	-	-
29	Tax Collections Payable (241).....	842,920	877,599	34,679
30	Misc. Current and Accrued Liabilities (242) P.33.....	7,304,037	4,481,852	(2,822,185)
31	Total Current and Accrued Liabilities.....	300,035,910	196,664,490	(103,371,420)
32	DEFERRED CREDITS			
33	Unamortized Premium on Debt (251) P.26.....	-	-	-
34	Customer Advances for Construction (252).....	-	-	-
35	Other Deferred Credits (253) P.33.....	249,979,196	235,620,856	(14,358,340)
36	Total Deferred Credits.....	249,979,196	235,620,856	(14,358,340)
37	RESERVES			
38	Reserves for Depreciation (254-256) P.13.....	417,382,003	438,264,031	20,882,028
39	Reserves for Amortization (257-259) P.13.....	3,028,953	3,426,578	397,625
40	Reserve for Uncollectible Accounts (260).....	16,397,754	17,048,664	650,910
41	Operating Reserves (261-265) P.35.....	98,993,252	114,231,210	15,237,958
42	Reserve for Depreciation & Amortization of Nonutility Property (266).....	-	-	-
43	Reserves for Deferred Federal Income Taxes (268) P.36.....	118,424,254	123,444,143	5,019,889
44	Total Reserves.....	654,226,216	696,414,626	42,188,410
45	CONTRIBUTIONS IN AID OF CONSTRUCTION			
46	Contributions in Aid of Construction (271) P. 36.....	-	-	-
47	Total Liabilities and Other Credits.....	\$ 1,823,077,245	\$ 1,959,734,735	\$ 136,657,490

STATEMENT OF EARNED SURPLUS

Account	Amount for Year	Inc/(Dec) from Preceding Year
Unappropriated Earned Surplus (at beginning of period)		
Balance Transferred from Income		
Accumulated Other Comprehensive Income		
Miscellaneous Debits to Surplus		
Appropriations of Surplus		
Net Additions to Earned Surplus		
Paid in Capital Adjustments		
Dividends Declared-Common Stock		
Unappropriated Earned Surplus (at end of period)		

SEE THE ATTACHED STATEMENT OF EARNED SURPLUS FOR 2018 AS FILED IN THE DPU ANNUAL RETURN

ELECTRIC OPERATING REVENUES

Account	Operating Revenues	
	Amount for Year	Inc/(Dec) from Preceding Year
SALES OF ELECTRICITY		
Residential Sales	\$	
Commercial and Industrial Sales		
Small (or Commercial)		
Large (or Industrial)		
Public Street and Highway Lighting		
Other Sales to Public Authorities		
Sales to Railroad and Railways		
Interdepartmental Sales		
Miscellaneous Electric Sales		
Total Sales to Ultimate Consumers		
Sales for Resale		
Less: Provision for Rate Refunds		
Total Sales of Electricity		
OTHER OPERATING REVENUES		
Forfeited Discounts		
Miscellaneous Service Revenues		
Sales of Water and Water Power		
Rent from Electric Property		
Interdepartmental Rents		
Other Electric Revenues		
Total Other Operating Revenues		
Total Electric Operating Revenues	None	None

SUMMARY OF ELECTRIC OPERATION AND MAINTENANCE EXPENSES

Functional Classification	Operation	Maintenance	Total
Power Production Expenses		\$	\$
Electric Generation			
Steam Power			
Nuclear Power			
Hydraulic Power			
Other Power			
Other Power Supply Expenses			
Total Power Production Expenses			
Transmission Expenses			
Distribution Expenses			
Customer Accounts Expenses			
Sales Expenses			
Administrative and General Expenses			
Total Electric Operation and Maintenance Expenses	None	None	None

STATEMENT OF EARNED SURPLUS (Accounts 215, 216 & 219)

1. Report in this schedule an accounting for changes in appropriated and unappropriated earned surplus for the year.

2. Each credit and debit during the year should be identified as to the surplus account in which included (Accounts 433-438 inclusive) and the contra primary account affected shown. Minor items may be grouped by classes; however, the number of items in each group should be shown.

3. For each reservation or appropriation of earned surplus state the purpose, amount, and in the case of reservations, the reserve account credited.

Explain in a footnote the basis for determining the amount reserved or appropriated and if such reservation or appropriation is to be recurrent, state the number and annual payments to be reserved or appropriated as well as the totals eventually to be accumulated.

4. Dividends should be shown for each class and series of capital stock. Show amounts of dividends per share.

5. List credits first; then debits.

Line No.	Item (a)	Contra Primary Account Affected (b)	Amount (c)
1	UNAPPROPRIATED EARNED SURPLUS (Accounts 216 & 219)		
2	Balance-Beginning of Year		\$ (78,997,560)
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14	Credits:		
15	Net income (loss)	433	38,836,274
16	Accum Other Comprehensive Income	219	62,566
17			
18	Debits:		
19	Dividends on Common Stock:	131	19,200,000
20	Cash Dividend on Common Stock		
21			
22			
23	03/18 - 2,857,000 shares at \$1.68 per share		
24	06/18 - 2,857,000 shares at \$1.68 per share		
25	09/18 - 2,857,000 shares at \$1.68 per share		
26	12/18 - 2,857,000 shares at \$1.68 per share		
27	Balance - end of year		\$ (59,298,720)
28	APPROPRIATED EARNED SURPLUS (Account 215)		\$
29	State balance and purpose of each appropriated earned surplus amount at end		
30	of year and give accounting entries for any applications of appropriated earned		
31	surplus during the year.		
32			
33	NONE		
34			
35			
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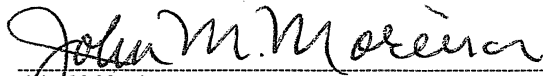
GAS OPERATING REVENUES

Account	Operating Revenues	
	Amount for Year	Increase or (Decrease) from Preceding Year
SALES OF GAS		
Residential Sales.....	\$ 291,632,855	\$ 33,606,834
Commercial and Industrial Sales		
Small (or Commercial).....	94,370,851	16,136,054
Large (or Industrial).....	11,019,154	1,883,617
Other Sales to Public Authorities.....	10,509,698	2,137,063
Interdepartmental Sales.....	-	-
Miscellaneous Gas Sales - Deferrals.....	375,211	(3,495,676)
Total Sales to Ultimate Consumers.....	407,907,769	50,267,892
Sales for Resale.....	29,787,707	(2,303,244)
Total Sales of Gas.....	437,695,476	47,964,648
OTHER OPERATING REVENUES		
Forfeited Discounts-Late Payment Charges.....	369,841	71,653
Miscellaneous Service Revenues.....	209,688	(32,989)
Revenues from Transportation of Gas to Others.....	69,933,886	13,007,049
Sales of Products Extracted from Natural Gas.....	-	-
Revenues from Natural Gas Processed by Others.....	-	-
Rent from Gas Property.....	1,394,086	80,777
Interdepartmental Rents.....	-	-
Other Gas Revenues.....	145,004	3,100,900
Total Other Operating Revenues.....	72,052,505	16,227,390
Total Gas Operating Revenues.....	\$ 509,747,981	\$ 64,192,038

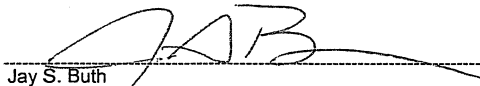
SUMMARY OF GAS OPERATION AND MAINTENANCE EXPENSES

Functional Classification	Operation	Maintenance	Total
Steam Production.....			
Manufactured Gas Production.....			
Other Gas Supply Expenses.....	\$ 288,267,497	\$ -	\$ 288,267,497
Total Production Expenses.....	288,267,497	-	288,267,497
Local Storage Expenses.....	(990)	5,929	4,939
Transmission and Distribution Expense.....	17,180,979	7,688,962	24,869,941
Customer Accounts Expense.....	21,022,759	-	21,022,759
Sales Expense.....	1,062,984	-	1,062,984
Administrative and General Expenses.....	34,629,258	-	34,629,258
Total Gas Operation and Maintenance Expenses.....	\$ 362,162,487	\$ 7,694,891	\$ 369,857,378

April 12, 2019, I hereby certify that the foregoing statements are full, just and true to the best of my knowledge and belief. This statement is signed under the penalties of perjury.



John M. Moreira
Senior Vice President-Finance and Regulatory and Treasurer



Jay S. Butth
Vice President, Controller and Chief Accounting Officer



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Marlborough Public Schools

2019 APR 16 A 11: 51

School Committee
17 Washington Street, Marlborough, MA 01752
(508) 460-3509

Call to Order

February 26, 2019

1. Chairman Vigeant called the regular meeting of the Marlborough School Committee to order at 7:55 pm at the District Education Center, 17 Washington Street, Marlborough, MA. Members present included Mr. McLaughlin, Mrs. Matthews, Mrs. Bodin-Hettinger, Mrs. Ryan, Mrs. Hennessy and Mr. Geary.

Superintendent Michael Bergeron, Assistant Superintendent of Teaching and Learning, Mary Murphy, Director of Finance and Operations Douglas Dias were also present.

In attendance were MEA Representative Rupal Patel, and Administrative Support Christine Martinelli.

This meeting was recorded by local cable WMCT-TV and is available for review.

2. **Pledge of Allegiance:** Chairman Vigeant led the Pledge of Allegiance.

3. **Presentation:**

Whitcomb STEM Week: During October 22-26, 2018, Whitcomb students took part in various STEM related activities and on October 29 the public was invited to view the student's projects. All these activities were supported by many corporate donations and the weeklong event was sponsored by i2 Learning. Whitcomb Principal Brian Daniels and Supervisor of Science and Technology Education, grades 6-12, Kathleen Richov, showed a video presentation and after, spoke briefly about STEM Week at Whitcomb School. The video can be found on the MPS website in the School Committee Meeting of February 22.

Mrs. Bodin-Hettinger asked if the teachers noticed a measurable increase with students' classroom engagement after their work in STEM Week.

Mr. Bergeron commented that attendance for students at Whitcomb School was up significantly during STEM Week.

Mrs. Hennessy asked if perhaps STEM Week could be continued and expanded beyond the Middle School grade students.

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4. Committee Discussion/Directives: None

5. Communications: None

6. Superintendents Report

Assabet Valley Collaborative Update - The 2018 Annual Report by the Assabet Valley Collaborative was given to the committee. This will count as the 2nd quarter report from AVC to the school committee.

Mazie Partnership Program – A budget transfer from the FY20 budget has been requested to begin developing a partnership with Big Brother/Big Sisters and the Mazie Partnership program at MHS. This is an opportunity Superintendent Bergeron and MHS Principal Dan Riley have been discussing. The Mazie Partnership program offers adult support for high school youth at risk in the community. A brief overview of their program can be found at mazie.org/about.

District Review – Edits to the draft report were submitted February 6, 2019 and the draft is now final. Mr. Bergeron will be giving a copy to all the School Committee. When DESE releases it back to the district, it will be used to continue improving the quality of education to all MPS students.

FY20 Budget Document – Mr. Dias completed the FY20 budget document and Superintendent Bergeron looks forward to the Budget Workshop tomorrow, February 27. He reminded the committee to send him any questions they might have.

Formative Assessment – Superintendent Bergeron gave the School Committee a written update to his goals for this year. He will also be sharing his entry plan with the committee in March. The Superintendent’s Goals FY2019 can be found in the School Committee packet of February 26, 2019; Superintendent’s Report.

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Workshop - With the success of the first workshop, and the amount of work still to be done, Superintendent Bergeron is requesting to have another workshop with the School Committee, to continue the work on developing goals and to refine the mission and core values.

WHDH Recognizes our students – The Superintendent recognized Brian Ziman, MHS Special Education Teacher who was in the audience, for the great work of Mr. Ziman and his students. If you have not had a chance to view the WHDH story of MHS students working together, go to whdh.com/news/Marlborough-high-school-hockey-players.

Mrs. Hennessy commented how she loved the involvement of all the students in the school, interacting and working together on all levels, such as life skills and empathy.

A. Assistant Superintendent of Teaching and Learning Report

We Surveys and Instructional Review – In December 2017 students and staff in grades 3 -12 completed the online We Surveys. The schools each reviewed the data, set goals in their School Improvement Plans, and identified professional development offered in August to support the needs of their individual school buildings. Recently, students and staff from grades 3 – 12 once again completed the We Surveys, and along with classroom observations from ICLE consultant Jim Miles, this will allow us to measure growth as we work to improve outcomes for our students.

January 22 Professional Development – the January 22 catalog of professional development offerings for all MEA members can be found in the School Committee packet of February 26, 2019; Assistant Superintendent of Teaching and Learning Report. Paraeducators and behavior technicians were assigned to *Positive Behavior Interventions* and *Developing Growth Mindset*. During the professional development day, paraeducators, behavior techs and office support also completed ALICE training.

B. Director of Finance and Operations Report

On February 27, the FY20 Budget Workshop was held. A PDF version of the Superintendent's Budget request is posted on the district's website. An increase of 2.88% over FY19 is being requested.

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There is a negative balance of -\$4,017 as of 2/19/19 compared to a negative balance of -\$2,611 at the same time last year. The Finance and Operations office, along with Food Services and school administrators, continue to communicate with families to ensure they are aware of the free and reduced lunch program.

Our five-year contract with Aramark expires on 6/30/19. The District has put out bids to contract with a Food Service Management Company (FSMC), with the goal to secure another five-year contract with a partner who can continue with the success MPS has had running a nutritious and profitable food services program.

The City of Marlborough recently received bids for Before and After School Childcare and Enrichment Programs. The vendor selection process involves an analysis of the financial package as well as programming offerings.

Superintendent Bergeron asked if any School Committee members would like to serve on the RFP Committee for the Food Service Contract.

7. Acceptance of Minutes:

A. Minutes of January 22, 2019 School Committee Meeting

Motion made by Mrs. Matthews, seconded by Chairman Vigeant, to approve the school Committee minutes of January 22, 2019.

Motion passed 7-0-0.

8. Public Participation: None

9. Action Items/Reports:

Superintendent Bergeron gave a short overview of the Promise Act, for the School Committee.

Mrs. Patel, MEA Representative, asked the School Committee to pass the resolution supporting the Promise Act. This Act is the recalculation of the funding formula for state funding for public education and addresses the issues that are relevant today.

Chairman Vigeant will not support the resolution but does support that a new formula is needed, starting from a blank slate.

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Mrs. Bodin-Hettinger spoke that the current formula does not factor in a lot of things it takes to educate a student, and the premise that the funding formula is based on, has flawed.

Mrs. Hennessy echoed Mrs. Patel's point of needing more people speaking out on passing this resolution and getting more people's attention to help make these changes possible.

A. Resolution supporting the Promise Act – A motion was made by Mrs. Bodin-Hettinger, seconded by Chairman Vigeant, to approve the Resolution supporting the Promise Act. Motion passed 6-1-0.

B. FY 20 School Calendar

Superintendent Bergeron provided a draft of the FY20 calendar to the School Committee with dates discussed and clarifying questions asked. A revised calendar will be drafted. A motion to table the FY20 School Calendar until the March 12 meeting was made by Chairman Vigeant. Motion passed 7-0-0.

C. Assabet Valley Collaborative Report (2 of 4)

This Assabet Valley Collaborative Report, 2 of 4, for the year 2018 – 2019, was provided to all the School Committee members by Superintendent Bergeron. No Motion needed.

D. FY20 Operating Budget Transfers

Mr. Dias is recommending transfers within the FY19 operating budget, the monies are being transferred for balance purposes. A motion was made by Mrs. Matthews, seconded by Mr. Vigeant, to approve as presented the budget transfers. The complete report can be found in the School Committee packet of February 26, 2019; Action Item 9B. Motion passed 7-0-0.

Mrs. Matthews asked a clarifying question on one of the payment lines to Kane Elementary.

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E. Acceptance of Donations and Gifts

Lifetouch National School Studios a \$1,871.45 commission check was received by Jaworek Elementary, as part of commissions to the school for picture sales. A motion was made by Mrs. Matthews, seconded by Chairman Vigeant, to accept with gratitude the donation from Lifetouch National School Studios.

Motion passed 7-0-0.

Marlborough Junior Woman's Club donation of \$2,000.00 for Richer Elementary to purchase and install three sensory paths to be used by all students. A motion was made by Mrs. Matthews, seconded by Chairman Vigeant, to accept with gratitude the donation from Marlborough Junior Woman's Club.

Motion passed 5-0-2.

Global Partners, LP donation of \$500.00 to help foster math and science education and to enrich and strengthen STEM related projects. A motion was made by Mrs. Matthews and seconded by Chairman Vigeant, to accept with gratitude the donation from Global Partners, LP.

Motion passed 7-0-0.

Anonymous donation of \$400.00 to Marlborough High School. A motion was made by Mrs. Matthews and seconded by Chairman Vigeant, to accept with gratitude the donation from Anonymous donor.

Motion passed 7-0-0.

Saint-Gobain Corporation donated \$1,200 to Whitcomb School to be used in the makerspace classroom supporting the little bits STEAM education class run by Mrs. Kelly Hall. A motion was made by Mrs. Matthews and seconded by Chairman Vigeant, to accept with gratitude the donation from Saint-Gobain Corporation.

Motion passed 7-0-0.

Follet Buy Back Program paid Kane Elementary \$10.58 for payment of books sold through the Consignment Buy Back program. A motion was made by Mrs. Matthews and seconded by Chairman Vigeant, to accept with gratitude the donation from Follet.

Motion passed 7-0-0.

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Coca Cola Give Program donated \$27.70 from funds raised by parents and the community when purchasing Coca Cola products. A motion was made by Mrs. Matthews and seconded by Chairman Vigeant, to accept with gratitude the donation from Coca Cola.

Motion passed 7-0-0.

DESE History and Social Science Planning and Implementation Grant for \$7,554.00 was given to Marlborough Public Schools. A motion was made by Mrs. Matthews and seconded by Chairman Vigeant, to accept with gratitude the donation from DESE.

Motion passed 7-0-0.

10. Reports of School Committee Sub-Committees:

11. Members' Forum:

Mrs. Matthews reviewed the warrant and signed it.

Mrs. Bodin-Hettinger commented on the donation the Marlborough Junior Woman's Club made for three sensory paths at Richer Elementary.

Superintendent Bergeron is very thankful to the Junior Woman's Club for this important contribution.

Mary Murphy commented that the sensory paths are one of the important tools Richer Elementary is using.

Chairman Vigeant shared an email with an update on the new elementary school being built; the last day of foundation is being poured and the crane is scheduled to be onsite this week.

Mrs. Matthews welcomed new School Committee member Darren McLaughlin.

Mrs. Hennessy asked everyone to come and support the students this weekend, March 1-3, performing *Singing in the Rain Junior* at Whitcomb School, Friday and Saturday, at 7:00 p.m. and Sunday at 1:00 p.m.

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Mrs. Ryan encouraged everyone to come meet the two finalists for the principal position at the new elementary school, Thursday, February 28 at Jaworek Elementary, 7-8 p.m.

12. Adjournment:

Motion made by Mrs. Bodin-Hettinger, seconded by Chairman Vigeant to adjourn at 8:49 pm.

Motion passed 7-0-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Heidi Matthews", with a long horizontal flourish extending to the right.

Heidi Matthews
Secretary, Marlborough School Committee

HM/cm

Approved 3/12/2019

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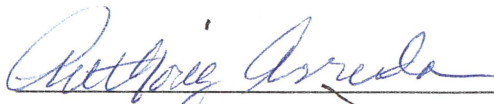
It is the policy of the Marlborough Public Schools not to discriminate on the basis of race, gender, religion, national origin, color, homelessness, sexual orientation, gender identity, age or disability in its education programs, services, activities or employment practices.

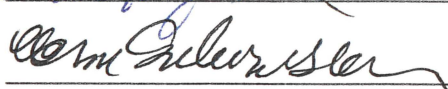
CITY OF MARLBOROUGH BOARD OF ASSESSORS

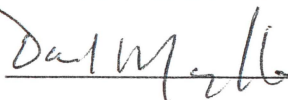
MEETING MINUTES: April 3, 2019

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CITY OF MARLBOROUGH
2019 APR 17 A 11:00

1. CALL TO ORDER: 9:00 am
2. MEMBERS PRESENT: Anthony Arruda, Ellen Silverstein
Also in Attendance: Jonathan Frank, Nathaniel Cramer & Harald Scheid, Regional Assessors,
Paula Murphy, Head Clerk
3. MOTION TO ACCEPT: Minutes of the March 20, 2019 meeting
4. APPROVE & SIGN: 2019 Real Estate Tax Deferrals, Motor Vehicle Excise Tax Abatements of
2/2/19 to 3/28/2019
5. DISCUSS AND VOTE: Commercial Real Estate Abatement Applications: 28, 221 Boston Post Rd
East, 277 Boston Post Rd West, 26, 50, 62 Forest St, 420 Maple St, 100, 200, 300, 400, 500, 600,
700 Nickerson Rd, 286 West Main St
Motion to Deny: Mr. Arruda, second Ms. Silverstein
Vote 2-0
6. DISCUSS: Commercial Real Estate Abatement Applications: 207 Main St Units 5 & 6, tabled for
further research.
7. DISCUSS AND VOTE: Commercial Real Estate Abatement Applications: 2-10 Boston Post Rd East,
112 Forest St
Motion to Grant: Mr. Arruda, second Ms. Silverstein
Vote: 2-0
8. Mr. Scheid and Mr. Frank left the meeting at 10 am.
9. DISCUSS AND VOTE: Residential Real Estate Abatement Applications: 169 Cameron Dr, 27-29
Cotting Ave, 126 Goodale St, 158 Howe St, 316 Mechanic St, 1 Woodridge Rd,
Motion to Deny: Mr. Arruda, second Ms. Silverstein
Vote: 2-0
10. DISCUSS AND VOTE: Residential Real Estate Abatement Applications: 68 Church St, 829 Concord
Rd, 163 Elm St, 17 Flynn Ave, 182 Vega Rd,
Motion to Grant: Mr. Arruda, second Ms. Silverstein
Vote: 2-0
11. Mr. Cramer discussed with Board members making changes to the upgrade factors on Assabet
Ridge Condomiums.
12. MOTION TO CONCLUDE – Mr. Arruda, second Ms. Silverstein
Meeting Adjourned – 10.45 am



 - - 4/17/19



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CITY OF MARLBOROUGH
2019 APR 10 A 9:58

MARLBOROUGH COMMISSION ON DISABILITIES
MINUTES FOR MEETING MARCH 3/12/19
MAYOR'S CONFERENCE ROOM 4TH FLOOR
CITY HALL

ATTENDANCE: JOHN USINAS, DEBRA MCMANUS,
LAURA KYLE, DEREK CHAVES, DAVE DOUCETTE.

DEBRA MCMANUS CALLED THE MEETING TO ORDER
AT 4:07 PM.

MINUTES

MOTION TO ACCEPT PASSES UNANIMOUSLY.

TREASURERS REPORT

MOTION TO ACCEPT PASSES UNANIMOUSLY, \$4,617.42

NEW BUSINESS

- DEBRA & JOHN ARE ATTENDING A MEETING TONIGHT CONCERNING RACE AMITY A CITY-WIDE EVENT HELD THE 2ND SUNDAY IN JUNE EVERY YEAR.
- DEREK HANDED IN HIS RESIGNATION. HE WILL NO LONGER BE A MARLBOROUGH RESIDENT. THANK YOU DEREK FOR ALL YOUR CONTRIBUTIONS TO THE COD.
- A MOTION WAS MADE TO DONATE \$500.00 TO BE MADE TO BRING THE METROWEST DAILY NEWS ONTO THE NEWSLINE SERVICE FOR VISUALLY

IMPAIRED AND PRINT HANDICAPPED PERSONS.
ACCEPTED 5 TO 0.

OLD BUSINESS

- SNOW PLOWING AT THE CORNER OF FLORENCE ST. & GRANGER BLVD CONTINUES TO BE AN ISSUE. JOHN CALLED THE MAYOR.
- APEX COMPLEX INSTALLED AUTOMATIC DOORS MAKING ACCESS EASIER.
- ROYAL CREST ESTATES FIXED THEIR HANDICAPPED PARKING ISSUES.
- THE HONEY FARMS PLAZA ON PLEASANT STREET HAS NO CURB CUTS. THEY ARE GRANDFATHERED IN UNTIL THEY MADE ANY KIND OF REPAIRS, UPDATES OR MODIFICATIONS, WE CAN'T DO ANYTHING.
- 72 HOSMER STREET HAS NOT BROUGHT THEIR HANDICAPPED PARKING UP TO AAB REGULATIONS. THEY HAVE A HEARING IN APRIL.
- BOARDDOC.COM TO PUT COD MEETING MINUTES ONLINE HAS ACCESS ISSUES. DEREK HAS ALERTED COMPANY OF PROBLEMS.

THE MEETING ADJOURNED AT 4:47 PM.

OUR NEXT MEETING IS TUESDAY APRIL 9, 2019 AT 4:00 PM, CITY HALL IN THE MAYOR'S CONFERENCE ROOM ON THE 4TH FLOOR.

RESPECTFULLY SUBMITTED,
DEBRA MCMANUS

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

Minute

March 21, 2019 (Thursday)

Marlborough City Hall - 3rd Floor, Memorial Hall

7:00 PM

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CITY OF MARLBOROUGH

2019 APR 22 P 3:50

Present: Edward Clancy-Chairman, Allan White, David Williams, Karin Paquin, William Dunbar
Also present was Priscilla Ryder, Conservation Officer.

Absent: Dennis Demers and John Skarin

Acceptance of Minutes: The minutes of March 7, 2019 were reviewed and unanimously accepted as written.

Surprise presentation:

Mike Howard, President of the Mass Association of Conservation Commissions (MACC) and Lee Curtis on MACC Board of Directors were present and asked for some time to present some awards. Ms. Curtis explained that at the March annual conference the Long Time Service Award was given to Allan White for his 40 years of continuous service on the Conservation Commission. She noted that because it was snowing, and Mr. White does snow plowing he couldn't attend the conference to receive the award in person. Because it is such a commendable accomplishment, they wanted to come forward and deliver the award to him in person tonight. She read a short statement on his accomplishments during his 40 years of service, and his thoughts on the future of conservation. Ms. Ryder then read a citation from Mayor Arthur Vigeant commending Mr. White on his 40 years of dedicated service.

Before they concluded however, Mr. Howard also asked for a little more time to recognize Edward Clancy for his 50 years of service on the Conservation Commission. Mr. Clancy was also provided with a Long Time Service Award as well. He had received recognition on his 40th year anniversary too, and now he is again recognized for his ½ century of service on the Conservation Commission. Ms. Ryder also read a citation from Mayor Arthur Vigeant commending Mr. Clancy on his 50 years of continuous service to the Commission.

Both men were congratulated and thanked for all their hard work and dedication to protecting wetlands, waterways and open space in the city. Being a Conservation Commission member is a job both men have taken on with much dedication, commitment and conviction to protecting the natural world around the city and making sure that development is done right to preserve the natural environment.

Public Hearings:

Notice of Intent

123 Felton St. - 123 Felton St. LLC

Paul Matus (?) and Phil Cordeiro of Allan & Major Assoc. Inc, were present. Mr. Matus (?) explained that they have been hired to design an addition to the property which will include a new loading dock and they will also reconfigure the existing parking lot to accommodate the new addition. The wetlands were flagged on January 2019 by Ecotech. The plans show the 50' no disturb buffer zone as required in the Water Supply Protection District (WSPD), in which this property falls, and shows the 100' buffer zone. The site contains two existing detention basins. The addition will add 660 sq. ft. of additional impervious surface which will be mitigated by the installation of a subsurface infiltration system. They will meet the 80% TSS removal rate required to improve site conditions. Ms. Ryder noted that she has checked the wetland boundary as shown and it is satisfactory. The wetland exists at the base of the slope parallel to the highway. Mr. Cordeiro explained that he had received comments from the City Engineer and they will be addressed shortly, they were minor in nature and won't change the overall layout as presented. The property has been sold to an engineering firm which hopes to move in on September/October time frame. He also noted that the test pits for the infiltration system that were just done will be analyzed and any changes needed to the plans would be added. They will not be using any chemicals on site and therefore are not in conflict with the WSPD requirements. After some discussion, the Commission discussed the erosion controls, noted that no non-native invasive plants are to be planted. The discussion was opened to the public. Mr. Sanders of 88 Felton St. noted that the lights from one of the parking lot island lights shines into their home. Mr. Matus noted they would be in touch and would address that issue. There being no further comments the hearing was closed. Ms. Ryder was asked to draft a set of conditions for the next meeting for review.

Notice of Intent (Continued)

186 Reservoir St. – Fabriana Menezes

Andy Baum is a landscaper who was present to represent Ms. Menezes tonight. He noted that he has a plan this evening showing the proposed patio under the deck and a new propane tank location. He explained that at this time they will NOT be asking for approval of the addition as noted in the NOI, tonight they are ONLY asking for approval of the deck, patio and propane tank all of which are outside the 30' setback from the lake as required by the Floodplain and Wetland Protection District. A small portion of the patio does extend into this 30' zone, however, per the building inspector, a patio is not considered a structure under the code, so it can extend into this area. The Commission noted that the propane tank location and piping would need fire and building department approval. They wanted to be sure the gas line and sewer line crossing were acceptable. After some discussion, the Commission asked Mr. Baum to have a plan showing just the deck, patio and propane tank provided at the next meeting, this way the Commission can approve a specific plan and there will not be any confusion. The Commission noted that the proposed addition and the proposed driveway

would require a new wetland filing, when and if that is to go forward. Mr. Baum understood and will work with Ms. Menezes to get a revised plan before the next meeting. Ms. Ryder was asked to draft a set of conditions for review at the next meeting as well. The hearing was continued to the April 4th meeting.

Discussion:

- DEP 212-1198 150 Hayes Memorial Dr. – minor change to plans – Scott Weiss, from the Gutierrez Company, and David Robinson of Allan and Major were both present. Mr. Weiss explained that after the Order of Conditions was issued, they made some minor changes to the detention basin and removed the excess parking that had originally been proposed. He provided a letter and revised plan showing the changes. The footprint of the work area and the limit of work are all the same. The detention basin is being brought closer to the access driveway and the stockpile will be in the back. There was some discussion of adding trees and naturalizing the fill pile. After some discussion, it was agreed that a meadow or forest mix will be used on the fill slopes to stabilize and “naturalize” this slope over time. The Commission voted unanimously 5-0 to approve the changes as noted in the letter and the revised plans as minor changes not requiring a formal amendment.
- Snow removal protocol – Apex Center. Ms. Ryder noted that she has drafted the snow removal protocol for the Apex Center and it has been reviewed by Kevin Eriksen of Apex who had no concerns with the protocol as drafted. The Commission reviewed the protocol and draft letter and voted unanimously 5-0 to approve the plan as written. Ms. Ryder will send to Mr. Eriksen.

Certificate of Compliance

- DEP 212-903 150 Hayes Memorial Dr. – Letter from Fred Litchfield, Town of Northborough, dated Feb. 4, 2019 RE: Request for a Certificate of Compliance – Algonquin Regional High School, sewer connection. Ms. Ryder noted that she has walked the site with the Northborough Conservation Agent, Mia McDonald. The wetland replication area was not apparent given the amount of time that has lapsed, however with the delineation done for 150 Hayes Memorial Dr. and comparing that wetland line with the line established for the forced sewer connection from the Algonquin School it appears that the wetland is in fact larger than the original replication area required. After some discussion, the Commission agreed with the letter as presented and voted unanimously 5-0 to issue a full Certificate of Compliance for the work that was regulated under this Order of Conditions.
- DEP 212-514 22 Hutchinson Dr. (Lot 9) - Pinewood Subdivision – Partial Certificate of Compliance. Ms. Ryder noted that this subdivision has been done for a while and the Order of Conditions for this lot was released some time ago. She recommended a partial Certificate of Compliance be issued for this lot to clear the title. The Commission voted 5-0, unanimously, to issue a partial Certificate of Compliance.

- DEP 212-971 22 Hutchinson Dr. (Lot 9) – sewer work – Partial Certificate of Compliance. Upon doing research Ms. Ryder discovered that the sewer line was never connected into Hutchinson Dr. next to this lot, so it was never constructed here, therefore a partial certificate of compliance is recommended. The Commission voted 5-0, unanimously, to issue a partial Certificate of Compliance.

Draft Orders of Conditions

- DEP 212-1208 150 Cedar Hill St. – Ken’s Foods, Inc. the Commission reviewed the draft order of conditions for this project. They voted unanimously 5-0 to approve the conditions as written.
- DEP 212-1156 85 Dufresne Dr. – Amend Order of Conditions the Commission reviewed the draft Order of Conditions for this project. They voted unanimously 5-0 to approve the conditions as written.

Violation:

- Letter to Mike Harrington, dated March 11, 2019 RE: Fine associated with Violation Notice – 85 Dufresne Dr. (Lot 12) DEP 212-1156)- The Commission reviewed this violation notice. They approved it and voted unanimously 5-0 to ratify this violation notice.
- Lake Williams tree clearing - Ms. Ryder noted that the DPW has done some clearing near the court house which appears to be within the wetland area. Lots of trees were removed. She showed the Commission some pictures. It was agreed that the work must Cease and Desist until such time it can be reviewed by the Commission. Chairman Clancy and Ms. Ryder would meet with the DPW director to review this violation and determine the remedy.

Discussion:

- Lot 10 Dufresne Dr. - Fafard RE developer has indicated they would like to add a retaining wall and regrade the yard, so it can be maintained. The Commission asked that a formal request for a minor change letter be submitted for the next meeting

Next Meetings - April 4, 2019 (Thursday)

Adjournment: There being no further business, the meeting was adjourned at 8:50 PM

Respectfully submitted.


Priscilla Ryder
Conservation Officer

Marlborough Historical Commission
April 11, 2019
Marlborough Public Library, Reading Room (Lower level)

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CITY OF MARLBOROUGH
2019 APR 25 A 9:00

Attendees: Robert Fagone, Lee Wright, Associate Member Brendan Downey,
Associate Member Andrea Bell Bergeron
Absent: Melanie Whapham, Alan Slattery

Meeting called to order 7:05PM

Minutes approved from last month's meeting; no changes.

Public Awareness Projects:

MIT® still on target for Memorial Day roll-out; MEDC helping with PR; Main Street Journal articles have appeared in the past and will appear in the future; WMCT-TV News brief video.

Perhaps Commission should contact **Chris Skelly** Mass Historical Commission for public awareness input.

Scenic Roads signage still in process; once signs made, publicity to inform citizens; process still low priority.

Demolition Delay Order:

Melanie and Andrea making progress with wording of a formal proposal to mayor and Council. The mayor has taken notice of our Demo Delay project, wants to make sure he is appraised of our progress before any formal presentation to the Council or the public; some hesitancy with the idea of "delay" meaning delaying economic development. Fagone emphasized the idea that Demo Delay does not impede development, but adds time to exploration of historical alternatives to pure demolition. This will be the major task of the Commission in educating the City and the public about demolition delay. "Preservation by Education."

Correspondence and Communications:

Contact with property owner Blanca Silva concerning external renovation of the **Clisbee Mansion** on Pleasant and Lincoln Streets, French Hill. Particularly interested in columns and windows refurbishing. Fagone mentioned possible re-purposing of columns and window frames from **Rowe Funeral Home**. She was interested in asking her construction people about contact with Rowe property.

The **Commonwealth Armory** has been sold to **George Voyiatzis**. Chair has been in communication with Voyiatzis and the Mass Historical Commission about deed restrictions on the property as far as renovation allowances. Positive feedback between Mass Historical Commission and property owner. Light at the end of the tunnel for this property finally.

Young member of the Marlborough Historical Society, **Matthew Sargent**, running a project to add a marker at the grave of a Revolutionary War decedent. Coordination between DPW and

Sons of the American Revolution Organization. SAR will pay for all materials. Sargent will install marker.

Historic Home Signage Project:

Still on back burner. Fagone not convinced black and white stencil the only way to go. Board convinced plain board with only varnish not weather-feasible over the long run. Chair emphasizes the desire to keep the schools involved with this project as an out-reach priority. Commission must prepare better design for black and white signage, and re-introduce to Marlborough High School for up-coming school year.

New Location for Future Historical Commission Meetings:

Future Meetings will be held in City Hall. Historical Commission will piggy-back on schedule for Conservation Commission (2nd monthly meeting).

No further business. Motion to adjourn. Seconded. Meeting adjourned 8:20PM

Respectfully submitted,
Brendan Downey, Associate Member

Marlborough Public Library Board of Trustees

Meeting Minutes

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February 5, 2019

Bigelow Auditorium, Marlborough Public Library

2019 APR 22 A 8:05

Meeting called to order by Tom Abel at 7:04pm

Board Members Present: Tom Abel, William Brewin, Robyn Ripley, Karen Bento, Samantha Khosla, Fred Haas, and Janice Merk

Absent: Rustin Kyle and Nena Bloomquist

Also Present: Margaret Cardello, Library Director

Documents Reviewed/Referenced:

1. Agenda
2. Minutes from the January 8 meeting
3. Trust Fund/State Aid reports for January
4. Director's Report
5. Draft of the Naming policy and Memo of Agreement as reviewed by Legal Dept.
6. Museum in the Streets – Library panel draft

Proceedings:

1. **Minutes:** *A motion to approve the meeting minutes from the January 2019 meeting was passed (Haas/Ripley).*
2. **Trust Fund Reports:** *A motion to approve the Trust Fund Reports for January 2019 was passed (Ripley/Bento).*
3. **Director's Report:** (see attached for more details)
 - Margaret provided the following updates on the library renovation project
 - All start-up paperwork for the construction grant has been submitted. The first disbursement from the state will be for \$1,500,000.
 - The Request for Service for the Owner's Project Manager (OPM) will be put out to bid in February. Once the OPM is in place, the next step will be contracting with an architect. The Building Committee will be reconvening to support these activities.
 - FY20 budgets are due on February 15, and the city has requested that budgets remain at FY19 levels, which was \$975,098 for the library. The state's Municipal Appropriation Requirements for certification require our FY20 budget to be at least \$986,889. With step increases, Margaret believes we will be right on target

with both the MAR requirements and the city's request.

- Children's Librarian Jennie Simopoulos received two grants for the 2019 Summer Reading program from the Massachusetts Library System, the organization that administers the summer reading programs. The first is an \$800 grant to cover the costs of a software tool used for registering and tracking participation, and second is a \$1,163 grant for a related art program for tweens.
- The library's new website will be launching on February 15. It will now be a subdomain of the city's site.

Committee Reports:

- Foundation:
 - St. Mary's Credit Union has pledged \$100,000 to the library renovation project. A "big check" picture is scheduled to be taken on February 7.

4. Old Business:

- Margaret shared the most recent draft of the Marlborough Public Library Naming Policy which incorporated recommended changes from the city solicitor. *A motion to accept the policy, with one minor technical correction, was passed. (Brewin/Khosla)*

5. New Business:

- Margaret has recently learned that the Homestead Collection paintings by Ellen Carpenter, which hang in the lower library, are now in the public domain.
- The Museum in the Streets project is working toward their 2019 summer launch plans. Margaret shared the draft of the plaque to be installed outside the library, which will educate the public on the library's very interesting history.

6. Adjournment: *A motion to adjourn passed at 8:13pm (Brewin/Bento)*

Minutes submitted by Janice Merk.

Ad-Hoc Municipal Aggregation Committee

Meeting Minutes – March 21, 2019

The Ad-Hoc Municipal Aggregation Committee met on March 21, 2019 from 2:05 AM to 2:55 PM in the Mayor's Conference Room. The following individuals were in attendance:

Ad-Hoc Municipal Committee members:

- Chief Procurement Officer Beverly Sleeper
- Mayor Arthur Vigeant
- City Council President Ed Clancy
- DPW Commissioner John Ghiloni
- City Councilor Michael Ossing (Chairman of the Ad-Hoc Municipal Aggregation Committee)
- Members absent: None

Additional individuals at the meeting:

- City Solicitor Don Rider
- Mayor's Aide Kate Flannagan
- City Councilor Katie Robey
- City Councilor Dave Doucette (arrived at 2:35)
- Colonial Power Representatives Mark Cappadona and Denise Allard

The following items were discussed:

- 1. Minutes of the February 11, 2019 Ad-Hoc Municipal Aggregation Committee meeting.**
 - The Committee approved the February 11, 2019 meeting minutes 5 – 0.
- 2. Council Update.**
 - The Committee was informed that the City Council February 25, 2019 agenda included the Ad-Hoc Municipal Aggregation minutes from February 11, 2019 (Agenda item 19) and the proposed order to revise the Municipal Aggregation order (Agenda item 25). The March 11, 2019 City Council agenda included the public hearing for the changes to the Municipal Aggregation order (Agenda item 4).
- 3. Discuss Council Order 19-1007578 – feedback from Public Hearing on March 11, 2019 and FINCOM meeting on March 18, 2019:**
 - The Chairman informed the committee that there were no members of the public speaking in favor, asking questions or opposed at the March 11, 2019 public hearing for changes to the Municipal Aggregation order.
 - The Chairman reviewed the comments by the City Councilors (DeLano, Doucette, Oram and Robey) at the public hearing. The Committee acknowledged the comments. None of the comments required changes to the order.
 - The Chairman reviewed the comments from the March 18, 2019 FINCOM meeting where the changes to the Municipal Aggregation order was discussed. The Committee was informed that the FINCOM approved the order 5 – 0 and it will be reported out to the full City Council on March 25, 2019 and be before the City Council for a vote on April 8, 2019.

- The Chairman did note that Councilor DeLano had requested that should the revised order be approved, a letter be sent to all participants informing them of the changes to the program. Colonial Power indicated that the DPU requires specific wording on longer term contracts and provided a sample of the proposed wording that would be sent to each resident. See Attachment 1. The Committee also discussed if this would warrant using the City's "Blackboard Connect" notification system. The Committee questioned whether this system would reach all the residents that are paying electric bills. The Committee agreed to review the proposed wording and will discuss at the next Committee meeting. **ACTION: Committee member to review proposed wording notifying residents of the program changes. Discuss at next meeting. ALL Committee Members**
4. Review bids for next six months of electricity supply (May 2019 to October 2019)
- Colonial Power presented a spreadsheet (Attachment 2) with the five Suppliers who submitted bids to supply the City with electricity for the six-month period from May 2019 to October 2019.
 - Colonial Power indicated that the National Grid Fixed Basic Service rate for this period will be 0.10820 \$/kWh. The National Grid basic service rate history and Colonial Power's forecast of future NGrid rates are presented in Attachment 3.
 - The Committee reviewed the bids (Attachment 2) and unanimously selected Supplier #3 (DYNEGY) as the supplier for the May 2019 to October 2019 period with a 5 – 0 vote. DYNEGY (Supplier #3) was the lowest bidder with a fixed price electricity supply rate for the six month period of 0.09732 \$/kWh.
 - Assuming a residential customer uses 600 kw/month, the Marlboro resident supplied by DYNEGY would save \$6.53 each month over the National Grid Fixed Basic Service Rate.
 - The Committee noted the following:
 - If the resident uses DYNEGY, the 600 kw/month would cost \$58.39 (600 x 0.09732). The corresponding National Grid rate would be \$64.92 (600 x 0.10820) – thus the \$6.53 savings.
 - The Committee noted that the National Grid electricity supply rates are decreasing by 21% for the summer period. The corresponding aggregation rate that the residents will be paying will decrease over 28% for the summer period. This will result in lower electric bills for consumers when compared to the current winter rate from Direct Energy of 0.13650 \$/kWh. The winter rate for 600 kw/month costs \$81.90. Therefore, consumers using 600 kw/month of electricity can anticipate a \$23.51 (\$81.90 - \$58.39) reduction in the supply side portion of their electricity bill.
 - Bottom line, the rate for the electricity supply portion of the bill is decreasing for the summer period. The residents who participate in the municipal aggregation will save money over the National Grid Fixed Basic Service Rate.
 - The Committee acknowledged that if Marlboro residents want to use only "green" Renewable Energy Certificates (RECs) for their electricity, they could contact DYNEGY and have an electricity supply rate of 0.09804 \$/kWh. This information will appear on the City website when Colonial Power has the new rates posted in April 2019.
 - The Committee acknowledged that the electricity supply rates will be going up for the winter period (projecting NGrid winter rate of \$0.12500 for November 2019 to April 2020).

5. Removal of Parental Guarantee Clause from Municipal Aggregation RFPs

- The Committee discussed whether the need for the Parental Guarantee Clause is required now that the Municipal Aggregation process has matured. The Parental Guarantee Clause has some vendors adding additional costs to the bids. The Committee acknowledged that any true savings by removing the clause may not be readily transparent but agreed the clause was no longer required. The Committee voted 5 – 0 to remove the Parental Guarantee Clause from future RFPs

6. Other Business.

- The Chairman discussed the ISO New England 2019 energy outlook report. The report can be found at the following link: <https://www.iso-ne.com/about/regional-electricity-outlook/>.
- The next meeting of the Ad-Hoc Municipal Aggregation Committee will be in September 2019 to discuss the winter rate. The Committee acknowledged that should the revised Municipal Aggregation order be approved, an early meeting may be conducted should market rates dictate favorable electric contracts.
- The March 21, 2019 Ad-Hoc Municipal Aggregation Committee meeting minutes will be submitted to the City Clerk to be included in the April 8, 2019 City Council Agenda.
ACTION: M. Ossing
- The Chairman will prepare a letter to the City Council informing the Council of the actions of the AD-Hoc Municipal Aggregation Committee regarding new rates and supplier for the May 2019 to October 2019 period. **ACTION: M. Ossing**

Attachment 1: Draft wording to notify residents of Municipal Aggregation Program changes

Attachment 2: Spreadsheet with summary of the 5 supplier bids for May 2019 to October 2019

Attachment 3: National Grid rate history and Colonial Power's forecast of future National Grid rates

Attachment 1

Draft wording to notify residents of Municipal Aggregation Program changes



THE CITY OF MARLBOROUGH'S COMMUNITY CHOICE POWER SUPPLY PROGRAM CONSUMER NOTIFICATION

<Month> <Day>, <Year>

Dear Marlborough Aggregation Consumer:

The City of Marlborough is pleased to announce that _____ has been selected as the supplier for its Community Choice Power Supply Program ("Program"). _____ will provide electric power supply for all consumers participating in Marlborough's Program. This notice is intended to tell you about this Program for electric power supply. In accordance with state law, it also informs you of your rights and options if you choose not to participate in the Program.

YOU WILL NOT NOTICE ANY CHANGE IN YOUR ELECTRICITY SERVICE. You will see _____ printed under the "Supply Services" section of your monthly bill. You will continue to receive one bill from National Grid. You will continue to send your payments to National Grid for processing. National Grid will continue to respond to emergencies, read meters and maintain the distribution and transmission lines. Reliability and quality of service will remain the same. Furthermore, you will continue to have all existing consumer rights and protections.

NEW RATES AND TERMS

	Marlborough's Program* (Supply Services Only)		National Grid** (Supply Services Only)
	STANDARD	OPTIONAL GREEN	BASIC SERVICE
Rate			
Residential	\$X.XXXXX per kWh	\$X.XXXXX per kWh	\$X.XXXXX per kWh
Commercial/Streetlight	\$X.XXXXX per kWh	\$X.XXXXX per kWh	\$X.XXXXX per kWh
Industrial	\$X.XXXXX per kWh	\$X.XXXXX per kWh	\$X.XXXXX per kWh
Renewable Energy Content	Meets Massachusetts renewable energy requirements	100% National Wind Renewable Energy Certificates (RECs)	Meets Massachusetts renewable energy requirements
Duration	_____ 2019 – _____ 2019 <i>[Rates apply to service beginning and ending on the days of the month that your meter is read in your service area.]</i>		_____ 2019 – _____ 2019 <i>[Residential and Small Commercial rates change every 6 months. Large Commercial and Industrial rates change every 3 months.]</i>
Exit Terms	NO PENALTY CHARGE		May receive a reconciliation charge or credit <i>[Industrial G-2 & G-3 only]</i>

*Rate includes Consultant Fee of \$0.001 per kWh to facilitate Marlborough's Community Choice Power Supply Program.

*Rate may increase as a result of a change in law that results in a direct, material increase in costs during the term of the contract.

**GreenUp options are available for \$0.024-\$0.038 per kWh in addition to National Grid's Basic Service rate.

ALL PARTICIPATING CONSUMERS who have been mailed this notification will **AUTOMATICALLY** start benefiting from the aggregation rate beginning on the day of the month in _____ that your meter is read. This date varies by service area. Your meter reading date is shown on your bill.

IMPORTANT INFORMATION

- At present, the Residential aggregation rate is lower than National Grid's Basic Service rate. The aggregation rate is fixed for __ months (_____ 2019 to _____ 2019) while National Grid's Basic Service rate changes twice a year, in May and November. As a result, the aggregation rate may not always be lower than National Grid's Basic Service rate. The goal of the aggregation is to deliver savings over the life of the Program against National Grid's Basic Service rate. However, **SUCH SAVINGS AND FUTURE SAVINGS CANNOT BE GUARANTEED.**
- There is **NO PENALTY CHARGE TO OPT-OUT** of the Program and return to National Grid Basic Service.

« SEE BACK FOR ADDITIONAL INFORMATION »

WATCH YOUR NATIONAL GRID BILL FOR FURTHER NOTIFICATION of the Program.

- Your _____ bill will state that you are being switched to _____ **(Marlborough Aggregation)**.
- Your _____ bill will show Marlborough's new supplier and aggregation rate under "Supply Services".

BUDGET PLAN OR ELIGIBLE LOW-INCOME RATE CONSUMERS will continue to receive those benefits from National Grid.

SOLAR PANEL CONSUMERS will continue to receive their net metering credits while benefiting from the aggregation rate.

IF YOU DO NOT WISH TO PARTICIPATE you must OPT-OUT at www.colonialpowergroup.com/marlborough/, click the OPT-OUT button and follow the instructions specified **OR** call _____ at _____.

IF YOU WISH TO JOIN THIS PROGRAM you may OPT-IN at www.colonialpowergroup.com/marlborough/ **OR** call _____ at _____ and ask to be enrolled.

TO CHOOSE A GREENER PRODUCT WITH A HIGHER PERCENTAGE OF RENEWABLE ENERGY you may call _____ at _____ and ask to be enrolled in Marlborough's Optional Green Product. Marlborough's Optional Green Product provides 100% National Wind Renewable Energy Certificates (RECs). This product is being offered at \$X.XXXXX per kWh for __ months (_____ 2019 to _____ 2019).

FOR MORE DETAILED INFORMATION regarding Marlborough's Program, please visit www.colonialpowergroup.com/marlborough/ or call us toll-free at (866) 485-5858 ext. 1. To learn more about _____, please visit www._____.

TO ACCESS NATIONAL GRID'S BASIC SERVICE RATES please visit:

- Residential Rates – <https://www.nationalgridus.com/media/pdfs/billing-payments/electric-rates/ma/resitable.pdf>.
- Commercial Rates – <https://www.nationalgridus.com/media/pdfs/billing-payments/electric-rates/ma/commtable.pdf>.
- Industrial Rates – <https://www.nationalgridus.com/media/pdfs/billing-payments/electric-rates/ma/indtable.pdf>.

Colonial Power Group, Inc. is an energy broker chosen by the City of Marlborough to facilitate the Community Choice Power Supply Program.

Este es un aviso importante. Por favor asegure que se traduce, visite www.colonialpowergroup.com/marlborough/ o llámenos gratis al (866) 485-5858.

Este é um aviso importante. Queira mandá-lo traduzir, visite www.colonialpowergroup.com/marlborough/ ou ligue gratuitamente para (866) 485-5858.

Attachment 2

Spreadsheet with summary of the 5 supplier bids for May 2019 to October 2019

CITY OF MARLBOROUGH
 ALL-REQUIREMENTS RETAIL POWER SUPPLY PRICING MATRIX
 COMBINED RATE COMPARISON

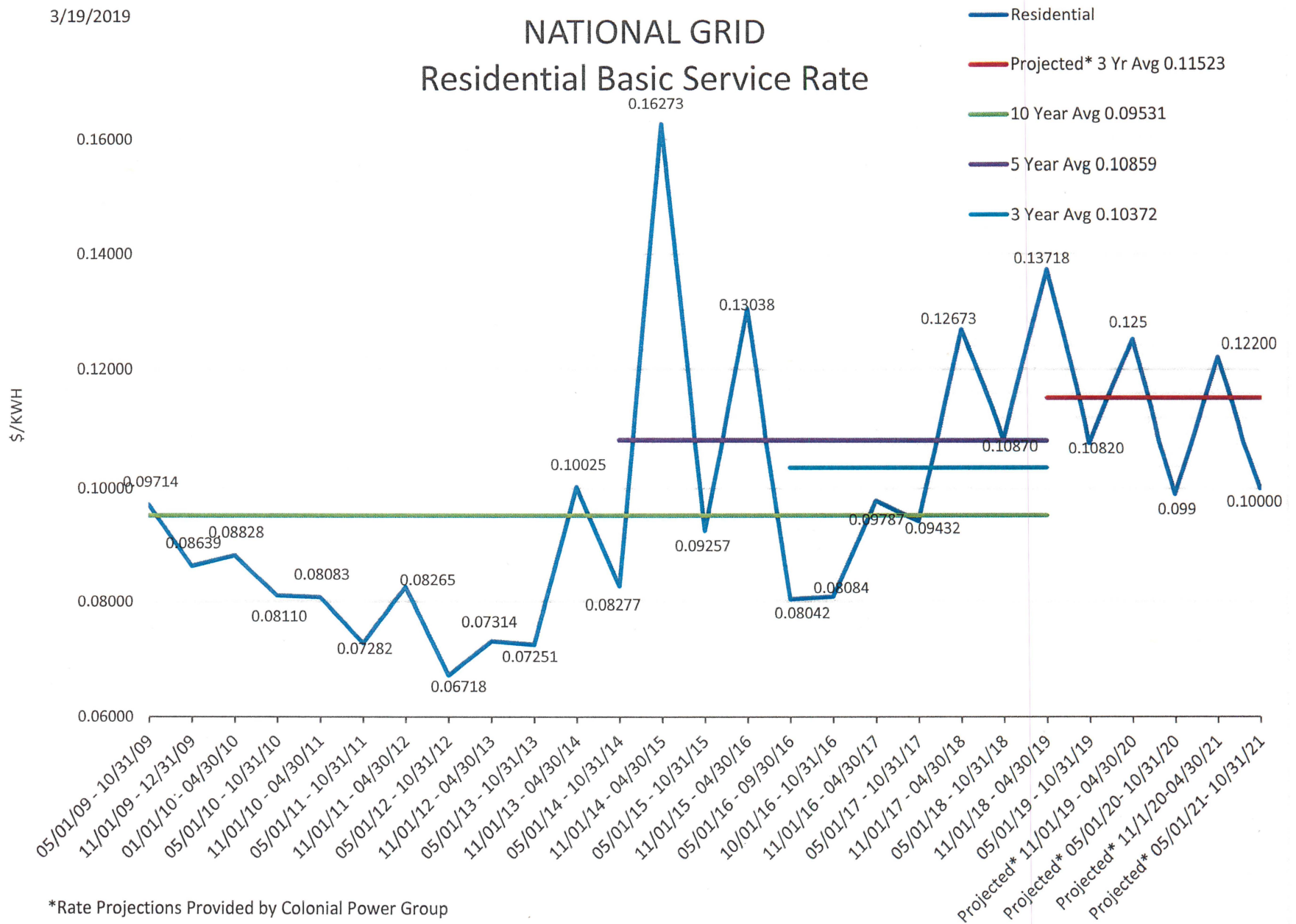
START TERM	END TERM	TERM LENGTH	FIXED PRICE					BASIC SERVICE
			SUPPLIER #1	SUPPLIER #2	SUPPLIER #3	SUPPLIER #4	SUPPLIER #5	5/1/19-10/31/19 NGRID/WCMA
STANDARD RETAIL ELECTRIC SUPPLY RATE								0.10820
5/1/2019	10/31/2019	6	0.10599	0.09990	0.09732	0.10064	0.10220	
5/1/2019	10/31/2019	6	0.10599	0.09990	0.09732	0.10064	0.10199	
11/1/2019	4/30/2020	6	0.12998	0.12180	0.12611	0.12366	0.12771	
5/1/2019	4/30/2020	12	0.11890	0.11190	0.11133	0.11538	0.11422	
5/1/2019	10/31/2020	18	0.11214	0.10550	0.10419	0.10859	0.10695	
5/1/2019	4/30/2021	24	0.11431	0.10860	0.10708	0.11172	0.10939	
5/1/2019	10/31/2021	30	0.11072	0.10470	0.10265	0.10903	0.10626	
5/1/2019	4/30/2022	36	0.11220	0.10630	0.10410	0.11054	0.10835	
RETAIL SUPPLY THROUGH PURCHASE OF NATIONAL WIND RECS - 100% Green Product								
5/1/2019	10/31/2019	6	0.10687	0.10080	0.09804	0.10149	0.10317	
5/1/2019	10/31/2019	6	0.10687	0.10080	0.09804	0.10149	0.10317	
11/1/2019	4/30/2020	6	0.13086	0.12260	0.12708	0.12451	0.12869	
5/1/2019	4/30/2020	12	0.11978	0.11280	0.11205	0.11623	0.11520	
5/1/2019	10/31/2020	18	0.11302	0.10630	0.10491	0.10944	0.10793	
5/1/2019	4/30/2021	24	0.11519	0.10950	0.10780	0.11257	0.11037	
5/1/2019	10/31/2021	30	0.11160	0.10560	0.10337	0.10988	0.10724	
5/1/2019	4/30/2022	36	0.11308	0.10710	0.10482	0.11139	0.10934	
RETAIL SUPPLY THROUGH PURCHASE OF ME CLASS II RECS - 100% Green Product								
5/1/2019	10/31/2019	6	No Bid	0.13100	0.12382	No Bid	0.10370	
5/1/2019	10/31/2019	6	No Bid	0.13100	0.12382	No Bid	0.10367	
11/1/2019	4/30/2020	6	No Bid	0.15110	0.15326	No Bid	0.12939	
5/1/2019	4/30/2020	12	No Bid	0.14200	0.13815	No Bid	0.11581	
5/1/2019	10/31/2020	18	No Bid	0.13540	0.13124	No Bid	0.10861	
5/1/2019	4/30/2021	24	No Bid	0.13840	0.13428	No Bid	0.11119	
5/1/2019	10/31/2021	30	No Bid	0.13450	0.12996	No Bid	0.10820	
5/1/2019	4/30/2022	36	No Bid	0.13590	0.13151	No Bid	0.11038	
RETAIL SUPPLY THROUGH PURCHASE OF MA CLASS I RECS - 50% More Than Required								
5/1/2019	10/31/2019	6	No Bid	0.10700	0.10932	0.10174	0.10299	
5/1/2019	10/31/2019	6	No Bid	0.10700	0.10932	0.10174	0.10315	
11/1/2019	4/30/2020	6	No Bid	0.13030	0.14203	0.12476	0.12888	
5/1/2019	4/30/2020	12	No Bid	0.11990	0.12525	0.11688	0.11519	
5/1/2019	10/31/2020	18	No Bid	0.11410	0.11949	0.11009	0.10806	
5/1/2019	4/30/2021	24	No Bid	0.11790	0.12384	0.11347	0.11067	
5/1/2019	10/31/2021	30	No Bid	0.11460	0.12068	0.11078	0.10769	
5/1/2019	4/30/2022	36	No Bid	0.11670	0.12305	0.11254	0.10993	

Attachment 3

National Grid rate history and Colonial Power's forecast of future National Grid rates

3/19/2019

NATIONAL GRID Residential Basic Service Rate



**MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752**

1A
**RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
March 25, 2019
2019 APR 24 P 1:26**

Call to Order

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, George LaVenture, Chris Russ and Matthew Elder. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider and Planning Board Administrator, Krista Holmi. Phil Hodge absent.

1. Meeting Minutes

A. March 11, 2019

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the meeting minutes of March 11, 2019 as amended. (Amended motion, comments added to item 6A) Motion carried.

2. Chair's Business

- A. Prior to the Planning Board the City held a Public Listening Session on its Municipal Vulnerability Preparedness (MVP) Draft Report. The City will now seek its certification as an MVP Community, making it eligible to apply for state MVP Action Grants. Thank you to all who participated.
- B. Set Public Hearing Date – City Council Order No. 19-1007587, Section 650-8, "Boundaries Established" Proposed rezoning of Map 113, Parcels 5 and 6, - Land off Williams St. The Public Hearing was scheduled for Monday, April 29, 2019.

3. Approval Not Required

- A. ANR – Applicant: East Dudley Heritage Realty Trust, 46 East Dudley St., Marlborough, MA 01752; Engineer, Hancock Associates, 35 Elm St.; Description of Property- Middlesex South Registry of Deeds, Book 54065, Page 211.

Mr. Fay left the meeting prior to the presentation citing a conflict.

Mr. J. Dan Bremser, PLS, Senior Project Manager at Hancock Associates was present. Mr. Bremser indicated the purpose of the ANR is to create a small, un-buildable parcel (Parcel C) only to be used in conjunction with the abutting property. It is an arrangement between neighbors in advance of a property sale. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to refer the plan to Engineering. Motion carried.

4. Public Hearings

- A. City Council Order No. 19-1007543, Proposed Zoning Amendment to Section 650-5, Entitled "Definitions word usage" **Mobile Food Truck**; Section 650-18, entitled "Conditions for Uses"; Section 650-48, entitled Off-street Parking; and Section 650-17, entitled "Table of Uses".

Ms. Fenby opened the public hearing. Mr. LaVenture read the public hearing notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members.

Presentation:

City Councilor Mike Ossing (43 Varley Rd.) presented to the Board. Councilor Ossing explained that the proposed ordinance is an effort by the Mayor and the Marlborough Economic Development Corporation to offer opportunities for food trucks in the City while harmonizing their presence with the character of the City's neighborhoods. The guidelines established by the ordinance regulate where, for how long and the quality of such operations. In the interest of fairness to "brick and mortar" restaurants, a 2% meals tax will also apply to mobile trucks. The ordinance establishes a new definition and revises the table of uses. Mobile food trucks will not be allowed in residential neighborhoods. Mr. Ossing said the Mayor's Office oversees short-term (1-3 Day) permitting, and the City Council would issue permits of longer duration.

Speaking in Favor:

As no person spoke in favor of the proposed amendment. Chairperson Fenby closed that portion of the hearing.

Speaking In Opposition:

As no person spoke in opposition to the proposed amendment. Chairperson Fenby closed that portion of the hearing.

Questions and Comments from Board Members:

Mr. LaVenture asked Councilor Ossing what was driving the ordinance. Mr. Ossing explained that there have been requests by both local food vendors as well as office parks to have a mobile food truck on their sites. Mr. Ossing explained that previously, there were no rules established for food trucks. The ordinance provides a mechanism for a food truck application and enables the City to check for compliance with applicable codes. Mr. LaVenture wondered whether there would be a limit on the number of food trucks allowed in an area. He also asked how the two required parking spots were decided. He added that ideally, these would be in an area that will allow people to walk to the truck. Mr. Ossing stated that the parking spot requirement is to avoid situations such as a truck parking along RT 20 and creating a safety hazard. Mr. Elder asked whether the regulations specified anything about what happens at the end of the day. Some cities and towns require the trucks to "piggy back" with a local restaurant that ensures that the truck is properly sanitized. Mr. Elder commented that many food truck businesses have a cult following and could be used to bring people downtown. Councilor Ossing acknowledged that local restaurants may give a push-back on these mobile food trucks but said that restaurants often pick up ancillary business since these trucks do not have liquor licenses. Mr. Fay asked whether these regulations applied to food truck trailers that are "permanently" parked without wheels. He feels they should be. Who would approve any signage? What about ice cream trucks? What would stop an ice cream truck from parking in a location? There was some discussion about whether ice cream trucks applied since no food is typically prepared in the truck. Mr. LaVenture added that a noise aspect may be added to the ordinance. What if someone wants to play music from their truck, or perhaps use a public-address system?

With no further questions or comments, Ms. Fenby closed the public hearing.

- B. **Continued:** Council Order No. 18-1007484, Proposed Zoning Map Amendment to Sec. 650-8, Rezoning Map 104, Parcels 29 and 29A (Mill St. South and Brigham St.) from Industrial (I) Zoning District to Commercial Automotive (CA) Zoning District.

Ms. Fenby reopened the public hearing. Mr. Fay asked the Solicitor if members of the public could speak on the proposed amendment. Mr. Rider asked why the hearing was held open. Ms. Holmi read from the approved minutes. While the public comment portion of the hearing had been closed at the first hearing date on January 28, 2019, Mr. Fay had asked the representative for a contemplated plan for the area. Ms. Fenby said that continuing the public hearing also allowed members further time to visit the site. Solicitor Rider said that the scope of the presentation should be limited to the question about the site plan. Public comment should not be heard as that portion of the hearing was closed.

Presentation:

Neal Vigeant of 53 Redspring Road informed the Board that he is the owner of the property in question that he identified as 20 Brigham St. He wishes to rezone the property from Industrial to Commercial Automotive. He stated that Engineering Design Consultants is no longer representing the project. He wishes to create A & P Business Park on the site. Currently, the lot is underutilized as an overflow lot for the business across the street and contains trucks, trailers, machines and employee vehicles and landscape materials. He stated that developing the lot as industrial is difficult due to the shape of the parcel, and that building a Commercial Automotive garage is much less expensive than an industrial building.

He feels that the site as a Commercial Automotive allows for more greenspace, with minimal traffic impact. He stated the property will be defined as a business and would have a nice curb appeal with no tractor trailers on the property. Mr. Vigeant showed the Board various renderings. His proposed design has three units being entered from Brigham St. and three units being entered from Mill St. South. He feels that the zone change will benefit the community since it allows him to clean up the lot by adding landscaping and irrigation, lighting and greenspace enrichment. He stated that rezoning will allow for increased tax revenue over his empty industrial zoned lot. He stated he wants to model his park after the Lacombe Business Park. He would like to establish similar covenants as the Lacombe Street Business Park where strict guidelines can keep the property well maintained and keep the neighbors happy. He proposes limited hours between 7am-7pm M-F. 8am to 5pm on Saturdays and no outdoor work on Sundays. Outdoor work is limited to minor repairs. No primary auto sales and establish a limit to the number of vehicles allowed at any one time per unit.

Questions and Comments from Board Members:

Mr. Fay asked Mr. Vigeant to compare his proposed development to Kennedy's Automotive. Mr. Vigeant stated that his property shouldn't have the same parking issues, and that there is not anything architectural about Kennedy's. Mr. Russ asked Mr. Vigeant to describe his proposed building materials. What are you using for siding, roofing, doors? What about landscaping and greenery vs. the amount of paving? Mr. Vigeant stated that since his building will be much less expensive than an industrial building, he can spend more on architectural elements and landscaping. He stated Commercial Automotive allows for more lot coverage, but the setbacks are greater, which allows for more greenspace. Mr. Russ asked if he plans to sell cars on the property. Mr. Vigeant stated that there may be incidental sales, but that won't be the primary business. Mr. LaVenture asked whether there were any traffic studies done for this use at that location? That is a busy intersection. Mr. Vigeant stated there were no traffic studies done. He asked how many vehicles could be parked there. He stated that there will be room for 3 vehicles indoors and three vehicles outdoors/unit; therefore, there will be up to 18 vehicles parked on the lot for the bays. Mr. LaVenture commented that the applicant already mentioned cost pressures associated with development. Since this is a zone change, the zone would apply to current and future owners. There are no guarantees that the property will be developed as you have presented. Commercial Automotive is only required to have 5000 sq. ft lots not the acre on industrial. If developed to capacity, traffic could be an issue. The concept of zoning is to drive development to standards. This will benefit the land owner, but why is this beneficial to the City? Mr. Vigeant stated that the vacancy rate of Commercial Automotive is zero, while Industrial is much higher. His land could sit vacant. Mr. LaVenture continued that business is risky. The lot was purchased as an Industrial lot and a zoning change should have a significant benefit to the City and not just the applicant. Mr. Vigeant replied that he is creating six new businesses in Marlborough and allows the City to collect more tax revenue. The lot will also be more pleasing than it currently is. Mr. LaVenture asked whether there are other properties owned by the family in the area. Mr. Vigeant indicated yes. Mr. LaVenture said that he is both a Board member and concerned citizen from the area. He lives on Brigham St. and is very familiar with the area. He stated that Marlborough Commercial Automotive properties are one of the least appealing in terms of aesthetics, and he is also concerned about potential traffic impacts.

Ms. Fenby asked for additional input from the Board. Mr. Elder stated he was not opposed to Commercial Automotive. Mr. Russ asked how Brigham St.'s status as a scenic road may factor into this decision. Mr. DiPersio did not see any impact to trees or stone walls that may have a level of protection. Mr. Fay stated that he felt that Commercial and Automotive fit into the neighborhood. The Board should always be cautious when developers show the "shiny object" when asked to evaluate zone changes. He also has a concern about the implementation of the covenant. He stated that while Mr. Vigeant may promise to have a covenant for the property, there is no obligation to impose the restrictions. Mr. Fay said the covenant must be put in place in the deed and transferred with any future sale. With no further comment, Ms. Fenby closed the public hearing.

4. Public Hearings

- C. City Council Order No. 19-1007552, Section 650-8, "Boundaries Established" Proposed rezoning of Map 82, parcel 125 to Residence C (RC). (Currently zoned both RC and I, Industrial) Mark Evangelous, Marlborough Hub, LLC.

Ms. Fenby opened the public hearing. Mr. LaVenture read the public hearing notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members.

Presentation:

Mr. Evangelous, 108 Kelber Dr., was present to discuss the proposed zoning change. Mr. Evangelous explained the purpose of the zoning change. The property he wishes to develop currently has a mix of zones – residential, industrial and a small business section. In this proposed zone change, the remnants of an old industrial railway bed would be rezoned to residential to match zoning in the remainder of the parcel. He would propose transferring the small remaining business zone piece to his business neighbor. He indicates the abutters would much prefer a residential development on the land instead of an industrial use. He has also followed the Conservation Commissions requirement to perform a "21E" study to determine whether any contamination exists on the property. Mr. Evangelous stated he has the support of his ward councilor, Mr. Dumais. Mr. Evangelous said that the rezoned development will allow for a less dense use and site improvements. The roadway and sidewalk will also provide the neighborhood with walkable access to the John Street park.

Speaking in Favor:

No one spoke in favor of the proposed amendment. Chairperson Fenby closed that portion of the hearing.

Speaking in Opposition:

No one spoke in opposition to the proposed amendment. Chairperson Fenby closed that portion of the hearing.

Questions and Comments from Board Members:

Mr. Fay asked if the ultimate purpose of the proposed amendment was to allow Mr. Evangelous to file a waiverless subdivision plan with the City. Mr. Evangelous indicated that it will be his intent to submit a waiverless plan, and the zone change will enable that. Beyond that, it makes the project and neighborhood better. It cleans up an area that is currently in poor condition. It's overgrown and used for dumping trash. This will be a nice neighborhood improvement. With no further questions, Ms. Fenby closed the public hearing.

Mr. Fay made a motion to send a favorable recommendation to City Council on the proposed zoning amendment. The motion was seconded by Mr. Russ. Motion carried. In its recommendation, the Board said that the zone change fits into the character of the neighborhood, imposes minimal impact on the neighborhood abutters and meets a demonstrated benefit by cleaning up a zoning anomaly remaining over the abandoned railway bed.

5) Subdivision Progress Reports (Updates and Discussion)

- A. Engineer's Report- Subdivision Status Report

City Engineer DiPersio indicated that Howe's Landing is in its maintenance period and is ahead of schedule in providing necessary acceptance documentation to the City. There were no further updates.

6) Preliminary/Open Space /Limited Development Subdivision Submissions / Updates

A. Hager St. Open Space Special Permit

At its regular meeting on March 25, 2019, the Planning Board took the following actions:

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to accept and file on file the March 25, 2019 extension request letter from Peter Bemis of Engineering Design Consultants, Inc. on behalf of his client, South Coast Advisors, LLC. The Board further voted to approve the requested extension of the decision on the special permit application for the proposed open space development until June 7, 2019, but with the following conditions:

The applicant's representative shall appear before the Board on April 8, 2019 with a work plan schedule. The schedule should outline proposed completion dates for outstanding items identified during the Engineering and Legal reviews; the applicant's representative was provided with a complete list of the outstanding items at the Board's regular meeting on March 11, 2019. **It is the Board's expectation that all outstanding items will be submitted to the Planning Board by their regular meeting on May 6, 2019** to enable sufficient review time by Engineering, the City's Legal Department and the Planning Board. The outstanding items include but are not limited to the following:

Certificate of Vote Engineering Review

- Procedural Findings- Corrections
- Project Findings- Corrections
- Conditions- Acknowledgement of requirements and corrections

Legal Review

- Open Space Parcel- Resolution of open space composition (Marlborough and Framingham) and zoning considerations in Framingham.
- Homeowners' Association- Resolution of control and rights.
- Conservation Restriction- Proof of Approval by the Marlborough Conservation Commission and plan for approval schedule (City Council, Executive Office of Energy and Environmental Affairs).
- Conditions- Incorporation of any Board-imposed conditions.

7) Definitive Subdivision Submissions / Updates (None)

8) Signs (None)

9) Informal Discussion

A. Sign Variances

Mr. LaVenture addressed the Board regarding two recent requests for variances related to electronic message displays. In one instance, the Board denied the request; in the other, the Board granted the request with conditional use restrictions. Mr. LaVenture suggests that the Board receive further input from both the Office of Inspectional Services (Building Dept.) and possibly the Legal Dept. to ensure two things: 1) The Board acted appropriately (not inconsistently) in its granting of the variance in one instance, and a denial in the other. 2) The Board had the authority to grant the variance relief by applying the criteria established under Section 526-12 (Signs – Administration and penalties) to Section 526-13 (Signs- Electronic message center signs; digital display signs.). Mr. Fay drew a distinction between the two cases. In one instance, the applicant, without the appropriate permits, installed video display units in violation of the City's sign ordinance. When the applicant appeared before the Board, the applicant offered no concessions to operate the units in a manner the Board believed was consistent with the intent and purpose of the chapter. In the second circumstance, the applicant applied for the variance in advance of any installation and agreed to numerous operational restrictions. Chair Fenby suggested continuing the discussion at the next meeting and requested the City's Building Commissioner, as zoning authority, or the City's Code Enforcement Officer, attend the next meeting of the Planning Board to offer additional guidance on this interpretation.

10) Unfinished Business

- A. Order No. 19-1007533, Proposed Zoning Amendment-Chapter 650-36- to create the Executive Residential Overlay District. (Simarano Drive and Cedar Hill Road Area). Mirick O'Connell, Attorneys at Law on behalf of Post Road Residential, LLC.

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to provide a favorable recommendation to the City Council on the above referenced Council order. Motion carried.

In its decision, the Board had the following comments:

- The developer established that the proposed overlay district would result in a development meeting a demonstrated need for a diversified housing stock in the City of Marlborough;
- The developer established that the proposed overlay district would benefit the City by providing a housing option with a positive fiscal impact to the City of Marlborough;
- The developer established to the Board's satisfaction that the proposed overlay district fits into the neighborhood, and in the Board's opinion, approval of the overlay district for this area would not unduly burden abutters.

The Board expressed their opposition to the applicant's expressed plan to build a phased development.

11) Calendar Updates

- A. **April 29, 2019** Public Hearing Date – City Council Order No. 19-1007587, Section 650-8, "Boundaries Established" Proposed rezoning of Map 113, Parcels 5 and 6, - Land off Williams St.
- B. **April 8, 2019 ANR Vote** East Dudley Heritage Realty Trust, 46 East Dudley St., Marlborough, MA 01752; Engineer, Hancock Associates, 35 Elm St.; Description of Property- Middlesex South Registry of Deeds, Book 54065, Page 211.

12) Public Notices of other Cities & Towns

- A. City of Framingham –2 Notices
- B. Town of Northborough – 1 Notice

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the notices. Motion carried.

On a motion my Mr. Elder, seconded by Mr. Russ, the Board voted to adjourn the meeting of the Planning Board. Motion carried.

Respectfully submitted,



George LaVenture/Clerk

/kih

City of Marlborough
Zoning Board of Appeals
Minutes
March 26, 2019 (Tuesday)

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Members Present: Paul Giunta-Chairman, Thomas Golden, Thomas Pope, Ralph Lottia and Robert Levine

Zoning Board of Appeals Case # 1452-2019

Applicant: John Buckley

Location: 32 Ferrecchia Dr.

Representative Present:

- John Buckley and Sharon Buckley were present. (Sharon Buckley had to leave early)

Petition: The applicant proposes to construct a 6 ft. wide x 32 ft. long farmer's porch at the front of his existing home. The front yard setback is not in conformance with the City of Marlborough Zoning Code 650-41. The required minimum front yard setback is 30 ft. vs. the proposed 28.9 ft. at 32 Ferrecchia Dr. Zoning District A3. Map 78, Parcel 26.

The property is located in Zoning District District A2. The lot contains 18,081 sq. ft. in area.

Plan presented: The applicant provided a plan entitled: Certified Plot Plan, 32 Ferrecchia Drive, Marlborough, MA Prepared by Odone Survey & Mapping. Job No: 20181136, signed and stamped by Glenn D. Odone, Jr. dated 1/9/2019. 9.

The applicant e-mailed to the secretary of the Zoning Board of Appeals the following:

- 4 photos of the lot in question. Photos in Board's file. Also e-mailed a video of how the applicant measured from the house foundation to the front lawn area showing more than the minimum required 30 ft. front lot setback. The Board explained to him that they must go by the Certified Plot Plan he presented.
- Also, in Board's file is an e-mail to the secretary of the Zoning Board of Appeals expressing his support of the petition. Joseph Minnicci, 34 Ferrecchia Dr. It was forwarded by e-mail to the Board members.

The lot in question is not uniquely shaped when compared to the other lots in the area. The soil condition is the same as other lots in the area. The topography at the street line is slightly curved making it unique to the other lots in the area.

Paul Buckley stated the following:

- He would like to construct a 6 ft. x 32 ft. farmer's porch to his existing house.
- The farmer's porch will serve for his personal use and comfort.
- The farmer's porch will be esthetically pleasing to the existing house and to the neighborhood.
- He roughly spent \$1,400 on this petition and would like to see it go forward.
- As you are facing the proposed farmer's porch, on the left corner is 29.6 ft. vs. the minimum required 30 ft. to the front lot line. A deviation of 0.4 ft.
- As you are facing the proposed farmer's porch on the right corner is 28.9 ft. vs. the minimum required 30 ft. to the front lot line. A deviation of 1.1 ft.

The definition of “hardship” was explained by Ralph Loftin, board member. Stating that the lot must be unique to the area. The criteria for a variance is soil condition, shape or topography of the lot.

The **hardship** as stated by the applicant: Constructing the 6 ft. x 32 ft. farmer’s porch at the front of the house would not be a detriment to the public good, as stated in his application.

Speaking in **opposition**: None

Speaking in **favor**:

- Joseph Delano, 10 Harper Circle, Marlborough, MA. He stated the lot in question has a slight curve at the front lot line, creating a hardship as to the topography of the lot. The farmer’s porch will add value to the house lot.
- Dennis Demers – 49 Ferrecchia Dr. Marlborough, MA stated this is an old subdivision. Lots were not surveyed for the placement of the house, they were ticker taped for measurements. Not like it is today with surveyed plot plans. He felt the farmer’s porch will be an improvement to his house and to the neighborhood.

In the audience was Donald Rider, City Solicitor. The Board asked for his opinion about the case before them. He stated that this is a dimensional variance request, seeking a minor deviation of 1.1 ft. and could the applicant conform to the zoning code?

The Board determines that owing to circumstances relating to soil conditions, shape or topography of the lot:

- The lot is fairly flat with a slight slope from the house foundation to the front lot line. According to the plan presented, there is a slight curve at the front lot line making it difficult for the straight line of the 32 ft. length farmer’s porch to conform to the front yard setback of 30 ft.

The Board determines that if a variance is granted, it will not affect generally the zoning district in which it is located because the proposed farmer’s porch will be attached to an existing house which is located in a residential area.

The Board determines that relief may be granted without substantially derogating from the intent and purpose of the zoning bylaw because the deviation is very minor.

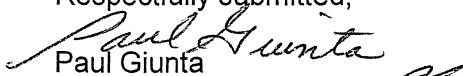
On a motion made by Robert Levine, seconded by Thomas Pope to grant a variance as presented. The Board determined that the variance requested is very minimal and the deviation is caused by the street layout having a slight curve at the street line.

Vote of the Board: The Board voted 4-1 to grant the variance for a 28.9 ft. vs. the 30 ft. minimum required. Thus, a deviation of 1.1 ft.

With no other testimony taken or given, the public hearing was closed.

Meeting was adjourned.

Respectfully submitted,


Paul Giunta
Chairman – Zoning Board of