

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 JUN 13 P 1:03

****Presentation of 2013 City Scholarship Awards****

1. Minutes of the City Council Meeting, June 3, 2013.
2. PUBLIC HEARING On the Application for Special Permit from Mirick O'Connell, on behalf of Sandra & Anthony Antico Real Estate LLC, for indoor recreation area that will include various children's entertainment features that can be used by children under the supervision of their parents or guardians for birthday parties and on other special occasions, 72 Jefferson St., Order No. 13-1005426.
3. Communication from the Mayor re: Appointments of Melissa Vera, Mark Bartlett, and Mary Scott to the Marlborough Cultural Council for a term of three years commencing the day after their approval by City Council.
4. Communication from City Clerk, Lisa Thomas, re: Special State Election Call.
5. Communication from Planning Board re: Country Club Estates Subdivision (Stow Rd., Robert Rd., and Country Club Circle), Proposed Taking of Permanent Easements.
6. Communication from City Solicitor, Donald Rider, re: McDonalds USA, LLC Special Permit, 155 Boston Post Rd. West in proper legal form, Order No. 13-1005341B.
7. Petition of NGrid to locate manholes, wires, and ducts, including the necessary sustaining & protecting fixtures, along and across the following public way: Daniels Rd., beginning at approximately 30 feet north of the centerline of the intersection of Second Rd., install pull box and 340' of 2-3' PVC duct bank.
8. Communication from USAT Certified Race Director, Mark Walter, re: 4th Annual Westborough Sprint Triathlon.
9. Communication from Central Massachusetts Mosquito Control Project re: Investigating Resident's Complaints.
10. Minutes, Marlborough Community Development Authority, February 28, March 28, and April 25, 2013.
11. Communication from Hanover Insurance Group on behalf of Kevin Lynch re: Property Damage, 96 Warren Ave.
12. Communication from Amica Insurance on behalf of Randeep Ghai re: Property Damage, 43 Violetwood Circle.
13. Communication from Wilber Insurance Service Enterprises, on behalf of Metlife and their insured Dawn and Lawrence Metcalf, Property Damage, 15 Brimsmead St.
14. CLAIMS:
 - A. John Comeau, 48 Oakcrest Ave., residential mailbox claim 2(a)
 - B. Dino's Trattoria, 277 Main St., other property damage

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From Public Services Committee

15. **Order No. 13-1005372** - Application for Junk Dealer's License by Michael Komapovsky, d/b/a Aaurus Art Gallery, 305 Lincoln Street.
-REFER TO PUBLIC SERVICES
Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval. 3-0
16. **Order No. 13-1005343A** - Application for FUEL STORAGE LICENSE by Partners HealthCare System, Inc., off of Forest Street to store 60,000 gallons above ground diesel fuel.
-REFER TO PUBLIC SERVICES
PUBLIC HEARING: MARCH 25, 2013
Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval. 3-0
17. **Order No. 13-1005407** - Renewal of Junk Dealer's License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald Lynch Blvd.
-REFER TO PUBLIC SERVICES
Motion made by Councilor Jenkins, seconded by Clancy, to recommend approval. 3-0
18. **Order No. 13-1005408** - Renewal of Junk Dealer's License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street.
-REFER TO PUBLIC SERVICES
Motion made by Councilor Jenkins, seconded by Clancy, to recommend approval. 3-0
19. **Order No. 13-1005427** - Application of Best Buy Store #1966, 601 Donald Lynch Blvd. for Renewal of Junk Dealer's License.
-REFER TO PUBLIC SERVICES
Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval pending receipt of satisfactory CORI from the Chief of Police . 3-0
20. **Order No. 13-1005428** - Application of Best Buy Store #820, 769 Donald Lynch Blvd. for Renewal of Junk Dealer's License.
-REFER TO PUBLIC SERVICES
Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval pending receipt of satisfactory CORI from the Chief of Police . 3-0

From Urban Affairs Committee

21. **Order No. 12/13-1005108** - Solicitor Rider updated the Committee on the prospective changes in the Indian Hill Property (Fafard). Solicitor Rider gave his legal opinion that the motion he was proposing benefited the city for various reasons and he stated legally we wouldn't need a public hearing. The Solicitor gave updates to questions the Committee asked of him at its last meeting. Councilor Clancy said the Conservation Committee agreed with the changes the Solicitor is proposing. President Pope said she had some concerns about the slope but it appears to have been addressed by Target. Councilor Clancy read the Solicitor's following proposed motion and it was approved 5-0.

Motion-

That no formal application to modify the City Council's 1987 special permit concerning the Indian Hill development is required to be filed by the developer, Indian Development Corp., relative to the prospective change in the City's legal interest in a 20-acre open space parcel located at Indian Hill, from a conservation restriction to acquiring the fee interest in that 20-acre parcel, which fee acquisition would also include the City's acquisition of an approximately 10' wide pedestrian access easement appurtenant to the 20-acre parcel and connecting it to Callahan State Park; and

That the Mayor is authorized to execute an agreement with the developer for relocating the said pedestrian access easement.

22. **Order No. 13-1005341B** - Application for Special Permit, Bohler Engineering on behalf of McDonald's Restaurant to improve the aesthetics and operational efficiencies of their restaurant which includes updates to the drive-thru at 155 Boston Post Road West
-REFER TO URBAN AFFAIRS - PUBLIC HEARING: APRIL 8, 2013

The Committee discussed the proposed changes, including changing the drive-through to two lanes and small cosmetic changes, with representatives of McDonald's from Bohler Engineering. Initial safety concerns were adequately addressed. Chairman Elder asked the petitioners if they anticipate more traffic and/or accidents at the merging of the two lanes, and the petitioners replied in the negative. Councilor Clancy asked a few questions about the exterior changes and staffing. In addition to changes to the drive-through window, the restaurant will get a facelift that will improve the appearance of the building and provide improved aesthetics for the area which is close to the westerly entrance to the city.

The Committee did not receive any negative comments on the proposal.

The Committee discussed the proposed decision with the petitioner, changing minor details.

The Committee discussed the standard language for signage in special permits.

Motion by Councilor Clancy and seconded to recommend approval of the Special Permit for a drive through window as requested by Bohler Engineering on behalf of McDonald's Restaurant and to suspend the rules to forward the proposed decision to the City Solicitor to place on the June 17, 2013 regular meeting in proper legal form. Vote 5-0

From City Council

23. **Order No. 13-1005417A** – Comptroller's Salary Ordinance as follows was properly advertised June 7, 2013:
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 125, ENTITLED "PERSONNEL," AS FOLLOWS:

POSITION	EFFECTIVE DATE	MINIMUM 1 st 6 mos.	STEP 1 2 nd 6 mos.	STEP 2 Next 12 mos.	MAXIMUM
Comptroller/Treasurer	7/1/13	101,695.70	105,763.28	109,994.07	114,393.83

- 24. **Order No. 13-1005247C** – Communication from the Planning Board regarding favorable recommendation of Medical Marijuana Dispensing Facilities – Zoning Moratorium. Tabled on June 3, 2013.
- 25. **Order No. 13-1005247A** – Proposed Moratorium in proper form from City Solicitor. Public Hearing was held on April 22, 2013.

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 BY ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled “Definitions; Word Usage,” is hereby amended by adding to said Section the following definition:

MEDICAL MARIJUANA TREATMENT CENTER: A not-for-profit entity, as defined by Massachusetts law only, registered under Massachusetts law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, shall be deemed a “Medical Marijuana Treatment Center” and subject to the temporary moratorium under Section 650-32 of this ordinance.

2. A new Section 650-32, entitled “TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS,” is hereby added, as follows:

650-32 TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS

A. Purpose.

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the acquisition, cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), transference, transportation, sale, distribution, dispensing, and administering of marijuana, products containing marijuana, related supplies, or educational materials, for medical purposes. The law provided that it became effective on January 1, 2013 and that the Massachusetts Department of Public Health (“MDPH”) is required to issue regulations regarding the law’s implementation within 120 days of the law’s effective date. Currently under the City’s Zoning Ordinance, a medical marijuana treatment center is not a permitted use in the City, and any regulations to be promulgated by

MDPH are expected to provide guidance to the City in regulating medical marijuana, including medical marijuana treatment centers.

The regulation of medical marijuana treatment centers raises novel and complex legal, planning, and public safety issues, and the City needs time to study and consider the regulation of such centers and those issues, as well as to address the potential impact of MDPH regulations on local zoning and to undertake a planning process to consider amending the Zoning Ordinance regarding the regulation of such centers and other uses related to such regulation. The City intends to adopt a temporary moratorium on the use of land and structures in the City for the purpose of medical marijuana treatment centers, so as to allow the City sufficient time to engage in a planning process to address the effects of such use, and to enact ordinances in a manner consistent with sound land use planning goals and objectives.

B. Temporary Moratorium.

For the reasons sets forth above, and notwithstanding any other provision of the Zoning Ordinance to the contrary, the City hereby adopts a temporary moratorium on the use of land or structures for a medical marijuana treatment center. In no case shall the acquisition, cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), transference, transportation, sale, distribution, dispensing, and administering of marijuana, products containing marijuana, related supplies, or educational materials, for medical purposes be considered accessory to any use permitted in the City. The moratorium shall be in effect through June 30, 2014. During the moratorium period, the City shall undertake a planning process to address the potential impacts of medical marijuana in the City, shall consider MDPH regulations regarding such centers and related uses, and shall consider amending its Zoning Ordinance to address the impact and operation of such centers and related uses.



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723**

JUNE 3, 2013

Regular meeting of the City Council held on Monday, JUNE 3, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:07 PM.

ORDERED: That the minutes of the City Council Meeting JUNE 3, 2013, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** on the Petition from National Grid to:

- a) Locate manholes, wires, and ducts, including the necessary sustaining & protecting fixtures, along and across the following public way: Houde St. and Peltier St. Approximately 535 ft. north of the center line of the intersection of Houde St. and Peltier St. and continuing approximately 515 ft. in a southerly direction.
- b) Locate manholes, wires, and ducts, including the necessary sustaining fixtures along the following public way: Houde St. and Duca Dr. Approximately 150 ft. west of the centerline and continuing approximately 130 ft. in a east direction. Heavy duty hand holes #12, 11 and conduit on Duca Dr. and Houde St.
- c) Erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said companies may deem necessary to be owned and used in common by your petitioners, in the following public way or ways: Evelina Dr. and Peltier St. Petition to install two new heavy duty hand holes on Bergeron Rd. between houses 64 & 56 and between houses 34 and 20. This petition is also to install 2-3" conduits to the souther side on Bergeron Rd. from Evelina Dr. to 20 Bergeron Rd.
- d) Locate manholes, wires, and ducts, including the necessary sustaining & protecting fixtures, along and across the following public way: Houde St. and Rogers Ave. Approximately 195 ft. west of the centerline of the intersection of Houde St. and Rogers Ave. Heavy duty hand holes #10, #5 Rogers Ave. and 2-3" conduits on Rogers Ave. and Houde St.,
Order No. 13-1005447, all were heard who wish to be heard, hearing recessed at 8:12 p.m.; adopted.

Councilors Present: Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

Councilor Pope abstained

ORDERED: That the Communication from Tim Cummings, Executive Director of the Marlborough Economic Development Corporation re: Mass Development/Urban Land Institute's Program, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Assabet Valley Regional Vocational School District Building Committee re: Permitting Fees Pertinent to the Repair Project, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JULY 8, 2013**, as date for a **PUBLIC HEARING** for the Application for Special Permit from Attorney Mitrakas on behalf of 587 Bolton St., Inc. to serve food outdoors as the Bolton St. Tavern is located in an LI zone, 587 Bolton St., refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Minutes, Planning Board, May 6, 2013, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, April 30, 2013, **FILE**; adopted.

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

A. Donna Eanuzzo, 11 Thomas Dr., residential mailbox claim 2(a)

Reports of Committees:

Councilor Landers reported the following out of Public Services Committee:

Order No. 13-1005372 - Application for Junk Dealer's License by Michael Komapovsky, d/b/a Assrus Art Gallery, 305 Lincoln Street.

-REFER TO PUBLIC SERVICES

Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval. 3-0

Order No. 13-1005343 - Application for FUEL STORAGE LICENSE by Partners HealthCare System, Inc., off of Forest Street to store 60,000 gallons above ground diesel fuel.

-REFER TO PUBLIC SERVICES

PUBLIC HEARING: MARCH 25, 2013

Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval. 3-0

Order No. 13-1005407 - Renewal of Junk Dealer's License, Tony Bitar, Hannoush Jewelers, 601 Donald Lynch Blvd.

-REFER TO PUBLIC SERVICES

Motion made by Councilor Jenkins, seconded by Clancy, to recommend approval. 3-0

Order No. 13-1005408 - Renewal of Junk Dealer's License, Roman Kimyagarov, Arthur & Sons Shoe Repair, 107 Main Street.

-REFER TO PUBLIC SERVICES

Motion made by Councilor Jenkins, seconded by Clancy, to recommend approval. 3-0

Order No. 13-1005427 - Application of Best Buy Store #1966, 601 Donald Lynch Blvd for Renewal of Junk Dealer's License.

-REFER TO PUBLIC SERVICES

Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval pending receipt of satisfactory CORI from the Chief of Police. 3-0

Reports of Committees cont'd:

Order No. 13-1005428 - Application of Best Buy Store #820, 769 Donald Lynch Blvd for Renewal of Junk Dealer's License.

-REFER TO PUBLIC SERVICES

Motion made by Councilor Clancy, seconded by Jenkins, to recommend approval pending receipt of satisfactory CORI from the Chief of Police. 3-0

Councilor Elder orally updated City Council pertinent to the Cumberland Farms Fuel Storage License Application, Order No. 12/13-1005083A.

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

Present: Chairman Elder, Councilor Clancy, Councilor Robey, Councilor Landers, Councilor Tunnera, Council President Pope, Councilor Jenkins, Councilor Delano, Councilor Oram

Order No. 12/13-1005108 - Solicitor Rider updated the Committee on the prospective changes in the Indian Hill Property (Fafard). Solicitor Rider gave his legal opinion that the motion he was proposing benefited the city for various reasons and he stated legally we wouldn't need a public hearing. The Solicitor gave updates to questions the Committee asked of him at its last meeting. Councilor Clancy said the Conservation Committee agreed with the changes the Solicitor is proposing. President Pope said she had some concerns about the slope but it appears to have been addressed by Target. Councilor Clancy read the Solicitor's following proposed motion and it was approved 5-0.

Motion-

That no formal application to modify the City Council's 1987 special permit concerning the Indian Hill development is required to be filed by the developer, Indian Development Corp., relative to the prospective change in the City's legal interest in a 20-acre open space parcel located at Indian Hill, from a conservation restriction to acquiring the fee interest in that 20-acre parcel, which fee acquisition would also include the City's acquisition of an approximately 10' wide pedestrian access easement appurtenant to the 20-acre parcel and connecting it to Callahan State Park; and

That the Mayor is authorized to execute an agreement with the developer for relocating the said pedestrian access easement.

Reports of Committees cont'd:

Members Present: Chairman Elder; Councilors Clancy, Robey, Tunnera and Landers

Order No. 13-1005341 - Application for Special Permit, Bohler Engineering on behalf of McDonald's Restaurant to improve the aesthetics and operational efficiencies of their restaurant which includes updates to the drive-thru at 155 Boston Post Road West
-REFER TO URBAN AFFAIRS - PUBLIC HEARING: APRIL 8, 2013

The Committee discussed the proposed changes, including changing the drive-through to two lanes and small cosmetic changes, with representatives of McDonald's from Bohler Engineering. Initial safety concerns were adequately addressed. Chairman Elder asked the petitioners if they anticipate more traffic and/or accidents at the merging of the two lanes, and the petitioners replied in the negative. Councilor Clancy asked a few questions about the exterior changes and staffing. In addition to changes to the drive-through window, the restaurant will get a facelift that will improve the appearance of the building and provide improved aesthetics for the area which is close to the westerly entrance to the city.

The Committee did not receive any negative comments on the proposal.

The Committee discussed the proposed decision with the petitioner, changing minor details.

The Committee discussed the standard language for signage in special permits.

Motion by Councilor Clancy and seconded to recommend approval of the Special Permit for a drive through window as requested by Bohler Engineering on behalf of McDonald's Restaurant and to suspend the rules to forward the proposed decision to the City Solicitor to place on the June 17, 2013 regular meeting in proper legal form. Vote 5-0

Suspension of Rules requested – granted

ORDERED: That the Petition from National Grid to install conduit from manhole 15-22 to pole 50, Simarano Dr. and pole 50, D'Angelo Dr. and two pole installations on Simarano and D'Angelo Dr., **APPROVED WITH THE FOLLOWING CONDITIONS;** adopted.

- 1) The installation of said poles (2 on Simarano and 2 on D'Angelo) should not interfere with the driveway and/or parking lot for impacted properties.
- 2) The proponent is proposing to install 2 – 5” conduits through the intersection which may or may not impact the signalized intersection. The issues associated with these crossing must be vetted during the Road Opening Permit process with the DPW.
- 3) The last issue is the standard language that for work of this sort, can you please make sure that the Chair of the Committee gets the following comments from the Engineering Division concerning the subject project:
 - a) Any necessary easements are to be obtained from affected property owners and shown on proposed plans.
 - b) A street opening permit must be applied for by the proposed contractor performing the work.
 - c) The contractor performing the work must obtain a street opening bond with the City of Marlborough for an amount to be determined by the City Engineer.
 - d) The contractor is to provide the Engineering Division preconstruction photos of driveways, sidewalks, lawn areas, and roadway areas impacted by all construction activities.
 - e) The contractor is to coordinate with the affected residents to have irrigation systems flagged before trenching begins and provide them a timetable of the proposed work.
 - f) A proper staging area is to be located/acquired before work commences – material and equipment is not to be parked/stockpiled within the city right of way.
 - g) The contractor is to ensure residents are always able to enter and exit their driveways (have necessary steel plating on site and accessible).
 - h) Ensure construction safety controls are established (signage, drums, police details, etc...) and are in accordance with the latest MUTCD standards.
 - i) Trench backfilling, compacting, temporary, and final paving are to be done in accordance with the City of Marlborough standard trenching details.
 - j) Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended.
 - k) Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765.
 - l) Any disturbed curbing is to be replaced.

Suspension of Rules requested – granted

ORDERED: That Chairman Delano introduced a new Communication from Assistant City Solicitor Cynthia Panagore Griffin pertinent to an Amendment to the OPEB Trust Agreement, **MOVE TO ITEM 15, APPROVED;** adopted.

Suspension of Rules requested – granted

ORDERED: That the Application for Special Permit, Bohler Engineering on behalf of McDonald’s Restaurant, to improve the aesthetics and operational efficiencies of their restaurant which includes updates to the drive-thru at 155 Boston Post Road West, refer **TO THE CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FOR THE JUNE 17, 2013 CITY COUNCIL AGENDA, APPROVED;** adopted.

Suspension of Rules requested – granted

ORDERED: That the Communication from the Planning Board re: their favorable recommendation of the Zoning Amendment for Proposed Moratorium, Medical Marijuana Treatment Center, **TABLED UNTIL JUNE 17, 2013, APPROVED;** adopted.

ORDERED: That the MEDC (Marlborough Economic Development Corporation) transfer request in the amount of \$499,000.00 which moves funds from Economic Development to MEDC Funding to fully fund the operations of the MEDC for FY14, **APPROVED;** adopted.

FROM:

Acct. 27000099-42440 \$499,000.00
Economic Development

TO:

Acct. # 11740006-53950 \$499,000.00
MEDC Funding

ORDERED: That the Employee Retirement transfer requests in the amount of \$96,569.40 which moves funds from and to various accounts as noted below to cover costs associated with the retirement of three employees, be and is herewith **APPROVED;** adopted.

BUDGET TRANSFERS --										
DEPT:		Various				FISCAL YEAR:				
Available Balance		FROM ACCOUNT:			TO ACCOUNT:			Available Balance		
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:			
\$454,218.00	\$9,898.00	11990006	51500	Fringe	\$9,898.00	11410002	50550	Head Clerk	\$11,877.00	
	Reason:	Retirement Payout of Vacation								
\$17,816.40	11990006	51500	Fringe	\$17,816.40	11410003	51920	Sick Leave	\$0.00		
	Reason:	Retirement Payout Sick Leave								
\$5,353.00	11990006	51500	Fringe	\$5,353.00	11440002	50770	Senior Clerk	\$13,492.00		
	Reason:	Retirement Payout of Vacation								
\$51,138.00	11990006	51500	Fringe	\$51,138.00	12100003	51920	Sick Leave	\$23,881.00		
	Reason:	Retirement Payout Sick Leave								
\$12,364.00	11990006	51500	Fringe	\$12,364.00	12100001	50820	Sargeant	\$205,937.00		
	Reason:	Retirement Payout of Vacation								
\$96,569.40	Total					\$96,569.40	Total			

ORDERED: That the Employee Retirement Benefits transfer request in the amount of \$28,834.20 which moves funds from and to various accounts as noted on the attached spreadsheet which will fund the unused sick leave and vacation payouts associated with the retirement of a long term employee of the City, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:		Fringe				FISCAL YEAR:			
Available Balance		FROM ACCOUNT:				TO ACCOUNT:			
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$454,218.00	\$18,736.20	11990006	51500	Fringe	\$18,736.20	11330001	50015	Comptroller	\$14,689.54
	Reason:	Retirement Payout of Vacation							
\$1,000.00	11990006	51500	Fringe	\$1,000.00	11330003	51920	Sick Leave	\$0.00	
	Reason:	Retirement Payout Sick Leave							
\$6,245.00	11990006	51500	Fringe	\$6,245.00	11330002	50062	Finance Asst.	\$25,886.09	
	Reason:	Employee Resignation Payout Vacation Time							
\$2,853.00	11990006	51500	Fringe	\$2,853.00	11330003	51920	Sick Leave	\$0.00	
	Reason:	Employee Resignation Payout Sick Time							
\$28,834.20	Total				\$28,834.20	Total			

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 125, ENTITLED "PERSONNEL," AS FOLLOWS: **APPROVED**; adopted.

POSITION	EFFECTIVE DATE	MINIMUM	STEP 1	STEP 2	MAXIMUM
		1 st 6 mos.	2 nd 6 mos.	Next 12 mos.	
Comptroller/Treasurer	7/1/13	101,695.70	105,763.28	109,994.07	114,393.83

Councilor Seymour abstained

MOTION by Councilor Ossing to RECONSIDER the approval of the Comptroller/Treasurer Salary Ordinance **AND ORDER ADVERTISED**; Carries.

Councilor Seymour abstained

ORDERED: That the FY14 budget of \$132,182,328.00 which represents a 4.3% increase from the FY13 budget or an increase of \$4,452,474.00, **APPROVED WITH ATTACHMENTS 1-3**; adopted.

Councilor Elder requested to be recorded in opposition.

ORDERED: That the Fuel Efficient Vehicle Police Amendment as follows, **APPROVED**; adopted.

City of Marlborough
FUEL EFFICIENT VEHICLE POLICY

POLICY STATEMENT

In an effort to reduce the City of Marlborough's fuel consumption and energy costs over the next 5 years the City hereby adopts a policy, where practicable, to purchase only fuel efficient vehicles to meet this goal.

PURPOSE

To establish a requirement that the City of Marlborough, use reasonable efforts, to purchase only fuel efficient vehicles for municipal/school use whenever such vehicles are commercially available and practicable.

APPLICABILITY

This policy applies to all divisions and departments of the City of Marlborough.

GUIDELINES

All departments / divisions shall purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable.

The City of Marlborough will maintain an annual vehicle inventory for ALL vehicles and a plan for replacing non-exempt vehicles with vehicles that meet, at a minimum, the fuel efficiency ratings contained in the most recent guidance for Criteria 4 published by the MA Department of Energy Resources' Green Communities Division. This Green Communities' Guidance for Criteria 4 must be checked for updates prior to ordering replacement vehicles; go to: <http://www.mass.gov/eea/docs/doer/green-communities/grant-program/gc-criterion4-guidance.pdf>.

Exemptions

Heavy-duty vehicles such as fire-trucks, ambulances, and public works trucks are exempt from this criterion

Police cruisers are exempt from this criterion. However, municipalities must use reasonable efforts to purchasing fuel efficient cruisers when they become commercially available and practicable. Police department administrative vehicles must meet fuel efficient requirements.

ORDERED: That the provisions of Section 20 of Chapter 32B of the General Laws of the Commonwealth of Massachusetts, entitled Other Post-Employment Benefits Liability Trust Fund, be and is hereby accepted by the City Council for the City of Marlborough, and further, that the City Council for the City of Marlborough hereby establishes an Other Post-Employment Benefits ("OPEB") Trust under the terms and conditions provided below: be and is herewith **APPROVED**; adopted

CITY OF MARLBOROUGH
OTHER POST-EMPLOYMENT BENEFITS ("OPEB") TRUST
TRUST AGREEMENT

This TRUST AGREEMENT is made this ___day of _____, 2013 by and between the City of Marlborough (the "City"), acting through its City Council and the duly serving members of the Board of Trustees of the City of Marlborough OPEB Trust (the "Trustees").

WITNESSETH:

WHEREAS, the City Council has established certain other post-employment benefits ("OPEB"), other than pensions, for eligible former employees of the City; and

WHEREAS, the City Council wishes to establish an irrevocable trust (the "Trust") for the purpose of funding OPEB obligations as required to be reported under General Accounting Standards Board ("GASB") Statements 43 and 45; and

WHEREAS, the Trust is established by the City Council with the intention that it qualify as a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code of 1986 and Regulations issued thereunder and as a trust for OPEB under M.G.L. c. 32B, § 20;

NOW, THEREFORE, in consideration of the foregoing promises and the mutual covenants hereinafter set forth, the City, the City Council, and the Trustees hereby agree as follows.

ARTICLE 1
DEFINITIONS

As used herein, the following terms shall have the following meanings:

- 1.1. "City" means the City of Marlborough.
- 1.2. "Code" means the Internal Revenue Code of 1986, as amended from time to time.
- 1.3. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statute.

1.4. "GASB 43 and 45," shall mean Government Accounting Standards Board, Statement No. 43 and Statement No. 45, Accounting and Financial Reporting by Employers for Post-Employment Benefits Other Than Pensions.

1.5. "Other post-employment benefits" or "OPEB," shall mean post-employment benefits other than pensions as that term is defined in GASB 43 and 45 including post-employment healthcare benefits, regardless of the type of plan that provides them, and all post-employment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

1.6. "PRIT" means the Pension Reserves Investment Trust which is managed by the Pension Reserves Management Board of the commonwealth of Massachusetts.

1.7. "Retired Employee" means those persons who have retired from employment with the City and who are qualified to receive retirement benefits pursuant to M.G.L. c. 32 or as otherwise provided by law.

1.8. "Trust" means the City of Marlborough OPEB Trust as hereby established.

1.9. "Trustee" means the duly serving members of the Board of Trustees of the City of Marlborough OPEB Trust, and any successor Trustee appointed as provided pursuant to Article 5.

1.10. "Trust Fund" means all the money and property, of every kind and character, including principal and income, held by the Trustee under the Trust.

ARTICLE 2 **PURPOSE**

2.1. The Trust is created for the sole purpose of providing funding for OPEB, as determined by the City, or as may be required by collective bargaining agreement, or by any general or special law providing for such benefits, for the exclusive benefit of the City's Retired Employees and their eligible dependents, and for defraying the reasonable administrative, legal, actuarial and other expenses of the Trust. The assets held in the Trust shall not be used for or diverted to any other purpose, except as expressly provided herein.

2.2. It is intended that the Trust shall constitute a so-called "Qualified OPEB Trust" according to the standards set forth in GASB 43 and 45, and that it further qualify as an Integral Part Trust for all purposes under Article 115(c) of the Code or under any comparable provision of future legislation that amends, alters, or supersedes the Code.

ARTICLE 3
ESTABLISHMENT OF TRUST

- 3.1. In order to implement and carry out the provisions of M.G.L. c. 32B, § 20, the City Council hereby establishes this Trust which shall be known as the "City of Marlborough OPEB Trust."
- 3.2. The Trust shall be irrevocable, and no Trust funds shall revert to the City until all OPEB owed to retired City employees have been satisfied or defeased.
- 3.3. The principal location of the Trust shall be Marlborough City Hall, 140 Main Street, Marlborough, Massachusetts 01752.
- 3.4. The Trustees hereby accept the trusts imposed upon them by this Trust Agreement and agree to perform said trusts as a fiduciary duty in accordance with the terms and conditions of this Trust Agreement.
- 3.5. The Trustees shall hold legal title to all property of the Trust, and neither the City, nor any employee, official, or agent of the City, nor any individual, shall have any right, title or interest to the Trust.
- 3.6. The Trust shall consist of such sums of money as shall from time to time be paid or delivered to the Trustees by the City, which sums, together with all earnings, profits, increments and accruals thereon, without distinction between principal and income, shall constitute the Trust hereby created and established. Nothing in this Agreement requires the City to make contributions to the Trust to fund OPEB. Any obligation of the City to pay or fund benefits shall be determined in accordance with applicable law and any agreement to provide OPEB.

ARTICLE 4
TRUST FUNDING

- 4.1. The Trust Fund shall be credited with all amounts appropriated or otherwise made available to the City and employees of the City as a construction to the Trust for the purposes of meeting the current and future OPEB costs payable by the City, or any other funds donated or granted specifically to the City for the Trust, or to the Trust directly.
- 4.2. The Trustees shall be accountable for all delivered contributions, but shall have no duty to determine that the amounts received are adequate to provide the OPEB Benefits determined by the City.
- 4.3. The Trustees shall have no duty, expressed or implied, to compel any contribution to be made by the City, but shall be responsible only for property received by the Trustees under this Trust Agreement.

4.4. The City shall have no obligation to make contributions to the Trust to fund OPEB, and the size of the Trust may not be sufficient at any one time to meet the City's OPEB liabilities. This Trust Agreement shall not constitute a pledge of the City's full faith and credit or taxing power for the purpose of paying OPEB, and no retiree or beneficiary may compel the exercise of taxing power by the City for such purposes. The obligation of the City to pay or fund OPEB obligations, if any, shall be determined by the City or applicable law. Distributions of assets in the Trust are not debts of the City within the meaning of any constitutional or statutory limitation or restriction.

4.5. Earnings or interest accruing from investment of the Trust shall be credited to the Trust. Amounts in the Trust Fund, including earnings or interest, shall be held for the exclusive purpose of, and shall be expended only for, the payment of the costs payable by the City for OPEB obligations to Retired Employees and their dependents, and defraying the reasonable expenses of administering any plan providing OPEB Benefits as provided for in this Trust Agreement.

4.6. Amounts in the Trust Fund shall in no event be subject to the claims of the City's general creditors. The Trust Fund shall not in any way be liable to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of the City, or of retirees or dependents who are entitled to OPEB.

ARTICLE 5 **TRUSTEES**

5.1. The Trust shall be administered by the Board of Trustees (the "Board") which shall be comprised of five (5) members, including the City Treasurer, the City Auditor, the Finance Director of the Marlborough Public School Department, one (1) member of the City Council who shall be designated by the President of the City Council for a term of two years, and one (1) member who shall be appointed by the Mayor for a term of 3 years. The terms of members designated by the President of the City Council and by the Mayor shall commence upon said designation. The President of the City Council and the Mayor shall notify the City Council of the designation of members to the Board.

5.2. Each Board member shall, for purposes of this Trust, be deemed a trustee ("Trustee").

5.3. Whenever a change occurs in the membership of the Board, the legal title to property held by this Trust shall automatically pass to those duly elected successor Trustees.

5.4. Each future Trustee shall accept the office of Trustee and the terms and conditions of this Trust Agreement in writing.

5.5. Upon leaving office, a Trustee shall promptly and without unreasonable delay, deliver to the Trust's principal office any and all records, documents, or other documents in his possession or under his control belonging to the Trust.

5.6. The Trustees shall be special municipal employees for purposes of M.G.L. c. 268A and shall be subject to the restrictions and prohibitions set forth therein.

ARTICLE 6
POWERS OF THE TRUSTEES

6.1. The Trustees shall have the power to control and manage the Trust and the Trust Fund and to perform such acts, enter into such contracts, engage in such proceedings, and generally to exercise any and all rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or advisable to administer the Trust and the Trust Fund or to carry out the purposes of this Trust. In addition to the powers set forth elsewhere in this Agreement, the powers of the Trustees, in connection with their managing and controlling the Trust and its General Fund, shall include, but shall not be limited to, the following:

6.1.2. To receive, hold, manage, invest and reinvest all monies which at any time form part of the Trust, whether principal or income, provided however that there shall be no investment directly in mortgages or in collateral loans and further provided that the Trustees shall comply with the provisions of Article 7 of this Trust Agreement, applicable law and any investment policy adopted by the Trustees concerning the investment and management of Trust assets.

6.1.3. To hold cash, uninvested, for such length of time as the Trustees may determine without liability for interest thereon.

6.1.4. To employ suitable agents, advisors and counsel as the Trustees may deem necessary and advisable for the efficient operation and administration of the Trust, to delegate duties and powers hereunder to such agents, advisors and counsel, and to charge the expense thereof to the Trust. The Trustees are entitled to rely upon and may act upon the opinion or advice of any attorney approved by the Trustees in the exercise of reasonable care. The Trustees shall not be responsible for any loss or damage resulting from any action or non-action made in good faith reliance upon such opinion or advice. All delegated authority shall be specifically defined in any by-laws adopted by the Trustees or the written minutes of the Trustees' meetings.

6.1.5. To hire employees or independent contractors as the Trustees may deem necessary or advisable to render the services required and permitted for the proper operation of the Trust, and to charge the expense thereof to the Trust.

6.1.6. To continue to have and to exercise, after the termination of the Trust and until final distribution, all of the title, powers, discretions, rights and duties conferred or imposed upon the Trustees hereunder, by any by-laws adopted by the Trustees or by law.

6.1.7. To construe and interpret this Trust Agreement and other documents related to the purposes of the Trust.

6.1.8. To maintain bank accounts for the administration of the Trust and the Trustee Fund and to authorize certain Trustees or other appropriate persons to make payments from any appropriate account for purposes of the Trust.

6.1.9. To receive and review reports of the financial condition and of the receipts and disbursements of the Trust and the Trust Fund.

6.1.10. To adopt by-laws, rules, regulations, formulas, actuarial tables, forms, and procedures by resolution from time to time as they deem advisable and appropriate for the proper administration of the Trust, including participation criteria, provided the same are consistent with the terms of this Trust Agreement.

6.1.11. To purchase as a general administrative expense of the Trust so-called director's liability insurance and other insurance for the benefit of the Trust and/or the protection of the Trustees, Trust officers, employees, or agents against any losses by reason of errors or omissions or breach of fiduciary duty or negligence.

6.1.12. To enter into any and all contracts and agreements for carrying out the terms of this Trust Agreement and for the administration and operation of the Trust and to do all acts as they, in their discretion, may deem necessary or advisable. Except as otherwise directed by the Trustees, all such contracts and agreements, or other legal documents herein authorized, shall be executed by the Chairperson, or Secretary as may be voted by the Trustees.

6.1.13. To receive contributions or payments from any source whatsoever but such contributions or payments may not be utilized for any purpose unrelated to the provision of OPEB as herein provided or properly authorized expenses.

6.1.14. To pay taxes, assessments, and other expenses incurred in the collection, care, administration, and protection of the Trust.

6.1.15. To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper in connection with the administration of the Trust, although the power to do such acts is not specifically set forth herein.

6.1.16. To compromise, settle or arbitrate any claim, debt, or obligation of or against the Trust or Trust Fund; to enforce or abstain from enforcing any right, claim, debt or obligation, and to abandon any shares of stock, bonds, or other securities, or interests determined by it to be worthless; to prosecute, compromise and defend lawsuits, but without the obligation to do so, all at the risk and expense of the Trust.

6.1.17. To hire one or more consultants, actuaries, accountants, attorneys or other professionals to assist with the administration of the Trust Fund and to pay such amounts that the Trustee deems to be reasonable, including, without limiting the generality of the foregoing, third party firms to provide legal, tax, accounting and audit services to the Trust.

6.1.18. To comply with all requirements imposed by applicable provisions of law.

6.1.19. To serve as custodian with respect to Trust assets.

ARTICLE 7
LIMITATION OF TRUSTEES' POWERS, DUTIES AND RESPONSIBILITIES

7.1. Nothing contained in the Trust Agreement, either expressly or by implication, shall be deemed to impose any powers, duties or responsibilities on the Trustees other than those set forth in this Trust Agreement.

7.2. The Trustees shall have such rights, powers and duties as are provided to a named fiduciary for the investment of assets under ERISA. The Trustees shall not be liable for the making, retention or sale of any investment or reinvestment made by the Trustees as herein provided or for any loss to or diminution of the Trust Fund or for anything done or admitted to be done by the Trustees with respect to the Trust Agreement or the Trust Fund except as and only to the extent that such action constitutes a violation of the law or gross negligence.

7.3. The Trustees, in their discretion, may purchase as an expense of the Trust Fund such liability insurance for themselves as may be necessary and reasonable. The City, in its discretion, may also purchase liability insurance for the Trustees.

7.4. The City shall not assume any obligation or responsibility to any person for any act or failure to act of the Trustees, any insurance company, or any beneficiary of the Trust Fund. The Trustees shall have no obligation or responsibility with respect to any action required by this Trust Agreement to be taken by the City, any insurance company, or any other person, or for the result or the failure of any of the above to act or make any payment or contribution, or to otherwise provide any benefit contemplated by this Trust Agreement.

7.5. The Trustees shall not be obliged to inquire into or be responsible for any action or failure to act on the part of the City or the City Council. No insurance company shall be a party to this Trust Agreement, for any purpose, or be responsible for the validity of this Trust Agreement, it being intended that such insurance company shall be liable only for the obligations set forth in the policy or contract issued by it.

7.6. The Trustees shall invest and manage Trust assets as a prudent investor would, using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, pursuant to M.G.L. c. 203C.

ARTICLE 8
ACTIONS BY THE TRUSTEES

8.1. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees.

8.2. The Trustees may, by instrument executed by all of the Trustees, delegate to any attorney, agent or employee such other powers and duties as they deem advisable, including the power to execute, acknowledged or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust.

8.3. No Trustee shall be required to give bond.

ARTICLE 9
LIABILITY OF THE TRUSTEES

9.1. A Trustee shall not be liable for any mistake of judgment or other action made, taken or omitted by the Trustee in good faith, nor for any action taken or omitted by any other Trustee or any agent or employee selected with reasonable care, and the duties and obligations of the Trustees hereunder shall be expressly limited to those imposed upon them by this Trust Agreement.

9.2. No successor Trustee shall be held responsible for an act or failure of a predecessor Trustee.

9.3. Trustees are public employees for purposes of M.G.L. c. 258, and shall be indemnified by the City against any civil claim, action, award, compromise, settlement or judgment by reason of an intentional tort to the same extent and under the same condition as other public employees of the City.

9.4. A Trustee shall not be indemnified for violation of the civil rights of any person if he acted in a grossly negligent, willful or malicious manner, or in connection with any matter where it is shown to be a breach of fiduciary duty, an act of willful dishonesty or an intentional violation of law by the Trustee.

ARTICLE 10
MEETINGS OF THE TRUSTEES

10.1. The Trust may meet at such times and at such places as the Trustees shall determine.

10.2. The Trustees shall comply with the Open Meeting Law, M.G.L. c.30A, §§18-25 and its implementing regulations.

10.3. A quorum at any meeting shall be a majority of the Trustees then in office.

ARTICLE 11
TAXES, EXPENSES, AND COMPENSATION

11.1. It is intended that the Trust will be a Section 115 of the Internal Revenue Code of 1986 trust. As such, it is expected that there will be no income taxes owed by the Trust. To the extent that any taxes are imposed on the Trust, the Trustee shall use the assets of the Trust Fund to pay for any taxes owed.

11.2. All reasonable costs and expenses of managing and administering the Trust and the Trust Fund, including such compensation for the Trustees as may be approved by the City Council, in consultation with the Mayor, from time to time, and reimbursement for reasonable fees incurred through the use of third party vendors or agents, shall be paid from the Trust unless the City chooses to pay the expenses directly.

ARTICLE 12
ACCOUNTS

12.1. The Trustees shall keep complete and accurate accounts of all of the Trust's receipts, investments and disbursements under this Trust Agreement. Such records, as well as all other Trust records, shall be retained and made available for public inspection and or copying in accordance with the requirements of the Public Records Law, M.G.L. c. 66, §10 and M.G.L. c. 4, §7, clause 26th and their implementing regulations. The person or persons designated by the City shall be entitled to inspect such records upon request at any reasonable time.

12.2. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. The results of the audit shall be provided to the City at the same time as it is presented to the Trustees.

12.3. The Trust Fund shall be subject to the Commonwealth of Massachusetts Public Employee Retirement Administration Commission's triennial audit.

ARTICLE 13
ANNUAL REPORTS

13.1. The Trustees shall furnish to the City Council and the Mayor, annually, or more frequently if the City Council so requests, a statement of account and a performance account showing the condition of the Trust Funds and all investments, sales, income, disbursements and expenses of the Trust and the Trust Fund.

ARTICLE 14
INVESTMENT OF TRUST FUNDS

14.1. The Trustees hereby authorize and direct the City Treasurer to invest and reinvest the amounts in the Trust Fund not needed for current disbursement, consistent with the prudent investor rule, and as provided in the Investment Policy which is attached to this instrument and hereby incorporated.

14.2. Before funds may be invested, the Trustees shall create an initial investment policy to be approved by the City Council. Trust funds may be invested with PRIT after a vote of the Trustees, approval of the Mayor, and approval of the City Council.

14.3. In no event shall the funds be invested directly in mortgages or in collateral loans.

ARTICLE 15
CUSTODY OF THE TRUST FUNDS

15.1. The Trustees hereby appoint the City Treasurer as custodian of the Trust Fund and authorize the Treasurer to employ an outside custodial service to maintain custody of the Trust Funds. All funds in the Trust Fund shall be accounted for separately from all other funds of the City.

15.2. The City Treasurer, with the authorization of the Trustees, shall establish one or more checking accounts, which may be interest bearing or non-interest bearing accounts. Such checking account or accounts shall be funded solely from the Trust Funds, and the Trustees may authorize the City Treasurer to draw on such checking accounts for the payment of OPEB and for the administrative expenses of the Trust.

ARTICLE 16 **TERMINATION OF TRUST**

16.1. The Trust shall continue unless and until terminated pursuant to law or by an instrument in writing signed by at least three Trustees, provided, however, that continuance of the Trust shall not be deemed to be a contractual obligation of the City.

16.2. Upon termination of the Trust, subject to the payment of or making provision for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the City and held by the City Treasurer to be used exclusively for providing OPEB to Retired Employees and their eligible dependents and for no other purpose.

16.3. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE 17 **AMENDMENTS**

17.1. The Trust may only be amended as set forth herein. The City may amend the Trust at any time as may be necessary to comply with the requirements for tax exemption under Section 115 of the Code, to conform the Trust to the laws of the Commonwealth of Massachusetts and to meet the standards set forth in GASB 43 and GASB 45 to be treated as funded through a qualifying trust or equivalent arrangement.

17.2. This Trust Agreement may be amended, but not revoked, from time to time by the City, subject to the following limitations:

17.2.1. The assets of the Trust may not be used for or diverted to any other purposes prior to satisfaction of the City's OPEB obligations and reasonable expenses of administering the Trust.

17.2.2. The duties and liabilities of the Trustees cannot be substantially changed without their written consent.

17.3. Any amendment to this Trust shall be executed in writing.

ARTICLE 18 **MERGER**

18.1. The City may provide for the merger of the Trust with one or more other trusts established by the City or other government entities for similar purposes as may be provided by law.

ARTICLE 19
SEVERABILITY OF INVALID PROVISIONS

19.1. If any provision of this Trust Agreement is determined invalid, illegal, or unenforceable for any reason, then the provision shall be severed from the remaining provisions of the Trust Agreement for any reason, and the remaining parts of the Agreement shall be construed to give the maximum practical effect to the purposes stated herein, as if the invalid, illegal, or unenforceable provision was never a part.

ARTICLE 20
MISCELLANEOUS

20.1. This Trust Agreement shall be interpreted, construed and enforced, and the Trust hereby created shall be administered in accordance with and governed by the laws of the United States and of the Commonwealth of Massachusetts.

20.2. The titles to Articles of this Trust Agreement are placed herein for convenience of reference only, and the Trust Agreement is not to be construed by reference thereto.

20.3. No person shall be obliged to see to the application of any money paid or property delivered to the Trustees, or as to whether or not the Trustees have acted pursuant to any authorization herein required, or as to the terms of this Trust Agreement. In general, each person dealing with the Trustees may act upon any advice, request or representation in writing by the Trustees, or by the Trustee's duly authorized agent, and shall not be liable to any person in so doing. The certification of the Trustees that they are acting in accordance with this Trust Agreement shall be conclusive in favor of any person relying thereon.

20.4. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one instrument, which may be sufficiently evidenced by any counterpart.

20.5. Until advised to the contrary, the Trustees may assume this Trust is entitled to exemption from taxation under Section 115 of the Internal Revenue Code of 1986 or under any comparable section or sections of future legislation that amend, supplement or supersede one or both of those sections of the Internal Revenue Code.

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be executed in their respective names by their duly authorized officers as of the day and year first above written.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:07 PM.



IN CITY COUNCIL

MAY 6, 2013

Marlborough, Mass., _____

ORDERED:

That there being no objection thereto set **Monday, June 17, 2013** as date for a **PUBLIC HEARING** on the Application for Special Permit from Mirick O'Connell, on behalf of Sandra & Anthony Antico Real Estate LLC, for indoor recreation area that will include various children's entertainment features that can be used by children under the supervision of their parents or guardians for birthday parties and on other special occasions, 72 Jefferson St., be and is herewith refer to **URBAN AFFAIRS COMMITTEE**.

90 days will expire Sept. 15, 2013

ADOPTED

ORDER NO. 13-1005426



City of Marlborough

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
MAYOR

Office of the Mayor

2013 JUN 13

Michael C. Berry
EXECUTIVE AIDE

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

www.marlborough-ma.gov

Patricia Bernard
EXECUTIVE SECRETARY

June 13, 2013

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Marlborough Cultural Council Appointments

Honorable President Pope and Councilors:

I am pleased to submit for your approval the appointments of Melissa Vera, Mark Bartlett, and Mary Scott to the Marlborough Cultural Council for three year terms commencing from the day after their approval by the Council.

Both Melissa and Mark responded to my recent public outreach to the community to enlist new voices and fresh ideas on our boards and committees. My offices met with both individuals and were impressed by their strong support for the arts, as well as their track records of community involvement. Mary Scott is the co-owner of the Main Street Café and is an active member of our business community and frequent participant in several charitable causes throughout the city.

I believe they will be great additions to the Cultural Council.

The Cultural Council has a tentatively planned meeting in early August. If at all possible, it would be great if these new appointees could participate in that meeting based on the meeting availability of the Personnel Committee and City Council.

Please do not hesitate to contact me with any questions.

Sincerely,

Arthur G. Vigeant
Mayor



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **SPECIAL STATE ELECTION** will be held in the polling locations as noted below on **JUNE 25, 2013** as follows: Senator in Congress.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., Cafetorium
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD SIX: Prec. 1 and 2	1LT Charles W. Whitcomb School, 25 Union St., Library
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St.

LEGAL AD – PLEASE PUBLISH IN THE MWDN ON Friday, June 7, 2013

Bill to: City Clerk's Office
Please send tear sheets

City of Marlborough
Commonwealth of Massachusetts

RECEIVED
CITY CLERK'S OFFICE
OF MARLBOROUGH

2013 JUN 13 A 9:20



PLANNING BOARD

Barbara L. Fenby, Chair
Colleen M. Hughes
Philip J. Hodge
Edward F. Coveney
Clyde L. Johnson
Sean N. Fay
Shawn McCarthy

Melissa Irish - Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: MIrish@marlborough-ma.gov

June 12, 2013

Patricia Pope
President
Marlborough City Council

RE: Country Club Estates Subdivision (Stow Road, Robert Road and Country Club Circle) –
Proposed Taking of Permanent Easements

Dear President Pope and Members:

I have been authorized by vote of the Marlborough Planning Board (“the Board”) to present you with this letter. The Board is endeavoring to resolve a problem that has existed with the Country Club Estates subdivision (Stow Road, Robert Road and Country Club Circle) since the Board approved it as the Purcell Farms subdivision in 1987.

Specifically, the 1987 Board-approved subdivision plans refer to a “Future Stow Road Taking Line.” The purpose of the “Future Stow Road Taking Line” was to enable Stow Road to be widened for the safety, welfare and convenience of the public traveling upon Stow Road. The “Future Stow Road Taking Line” is depicted on the approved subdivision plans as running across fifteen (15) residential lots bounding the northerly boundary of Stow Road (“the Lots”). Relevant sheets from the Board-approved subdivision plans are attached hereto as Attachment “1,” with the proposed takings colored in yellow for your convenience.

While, for whatever reason 25 years ago, the original developer did not convey to the City the fee interest in the portions of property running across the Lots in conformance with the “Future Stow Road Taking Line,” the current developer, Toll

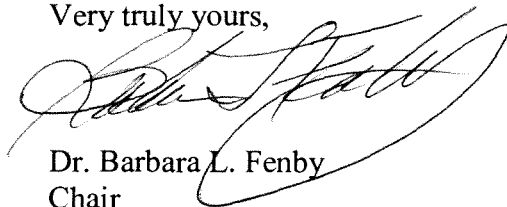
Bros., Inc. ("Toll Brothers"), has been working cooperatively with the Board in order that a proposed taking of permanent easements may be achieved, if, in fact, that is the ultimate will of the Council as taking authority. To that end, the Board and Toll Brothers entered into an Agreement (attached hereto as Attachment "2") that sets forth the various milestones needed as part of a takings process, including a title examination, an appraisal report, and a plan of the proposed taking of permanent easements (attached hereto as Attachment "3," with the proposed takings again colored in yellow for your convenience) – all at Toll Brothers' sole expense. Likewise, under the Agreement, Toll Brothers has agreed to reimburse the City for all of the following costs of the proposed taking:

- a) the advertisement of the proposed taking in a newspaper to be selected by the City;
- b) the proposed damages awards as indicated by the appraisal report;
- c) the defense of the City in, and the indemnification of the City from, any and all lawsuits filed as a result of the proposed taking during the applicable three (3)-year limitation period for such lawsuits provided by Mass. Gen. Laws c. 79, § 16, including all damages that may result from such lawsuits, whether by way of judgment or settlement, as well as all costs and expenses of litigation, but excluding attorney fees; provided, however that Toll Brothers' maximum costs for providing this indemnification shall not exceed \$45,000.00; and
- d) the cost of recording the taking order, if approved by the City Council, as well as the associated taking plan.

On behalf of the Board, I would respectfully ask that final action be taken by the Council on this matter no later than the close of this calendar year on December 31, 2013, and certainly earlier if the Council's work schedule allows. In the meantime, the Board will continue to hold the subdivision bond in the amount of \$246,000.00, obligating Toll Brothers to complete its subdivision obligations. I or another Board member would be pleased to meet with you in committee, along with representatives from the Legal Department, the DPW and Toll Brothers. A proposed order of taking will be presented at that meeting.

Thank you for your attention to this matter.

Very truly yours,

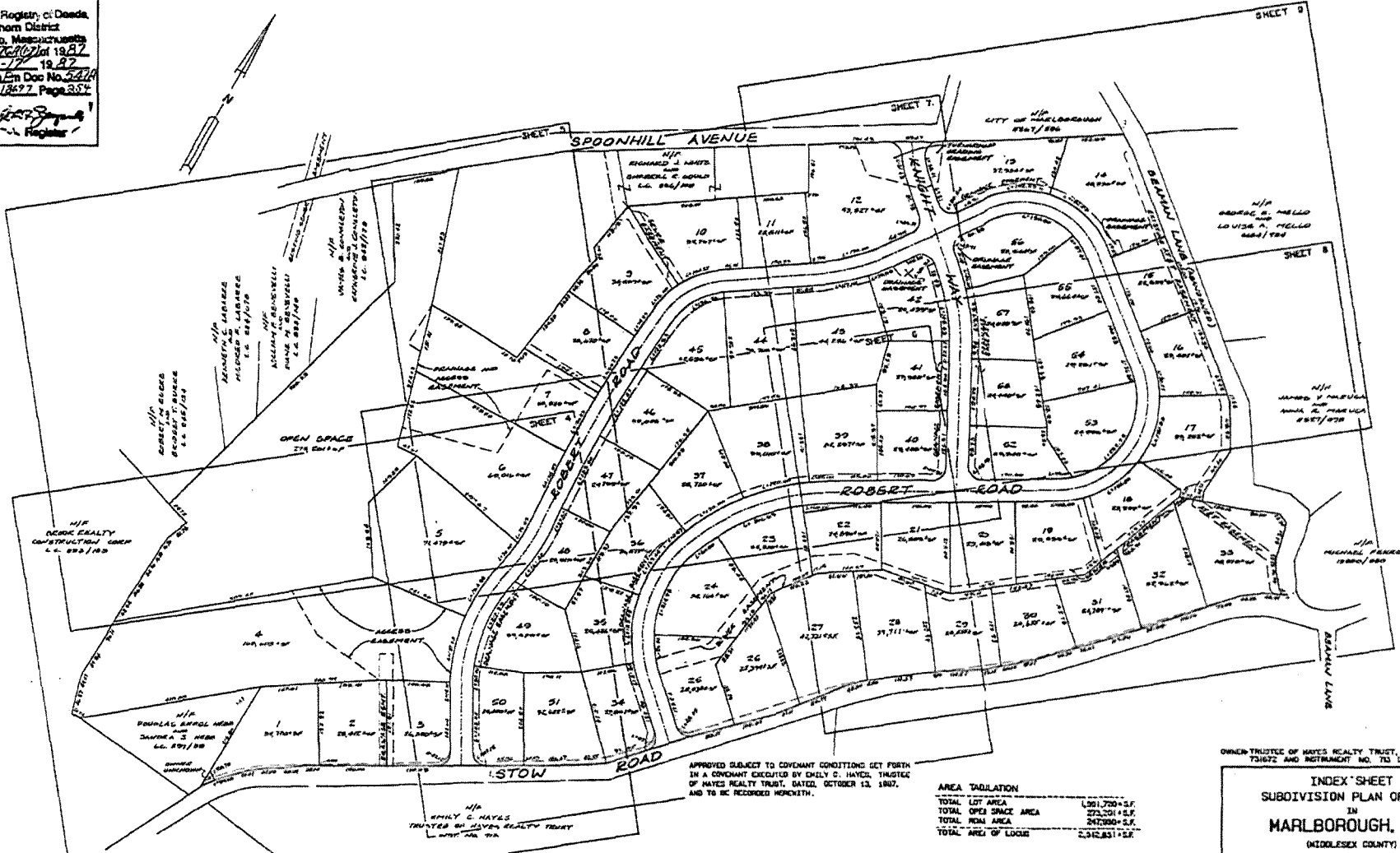


Dr. Barbara L. Fenby
Chair
Marlborough Planning Board

Attachments

cc: Donald V. Rider, Jr., Solicitor
Ronald M. LaFreniere, DPW Commissioner
Thomas E. Cullen, City Engineer
Brian R. Falk, Esquire

Middlesex Registry of Deeds
 Southern District
 Cambridge, Massachusetts
 Plan No. 1576A(1-2) of 1987
 Recd. 11-17 1987
 at 4:17 P.M. on Doc No. 5289
 Recd. BK 12677 Page 302



APPROVED SUBJECT TO COVENANT CONDITIONS SET FORTH
 IN A COVENANT EXECUTED BY EMILY C. HAYES, TRUSTEE
 OF HAYES REALTY TRUST, DATED, OCTOBER 13, 1987,
 AND TO BE RECORDED HEREWITH.

AREA TABULATION	
TOTAL LOT AREA	1,001,720 ± S.F.
TOTAL OPEN SPACE AREA	273,201 ± S.F.
TOTAL PDM AREA	247,000 ± S.F.
TOTAL AREA OF LOTS	2,521,921 ± S.F.

OWNER-TRUSTEE OF HAYES REALTY TRUST, DOCUMENT NO.
 731672 AND INSTRUMENT NO. 73 DATED DEC 22, 1986

INDEX SHEET
 SUBDIVISION PLAN OF LAND
 IN
MARLBOROUGH, MA
 (MIDDLESEX COUNTY)

REV. 1 SEP. 21, 1987
 REV. 1 SEP. 9, 1987
 REV. AUG. 20, 1987
 DATE: AUG. 2, 1987

SCALE: 1" = 100 FEET

BEALS AND THOMAS, INC
 TWO WESTBOROUGH BUSINESS PARK
 200 FRIDGEG PARKWAY
 WESTBOROUGH, MA
 01581

JOB NO. W-279.00 DMD NO. W-279.00-17
 5-377
 AFB-2364

APPROVED BY:
Marlborough Planning Board
 Application Filed _____
 Final Plan Filed _____
 Hearing Date _____
 Plan Approved 12 OCT 87

I, CLERK OF THE CITY OF MARLBOROUGH, MA
 HEREBY CERTIFY THAT THE NOTICE OF APPROVAL
 OF THIS PLAN BY THE MARLBOROUGH PLANNING
 BOARD HAS BEEN RECEIVED AND RECORDED AT
 THIS OFFICE AND NO APPEAL WAS RECEIVED
 DURING THE NEXT TWENTY DAYS AFTER RECEIPT
 AND RECORDING OF SAID NOTICE.

Oct 19 1987
 DATE
 CITY CLERK

I HEREBY CERTIFY THAT:
 THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH
 THE RULES AND REGULATIONS OF THE REGISTERED
 DEEDS BY THE COMMONWEALTH OF MASSACHUSETTS

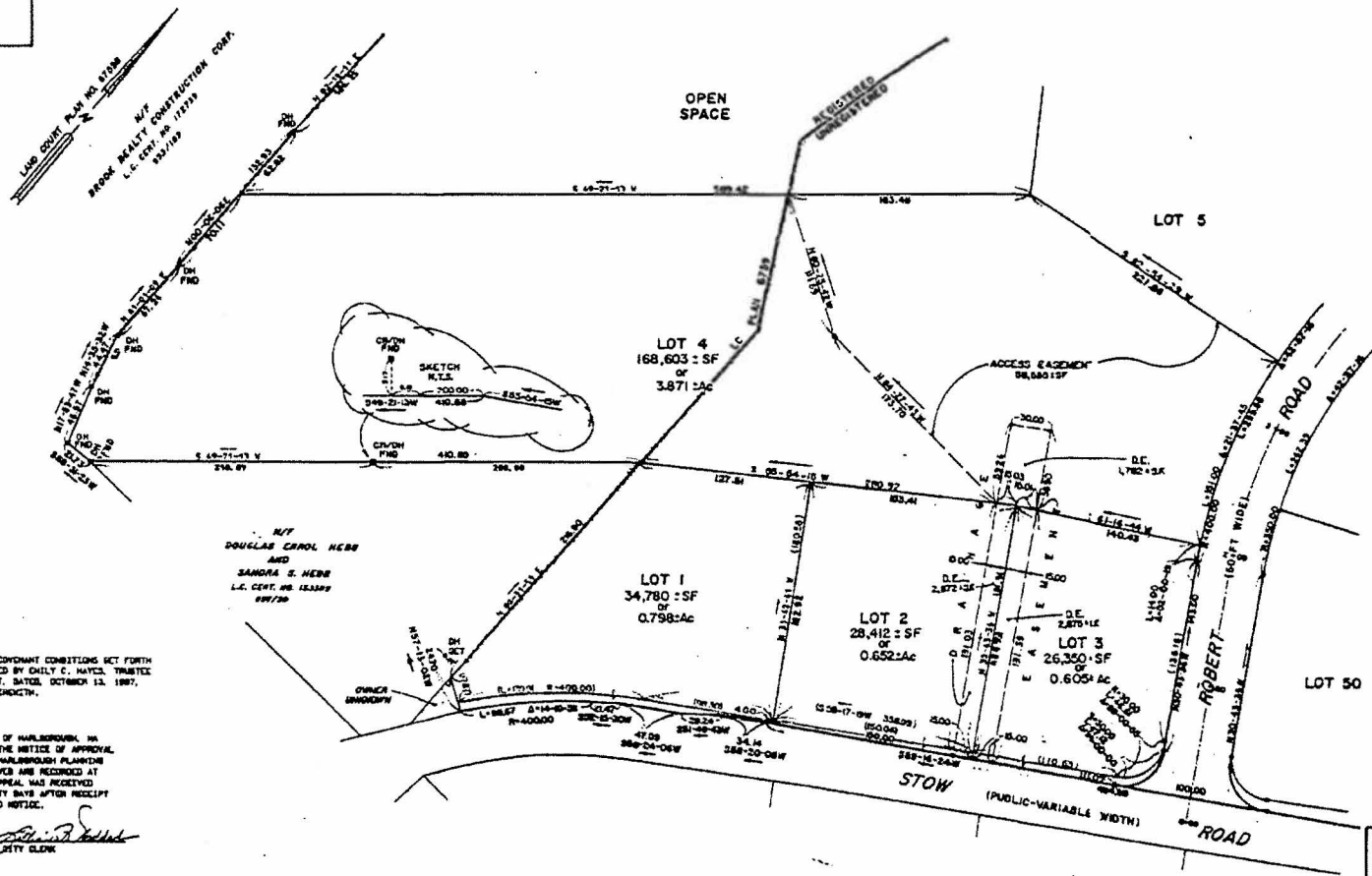
DATE 11/17
 CITY SUPERVISOR SHEET 2 OF 28



PLAN NO. 1576A(1-2) OF 1987
 RECORDED BOOK 12677 PAGE 302

1576A-1





AREA TABULATION

LOT AREA	288,149 SF
RESERVED AREA	86,269 SF
NET AREA	201,880 SF

NOTE: ROAD AREA ACCOUNTED FOR ON SHEET 6 OF 23

	PROPOSED AREA TO BE DEDED TO THE CITY OF MARLBOROUGH FOR STREET WORKING PURPOSES	REMAINING AREA OF LOT AFTER
LOT 1	1,228 SF	33,552 SF
LOT 2	645 SF	27,767 SF
LOT 3	650 SF	25,710 SF

LENDG
D.C. DUALINE CASHOUT
D.C. SCHED EASEMENT

- NOTES:
- 1) ZONING CLASSIFICATION RESIDENCE A-1.
 - 2) LOTS 2, 3, 28-34, 38 AND 37 ABUTTING THE PROPOSED STOW ROAD TAKING LINE HAVE BEEN DESIGNATED TO MEET THE FUTURE AREA AND FRONTAGE REQUIREMENTS OF RESIDENCE A-1 ZONING. DIMENSIONS SHOWN IN "1" ARE LOT DIMENSIONS AFTER WIDENING.
 - 3) TOTAL AREA OF THE PROPOSED STOW ROAD TAKING 14,906 SF D.C.
 - 4) * DOTTED STONE BOUND OR DASH LINE TO BE SET, UNLESS OTHERWISE NOTED.
 - 5) X ROAD AREA WITHIN SYMBOL ACCOUNTED FOR IN AREA TABULATION.
- OWNER: TRUSTEE OF NAYES REALTY TRUST, BROUGHTON RD, TALEY AND INSTRUMENT NO. 729 OF REC. VOL. 1889.

APPROVED SUBJECT TO COVENANT CONDITIONS SET FORTH IN A COVENANT EXECUTED BY DAVID C. NAYES, TRUSTEE OF NAYES REALTY TRUST, SATOUL OCTOBER 13, 1987, AND TO BE RECORDED HEREAFTER.

I, CLERK OF THE CITY OF MARLBOROUGH, MA HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE MARLBOROUGH PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO APPEAL HAS RECEIVED DURING THE NEXT THIRTY DAYS AFTER RECEIPT AND RECORDING OF SAID NOTICE.

DATE: 10/27/87
CITY CLERK

APPROVED BY:
MARLBOROUGH PLANNING BOARD
Application Filed _____
Plan Filed _____
Hearing Date _____
Plan Approved 12 OCT 87

PLANNING 1576A(3-7) OF 1987
RECORDED BOOK 186-97 PAGE 4-27

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTRATION OF DEEDS IN THE COMMONWEALTH OF MASSACHUSETTS.

DATE: 10/27/87
CITY SUBMISSION # OF 23



**SUBDIVISION PLAN OF LAND
A DEFINITIVE SUBDIVISION IN
MARLBOROUGH, MA**

MIDDLESEX COUNTY, MASS.
REV. AUG. 30, 1987
SCALE 1" SHOWS 40 FEET
DATE: JUNE 2, 1987
BEALS AND THOMAS, INC.
200 FRIEDBERG PARKWAY
WESTBOROUGH, MA
01581
JOB NO. W-278.08 DWS, NO. W-278.00.19

1576A-3

S-1577
MFB-2364

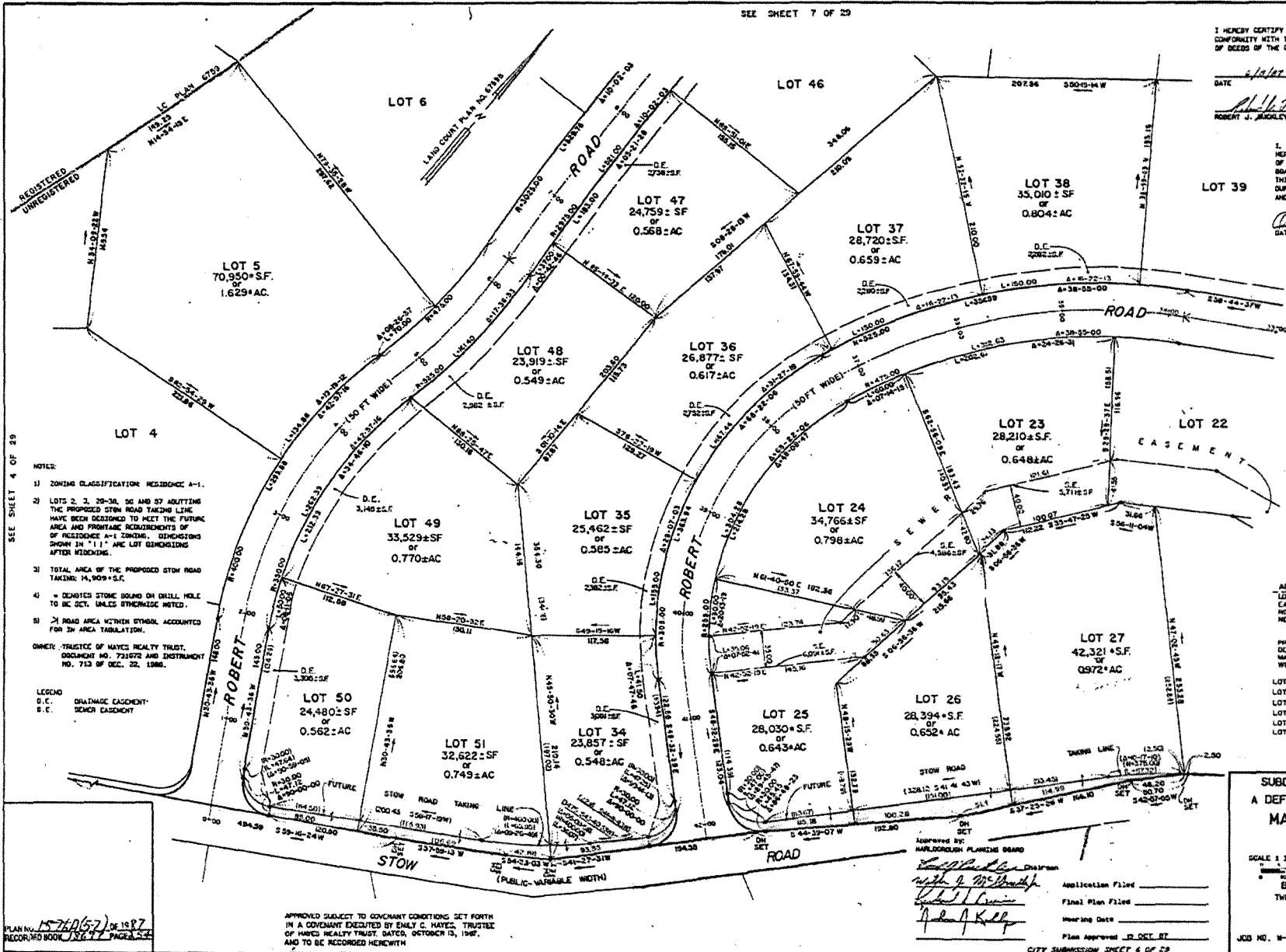
I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



DATE 6/1/87
ROBERT J. JAVALLEY, P.L.S., NO. 36328

I, CLERK OF THE CITY OF MARLBOROUGH, MA HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE MARLBOROUGH PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO APPEAL HAS RECEIVED DURING THE NEXT THIRTY DAYS AFTER RECEIPT AND RECORDING OF SAID NOTICE.

DATE 6/15/87
CITY CLERK



SEE SHEET 4 OF 29

SEE SHEET 8 OF 29

- NOTES:
- ZONING CLASSIFICATION RESIDENCE A-1.
 - LOTS 2, 3, 29-34, 50 AND 57 ADJUTING THE PROPOSED STOW ROAD TAKING LINE HAVE BEEN DESIGNED TO MEET THE FUTURE AREA AND FRONTAGE REQUIREMENTS OF RESIDENCE A-1 ZONING. DIMENSIONS SHOWN IN "11" ARE LOT DIMENSIONS AFTER WIDENING.
 - TOTAL AREA OF THE PROPOSED STOW ROAD TAKING: 14,909 ± S.F.
 - "S" DENOTES STONE BOUND ON DRILL HOLE TO BE SET, UNLESS OTHERWISE NOTED.
 - "X" ROAD AREA WITHIN SYMBOL ACCOUNTED FOR IN AREA TABULATION.
- OWNER: TRUSTEE OF NAVES REALTY TRUST, DOCUMENT NO. 731672 AND INSTRUMENT NO. 713 OF DEC. 22, 1986.

LEGEND
D.E. DRAINAGE EASEMENT
S.E. SEWER EASEMENT

AREA TABULATION	
LOT AREA	571,906 ± S.F.
EASEMENT AREA	46,933 ± S.F.
ROAD AREA - ROBERT ROAD	72,405 ± S.F.
NET AREA	694,244 ± S.F.
PROPOSED AREA TO BE DECEDED TO THE CITY OF MARLBOROUGH FOR STREET WIDENING PURPOSES	
LOT 25	1,159 ± S.F.
LOT 26	2,396 ± S.F.
LOT 27	2,313 ± S.F.
LOT 34	1,190 ± S.F.
LOT 50	1,024 ± S.F.
LOT 51	1,900 ± S.F.
REMAINING AREA OF LOT AFTER WIDENING	
LOT 25	25,871 ± S.F.
LOT 26	25,898 ± S.F.
LOT 27	41,006 ± S.F.
LOT 34	22,667 ± S.F.
LOT 50	23,417 ± S.F.
LOT 51	30,642 ± S.F.

PLAN NO. 1576A(57) OF 1987
RECORDED BOOK 12677 PAGE 25

APPROVED SUBJECT TO COVENANT CONDITIONS SET FORTH IN A COVENANT EXECUTED BY EMILY C. NAVES, TRUSTEE OF NAVES REALTY TRUST DATED, OCTOBER 13, 1987, AND TO BE RECORDED HERewith

Approved by:
MARLBOROUGH PLANNING BOARD
Chairman
Application Filed _____
Final Plan Filed _____
Working Date _____
Plan Approved 12 OCT 87
CITY SUBMISSION SHEET 4 OF 29

SUBDIVISION PLAN OF LAND A DEFINITIVE SUBDIVISION IN MARLBOROUGH, MA

MIDDLESEX COUNTY DEPT. OF REG. & GEN. SERVICES
AUG 20, 1987

SCALE 1" = 40 FEET
DATE: JUNE 2, 1987

BEALS AND THOMAS, INC.
TWO WESTBOROUGH BUSINESS PARK
200 FRIEDBERG PARKWAY
MIDDLEBOROUGH, MA 01581

JOB NO. M-279.00 Dwg. NO. M-279.00.21

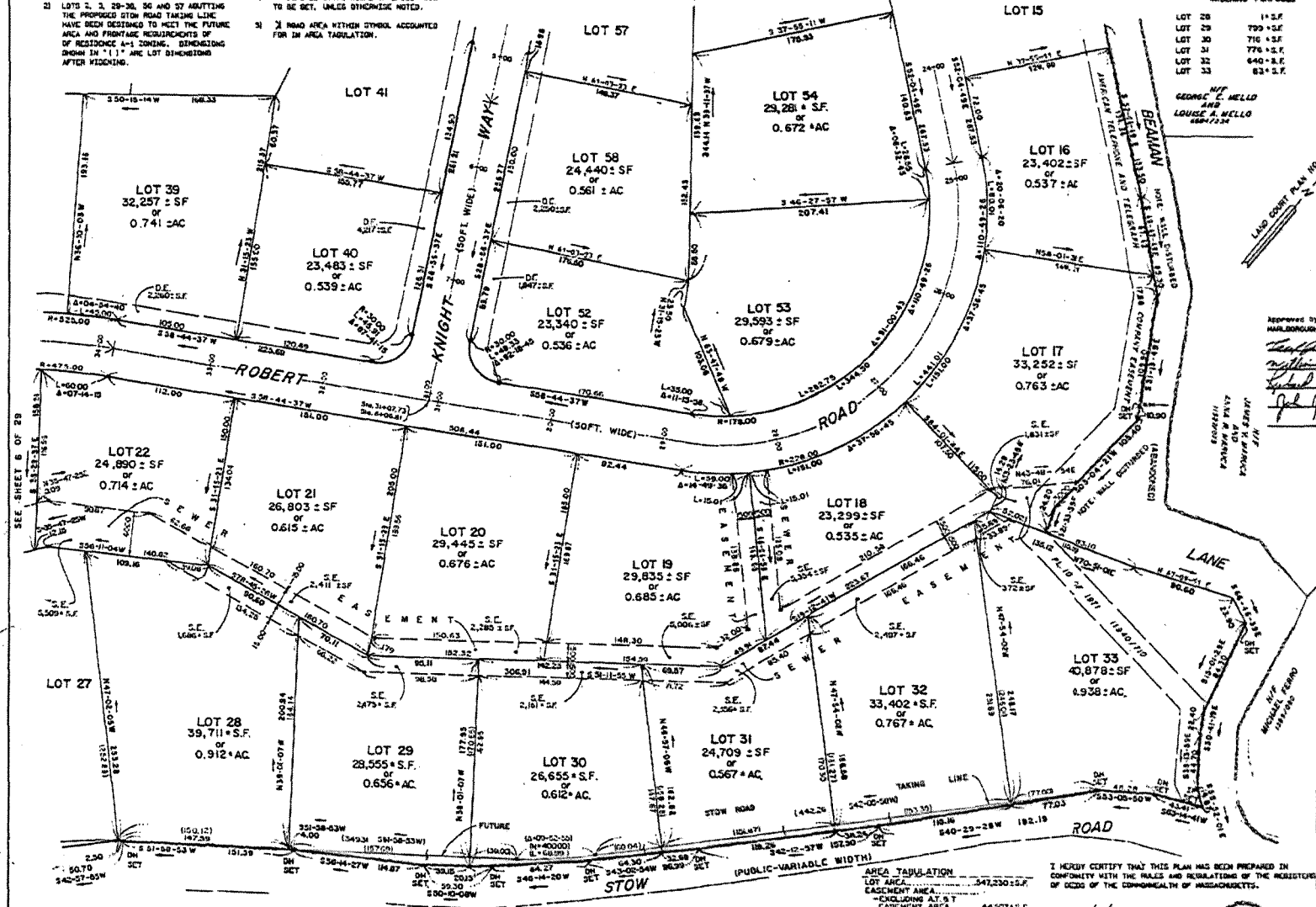
1576A-5

- NOTES:
- ZONING CLASSIFICATION: RESIDENCE A-1.
 - LOTS 2, 3, 29-30, 36 AND 37 ABUTTING THE PROPOSED STON ROAD TAKING LINE HAVE BEEN DESIGNATED TO MEET THE FUTURE AREA AND FRONTAGE REQUIREMENTS OF RESIDENCE A-1 ZONING. DIMENSIONS SHOWN IN () ARE LOT DIMENSIONS AFTER WIDENING.
 - TOTAL AREA OF THE PROPOSED STON ROAD TAKING: 14,909 ± S.F.
 - () DENOTES STONE DAMS OR DRILL HOLES TO BE SET, UNLESS OTHERWISE NOTED.
 - (X) HMOG AREA WITHIN SYMBOL ACCOUNTED FOR IN AREA TABULATION.

OWNER: TRUSTEE OF HAYES REALTY TRUST, DOCUMENT NO. 731676 AND INSTRUMENT NO. 713 OF DEC. 22, 1986.

SEE SHEET 9 OF 29

PROPOSED AREA TO BE DEEDED TO THE CITY OF MARLBOROUGH FOR STREET WIDENING PURPOSES	REMAINING AREA OF LOT AFTER WIDENING
LOT 28	11 ± S.F.
LOT 29	799 ± S.F.
LOT 30	716 ± S.F.
LOT 31	776 ± S.F.
LOT 32	640 ± S.F.
LOT 33	83 ± S.F.
	30,710 ± S.F.
	27,756 ± S.F.
	23,038 ± S.F.
	23,033 ± S.F.
	32,762 ± S.F.
	40,795 ± S.F.



I, CLERK OF THE CITY OF MARLBOROUGH, MA HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE MARLBOROUGH PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO APPEAL HAS RECEIVED DURING THE NEXT TWENTY (20) DAYS AFTER RECEIPT AND RECORDING OF SAID NOTICE.

Patricia J. Kelly
CITY CLERK

APPROVED BY:
MARLBOROUGH PLANNING BOARD

Richard J. Kelly Chairman
Patricia J. Kelly Clerk

Application Filed _____
Final Plan Filed _____
Hearing Date _____
Plan Approved 1/12/87

APPROVED SUBJECT TO COVENANT CONDITIONS SET FORTH IN A COVENANT CREATED BY DALEY C. HAYES, TRUSTEE OF HAYES REALTY TRUST, DATED, OCTOBER 12, 1987, AND TO BE RECORDED HEREIN.

SUBDIVISION PLAN OF LAND
A DEFINITIVE SUBDIVISION IN
MARLBOROUGH, MA
(DIDDLESEX COUNTY) SHEET 8 OF 10

SCALE: 1" = 40 FEET
DATE: JUNE 2, 1987

BEALS AND THOMAS, INC.
200 FRIEBERG PARKWAY
MARLBOROUGH, MA 01501

JOB NO. M-279.00 ENG. NO. M-279.00.23

AREA TABULATION

LOT AREA	541,230 ± S.F.
EASEMENT AREA	-
CADASTRAL AREA	44,507 ± S.F.
ROAD AREA - ROBERT ROAD	44,900 ± S.F.
- KNIGHT WAY	11,077 ± S.F.
NET AREA	604,422 ± S.F.

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERED PROFESSION OF LAND SURVEYORS OF MASSACHUSETTS.

DATE: 4/1/87
Robert J. Dudley
ROBERT J. DUDLEY, P.L. 776.33328



PLAN NO. 1576A-7 OF 1987
RECORDED BOOK 1827 PAGE 2-2

1576A-7

2

AGREEMENT

This Agreement ("the Agreement") is made this 17 day of December, 2012 between the City of Marlborough ("the City"), acting by and through its duly constituted Planning Board ("the Board"), and Toll Bros., Inc., a Pennsylvania corporation with its principal office at 250 Gibraltar Road, Horsham, PA 19044 ("Toll Brothers").

WHEREAS, the Board and Toll Brothers entered into a covenant dated January 28, 1994, recorded at the Middlesex South District Registry of Deeds ("the Registry") in Book 24402, Page 297, and pertaining to a residential subdivision in the City known as Country Club Estates ("the Covenant"); and

WHEREAS, the Covenant made reference to a subdivision plan dated June 2, 1987, approved by the Board on October 19, 1987, recorded at the Registry on November 17, 1987 as Plan 1576 of 1987 ("the Plan"), and revised on December 20, 1993 in accordance with then-newly-applicable Board subdivision rules and regulations to reflect 1) sloped granite curbing instead of a bituminous berm, and 2) tree plantings along the street every 40' instead of every 75'; and

WHEREAS, the Board is holding a subdivision bond in the amount of \$246,000.00 ("the Bond"), obligating Toll Brothers to complete its obligations under the Covenant and the Plan; and

WHEREAS, Toll Brothers acknowledges and agrees that it is obliged to complete its obligations under the Covenant and the Plan, including the "Future Stow Road Taking Line" referenced immediately below; and

WHEREAS, the Plan refers to a "Future Stow Road Taking Line," the purpose of which was to enable Stow Road to be widened for the safety, welfare and convenience of the public traveling upon Stow Road ("the Proposed Taking"); and

WHEREAS, in Country Club Estates there are fifteen (15) residential lots bounding the northerly boundary of Stow Road ("the Lots"); and

WHEREAS, the Plan specifies that the Proposed Taking would involve a taking of the following square footages from each of the following Lots:

- Lot 1 (136 Stow Road): 1,226 ± S.F.
- Lot 2 (150 Stow Road): 545 ± S.F.
- Lot 3 (12 Roberts Road): 850 ± S.F.
- Lot 50 (15 Roberts Road): 1,063 ± S.F.
- Lot 51 (186 Stow Road): 1,980 ± S.F.
- Lot 34 (323 Roberts Road): 1,190 ± S.F.
- Lot 25 (210 Stow Road): 1,159 ± S.F.
- Lot 26 (226 Stow Road): 2,396 ± S.F.
- Lot 27 (238 Stow Road): 2,313 ± S.F.

- Lot 28 (250 Stow Road): 1 ± S.F.
- Lot 29 (264 Stow Road): 799 ± S.F.
- Lot 30 (37 Country Club Circle) 716 ± S.F.
- Lot 31 (33 Country Club Circle): 776 ± S.F.
- Lot 32 (30 Country Club Circle): 640 ± S.F.
- Lot 33 (26 Country Club Circle): 83 ± S.F.; and

WHEREAS, the Board and Toll Brothers agree that the Proposed Taking would involve a taking of permanent easements; and

WHEREAS, the Board and Toll Brothers agree that the Proposed Taking would not require a modification of the Plan; and

WHEREAS, the Board and Toll Brothers are desirous that the aforementioned purpose of the Proposed Taking be achieved promptly;

NOW, THEREFORE, the Board and Toll Brothers do hereby agree as follows:

1. Taking Plans. Toll Brothers agrees that it shall, at its sole cost and expense, prepare a plan(s) for the Proposed Taking and a new layout of Stow Road (“the Taking Plans”) depicting the above-specified square footages proposed to be taken as permanent easements from the Lots; and that the Taking Plan shall be prepared to the reasonable satisfaction of the Engineering Division of the City’s Department of Public Works using sound and accepted engineering principles.

2. Title Report. Toll Brothers agrees that the Board, acting through the City’s Legal Department, may select a title company or attorney to prepare a title report or reports on the Lots, if deemed necessary by the City’s Legal Department to complete the Proposed Taking (“the Title Report”); that the Title Report, once completed, shall be submitted to the City’s Legal Department for its review; and that Toll Brothers shall reimburse the City in full for the costs associated with obtaining the Title Report.

3. Appraisal Report. Toll Brothers agrees that the Board, acting through the City’s Legal Department, shall select a licensed and qualified appraiser to do an appraisal relative to the above-specified square footages proposed to be taken as permanent easements from the Lots, as depicted in the Taking Plans for the purpose of determining the damages awards, if any, to the affected property owners (“the Appraisal Report”); that for the purposes of the Appraisal Report, the Board-selected licensed and qualified appraiser shall be engaged solely by the City of Marlborough, which shall be the only client of the appraiser for this appraisal assignment; that the Appraisal Report, once completed, shall be submitted to the City’s Legal Department for its review; and that Toll Brothers shall reimburse the City in full for the costs associated with obtaining the Appraisal Report.

4. Public Records Exemption. Toll Brothers and the City agree that they shall treat the Appraisal Report as exempt from public disclosure to the extent provided under the Massachusetts Public Records Law, Mass. Gen. Laws c. 4, § 7, cl. Twenty-sixth (i); that Toll

Brothers shall, as early as possible within the ten-day period following its receipt of any and all requests from the public to inspect or to receive a copy of the Appraisal Report, notify the Board and the City's Legal Department of such requests; and the responses to all such requests shall be the responsibility of the City's Legal Department.

5. Planning Board Recommendation to the City Council. If (i) the Engineering Division of the City's Department of Public Works has notified the Board that it has approved the Taking Plans, (ii) the City's Legal Department has notified the Board that it has reviewed and approved the Title Report, if applicable, and the Appraisal Report, (iii) the Board has met with the City's Legal Department in executive session to review the Appraisal Report, and (iv) Toll Brothers has fully reimbursed the City for all costs, as required by ¶ 2 and ¶ 3 of this Agreement, then the Board shall recommend that the Proposed Taking be submitted to the Marlborough City Council as the City's taking authority.

6. City Council Submittal. Upon the Board's recommendation, pursuant to ¶ 5 of this Agreement, the Board, with the assistance of Toll Brothers, shall submit and present the Proposed Taking to the City Council for its consideration (the "Submission"); provided, however, that if the Board is unable to make the Submission on or before June 30, 2013, thereby providing less than six (6) months of time for the sitting City Council to take final action on the Submission prior to the end of the 2012-2013 legislative cycle on December 31, 2013, then the Board shall make the Submission after January 1, 2014, so that the Submission may be considered by the next City Council.

7. Costs and Indemnification for Proposed Taking. As part of the Submission, the Board shall specify to the City Council that Toll Brothers shall reimburse the City for the following monetary aspects of the Proposed Taking:

- a) the advertisement of the Proposed Taking in a newspaper to be selected by the City;
- b) the damages awards, if any, as indicated by the Appraisal Report;
- c) the defense of the City in, and the indemnification of the City from, any and all lawsuits filed as a result of the Proposed Taking during the applicable three (3)-year limitation period for such lawsuits provided by Mass. Gen. Laws c. 79, § 16, including all damages that may result from such lawsuits, whether by way of judgment or settlement, as well as all costs and expenses of litigation, but excluding attorney fees; provided, however that Toll Brothers' maximum costs for providing the indemnification required under this ¶ 7(c) shall not exceed \$45,000.00; and
- d) the cost of recording the taking order, if approved by the City Council, as well as the associated Taking Plans.

8. Recording of Taking Documents. In the event that the City Council does approve the Proposed Taking, Toll Brothers shall, within thirty (30) days after the date of the City Council's approval, record the taking order and associated Taking Plans; and shall forthwith

provide the City Council, the Board and the City's Legal Department with a copy of the recorded taking documents.

9. Bond Reduction or Release. The Board agrees to reduce or release the Bond as follows:

- a) If Council Approval. In the event that the City Council does approve the Proposed Taking within six (6) months after the Submission, and upon Toll Brothers (i) having reimbursed the City for the monetary aspects of the Proposed Taking referenced in ¶ 7(a), (b) and (d) of this Agreement, and (ii) having provided the recorded taking documents referenced in ¶ 8 of this Agreement, the Board shall thereupon reduce the balance then remaining in the Bond to \$45,000.00. The remaining \$45,000.00 of the Bond shall be held by the Board for the duration of the applicable three (3)-year limitation period, as set forth in ¶ 7(c) of this Agreement, except to the extent that the Board, acting pursuant to notification from the City's Legal Department that any lawsuit(s) filed as a result of the Proposed Taking during that period has (have) reached a judgment(s) or a settlement(s), reduces the balance then remaining in the Bond. Upon the expiration of said three (3)-year limitation period, the Board shall thereupon release the full balance then remaining in the Bond.
- b) If No Council Approval. In the event that the City Council has not approved the Proposed Taking within six (6) months after the Submission, the Board shall thereupon release the full balance then remaining in the Bond and shall release Toll Brothers from any obligations under the Covenant and the Plan with respect to the Proposed Taking and the "Future Stow Road Taking Line"; provided, however, that said six (6)-month period may be extended by mutual agreement of Toll Brothers and the Board, which agreement shall not be unreasonably withheld, conditioned or denied so long as Toll Brothers and the City have acted in good faith.

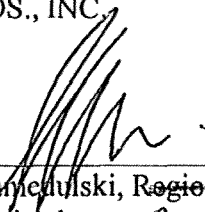
10. Amendments to Agreement. The parties to this Agreement agree that this Agreement may be amended, in writing, by an instrument signed by the parties hereto; and that any such amendment shall be recorded at the Registry by Toll Brothers at its sole cost and expense.

11. Recording of Agreement. Once this Agreement is executed, Toll Brothers shall, at its sole cost and expense, forthwith record the executed Agreement at the Registry; and shall forthwith provide the Board and the City's Legal Department with a copy of the recorded Agreement.

[SIGNATURES ON FOLLOWING PAGE]

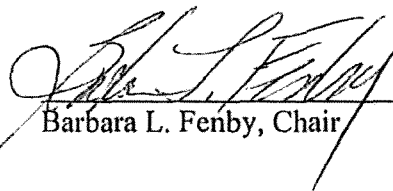
EXECUTED AS A SEALED INSTRUMENT as of the date last written below by the signatories hereto.

TOLL BROS., INC

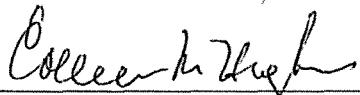


Gregory Karcidulski, Regional President
Duly Authorized *Division*

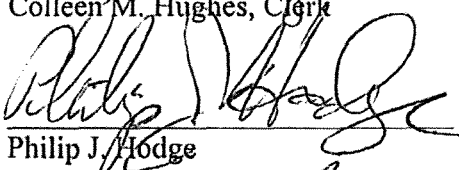
MARLBOROUGH PLANNING BOARD,
CITY OF MARLBOROUGH



Barbara L. Fenby, Chair




Colleen M. Hughes, Clerk



Philip J. Hodge

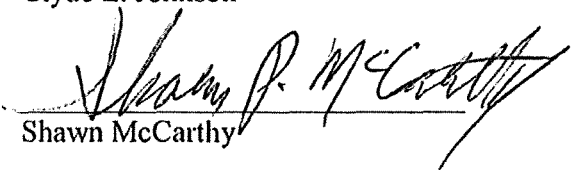


Edward F. Coveney



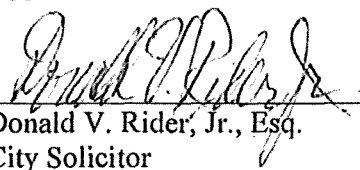
Sean N. Fay

Clyde L. Johnson



Shawn McCarthy

Approved as to form:

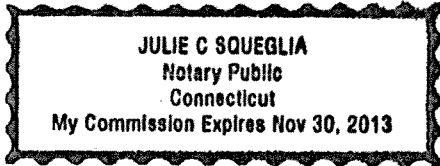


Donald V. Rider, Jr., Esq.
City Solicitor

STATE OF Connecticut

Yorhield, ss.

On December 13th, 2012, ^{Division} before me, the undersigned notary public, personally appeared Gregory Kamedulski, Regional President for Toll Bros., Inc., and proved to me through satisfactory evidence of identification, which was known, that he is the person whose name is signed on the preceding or attached document.



Julie Squeglia
Notary Public
Printed Name: Julie Squeglia
My Commission Expires: 11/30/13

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On December 17th, 2012, before me, the undersigned notary public, personally appeared the individual members of the Marlborough Planning Board, and proved to me through satisfactory evidence of identification, which was known, that they are the persons whose names are signed on the preceding or attached document.



CARRIE A. LIZOTTE
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS
MY COMMISSION EXPIRES
FEBRUARY 28, 2014

Carrie A. Lizotte
Notary Public
Printed Name: CARRIE A. LIZOTTE
My Commission Expires: 2/28/2014

CERTIFICATE OF SECRETARY

I, MICHAEL I. SNYDER, Secretary of Toll Bros., Inc., hereby certify as follows:

1. Gregory Kamedulski is the ^{DIVISION} Regional President for Toll Bros., Inc.
2. In his capacity as ^{DIVISION} Regional President, Gregory Kamedulski is authorized to sign the Agreement between the City of Marlborough, acting by and through its duly constituted Planning Board, and Toll Bros., Inc., pertaining to the "Future Stow Road Taking Line" approved as part of a residential subdivision in the City of Marlborough, MA known as Country Club Estates.

Signed: 

Dated: DECEMBER 13, 2012

[Name]

Secretary

Toll Bros., Inc.

Place of Business: 250 Gibraltar Road, Horsham, PA 19044

MICHAEL I. SNYDER



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

RECEIVED DONALD V. RIDER, JR.
CITY CLERK'S OFFICE CITY SOLICITOR
CITY OF MARLBOROUGH
2013 JUN 12 P 4:05
CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR
BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

June 12, 2013

Patricia Pope
President
Marlborough City Council

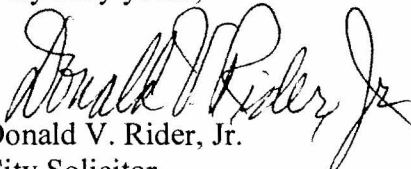
RE: 13-1005341B
Special Permit Application
McDonald's USA, LLC
155 Boston Post Road West, Marlborough

Dear President Pope 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 findings on the special permit application submitted by McDonald's USA, LLC for 155 Boston Post Road West, Marlborough. The application is to remodel the restaurant and reconfigure the existing drive-through lane at the site.

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

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Matthew D. Brook, Bohler Engineering, on behalf of McDonald's USA, LLC

IN CITY COUNCIL

ORDERED:

DECISION ON A SPECIAL PERMIT

IN CITY COUNCIL

Special Permit
McDonald's USA, LLC
Order No. 13-1005341C

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 13-1005341C

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to McDonald's USA, LLC for a drive-through facility at the existing restaurant at 155 Boston Post Road West, Marlborough, MA, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. McDonald's USA, LLC, One McDonald's Plaza, Oak Brook, IL 60523, has a Northeast Region office located at 690 Canton Street, Westwood, MA 02090, and is hereinafter referred to as the "Applicant."
2. The Applicant is a subsidiary of McDonald's Corporation, One McDonald's Plaza, Oak Brook, IL 60523 which owns the premises known and numbered as 155 Boston Post Road West, Marlborough, Massachusetts and further described on Marlborough Assessor's Maps as Map 78, Lot 15 (hereinafter, the "Site"). As the operator of the existing McDonald's restaurant and drive-through located at the Site, the Applicant proposes to remodel the restaurant and reconfigure the existing drive-through lane at the Site (hereinafter, the "Project").
3. Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application"). Pursuant to Sections 650-14.B and 650-17 of the Zoning Ordinance of the City of Marlborough (2008 Code), Applicant is seeking permission for a drive-through facility, since they are proposing to rebuild the existing drive-through, and the original construction pre-dated the need to obtain a special permit.
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.

5. In connection with the Application, Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan titled "Site Development Plans for Proposed McDonald's with Drive-Thru, Location of Site: 155 Boston Post Road West, City of Marlborough, Middlesex County, Massachusetts, Map 78, Lot 15", prepared for McDonald's, drawn by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=20', dated February 18, 2013 (hereinafter, the "Plans").

6. The Plans were certified by the Building Inspector of the City of Marlborough, acting 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 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 Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, April 8th, 2013.

9. Applicant, through its civil engineering consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic. No individual in attendance at the public hearing spoke in opposition to the project.

10. The Applicant intends the proposed drive-through reconfiguration to improve site circulation by eliminating the ability to cut into the drive-through for cars entering the site at Northborough Road. Under the proposed conditions, the Applicant intends that vehicles will need to circulate the building in order to enter the drive-through, in order to avoid the potential stacking issue.

**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 special permit applications.

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 reconstruct and operate the drive-through lane 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 the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.

2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review 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 the 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, its successors and/or assigns 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 a so-called electronic message board or LCD components. The existing internally illuminated readerboard can remain. 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 be modified from the existing condition without prior approval by the Site Plan Review Committee.

7. There shall be no overnight parking at the Site, except that parking which is incidental to the continued 24-hour site operations shall be allowed.

8. The existing stormwater system is proposed to remain and be unaltered. However, upon issuance of the Special Permit, the applicant, its successors and/or assigns shall monitor the existing catch basins on a semi-annual basis, and shall give reports to the City Engineer as requested. 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.

9. Applicant, its successors and/or assignees agrees to maintain the Project landscaping substantially in conformance with the Plans as submitted to the City Council and/or the City Council's Urban Affairs Committee as may be amended during Site Plan Review.

10. The drive-through shall employ a 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 zoning district, in accordance with the noise ordinance of the City of Marlborough.

11. The existing Site driveways will not be changed by this Project, and driveway permitting with the local or State highway departments is not required.

12. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the 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.

13. Notwithstanding condition #1 above, the Site Plan Review Committee may make engineering changes to the Plans, 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 Plans.

14. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Marlborough Traffic Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.

15. The hours of operation for the restaurant will continue to be 24 hours per day, 7 days per week.

16. The hours of operation for the drive-through facility will continue to be 24 hours per day, 7 days per week.

17. Any work performed within the public way on Boston Post Road West shall be done by Applicant, its successors and/or assigns during off-peak hours and, prior to commencement of such work, Applicant, its successors and/or assigns shall provide a traffic management plan relating to the same for approval by the Engineering Division of the City's Department of Public Works.

18. 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.

19. During construction, no vehicles shall be staged on public ways.

20. In accordance with the provisions of M.G.L. c. 40A, § 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 Applicant, its successors and/or assigns has applied to the Building Inspector for a building permit concerning the Project. 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: _____ - Nay: _____ - Absent: _____

ADOPTED

In City Council

Order No. 13-1005341C

Adopted: _____ 2013

Approved by Mayor

Arthur Vigeant

Date: _____ 2013

A TRUE COPY

ATTEST: _____ City Clerk

nationalgrid

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2013 JUN 13 A 9 56

April 30, 2013

City of Marlborough
City Clerks Office
140 Main Street
Marlborough, MA 01752

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID covering the installation of underground facilities.

If you have any questions regarding this permit please contact:

Angela Birch 401-784-7726

If this petition meets with your approval, please return an executed copy to:

National Grid Contact: Angela Birch; 280 Melrose Street; Providence, RI

Very truly yours,

Chris Montalto *dB*

Chris Montalto, Engineering
Supervisor, Distribution Design

Enclosures

PETITION FOR MANHOLE AND DUCT LOCATIONS

Hopedale, MA 01747

April 30, 2013

COUNCIL COPY

To the City Council
of the City of Marlborough, Massachusetts

MASSACHUSETTS ELECTRIC COMPANY requests permission to locate manholes, wires, and ducts, including the necessary sustaining and protecting fixtures, along and across the following public way:

Daniels Road

beginning at approximately 30 feet north of the centerline of the intersection of Second Road install pull box and 340' of 2-3' PVC duct bank.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to install and maintain manholes, ducts and wires, together with such sustaining and protecting fixtures as it may find necessary, said manholes and ducts to be installed substantially in accordance with the plan filed herewith marked--

MASSACHUSETTS ELECTRIC COMPANY

Plan No. **14575367** Dated: **04/29/2013**

MASSACHUSETTS ELECTRIC COMPANY

By: Chris Montalto
Manager of Distribution Design

AB

ORDER FOR MANHOLE AND DUCT LOCATIONS

Hopedale, MA 01747

April 30, 2013

By the City Council
of the City of Marlborough, Massachusetts

Notice having been given and a public hearing held, as provided by law,
IT IS HEREBY ORDERED:

that **MASSACHUSETTS ELECTRIC COMPANY** be and it is hereby granted permission to excavate the public highways and to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Company dated the **30th day of April, 2013**

All construction under this order shall be in accordance with the following conditions:--

Manholes and ducts shall be set substantially at the points indicated upon the plan marked--

MASSACHUSETTS ELECTRIC COMPANY

Plan No. **14575367**

Dated: **04/29/2013**

The following are the public ways or parts of ways along which the manholes/ducts above referred to may be installed, and the number of manholes/ducts which may be installed thereon under this order:--

Daniels Road

beginning at approximately 30 feet north of the centerline of the intersection of Second Road install pull box and 340' of 2-3' PVC duct bank.

I hereby certify that the foregoing order was adopted at a meeting of the City Council of the City of Marlborough, Massachusetts held on the _____ day of _____ 2013

Clerk of Council

Received and entered in the records of location orders of the City of Marlborough, Massachusetts

Book: _____ Page: _____

City Clerk

We hereby certify that on _____, 20_____, at _____ o'clock, _____ M
at _____ a public hearing was held on the petition of

MASSACHUSETTS ELECTRIC COMPANY for permission to construct the underground electric conduits described in the order herewith recorded, and that I mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to construct the underground electric conduits under said order. And that thereupon said order was duly adopted.

Council of the City of

Marlborough, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of a location order and certificate of hearing with notice adopted by the City Council of the City of Marlborough, Massachusetts, on the _____ day of _____ 2013 and recorded with the records of location orders of said City, Book _____, Page _____.

This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest: _____
City Clerk

Pole & UG Petition/Permit Request Form

City Town of Marlborough WR # 14575367

Install SO JO Poles on (quantity) (circle one) (street name)

Remove SO JO Poles on (quantity) (circle one) (street name)

Relocate SO JO Poles on (quantity) (circle one) (street name)

Beginning at a point approximately 30 feet North of the centerline (distance) (compass heading)

of the intersection of Second Rd (street name)

and continuing approximately 340 feet in a North direction. (distance) (compass heading)

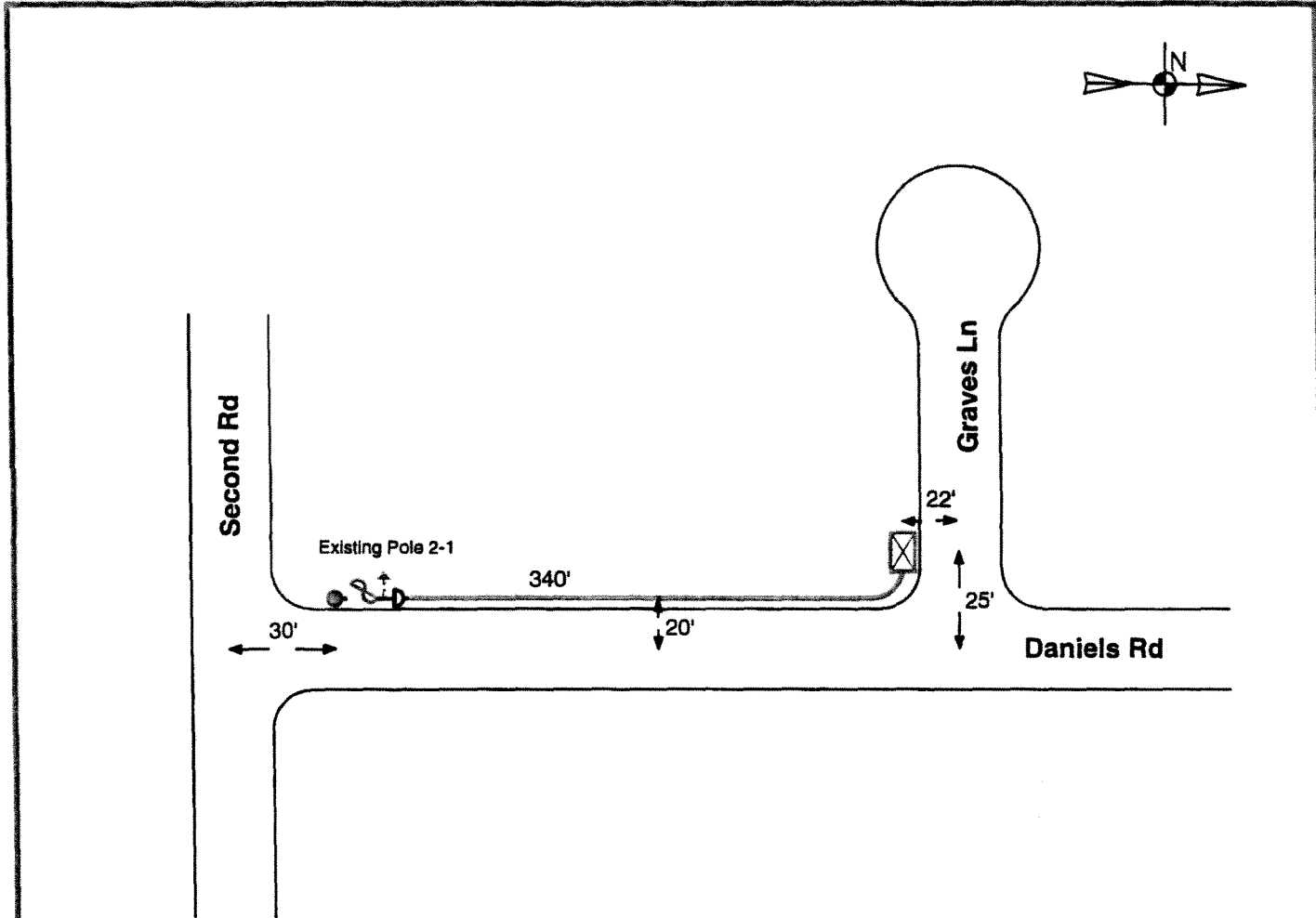
Install underground facilities:

Street(s) Daniels Rd

Description of Work Install Pull box and 340' of 2-3" PVC duct bank.

ENGINEER Alex Groshev

DATE 4/29/13



National Grid is to install a Pull Box in the sidewalk at the intersection of Daniels Rd and Graves Ln.
 National Grid is to install 2-3" PVC duct bank in the sidewalk from existing Riser Pole to Pull Box.

— Proposed Duct Bank

UNDERGROUND PETITION		nationalgrid	
Urd Pole	3-Phase Pad	Date: 4-29-13 Plan Number: 14575367 To Accompany Petition Dated: To The: Town Of: Marlborough For Proposed: Duct Bank Location: Daniels Rd Date Of Original Grant:	
Manhole	Xfmr Foundation		
Pull Box	----- Primary Ug Wire		
Hand Hole	----- Secondary Ug Wire		
	----- Street Light Wire		
Single Phase Pad	Service Arrow		
DISTANCES ARE APPROXIMATE			

May 28, 2013

Karen Boule
Marlborough Office of the City Council
City Hall
140 Main Street
Marlborough, Massachusetts 01752

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 JUN 10 P 4:21

Dear Karen/Marlborough Office of the City Council,

I am writing to let you know that the 4th annual Westborough Sprint Triathlon is scheduled to take place on Sunday August 18th, 2013. The race begins and ends at Westborough State Hospital in Westborough, MA and will include cyclists riding along Cedar Hill Street/Northborough Road in Marlborough.

The race start time is 8:00am and cyclists are expected to be traveling the roads within Marlborough from approximately 8:15 am until 9:45 am. Please refer to the attached map to see the portion of the race that will be accessing Middleborough roads.

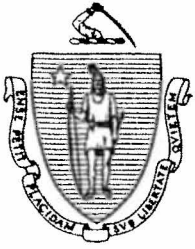
Once again, this year's race will meet all the safety requirements of a USA Triathlon sanctioned event. I will be in contact with the Marlborough Police Department as the event draws closer and will be coordinate the placement of a Marlborough Police detail at the intersection of Cedar Hill Street/Northborough Road and Simarono Drive.

Please don't hesitate to contact us with any questions or comments.

Sincerely,



Mark Walter
USAT Certified Race Director
Sun Multisport Events
54 Beechnut Road
Westwood, MA 02090
Mobile 781-414-0437
www.sunmultisportevents.com



The Commonwealth of Massachusetts
 CITY CLERK'S OFFICE
 STATE RECLAMATION & MOSQUITO CONTROL BOARD
 CITY OF MARLBOROUGH
**CENTRAL MASSACHUSETTS
 MOSQUITO CONTROL PROJECT**

111 Otis Street, Northborough, MA 01532-2114
 Telephone (508) 393-3055 • Fax (508) 393-8492
 www.cmmcp.org



COMMISSION CHAIRMAN
 RICHARD J. DAY

EXECUTIVE DIRECTOR
 TIMOTHY D. DESCHAMPS

May 17, 2013

City of Marlborough
 Health Dept.
 Marlborough, MA 01752

Central Massachusetts Mosquito Control Project personnel will be in your community to investigate resident's complaints about mosquitoes on the following dates during May/June 2013:

May 30, June 5, 12, 19 & 26, 2013

The above dates are subject to change due to weather conditions, mosquito populations, mosquito virus activity and/or special event spraying. **DATES IN MAY ARE TENTATIVE.** This program will shut down when cool night time temperature becomes predominant in this area. A detailed notice about our spray schedule is posted on the CMMCP phone system after 3:30 p.m. each day, and it is also listed on our website.

Complaints about mosquitoes may be registered by calling the CMMCP office at 508-393-3055 between 7:00 AM - 3:30 PM, Monday through Friday or through our website.

The results of an investigation may warrant the use of a mosquito insecticide to defined, site-specific areas of the town. Such an application may be accomplished by using hand or truck mounted equipment, depending on the extent of the application.

Per 333CMR13.04: "No intentional application of pesticides shall be made to private property which has been designated for exclusion from such application by a person living on or legally in control of said property." Notices were sent to all City and Town Clerks in February to alert them of the pesticide exclusion process; CMMCP will continue to accept exemptions during the spray season. Residents should contact their Town or City clerk for more information on the exclusion process, or may contact the CMMCP office during business hours or apply for an exclusion through our website.

Please list this information in the local newspapers and on the local cable access station. Additional information on CMMCP may be found on the Internet at:
<http://www.cmmcp.org>

Sincerely,

Timothy D. Deschamps
 Executive Director

cc: City Clerk
 Police Department

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2013 JUN 13 A 10: 54

Marlborough Community Development Authority

MINUTES

Thursday, February 28, 2013, 8:30 a.m.
140 Main St., Mayor's 4th Floor Conference Room

Members Present: Mayor Vigeant, Lynn Faust, Eric Asman, Sally Swartz, Joyce Torelli, Steve LeDuc

Also Present: Doug Bushman, Trish Bernard, Diane Smith, Linda Overing of Breezeway Farm Consulting

Absent: Steve Vigeant, Tom Abel

Mayor Vigeant called the meeting to order at 8:35 a.m.
The Board approved the minutes of January 29, 2013
The Board approved the Housing bills payable.
The Board approved the CDA bills payable.

Breezeway Farm Consulting Report:

The board voted and approved the roof replacement for the rehab case with an underwater mortgage and back utility bills. Mayor Vigeant agreed to give some assistance through the Charity Fund but indicated we will not be paying the bills in their entirety.

Clinton Street – last vote by board indicated a new executive director to be on board before any more action is taken on demolishing or repairing the existing structure. It is agreed the Board should know if a building permit will be approved for new house on the property that is in a different location than the present structure. Lynn Faust will file for the building permit to build a new house before a vote is taken to demolish the current bulding at the next board meeting. Linda reminded the Board that there are specific state procurement requirements for constructing a modular structure.

Harrison Place – current schedule is for completion of renovations in late April. Eric Asman and Joyce Torelli are handling the sign offs on change orders and Joyce is working with Linda on a marketing strategy to sell the property

Emmett Street – the project was completed with the sale of the property in early February.

The board voted and approved the Breezeway Farm Consulting Report.

Housing Director's Report:

Letter to State Officials – it is discussed and agreed that Doug will emphasize the reduced cost to the state.

DHCD Grants – projects moving forward for construction, courtyard and benches, and Pleasant Street Boiler should have funding by July. Motion is made, seconded and approved for the funding contract.

FSS Program – Marlborough is not being funded. Doug indicated the hiring process is on hold. Lynn indicates the Financial Fitness Center will eventually have a program to assist people. Currently the local banks and credit unions have programs but it typically cost \$1,000 per family. Mayor Vigeant cites that his office has set up some basic household financial training for selected individuals and/or families that can benefit from it who also have received assistance from the Charity Fund. Doug will continue to work on having it restored.

Revised Management Computer Services Contract – Doug worked with Beverly Sleeper to revise the contract. Motion is made, seconded and the revised contract is approved by the board.

HUD Federal Sequestration – Doug indicates his budget may be cut by 30% and that section 8 could be reduced by 7% (unofficial numbers). He can't absorb anything after April 1st. Tenants will have to be notified that they will have to cover a larger portion of the rent. He also would cut from the larger companies. Mayor Vigeant feels the federal budget will be resolved within a few weeks. Board will take item up next month unless there is an emergency meeting needed.

Section 8 Voucher Program Standards – motion postponed due to the fact that we may have to change payment standards due to the Federal budget sequestration.

MCDA's Financial Institution – Motion is made, seconded and approved by the board to accept Citizen's Bank as the MCDA-Housing Division's financial institution.

Updated Capital Improvement Plan – Lynn cites the water bill on Bolton Street is higher than Pleasant Street. Doug states that Public Works is scheduled to install a new water meter and he will follow up with them on the timing.

Bolton Street Parking Project – Doug explains that 80% of the increase from the original budget was based on a low ball figure from a consultant and the other 20% is lighting.

Additional Items:

Doug inadvertently did not get the signatures for the certifications and the standard DHCD contract. Motion to approve the DHCD contract.

Land behind Marlborough Public Library – MCDA owns half of the parcel (if you are facing back entrance, right hand side of lot adjacent to house). It was swapped for land with Marlborough

Savings Bank. Anne Marie will obtain the hard records with parcel numbers to be reviewed next month.

The board voted to approve the Housing Director's report.

Meeting adjourned at 9:20 a.m.

Respectfully submitted by Trish Bernard

Marlborough Community Development Authority

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2013 JUN 13 A 10:54

MINUTES

Thursday, March 28, 2013, 8:30 a.m.
140 Main St., Mayor's 4th FL Conference Room

Members Present: Mayor Vigeant, Lynn Faust, Eric Asman, Sally Swartz, Joyce Torelli

Also Present: Doug Bushman, Anne Marie Blake, Linda Overing of Breezeway Farm Consulting, press

Absent: Steve Vigeant, Diane Smith, Tom Able, Steve LeDuc

The Mayor called the meeting to order at 8:30 A.M.
The Board approved the minutes of February 28, 2013.
The Board approved the Housing bills payable.
The Board approved the CDA bills payable.

Breezeway Farm Consulting Report: Linda Overing updated the Board on the progress of our FY11 grant and the status of the Attorney General's Office supplemental grant of \$20,000 for Clinton Street. HUD has approved the release of the funds but now the AGO's office needs additional paperwork to proceed. The AGO funds will be used for asbestos removal at 16 Clinton Street. Joyce and Linda are working on the marketing of Harrison Place.

The Board voted a two month extension of the Breezeway Farm Consulting contract at a cost of \$2,000 per month to June 30, 2013.

The Board voted to approve the Breezeway Farm Consulting report.

Financial Manager's Report: The Board voted to confirm a subordination request approved by Eric earlier this month. The CDA has been given the right of first refusal to purchase a LIP unit in a condominium complex before it goes on the market. DHCD informed Anne Marie that the appraised value is not much higher than the LIP resale price, making it unlikely that it will be sold to an income eligible household with the LIP restrictions. If it is sold at market value, the unit will come off the Subsidized Housing Inventory. After much discussion about the sale price, the value of the unit and that fact that the complex does not allow for rentals, the Board voted not to exercise the right of first refusal. We received a monitoring letter from DHCD which had no findings and no suggestions. Anne Marie reported that there may be a shortfall of funds due to change orders on housing rehab cases so she asked the board to approve using up to \$10,000 of program income. The Board approved the request to use up to \$10,000 of program income.

The Board voted to approve the Financial Manager's report.

The Board voted to table the discussion of the possible land swap for the Bolton Street Parking Area to next month's meeting. Anne Marie is to copy information for the Board packet.

Housing Director's Report: Doug reported that the Regionalized Public Housing letter has been mailed out. The MOA has been signed with GMPI. Aaron Cohen from GMPI thanked Doug and the Board for their support in not only getting a contract completed but also the updates in their bathrooms. GMPI will be paying a \$200/mo stipend to Housing. The Board approved HUD Waiver for Payment Standards. The Board approved FMR with 88% Payment Standards. The Board approved the retention of the FSS Coordinator position. Doug reported that the Tenant's Association has withdrawn their request to be recognized as an LTO.

Meeting adjourned at 9:32 a.m.

Respectfully submitted, Anne Marie Blake

Marlborough Community Development Authority

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

MINUTES

2013 JUN 13 A 10:54

Thursday, April 25, 2013, 8:30 a.m.
140 Main St., Mayor's 4th FL Conference Room

Members Present: Mayor Vigeant, Lynn Faust, Eric Asman, Sally Swartz, Steve Vigeant, Diane Smith

Also Present: Doug Bushman, Anne Marie Blake, Linda Overing and John Ryan of Breezeway Farm Consulting, press, Aldo Cipriano, Esq.

Absent: Tom Able, Steve LeDuc, Joyce Torelli

The Mayor called the meeting to order at 8:30 A.M.
The Board approved the minutes of March 28, 2013.
The Board approved the Housing bills payable.
The Board approved the CDA bills payable.

Housing Director's Report: To address changes regarding the new Payment Standard funding a motion was made and approved to *rescind the 88% Payment Standard*. Motion was made and approved to *approve FMR with 96% payment standard*.

A modification of the current 2012-2013 State Budget to pay for new CO detectors to be paid for by DHCD was approved.

Doug updated the board on the on-going and planned capital improvement projects.

The Board voted to accept the Housing Director's Report.

Breezeway Farm Consulting Report: Linda Overing updated the Board on the status of our housing rehab cases. We will need to request a grant extension to September 30, 2013 in order to allow enough time to complete a full housing rehab case that is ready to go out to bid.

Clinton St – we have received the \$20,000 in grant funds for the AG's office. A Notice of Award was sent to the low bidder for the asbestos removal. Lynn and Anne Marie submitted an appeal to the ZBA after a denial of the Building Permit. Work is continuing on developing construction specification for construction of a modular home on the site.

Harrison Place – will be completed in May. We will need an appraisal after work is complete in order to set a sale price. The application and offer forms have been sent to DHCD for review.

The Board voted to accept the Breezeway Farm Consulting Report.

Financial Manager's Report: We received a letter from a Hudson housing rehab client whose work was completed in 2004 stating that her roof has failed and she believed it was due to faulty workmanship. After a review of the files, it was noted in previous correspondence and other

inspections, that her statement may have some substance. We sent Ed Berte, our Rehab Specialist, out to inspect and he confirmed that there was no ventilation in the attic and the heat caused the shingles to deteriorate. The Board voted *to commit up to \$10,000 of program income to rectify the problem.*

The Board voted to *approve a refinance request from a LIP unit owner.* This was previously approved by Eric.

At 9:14 a.m. a motion was made to adjourn to Executive Session to comply with or act under the authority of any general or specific law and federal grant in aid requirement and obtain advice of legal counsel. Roll call: Steve, aye; Eric, aye; Diane, aye; Sally, aye; Lynn, aye; Mayor, aye. The meeting did not reconvene in open session.

Respectfully submitted,

Anne Marie Blake



The Hanover Insurance Company
Citizens Insurance Company of America

Property Unit
PO Box 15147
Worcester MA 01615-0147
Telephone: 774-269-5934 Ext:
Fax Number: 508-926-5660

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

May 25, 2013

2013 JUN - 3 A 10: 08

CITY CLERK'S OFFICE
140 MAIN ST
MARLBOROUGH MA 01752

Re: Our Insured: Kevin Lynch
Policy Number: HPN 7043557
Claim Number: 15-00099828 001
Date of Loss: 05/14/2013
Property Address: 96 WARREN AVENUE MARLBOROUGH MA

To whom it may concern :

Claim has been made involving loss, damage or destruction of the above captioned property, which may either exceed \$1,000.00 or cause Mass. General Laws, Ch. 143, Sec. 6 to be applicable. If any notice under Mass. General Laws, Ch. 139, Sec. 3B is appropriate, please direct it to the attention of the undersigned and include a reference to the captioned insured, location, policy number, date of loss, and claim number.

On this date, I caused copies of this notice to be sent to the persons named above at the addresses indicated above by first class mail.

Sincerely,
Dionysi McGowan, AIC, AINS, AIS

Dionysi McGowan, AIC, AINS, AIS
Outside Property Adjuster
Citizens Insurance Company of America
dmcgowan@hanover.com



Claims Processing - Amica Scan Center
PO Box 9690
Providence, RI 02940-9690

Toll Free: 1-800-59-AMICA
(1-800-592-6422)
Fax: 1-888-818-9848

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2013 JUN 13 A 9:38

June 10, 2013

City of Marlborough
City Clerk's Office
140 Main St.
Marlborough, MA 01752

File Number: 60001542252
Date of Loss: 06/08/2013
Owner/ Insured: Randeep Ghai
Street: 43 Violetwood Cir
Town: Marlborough
Type of Loss: Wind/Water

To Whom This May Concern:

Please be advised that we insure the above named individual(s). A claim has been made for Damage to Real Property and as the insurer; we are presently in the process of adjusting the loss.

We are mandated to comply with Massachusetts General Laws, Chapter 139 and as such, if there are any present liens on the above property, please notify us within 10 days of receipt of this letter. If we do not hear from you, we will be under no obligation to pay you any portion of this claim.

Very truly yours,

Nathan D. Joyner

Nathan D. Joyner AIC
Claims Department
800-592-6422 x21812
NJOYNER@AMICA.COM



CC: legal 6/13/13



WILBER

INSURANCE SERVICES ENTERPRISE

210 Landmark Drive
Normal, IL 61761

PHONE (877) 352-WISE (9473)
FAX (800) 313-5179
TOLL 80-0564290

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 JUN 13 A 9 58

OFFICE OF THE CITY CLERK

CITY HALL/140 MAIN ST
1ST FLOOR
MARLBOROUGH, MA 01752

June 7, 2013

RE: Our Client: MetLife
Our Client's Insured: DAWN METCALF
Our File Number: 975572 - 28
Your Insured: CITY OF MARLBOROUGH MA
Your Claim/Policy Number:
Date of Accident: 03-01-13
Amount Claimed: \$3,646.04

Please be advised that we represent MetLife for a claim they paid to their policyholder. We have been informed that there is possible coverage through your company.

Enclosed please find the supporting documents for your review. After your review, please contact this office to discuss settlement proceedings. If you have further questions, please contact Kristi Loyer, who we have assigned to handle this claim.

Please note that all payments for this claim will need to be made payable to MetLife and remitted to our office for proper handling.

Thank you for your immediate attention to this matter.

Kristi Loyer, AIC
Claim Representative
Wilber Insurance Services Enterprise
210 Landmark Drive
Normal, IL 61761
Office Ph: (877) 352-WISE
Fx: (800) 313-5179

The WISE Choice



www.wilberwise.com

CC: Loyer 6/13/13 A