

REGULAR MEETING  
JUNE 17, 2019  
TIME: 8:00 PM

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

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

**2019 JUN 13 P 1:40**

1. Minutes, City Council Meeting, June 3, 2019.
2. PUBLIC HEARING On the Application for LED Sign Special Permit from Attorney Elizabeth McDonough Noonan on behalf of Colbea Enterprises, LLC (Shell Gas Station), 342 Boston Post Road East, Order No. 19-1007670.
3. PUBLIC HEARING On the Proposed Zoning Amendment to Chapter 650 §12, Nonconforming Uses, from Attorney Brian Falk on behalf of David Skarin, Order No. 19-1007673.
  - a. Communication from Attorney Arthur Bergeron, re: Proposed Zoning Amendment to Chapter 650, §12 Nonconforming Uses, Order No. 19-1007673.
4. Communication from the Mayor, re: Promotions within the Marlborough Fire Department.
5. Communication from the Mayor, re: Reappointment of Police Chief David Giorgi as Keeper of the Lockup for a term of one year.
6. Communication from the Mayor, re: Draft Zoning Petition related to the Route 20 East corridor.
7. Communication from City Solicitor, Jason Grossfield, re: Proposed Small Cell Antenna Petition of New Cingular Wireless PCS, LLC (AT&T), 28 Concord Road, in proper legal form, Order No. 17/19-1007055C.
8. Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, Order No. 19-1007612B.
9. Communication from DPW Commissioner, John Ghiloni, re: Proposed Easement for Sudbury Street Sewer Project, Phase 4, 55 Hanlon Drive.
10. Communication from DPW Commissioner, John Ghiloni, re: Proposed Easement for Sudbury Street Sewer Project, Phase 4, 263 Sudbury Street.
11. Communication from DPW Commissioner, John Ghiloni, re: Proposed Easement for Sudbury Street Sewer Project, Phase 4, 299 Sudbury Street.
12. Communication from Code Enforcement Officer, Ethan Lippitt, re: Request for Sign, Synopsys, 11 Apex Drive, within the HRMUOD, Order No. 16/19-1006443.
13. Application for Special Permit from Attorney Brian Falk, on behalf of St. Mary's Credit Union, for two drive-thru facilities associated with a bank and coffee shop building to be located at 133 South Bolton Street.

**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.**

14. Communication from Touré Foster, re: Letter of Opposition to Proposed Zoning Amendment – Home Office and Contractor/Landscape Contractor Storage Yards, Order No. 18/19-1007500F.
15. Communication from the MA State Lottery Commission re: Application for Keno Monitor, Marlboro Smoke Shop, 170 Pleasant Street, Order No. 19-1007534.
16. Minutes, Board of Assessors, May 1, 2019.
17. Minutes, Conservation Commission, May 16, 2019.
18. Minutes, Historical Commission, May 16, 2019.
19. Minutes, High School Council, June 10, 2019.
20. CLAIMS:
  - a) Alexandre Cezar, 62 Linda Circle, other property damage and/or personal injury.
  - b) Jeff DiBuono, 25 Jacobs Road, residential mailbox claim (2a).
  - c) Lauren Jackson, 219 Phelps Street, pothole or other road defect.
  - d) Elyse Probst, 22 Broad Street, #225, other property damage and/or personal injury.

## REPORTS OF COMMITTEES:

## UNFINISHED BUSINESS:

From Finance Committee

21. **Order No. 19-1007682 – Snow and Ice Year End Transfers for \$1,325,300.00:** The Finance Committee reviewed the Mayor's letter dated May 16, 2019 requesting a transfer of \$1,325,300.00 from the Undesignated Fund account to the following snow and ice accounts:

- \$280,300.00 to Overtime Snow and Ice
- \$395,000.00 to Snow Removal
- \$650,000.00 to Operating Expenses

**The Finance Committee voted 3 - 0 to approve the transfers.**

22. **Order No. 19-1007683 – Transfer \$388,000.00 from Meals Tax Revenue Account to FY19 Bond Payment for Parks and Recreation Improvements:** The Finance Committee reviewed the Mayor's letter dated May 16, 2019 requesting a transfer of \$388,000.00 from the Meals Tax Revenue Account to the FY19 bond payment for parks and recreation improvements. The May 2019 balance in the Meals Revenue Account is \$3,925,755.96. The Finance Committee reviewed the Comptroller letter dated May 22, 2019 that outlined the future bond payments for the two approved bonds through 2032. **The Finance Committee voted 3 – 0 to approve the transfer.**

23. **Order No. 19-1007684A – Year End Transfer in the amount of \$58,000.00 for the Department of Public Works:** The Finance Committee reviewed the Mayor’s letter dated May 16, 2019 requesting year end transfers from within the existing budget in the amount of \$58,000.00 within various DPW accounts for park maintenance, consultant fees for the Assistant Commissioner duties and roof and masonry repairs at the DPW. **The Finance Committee voted 3 – 0 to approve the transfer.**
24. **Order No. 19-1007685 – Transfer \$16,900.00 from Reserve for Salaries to Fund Retirement of Human Resource Director:** The Finance Committee reviewed the Mayor’s letter dated May 16, 2019 requesting the transfer of \$16,900.00 from Reserve for Salaries to fund the retirement costs associated with the retirement of the Human Resource Director. **The Finance Committee voted 4- 0 to approve the transfer.**
25. **Order No. 19-1007686 – Transfer \$4,500.00 to Open Space Stabilization Account for FY18 Antenna Receipts:** The Finance Committee reviewed the Mayor’s letter dated May 16, 2019 requesting a transfer of \$4,500.00 from the Undesignated Fund account to the Open Space Stabilization. The source of the \$4,500.00 is from the FY18 wireless antennae receipts. The DPW Commissioner mentioned that \$22,500.00 was incorrectly moved to the Parks and Recreation Revolving Fund. This will be corrected for the FY19 transfer. **The Finance Committee voted 5 - 0 to approve the transfer.**
26. **Order No. 19-1007687 – Fiscal Year 2020 Revolving Fund Spending Limits:** The Finance Committee reviewed the Mayor’s letter dated May 16, 2019 requesting the City Council approve the spending limits for three Revolving Funds for FY2020:
- Order - That no more than \$350,000.00 shall be expended from the Parks and Recreation Revolving Fund during Fiscal Year 2020, unless otherwise authorized by the City Council and Mayor.
  - Order - That no more than \$75,000.00 shall be expended from the Public Safety Revolving Fund during Fiscal Year 2020, unless otherwise authorized by the City Council and Mayor.
  - Order - That no more than \$70,000.00 shall be expended from the Council on Aging Revolving Fund during Fiscal Year 2020, unless otherwise authorized by the City Council and Mayor.

**The Finance Committee voted 5 - 0 to approve all three Revolving Fund Spending limits for FY20.**

From Urban Affairs Committee

27. **Order No. 19-1007612B (X 18-1007244): Application for Special Permit from Thomas Coder, to demolish existing single-story home and construct a new two-story home at 21 Patten Drive.** Chairman Delano was recused as he was absent from the public hearing on April 29, 2019 and Councilor Juaire was the acting chairman for this item. The committee met with Tom Coder, 3 Atwood Road, Southborough, who was applying for a special permit to tear down the existing home at 21 Patten Drive and build a new home. Mr. Coder displayed a picture of the current home, viewed floor plans for the basement, first and second floors, and a front and side elevation. Mr. Coder stated the new plans lowered the height of the home between 4.5 – 5.0 feet from the previously submitted design. The committee discussed with the Building Commissioner and applicant the setbacks, lot coverage (733 SF versus 1,767 SF), and building location on the site. The applicant stated he planned to have a small patio and no deck, and the committee voted to have a condition in the special permit that there be no decks on the sides of the home. The Ward Councilor (President Clancy) liked the new design and had no objections to the new project. **Motion made by Councilor Doucette, seconded by the Chair, to include a condition, there be no decks on the sides of the home. The motion carried 4-0. Motion made by Councilor Doucette, seconded by the Chair, to approve the special permit as amended. The motion carried 4-0.**



From Legislative & Legal Affairs Committee

28. **Order No. 19-1007688A: Communication from City Solicitor Donald Rider regarding Proposed Conservation Restriction and Proposed Regulatory Agreement, Avalon Orchards, 91 Boston Post Road East.** Solicitor Rider provided the Council with a letter detailing these matters. The conservation restriction on approximately 9 acres of land is condition #10 in a ZBA comprehensive permit approved in 2000. Another condition calls for a trail easement within that land. A trail was created but has become overgrown, and the trail easement was not recorded to signify the condition was met. Conservation Commission approval is also required. An email from Priscilla Rider indicates a vote to approve carried at their meeting on May 16, 2019. **Councilor Delano moved to approve the Conservation Restriction for Avalon Orchard, 91 Boston Post Road. It was seconded, and the motion carried 3-0. The second matter related to this property is the Regulatory Agreement, which will extend to the year 2045 the ability to count all 156 rental units in the property as affordable units. Councilor Delano moved to approve the Regulatory Agreement for Avalon Orchard, 91 Boston Post Road. It was seconded, and the motion carried 3-0.**

Communication from City Solicitor, Jason Grossfield, re: 1) Proposed Grant of Public Trail Easement; 2) Proposed Conservation Restriction and 3) Proposed Regulatory Agreement, Avalon Orchards, 91 Boston Post Road East, in proper legal form, Order No. 19-1007688A.

From Public Services Committee

29. **Order No. 19-1007651: 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.** Police Chief Giorgi approved the CORI report for Jean Rabelo and had no objection to their application for a Junk Dealer's/Second Hand License. Jean Rabelo and Julio Rabelo appeared before the committee to request renewal of their license. Ms. Rabelo stated the business is doing well and they take pride in it. She did discuss her attendance at a public meeting regarding the redevelopment of Route 20 where her business was mentioned as the former auto parts recycler. The councilors in attendance were unaware of this and indicated their support for her business as it provides a valuable service to the City and region. **Motion made by Councilor Doucette, seconded by the Chair, to approve the license renewal for Jean Rabelo, d/b/a Post Road Used Auto Parts, 785 Boston Post Road East. The motion carried 3-0.**
30. **Order No. 19-1007652: Application for Renewal of Junk Dealer/Second Hand Dealer License, Gerald Dumais, d/b/a Dumais & Sons Second Hand Store, 65 Mechanic Street.** Police Chief Giorgi approved the CORI report for Gerry Dumais and had no objection to his application for a Junk Dealer's/Second Hand License. Gerry Dumais appeared before the committee for renewal of his license. He has opened the store once in the past year (the previous Thursday) for two customers. He is in the process of cleaning it up as it has become cluttered. **Motion made by Councilor Doucette, seconded by the Chair, to approve the license renewal for Gerald Dumais, d/b/a Dumais & Sons Second Hand Store, 65 Mechanic Street. The motion carried 3-0.**

31. **Order No. 19-1007653: 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.** Police Chief Giorgi approved the CORI report for Kelly Costello and had no objection to their application for a Junk Dealer's/Second Hand License. Kelly Costello appeared on behalf of Best Buy seeking renewal of their license. Ms. Costello explained they receive many trade-ins for phones as people upgrade their devices and a large part of their business is recycling smaller electronic items in store such as laptops, monitors, smaller televisions, keyboards, cables, and ink/toner cartridges. Best Buy also offers recycling as part of their home services for refrigerators, large televisions, and other large items which are sent to their warehouse in Bellingham. The Best Buy in-store recycling program will take items without requiring a purchase. **Motion made by Councilor Irish, seconded by the Chair, to approve the license renewal for Best Buy Stores LP #820, d/b/a Best Buy, 769 Donald J. Lynch Boulevard. The motion carried 3-0.**
32. **Order No. 19-1007672A: Petition from TC Systems, Inc., on behalf of AT&T, to install new underground conduits with cable on Forest Street from Pole #24 to Verizon MH #516 for a distance of 65' within the Public Way.** Chris Murray of TC Systems, who provide local services for AT&T, explained they wish to install underground conduits from a utility pole into Verizon systems which services the 200 Forest Street Business Park. The project will take two to three days and they hope to complete it as soon as possible. Thomas DiPersio, City Engineer, indicated the project will require a road opening permit and they will coordinate with TC Systems regarding the finishing of Forest Street. **Motion made by Councilor Doucette, seconded by Councilor Irish, to approve the Petition from TC Systems, Inc., on behalf of AT&T. The motion carried 3-0.**
33. **Order No. 17/19-1007055C: Communication from Attorney Michael Dolan on behalf of New Cingular Wireless PCS, LLC (AT&T), regarding Small Cell Antenna Petition, 28 Concord Road.** Michael Dolan, attorney for Brown Rudnick, appeared on behalf of New Cingular Wireless (AT&T) and provided background information on their request. In October 2017, they requested permission to install a small antenna facility on the top of a utility pole near 28 Concord Road at the same time as several other sites. Based upon feedback and concerns from the Councilors, AT&T made changes and received approval for three sites. At this site, the utility pole is tilting and based upon aesthetics and safety, the City Council tabled the petition. National Grid has agreed to replace the existing utility pole with a new, straight pole and to allow AT&T to relocate their equipment 11 feet off the ground. AT&T will bear the cost for the installation of the new pole. **Motion made by Councilor Doucette, seconded by Chair, to approve the small cell antenna petition at 28 Concord Road, as amended, with condition that the building permit for the wireless site is subject to the installation of a new utility pole as proposed by AT&T. Motion carried 3-0.**

From City Council

34. Communication from City Solicitor, Jason Grossfield, re: Proposed Zoning Ordinance Amendment to Chapter 650, §5, §17, & §18 – Home Office and Contractor/Landscape Contractor Storage Yards, in proper legal form, Order No. 18/19-1007500F, **ITEM WAS TABLED UNTIL THE JUNE 17, 2019 CITY COUNCIL MEETING.**