



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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FEBRUARY 8, 2016

Regular meeting of the City Council held on Monday, FEBRUARY 8, 2016 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Meeting adjourned at 8:45 PM.

ORDERED: That the Minutes of the City Council meeting JANUARY 25, 2016, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition from National Grid and Verizon New England, Inc. to relocate existing P12 and install new guy P12-84, and relocating P15, P18, P27, P28, P30 & P31 to accommodate road widening project on West Hill Rd., Order No. 16-1006427, X14-1005672A, be and is herewith **OPEN AND CONTINUE HEARING TO FEBRUARY 22, 2016**; adopted.

ORDERED: That the Amended City Council Committee Assignments for Legislative Year 2016 – Amend title of the Wireless Committee to reflect emerging technologies, refer to **RULES COMMITTEE**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Executive Office of Public Safety and Security Grants awarded to the Fire Department in the amounts of \$5,937.00 and \$3,115.00 respectively for Student Awareness Fire Education and for Senior Awareness Fire Education programs; adopted.

ORDERED: That the Appointment of Gretta Holland as Parking Clerk effective upon approval, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor Donald Rider, re: Designation of a specific parking space in front of the Police Station that will be reserved for residents to use so they can complete online sales and transactions, in proper legal form, Order No. 15/16-1006388, **MOVE TO ITEM 28**; adopted.

ORDERED:

That the City Council of the City of Marlborough, pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from Howe's Landing Developers, LLC, a Massachusetts limited liability company, a deed of the land in Marlborough, Middlesex County, Massachusetts shown as "OPEN SPACE LOT 2.84 Ac." and as "PARCEL A" on Sheet D2 of 2 in a plan entitled " 'Howe's Landing' a Definitive Subdivision Plan in Marlborough, Massachusetts, Date: August 11, 2014, Prepared for: Chris Christopher, Sage Investors Inc., Prepared by: Thomas DiPersio, Jr. & Associates Inc.," which plan was last revised on November 26, 2014 and is recorded with the Middlesex South District Registry of Deeds as Plan No. 50 of 2015 (the "Plan") and to which reference may be had for a more particular description of said Lot and Parcel. Said Open Space Lot contains 2.84 acres, more or less, according to said Plan. Said Parcel A contains 0.0048 acres, more or less.

In accordance with Condition 10.a of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Open Space Lot is conveyed subject to the restriction that it shall remain as permanently protected open space. The Open Space Lot is conveyed to the City of Marlborough under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

In accordance with Condition 10.c of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Parcel A is conveyed subject to the restrictions 1) that the Grantor shall retain and grant to a homeowners association the right to access Parcel A in order for the home owners association, and not the City, to maintain and repair the force main, including the force main manhole located on Parcel A, which services Lots 7, 8, 9 and 10 on the westerly side of the proposed subdivision road; and 2) that the homeowners association, and not the City, shall maintain and repair the force main, including the force main manhole located on Lot 4, which services Lots 1, 2 and 3 on the easterly side of the proposed subdivision road.

Acceptance of this open space is subject to all terms and conditions of a special permit granted on or about June 16, 2014 by the Marlborough Planning Board and recorded at said Registry in Book 64065, Page 240, and a subdivision approval approved on or about December 1, 2014 by the Marlborough Planning Board and recorded at said Registry in Book 64831, Page 355, each of which is incorporated herein by reference, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Brewin re: Notice pursuant to MGL, c 61, §8 of intent to sell for use other than forest land, 421 Bolton St., Marlborough, Assessor's Map: 30-13 and 30-14, refer to **URBAN AFFAIRS COMMITTEE, CONSERVATION COMMISSION, AND LEGAL DEPARTMENT**; adopted.

ORDERED: That the Communication from Marc Cohen, on behalf of Arco Sign Co. Inc., re: Sign Applications for Hilton Garden Hotel at 170 Forest St, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED:

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by adding a new Section 650-35 as follows:

ARTICLE VI**§650-35 – HOSPITALITY AND RECREATION MIXED USE OVERLAY DISTRICT**A. Purpose and Objectives

- (1) The Hospitality and Recreation Mixed Use Overlay District (herein, also a “HRMUOD”) allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval (hereinafter any reference to City approval shall be deemed to mean approval by the City Council) as an alternative to land use controls that exist in the underlying district(s). The establishment goals of the Hospitality and Recreation Mixed Use Overlay District are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare, by promoting integrated, pedestrian friendly, mixed use development to allow for the development of housing, retail and workplaces within close proximity of each other consistent with the stated economic development objectives of the City (collectively, herein “Mixed Use Developments” or “MUD”).
- (2) For the purposes of this section, the HRMUOD shall be superimposed on the other districts existing at the time that any land in any said underlying district is also included in the HRMUOD. The HRMUOD district is located on the southerly side of Boston Post Road West (Route 20) to the west of Glenn Street to Ames Street, containing approximately 43.6 acres as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.
- (3) For the purposes of the Zoning Ordinance, a “Mixed Use Development” or “MUD” shall include any eligible use set forth in Section E, below, which may be commingled into a single structure or structures with other eligible uses or may be located in separate structures on the site subject to any restrictions and/or limitations set forth in the Development Agreement described in Section C(2) below. Accordingly, Mixed Use Developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking areas, to reduce traffic congestion, to reduce automobile trips, and accordingly to improve air quality.

B. Authority of Permit Granting Authority

- (1) The City Council shall be the Permit Granting Authority for Special Permit Approval in the HRMUOD where applicable. In all instances, a development which proceeds under the HRMUOD overlay is subject to Site Plan Approval in accordance §270-2 of the Marlborough City Code, with the exception that the City Council shall be the Permit Granting Authority for Special Permit, where applicable, and Site Plan Approval in the HRMUOD.
- (2) The City Council may elect to vary the dimensional and parking requirements of this Section by Site Plan Approval if, in their opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to occupancy.

C. Master Concept Plan

- (1) The property owner/developer of the HRMUOD shall, prior to or simultaneously with, the first application for approval of a site plan and/or special permit, where applicable, for the HRMUOD, file the following with the City Council for approval:
 - (a) A Master Concept Plan (“Master Plan”) which shall in a general manner show:
 - (i) The location and areas of proposed development;
 - (ii) Proposed open space (usable or natural);
 - (iii) Proposed site access curb cuts off of Boston Post Road West; and
 - (iv) Proposed building “envelope(s)” where construction is anticipated to occur (excluding internal site driveways).
 - (b) A table showing approximate acres and calculations of the following:
 - (i) Total land area of each development area (building envelope area);
 - (ii) Total development limitations, if any, of uses in any developable area;
 - (iii) Total maximum development (square footage/use limitations); and
 - (iv) Approximate number of parking spaces for the entire HRMUOD District.

The Master Plan shall be approved by a super majority (2/3) vote of the City Council at a public meeting and shall thereafter become the general development plan governing development at the HRMUOD. The Master Plan may be amended from time to time by a super majority vote (2/3) of the City Council by application from the property owner/developer to reflect changing development conditions.

- (2) A Development Agreement in recordable form binding upon the developer/property owner. The Development Agreement shall be approved by a super majority (2/3) vote of the City Council prior to the issuances of the first permit/site plan approval for development within the HRMUOD, which shall contain, without limitation:
- (a) Required mitigation (including traffic demand management initiatives), to address the impacts arising out of the use and occupancy of the proposed project, or if at the time of execution such impacts are not known, the methodology for assessing and addressing such impacts as the development of the HRMUOD progresses.
 - (b) Restrictions on development areas and such other development limitations as may be agreed upon.
 - (c) Proposed phasing of the development of the HRMUOD.
 - (d) Obligations with respect to pedestrian and vehicular interconnectivity within the HRMUOD to facilitate pedestrian access and parking efficiencies.
 - (e) The authority of the City Council to retain the necessary professionals to assist in their review of development applications.

The Development Agreement shall govern the implementation of the Master Plan and development at the HRMUOD.

D. Exclusivity/Control

Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this Section (§650-33 et. seq.) shall continue to remain in full force and effect, provided however that the City Council shall be the Special Permit Granting and Site Plan Approval Authority, if applicable. This Section (§650-35 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any MUD undertaken in the HRMUOD and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District, provided that the maximum total impervious surface coverage for the HRMUOD shall be 60% calculated on the entire land area of the HRMUOD and not on an individual lot basis). In the event of any conflict between the provisions of this Section (§650-35 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section shall govern and control.

E. Eligible Uses

Except as specifically set forth below, all uses permitted in the Business B and Limited Industrial Districts either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the HRMUOD. If a use requires a special permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

(1) The following additional uses are also permitted BY-RIGHT in the HRMUOD:

- (a) Medical office and diagnostic medical laboratories appurtenant to offices of physicians, optometrists, dentists, and other medical professionals
- (b) Retail sales and services – up to 75,000 square feet of gross floor area per establishment
- (c) Hotels and motels
- (d) Hotels with conference facilities and commercial uses
- (e) Public or Private commercial establishment, indoor/outdoor commercial recreation, recreation grounds, movie theatres or places of amusement
- (f) Mixed Use, offices
- (g) Consumer service establishments complimentary to the other principal uses at the property
- (g) Restaurant, café with or without table service (including outside seating and service) with or without drive-thru, provided that said facilities have no dedicated driveway with a curb cut on a public way
- (h) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities
- (i) Self-service laundry
- (j) Dry Cleaning (pick up and drop off only)
- (k) Car Washes
- (l) Drive through facilities associated with retail (e.g. banks; pharmacies) and food services, provided that said facilities have no dedicated driveway with a curb cut on a public way
- (m) Veterinary Hospitals
- (n) Assisted Living

(2) The following additional uses are also permitted BY-SPECIAL PERMIT in the HRMUOD:

- (a) Multifamily dwelling (non-age restricted)
- (b) Multifamily Dwelling for Senior Housing/Age Restricted Housing (55+)
- (c) Drive through facilities associated with retail (e.g. banks; pharmacies) and food services, having a dedicated driveway with a curb cut on a public way

- (3) The foregoing Sections notwithstanding, the uses set forth as follows are expressly PROHIBITED in the HRMUOD:
- (a) Adult entertainment, including an adult bookstore, adult video store, adult paraphernalia store, adult movie theatre, or adult live entertainment establishment
 - (b) Tattoo and body piercing parlors and shops
 - (c) Dye Works
 - (d) Biosafety Level 4 laboratories, as defined by the United States Center for Disease Control and Prevention
 - (e) Establishments for construction in such services as, but not limited to, building, building maintenance, plumbing, landscaping, electrical, masonry, carpentry, well drilling
 - (f) Electroplating, metal finishing
 - (g) Hazardous and toxic chemical manufacturing
 - (h) Trucking terminal and distribution center
 - (i) Automotive sales
 - (j) Retail gasoline, oil and lubrication stations
 - (k) Commercial bakeries
 - (l) On site sales and rental of heavy machinery and vehicles
 - (m) Any activity or use directly or indirectly involving, without limitation, the dispensing, use, sale, growing, storage or transportation of medical marijuana, including any medical marijuana treatment center
 - (n) Any on-site facility or clinic devoted to the treatment of substance addiction, including any narcotic detoxification and/or maintenance facility.

F. Dimensional Requirements

The HRMUOD shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:

- (1) The HRMUOD shall consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the Hospitality and Recreation Mixed Use Overlay District.
- (2) Minimum Lot Frontage measurement shall be no less than fifty (50) feet for any lot wholly located within the boundaries of the HRMUOD.
- (3) Minimum Front Yard measurement shall be no less than twenty (20) feet for any lot wholly located within boundaries of a HRMUOD.
- (4) Maximum building height in HRMUOD shall not exceed 80 feet.
- (5) Maximum Lot Coverage shall be calculated on the entire land area of the HRMUOD and not on an individual lot basis, and shall not exceed 80 percent of the total area of the HRMUOD.
- (6) Notwithstanding anything contained herein to the contrary, there shall be no setback requirements or planting strips required as to internal lot lines within the HRMUOD.

G. Parking, Curb Cut and Landscaping Requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of §650-47, §650-48 and §650-49 of the Zoning Ordinance.

- (1) General - In the HRMUOD adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the City Council shall consider complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements
- (2) Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to other permitted uses.
- (3) Parking in the HRMUOD shall be at a minimum of 1 parking space per 333 s.f. of Net Floor Area. Each space shall be no less than 8' x 16'. Aisle widths shall be a minimum of 11' for one way travel lanes and 22' for two way travel lanes.
- (4) Continuous landscaping strips shall be provided no less than 10' to the right of way line on any STREET.
- (5) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit.
- (6) Granting of Relief from Parking, Curb Cut and Landscaping Regulations - The City Council may, during the Site Plan Approval process, waive any of the foregoing requirements or the requirements of Sections §650-47, §650-48 and §650-49 if it makes a finding that to do so will enhance the overall design of the HRMUOD.

H. Signage

Signs allowed in the HRMUOD Zoning District. The following signs are allowed in the HRMUOD district.

1. A maximum of two (2) wall signs, individual letter signs, logo signs or projecting signs affixed to a building for each store, business or tenant. No sign shall project above the highest line of the roof, parapet or building. Each wall sign, individual letter sign, or roof sign shall not exceed an area of 2.5 square feet for each linear foot of the storefront, business front or occupied tenant space for each applicable business or tenant advertised. In the event that a storefront, business front or occupied tenant space occupies more than one front of a building, the longest front shall be utilized to calculate the total area per wall sign, individual letter sign, logo sign or projecting sign (up to a maximum of two (2)). The total area as calculated herein shall be the applicable maximum area for each sign and not split between the two.
2. Projecting signs shall not project more than 6 feet from the building.
3. Illumination, including internal illumination with translucent faces, shall be permitted for wall signs, individual letter signs, logo signs or projecting signs provided under this section.
4. Any business, tenant, or storefront may divide any allowed exterior sign(s) affixed to a wall of the building, to which it is entitled or hereinabove provided, into separate signs affixed to and parallel to such wall provided however that the aggregate area of the separate signs shall not exceed the maximum area allowed under this section for a single exterior sign on the same front.
5. A lot in an HRMUOD Zoning District shall be allowed one free standing pole, ground or pylon sign for every 350 linear feet of cumulative frontage on a street or way, provided that each freestanding sign shall be subject to the following dimensional and lighting requirements:
 - a. The total allowed illuminated cabinet square feet of signage shall not exceed 200 s.f. per side, per free standing sign, exclusive of any electronic messaging board as provided in subsection (e) herein and exclusive of any sign embellishments, structure and address panels located thereon;
 - b. The height of any freestanding sign shall not exceed thirty (30) feet from the ground measured directly at the sign base;
 - c. No freestanding sign shall be located closer than five (5) feet from any property line provided that there shall be no setback requirements to interior lot lines within the HRMUOD;
 - d. Signs, logos or cabinets may be either externally illuminated or internally illuminated with translucent or transparent faces;

- e. Electronic Messaging Boards may be included on any freestanding sign provided that the Municipality shall be entitled to 7 hours per week of messaging content during regular business hours for each electronic messaging board provided, provided that there shall be no more than one electronic messaging board per freestanding sign. Full color messages shall be permitted on any electronic messaging board and message content may change at intervals to be determined by the property owner but in no event more frequently than once every ten (10) seconds.
6. During construction, one free standing pole, ground or pylon sign per 500 linear feet of cumulative frontage on a street or way, or wall sign where applicable, may be erected or installed advertising the rental, lease or sale of the premises, or portions thereof provided that said signs shall be removed within seven (7) days of the rental, lease or sale of the premises (or applicable portions thereof).
7. The City Council may elect to vary the requirements of this Section during the Site Plan Approval process if, in their opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this section.

I. Application

- (1) Special Permits - An application for a Special Permit for a use in the Mixed Use Development in the HRMUOD shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance.
- (2) Site Plan Approval
 - (a) Application - An application for Site Plan Approval shall comply with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

J. Site Plan Approval Design Criteria

An application for Site Plan Approval under this §650-35 shall adhere to the following design criteria:

- (1) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
- (2) The placement of utilities and wiring underground, to the extent practical;
- (3) The placement of HVAC equipment, fans, generators, and other site related structures and items so that they are not visible on roofs or building frontage areas, or that such features are suitably screened from view;

- (4) Pedestrian amenities - sidewalks to provide access between parking areas and uses, and between sites;
- (5) Lighting – The Applicant shall consider the following standards when designing a lighting plan:
 - (a) The use of lighting should be integrally designed as part of the built environment and should reflect a balance for the lighting needs with the contextual ambient light level and surrounding nighttime characteristics which are appropriate for the uses;
 - (b) The lighting designers shall consider utilizing lighting designs with automatic controls systems wherever possible;
 - (c) Architectural lighting may be utilized to highlight special site features and areas;
 - (d) Landscape lighting may be utilized to accent landscaping and special site features;
 - (e) All lighting proposed shall be sensitive to the night sky, utilizing Illuminating Engineering Society of North America (IESNA) guidance for any lighting design;
 - (f) On-site lighting shall not be directed towards Glen Road;
 - (g) A lighting plan, as applicable, shall be included with any application for Site Plan Approval.

Concurrent with any public hearing/meeting associated with a Site Plan Approval, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A final building elevation shall be submitted. prior to the close of the public meeting.

K. Standards for Roadways, Drainage and Water Supply Protection

- (1) Roadways – Internal HRMUOD roadways shall be private ways and shall be maintained by the owners/developers of the HRMUOD and portions thereof. Private ways within the HRMUOD, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the subdivision standards or dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Storm Water Management System - The HRMUOD shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection’s Storm Water Management Guidelines, as amended.
- (3) The HRMUOD shall comply with the provisions of §650-24 Water Supply Protection District. The City Council may waive the provisions of §650-24 F(8) with regard to a fifty-foot no disturbance/buffer zone to a wetland within the Zone A, if upon a review of additional information provided a similar or greater protection is provided to the water supply with a buffer less than fifty-feet but in no case less than 20 feet.

L. Amendments

After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a Special Permit may be granted by a super majority (2/3) vote of the City Council. Major amendments to a Site Plan Approval may be granted by a majority vote of the City Council, and minor amendments to a Site Plan Approval may be granted by the Building Commissioner. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment to a Special Permit is deemed to be a major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the neighborhood. A modification shall be considered Minor in all cases if its effect does not result in a ten (10%) percent variation from the applicable approval. If it is determined that revisions to a Special Permit are not minor, per Section 650-59 of the Zoning Ordinance, an application for a revised Special Permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of Section 650-59. Major amendments to a Site Plan Approval shall not require a public hearing.

EXHIBIT A

Assessors Map 78, Parcel 12

Assessors Map 78, Parcel 14

Assessors Map 78, Parcel 38

Assessors Map 78, Parcel 39

Assessors Map 89, Parcel 77

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, MARCH 7, 2016**; adopted.

ORDERED: That the Application for Junk Dealer's License, Gerciele Costa, Brazcom Wireless Inc., 223b Main St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Bergeron on behalf of 110 Pleasant LLC re: Confirmation to City Council that construction of stockade fence as required by Special Permit will be completed by May 1, 2016, Order No. 15/16-1006395A, X-10-1002683B and 11-1002923F, **FILE**; adopted.

Councilor Tunnera recused.

ORDERED: That the Minutes, Recreation Commission, September 9, 2015, **FILE**; adopted.

ORDERED: That the Minutes Conservation Commission, December 17, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, April 27, June 15, December 7, 2015 & January 11, 2016, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, November 24, & December 16, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessor's, November 30, 2015, **FILE**; adopted.

ORDERED: That the Minutes, License Board, December 16, 2015 & January 8, 2016, **FILE**; adopted.

ORDERED: That the Minutes, School Committee, January 12, 2016, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, January 12, 2016, **FILE**; adopted.

ORDERED: That the Minutes, Library Board of Trustees, January 5, 2016, **FILE**; adopted.

ORDERED: That the Minutes, Board of Health, January 5, 2016, **FILE**; adopted.

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

- a. Daniel Figueroa, PO Box 302, Ashland, MA 01721, pothole or other road defect.
- b. Brian R. Theis, 26A Walnut St., other property damage.
- c. Michael Antonellis, 2 Memorial Dr., Northborough, MA 01532, pothole or other road defect.

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: February 2, 2016

Time: 5:30 PM

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

Convened: 5:32 PM

Adjourned: 6:03 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juaira and Landers (Councilor Tunnera recused); and Councilors Clancy, Irish, and Robey

Also Present: Arthur Bergeron (Attorney, Mirick O'Connell); Stas Burden (Manager, 110 Pleasant LLC); Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough)

Reports of Committees cont'd:

Order No. 15/16-1006395 – Application to Modify Special Permit from 110 Pleasant LLC, to allow for 18 residential units in place of 17 residential units and 1 office unit, (Howe Shoe Factory Condominium) X-Order No. 10-1002683B & 11-1002923F. The Urban Affairs Committee met with Attorney Arthur Bergeron and Stas Burden of 110 Pleasant LLC for a discussion of modification to their special permit for eighteen (18) residential units in lieu of seventeen (17) residential units and one (1) office unit at Howe Shoe Factory Condominium located at 110-118 Pleasant Street. They reviewed their compliance with the previous special permit conditions and changes to conditions “7. Limit and Type of Residential Units”, “22. Owner Occupancy”, and “24. No Further Subdivisions of Condominiums” with reference to “eighteen (18) residential units” from “seventeen (17) residential units and one (1) office unit.” They also reviewed two additional conditions, “27. Prior Decisions” and “28. Recording.” **Motion made by Councilor Elder, seconded by Chair, to approve as amended. The motion carried 4-0.**

Motion made by Councilor Elder, seconded by Chair, to request a suspension of the rules at the next regular City Council Meeting to refer to the Legal Department for placement in proper legal form. The motion carried 4-0.

Motion made by Councilor Elder, seconded by Chair, to adjourn. The motion carried 4-0. The meeting adjourned at 6:03 PM.

Suspension of the Rules requested-granted

ORDERED: That Modify Special Permit from 110 Pleasant LLC, to allow for 18 residential units in place of 17 residential units and 1 office unit, (Howe Shoe Factory Condominium) Order No. 15/16-1006395A, X-Order No. 10-1002683B & 11-1002923F, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR FEBRUARY 22, 2016 CITY COUNCIL AGENDA**; adopted.

ORDERED: Be it ordained by the City Council of the City of Marlborough that the minimum exemption value of \$5,000 for personal property subject to taxation set forth in Order No. 05-100784A, dated April 11, 2005, by which Order the City accepted the provisions of M.G.L. chapter 59, § 5, clause 54th, be and is hereby modified under authority of said statute to a minimum exemption value of \$10,000 or less, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Wireless Communications Committee work with the Building Commissioner and Legal Department on the drafting of an ordinance to permit free standing solar infrastructure in the City of Marlborough. Presently, solar installations are permitted by right on buildings and other structures but are not a permitted use when free standing structures, refer to **WIRELESS COMMUNICATIONS COMMITTEE, URBAN AFFAIRS AND LEGAL**.

COUNCILOR IRISH AMENDED THE MOTION TO ALSO ADD REFERRAL TO BOARD OF ASSESSORS.

COUNCILOR DELANO FURTHER AMENDED THE MOTION TO EXCLUSIVELY REFER TO URBAN AFFAIRS COMMITTEE - CARRIES

ORDERED: That the City Council work with the Building Commissioner, Code Enforcement Officer and City Solicitor on the drafting of an ordinance to ensure that prompt remedial action is taken after a devastating event. Such an ordinance would provide tools for the Code Officer and other municipal officials to work with insurance companies and/or other professionals to expedite insurance and legal matters associated with such losses. The Broad Street fire has shown the need for tighter controls when nearby residents also suffered after this tragic loss when the burnt out remains of the property stood long after the fire to become a blighted, rodent infested, odorous site, refer to **LEGISLATIVE AN LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED:

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare and safety necessitates that certain sewer improvements be made to the Sudbury Street area, and that said improvements require the taking by eminent domain of permanent sewer easements in certain parcels of land located on Harper Circle and Sudbury Street as more particularly described herein; and,

WHEREAS, in order to promote the public welfare, safety and necessity, it is necessary to take by Eminent Domain permanent sewer easements in, on, under, over, across and through the herein described land; and,

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, does hereby take by Eminent Domain permanent sewer easements in the following described land and all trees and brush thereon.

DESCRIPTION OF LAND TAKEN

- 1. Property H – Permanent Sewer Easement:** A certain parcel of land located on the North Easterly side of Harper Circle in Marlborough, Middlesex County, Massachusetts and being shown as Proposed Easement H on a plan entitled, “Easement Plan Of Land In Marlborough, Massachusetts;” Prepared For City of Marlborough & AECOM; April 15, 2013; By: Bryant Associates, Inc. 90 Canal Street, Suite 301, Boston, MA 02114, Scale 1”=40’; Sheet 2 of 3;” said Plan to be recorded with the Middlesex South District Registry of Deeds together with an attested copy of this Order.

Meaning and intending to take and taking by Eminent Domain a permanent sewer easement, shown as Proposed Easement H as described in the aforementioned plan, which is a portion of the land as described in the deed recorded at the Middlesex South District Registry of Deeds in Book 27774, Page 119.

OWNERS: Stephen A. Silen and Pirjo Silen
49 Harper Circle

The land consisting of Proposed Easement H as referred to in the description above is also shown on the City of Marlborough Assessors Map as a portion of Parcel 81 on Map 23. The total land area being taken consists of 11,762 +/- square feet.

- 2. Property I – Permanent Sewer Easement:** A certain parcel of land located on the Westerly side of Sudbury Street in Marlborough, Middlesex County, Massachusetts and being shown as Proposed Easement I on a plan entitled, “Easement Plan Of Land In Marlborough, Massachusetts;” Prepared For City of Marlborough & AECOM; April 15, 2013; By: Bryant Associates, Inc. 90 Canal Street, Suite 301, Boston, MA 02114, Scale 1”=40’; Sheet 2 of 3;” said Plan to be recorded with the Middlesex South District Registry of Deeds together with an attested copy of this Order.

Meaning and intending to take and taking by Eminent Domain a permanent sewer easement, shown as Proposed Easement I as described in the aforementioned plan, which is a portion of the land as described in the deed recorded at the Middlesex South District Registry of Deeds in Book 14954, Page 388.

OWNERS: John D. Nicholson, Jr. and Claire G. Nicholson
302 Sudbury Street

The land consisting of Proposed Easement I as referred to in the description above is also shown on the City of Marlborough Assessors Map as a portion of Parcel 10 on Map 23. The total land area being taken consists of 6,067 +/- square feet.

AWARDS

The City Council hereby makes the following awards for damages for the owner or owners of record:

<u>OWNER</u>	<u>MARLBOROUGH ASSESSORS MAP/PARCEL</u>	<u>AREA</u>	<u>AWARD</u>
Stephen A. Silen and Pirjo Silen	23/81	11,762±SF	\$7,645.00
John D. Nicholson, Jr. and Claire G. Nicholson	23/10	6,067±SF	\$7,585.00

APPROVED; adopted.

Yea – Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juair, Oram, Ossing, & Robey
Abstained: Delano

ORDERED: That the Mayor is hereby authorized to designate and establish with the Chief of Police a so-called Internet Purchase Exchange Location, namely, a specified area outside and in front of the Marlborough Police Station that will be kept under video surveillance in order that internet sales and transactions by residents may be conducted and completed in a monitored environment, **APPROVED;** adopted.

ORDERED: That the Marlborough Fire Department transfer request in the amount of \$123,827.16 which moves funds from Reserve for Salary accounts to Deputy Chief and Sick Leave Buy Back to fund sick leave buy back and vacation pay for upcoming retirements, **APPROVED;** adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		FIRE				FISCAL YEAR:		2016	
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$775,517.00	\$19,478.46	11990006	57820	Reserve for Salaries	\$19,478.46	12200001	50335	Deputy Chief	\$164,358.51
	Reason:	Retirement payout of vacation							
\$775,517.00	\$104,348.70	11990006	57820	Reserve for Salaries	\$104,348.70	12200003	51920	Sick Leave Buy Back	\$188,850.00
	Reason:	Retirement payout of sick leave buy back							
	\$123,827.16	Total			\$123,827.16	Total			

ORDERED: That the DPW transfer request in the amount of \$419,376.81 which moves funds from Insurance Proceeds Over 20k to Capital Outlay accounts as noted on the attached spreadsheet to address damages that occurred to DPW property and Public Library, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Public Facilities					FISCAL YEAR:	2016		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$419,376.81	\$419,376.81	27000099	48470	Insurance Proceeds over 20K	\$318,872.83	19300006	58314	Capital Outlay-Salt Shed	\$200,000.00	
	Reason:	Insurance Claims					Insurance proceeds for storage shed and primary salt shed at DPW			
					\$100,503.98	19300006	52480	Capital Outlay-Library	\$0.00	
						Insurance proceeds for damage to Library				
	\$419,376.81	Total			\$419,376.81	Total				

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation and approval of the Mayor, does authorize an increase in expenditures in the Parks and Recreation Revolving Fund from \$100,000 to no more than \$1,100,000 (One Million One Hundred Thousand Dollars), to be expended by the Commissioner of Public Works, during Fiscal Year 2016, **APPROVED**; adopted.

ORDERED: That the following FY16 Capital Bond requests for various amounts in which the bond package represents high priority projects and addresses a number of infrastructure needs throughout the City of Marlborough, **TABLED UNTIL THE FEBRUARY 22, 2016 CITY COUNCIL MEETING AS THE LEGAL ADS WERE ADVERTISED ON SATURDAY, FEBRUARY 6, 2016 THEREFORE COULD NOT HAVE BEEN FURTHER ADDRESSED UNTIL THE FEBRUARY 22, 2016 CITY COUNCIL MEETING TO COMPLY WITH THE TEN DAY PERIOD.**

1. That the sum of \$6,350,000 (six million three hundred fifty thousand dollars) be and is hereby appropriated for street construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$6,350,000.

Pursuant to the provisions of Chapter 44, Section 7 (5) of the Massachusetts General Laws, as amended, and the guidelines established by the Division of Local Services within the Massachusetts Department of Revenue, each issue of such bonds or notes shall be payable in not more than fifteen (15) years from its date of issue.

2. That the sum of \$650,000 (six hundred fifty thousand dollars) be and is hereby appropriated for water meters.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$650,000.

Pursuant to the provisions of Chapter 44, Section 8 (7A) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue.

3. That the sum of \$350,000 (three hundred fifty thousand dollars) be and is hereby appropriated for sewer construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$350,000.

Pursuant to the provisions of Chapter 44, Section 8 (15) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from its date of issue.

4. That the sum of \$3,350,000 (three million three hundred fifty thousand dollars) be and is hereby appropriated for water main construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$3,350,000.

Pursuant to the provisions of Chapter 44, Section 8 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than forty (40) years from its date of issue.

ORDERED: That the Free Cash transfer request in the amount of \$1,825,000.00 which moves funds from Undesignated to various accounts as noted on the attached spreadsheet to invest in a variety of City facilities and vehicles, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Various					FISCAL YEAR:	2016		
		FROM ACCOUNT:					TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$6,721,252.00	\$1,825,000.00	10000	35900	Undesignated Fund	\$500,000.00	19300006	58467	Capital Outlay-Facilities	\$0.00	
	Reason:	To fund equipment requests								
					\$1,200,000.00	19300006	58731	Capital Outlay-DPW	\$6,818.19	
					\$65,000.00	19300006	58593	Capital Outlay-Police	\$21,169.29	
	Reason:									
					\$40,000.00	19300006	58512	Capital Outlay-Fire	\$309.24	
	Reason:									
					\$20,000.00	19300006	58719	Capital Outlay-Library	\$0.00	
	Reason:									
	\$1,825,000.00	Total			\$1,825,000.00	Total				

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:45 PM.