



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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SEPTEMBER 14, 2015

Regular meeting of the City Council held on Monday, SEPTEMBER 14, 2015 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Oram, Ossing, Robey, Delano, Elder, Tunnera, Irish and Landers. Absent: Page. Meeting adjourned at 9:01 PM.

Council President Clancy recognized the two new Police Officers, Benjamin Gelb and Kristin Walls. Police Chief Leonard noted that the third officer Zach Attaway was unable to attend.

ORDERED: That the Minutes of the City Council meeting AUGUST 24, 2015, **FILE**; adopted.

ORDERED: That the Building Department transfer request in the amount of \$8,000.00 which moves funds from Temporary Local Inspector to Assistant Wiring Inspector to fund assistant inspectors for electrical inspections, refer to **FINANCE COMMITTEE**.

CITY OF MARLBOROUGH											
BUDGET TRANSFERS --											
	DEPT:	Building Department					FISCAL YEAR:	2016			
		FROM ACCOUNT:						TO ACCOUNT:			
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available	Balance	
\$54,727.87	\$8,000.00	12410004	50265	Temporary Local Inspector	\$8,000.00	12410001	50970	Asst Wiring Inspector	\$2,450.00		
	Reason:	Position recently filled. Funds available.					High volume of inspections due to various projects				
	\$8,000.00	Total			\$8,000.00	Total					

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$49,219.72 from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security, FY2016 State 911 Department Training Grant and EMD/Regulatory Compliance Grant Program, a reimbursement grant for the Police Department to offset personnel costs associated with the Public Safety Dispatching Center and overtime costs relevant to mandated Emergency Dispatching Protocols; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the two Grant Awards in the amounts of \$4,000.00 and \$5,000.00 respectively from Baypath Elder Services for the Council on Aging to offer a new transportation program utilizing the bus recently acquired through the Massachusetts Department of Transportation and to fund the Portuguese and Latino Outreach programs, including ESL classes, enrichment opportunities, as well as exercise and wellness programs; adopted.

ORDERED:

Council on Aging Revolving Fund

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 of the Mayor, does to be effective during fiscal year 2016, authorize a revolving fund to be utilized by the Council on Aging. It is further ordered that:

- (a) receipts credited to the fund shall be limited to donations to the Council on Aging/Senior Center; and
- (b) expenditures from said fund shall be limited to Council on Aging/Senior Center programming; and
- (c) the Executive Director of the Council on Aging shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than forty thousand dollars (\$40,000.00) shall be expended during Fiscal Year 2016, unless otherwise authorized by the Mayor and City Council; and
- (e) the Executive Director of the Council on Aging shall prepare a year-end report identifying funds received, funds expended, description of expenditures, and year-end balance; and
- (f) the provisions of this order shall not be changed unless approved by the Mayor and City Council.

Refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Supreme Judicial Court Decision on Residency Restrictions for Sex Offenders, refer to **OPERATIONS AND OVERSIGHT COMMITTEE AND REQUEST THAT THE COMMUNICATION BE REFERRED BACK TO THE MAYOR TO AMEND THE COMMUNICATION SO THAT ALL COUNCILORS CAN SIGN AND ENDORSE THE ORDINANCE**; adopted.

ORDERED: That the Communication from the Mayor re: Marlborough and Northborough Intermunicipal Agreement related to shared use of Marlborough's Westerly Wastewater Treatment Facility, **FILE**; adopted.

ORDERED: That the Communication from City Solicitor Rider re: Review of language for various conditions concerning Marlborough Hills Open Space Trail System, Order No. 15-1006295, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor Rider re: Comprehensive Permit for Brookview Village (aka Talia), Public Walking Trail Easement, X14-1005759, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, SEPTEMBER 28, 2015** as the date for a **PUBLIC HEARING** On the Petition from Verizon New England Inc. to place two 4" conduits on the northeasterly side of Ames St. beginning at Pole T.20½, located on the northeasterly side of Ames St., then running in a northwesterly direction a distance of approximately 495' to handhole #1, located on the northeasterly side of Ames St., & then continuing in a northwesterly direction a distance of approximately 535' to a point on the northeasterly side of Ames St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, School Committee, June 23 & August 25, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, July 16, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, April 29, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Library Board of Trustees, June 23, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, June 23, 2015, **FILE**; adopted.

ORDERED: That the Minutes, License Board, January 13, February 25, March 13, March 25, April 29, May 27, June 24, July 22, and August 20, 2015, **FILE**; adopted.

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

- a. Arleen & Jeffrey Stoller, 98 Linda Circle, other property damage.
- b. Michael Cappadona, 15 Greenwood St., other property damage.
- c. Gary Morse, 89 Plymouth St., other property damage.

Reports of Committees:

Councilor Oram reported the following out of the Open Space Committee:

Meeting Name: City Council Open Space Committee

Date: September 8, 2015

Time: 6:00 PM

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

Convened: 6:03 PM

Adjourned: 6:29 PM

Present: Chairman Oram; Open Space Committee Member Councilors Delano and Elder; Councilors Clancy, Landers, and Robey

Also Present: Priscilla Ryder, Conservation Officer, City of Marlborough; William Park, SMMA

Order No. 14-1006295: Communication from Brian Lawlor, PE on behalf of Atlantic Marlborough Realty, LLC re: submission of plans for an open space trail system within the Marlborough Hills mixed-use development.

Reports of Committees cont'd:

Priscilla Ryder, Conservation Officer for the City of Marlborough, provided an overview of the 26.2 mile Panther Trail including the portion to be constructed by Atlantic-Marlboro Realty, LLC as part of their Development Agreement with the City of Marlborough. William Park, of SMMA, on behalf of Atlantic Management summarized their portion of trail in the Marlborough Hills Development including its location, safety markings and materials of construction.

Chairman Oram requested conditions as noted by Ms. Ryder be included in the approval of the Open Space Trail system within the Marlborough Hills Mixed-use Development. The conditions were as follows:

1. Prior to construction confirmation that an agreement between TJX and Atlantic Management has been reached shall be provided to the Conservation Officer.
2. Per condition 3 of the Development Agreement between Atlantic-Marlboro Realty, LLC and the City of Marlborough - dated: May 13, 2013, once the trail is constructed an easement plan showing the trail location and easement language shall be provided by the developer to the City Council for acceptance. This easement language as outlined in the agreement states: "It is the intention of the parties that, to the fullest extent permitted by law, these easements constitute an "interest in land" under M.G.L. Chapter 21 Section 17C and the parties hereto shall be afforded all the rights, protection and privileges and benefits granted thereunder." This shall be submitted on or before December 1, 2015.
3. The developer will work with the Conservation Officer to add appropriate signage to the trail where it becomes a part of the city wide Panther Trail.

Motion made by Councilor Delano, seconded by the Chair, to approve with conditions as noted by Conservation Officer Priscilla Ryder and sent to the Legal Department for review. The motion carried 3-0.

Motion made by Councilor Delano, seconded by the Chair, to request a suspension of the rules at the September 14, 2015 City Council meeting to act upon it that evening. The motion carried 3-0.

Motion made by Councilor Delano, seconded by the Chair, to adjourn. The motion carried 3-0. The meeting adjourned at 6:29 PM.

Reports of Committees cont'd:

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

Meeting Name: City Council Urban Affairs Committee

Date: September 8, 2015

Time: 5:00 PM

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

Convened: 5:05 PM

Adjourned: 5:58 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Landers, and Tunnera; Councilors Clancy and Robey

Absent: Councilor Page

Also Present: Tim Cummings, Executive Director, Marlborough Economic Development Corporation (MEDC)

Order No. 15-1006292: Communication from the Mayor together with Application to the Massachusetts Permit Regulatory Office to designate several Marlborough properties as 43D Priority Development Sites. Enacted in 2006, Chapter 43D Local Expedited Permitting enables communities to designate applicable properties at Priority Development Sites which offers a maximum of 180 days for the local permitting process. Several locations in Marlborough already enjoy the benefits of being a 43D site, such as access to additional grants and incentives. The Mayor proposes to include the following additional properties under Chapter 43D: 17 East Main Street; 15 East Main Street; 15 Sawin Street. Submitting these locations as a 43D Site will allow the City to target this area, through a streamlined local permitting process, specifically for economic development. In addition, 25 East Main Street is a city-owned parcel. Also, a second application to designate additional properties is anticipated upon completion of the application with property owners. Tim Cummings, Executive Director of Marlborough Economic Development Corporation (MEDC) provided a brief overview of priority 43D sites to the Urban Affairs Committee. The term 43D was developed by the Commonwealth of Massachusetts to identify and prioritize sites where permitting can be expedited. The Commonwealth considered prioritized permitting to be 180 days which is routine in Marlborough. Mr. Cummings submitted grants to the MassWorks Infrastructure Program and used the 43D designation procedure as a way to gain additional points on the grant applications. **Motion made by Councilor Elder, seconded by Chair, to approve the application. The motion carried 4-0.**

Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 5:58 PM.

Suspension of the Rules requested-granted

ORDERED:

CONFIRMATORY ORDER OF TAKING BY EMINENT DOMAIN

By confirmatory vote and nunc pro tunc, the City Council of the City of Marlborough affirms that by certain Orders of the Common Council of the City of Marlborough, including without limitation Orders No. 10991 and 11005 of 1916, the City took by eminent domain the fee interest in the lands therein described, being approximately from Phelps Street to Ash Street, for the purpose of establishing the system of sewage and sewage disposal, **APPROVED**; adopted.

Suspension of the Rules requested-granted

ORDERED: That the Marlborough Hills Open Space Trail system, **APPROVED**; adopted **WITH FOLLOWING CONDITIONS:**

1. Prior to construction of the open space trail system, Atlantic-Marlboro Realty LLC (“the LLC”) shall provide written confirmation to the Conservation Officer that an agreement between the LLC and TJX Companies, Inc. (“TJX”) has been reached for a portion of the trail to cross the TJX’s property.
2. After construction of the open space trail system, and pursuant to Section 3 of the Development Agreement between the LLC and the City of Marlborough dated July 22, 2013, the LLC shall submit to the City Council for its acceptance both an easement plan showing the as-built trail location as well as easement language. This easement language shall include the statement set forth in Section 3 of the Agreement: “It is the intention of the parties that, to the fullest extent permitted by law, these easements [sic] constitute an ‘interest in land’ under M.G.L. Chapter 21 Section 17C and the parties hereto shall be afforded all the rights, protection and privileges and benefits granted thereunder.” The LLC shall submit the easement plan and the easement language on or before December 1, 2015.
3. The LLC shall work with the Conservation Officer to add appropriate signage to the open space trail system where it becomes a part of the City-wide Panther Trail.

Suspension of the Rules requested-granted

ORDERED: That the Communication from the Mayor regarding submission of applications to the Massachusetts Permit Regulatory Office to designate several Marlborough properties as 43D Priority Development Sites to now include the following sites:

17 East Main
15 East Main
15 Sawin Street

APPROVED; adopted.

ORDERED: That the Application for Livery License, Jose Heredia, d/b/a Alex Transportation, 110 Boston Post Rd. East, **APPROVED**; adopted.

ORDERED: That the Petition of NGrid to install 3" conduit and install new #2 AL cable throughout Miles Standish residential development along the route of the existing cable due to numerous cable failures, **APPROVED**; adopted **WITH THE FOLLOWING CONDITIONS**:

1. A street opening permit must be applied for by the proposed contractor performing the work.
2. 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.
3. The contractor is to ensure residents are always able to enter and exit their driveways (have necessary steel plating on site and accessible).
4. Ensure construction safety controls are established (signage, drums, police details, etc...) and are in accordance with the latest MUTCD standards.
5. Trench backfilling, compacting, temporary, and final paving are to be done in accordance with the City of Marlborough standard trenching details.
6. Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended.
7. Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765.
8. Proposed utility pole(s) shall not put any sidewalks or sidewalk ramps into non-compliance with current ADA standards.

In addition to the standard conditions, the following conditions apply:

1. After all utilities are marked in the field, minor modifications to this plan may be necessary. Any infrastructure to be located within the paved portion of the road, or where it conflicts with City infrastructure, is subject to final approval by DPW.
2. It is National Grid's responsibility to ensure that all necessary private easements are in place prior to construction and that all private property be repaired properly when construction is complete.
3. There are a number of ground mounted transformers proposed as part of this project. Most of these transformers are located at property lines in an effort to minimize aesthetic impacts to homes. Several transformers are proposed closer to homes or in front of homes. National Grid should provide an explanation of why these transformers are required to be located at these locations and provide visual screening as possible.

Suspension of the Rules requested—granted to allow the Communication from Assistant City Solicitor Panagore-Griffin regarding Site Plan Permit from Mammoth Development Co., LLC, 70 Simarano Dr. in proper form, to be entered into record.

ORDERED:

**Site Plan Permit # SC-2015-0005
Site Plan Approval with Conditions**

Applicant: Mammoth Development Company LLC, 1300 Belmont Street, Brockton, MA 02301-4439

Property Owner: Atlantic-Marlboro Realty LLC, 205 Newbury Street, Framingham, MA 01701

Location: 70 Simarano Drive (the “Site”) being shown as Lot 1D-1 shown on a plan entitled: “The Learning Experience Child Development Center Lot 1D-1 Simarano Drive Marlborough, MA 01752” prepared by Allen & Major Associates, Inc., dated July 10, 2015

Zoning District: Industrial (I) underlying district and Results Way Mixed Use Overlay District (RWMUOD)

Plans: The following Site Plan Approval Final Conditions are based on the plans and notes entitled: “The Learning Experience Child Development Center Lot 1D-1 Simarano Drive Marlborough, MA 01752” prepared by Allen & Major Associates, Inc., Notes & Abbreviations ABB-1, Notes ABB-2, Existing Conditions EX-1, Site Preparation Plan C-1, Layout & Materials Plan C-2, Overall Grading & Drainage C-3A, Detailed Grading & Drainage C-3B, Utility Plan C-4, Erosion Control Plan C-5, Landscape Plan C-6A, Landscape Notes C-6B, Site Lighting Plan C-7, Details D-1, Details D-2, Details D-3, Building Floor Plan SA-1.1, Building Elevations SA-2.2, dated July 10, 2015, last revised August 18, 2015

SITE PLAN APPROVAL FINAL CONDITIONS:

A. Site Conformance:

Construction of the Site shall be in conformance with the above plans and with the provisions of Chapter 270 of the Code of the City of Marlborough.

B. Preconstruction Meeting:

Prior to construction, a preconstruction meeting shall be held on-site with the Building Commissioner, City Engineer, Conservation Officer, and site contractor responsible for doing the work. At this meeting the departments will review the plans, conditions, exchange contact information including emergency contact numbers, and inspect erosion controls.

C. Stormwater:

1. The site contractor and person who is responsible for the Stormwater Pollution Prevention Plan and the NPDES general permit shall also be responsible for weekly reporting during construction via e-mail to the Conservation Officer and the City Engineer, which reporting shall summarize the work that has been completed and compliance of the project with the site preparation and erosion control plan - see sheet C-5. These weekly reports shall begin as soon as the work begins on the Site.
2. The Applicant, Property Owner, and site contractor shall be responsible for notifying the Conservation Officer in an expeditious manner if there is any visible siltation to the existing drainage system. Immediate measures shall be taken to control the siltation source and to restore any impacted areas.
3. Prior to the issuance of the Certificate of Occupancy, the Applicant shall provide the City Engineer and the Conservation Officer with the final Stormwater Management maintenance plan as outlined in the project's drainage report. The name, address, and phone number of the contact person who will be in charge of authorizing the annual maintenance shall be provided to the Conservation Officer.
4. An annual maintenance report shall be provided to the City Engineer and the Conservation Officer by June 1st of each year reporting on the maintenance and operation procedures, outlined in the Stormwater Management Maintenance Plan, which have been met for that year. This reporting requirement will follow the issuance of an Occupancy Permit.

D. Landscaping:

1. All modifications to the Landscape Plans related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Conservation Officer and shall be considered a minor change.
2. Prior to the final signoff, the Conservation Officer shall confirm by a site visit that the planting has been installed according to the approved Landscape Plans, or a revision of the Landscape Plans previously approved by the Conservation Officer.
3. Following 18 months of the final signoff of the site work, any plant material that has died or is dying shall be replaced by the Property Owner with a species of the same kind and size.
4. Any large rocks or boulders encountered while excavating the Site shall be disposed of properly either on- or off-site, but in no event shall they be buried on-site.
5. Installation of mulch at the time of planting and thereafter shall be placed so that the mulch is not in contact with the trunk of newly planted trees and shrubs as shown on the details on the Landscaping Plan C-6B.

6. Landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans at all times.

E. Building Permit Issuance and Review:

Prior to the issuance of a Building Permit for the building to be located on the Site, Applicant shall pay to the City of Marlborough, in addition of any permit fees or costs, seven thousand five hundred dollars (\$7,500.00) for the purpose of the Building Commissioner engaging the services of a third party consultant to review the building permit application, review reports and associated reviews incidental to the building permit, and to conduct inspections of the work performed under the building permit to include, but not limited to, inspection and review of fire blocking and fire stopping penetrations throughout the building, and to report findings to the Building Commissioner.

Prior to Issuance of Occupancy Permit:

1. An as-built plan must be submitted to the City Engineer for review prior to issuance of an Occupancy Permit or Temporary Certificate of Occupancy. The as-built plan shall be prepared in accordance with the As-built Plan Standards established by the City Engineer, which standards may be found on the website for the City of Marlborough.
2. Work as provided for on the approved site plans shall be carried into effect and completed within three (3) years following the date of issuance of the Building Permit, unless the City Council has granted an extension of time for completion of the work in writing.
3. The City Council hereby retains jurisdiction over all signage of the Project (pursuant to Section 650-33(H)(1) of the Code of the City of Marlborough), to the extent such signage requires a sign permit under the Sign Ordinance. The final design, material, dimensions, content, and location of all such signage, including any freestanding entry signs and the project's internal signage, shall be subject to further review and sign permit approval from the City Council.

F. General Provisions:

1. Construction Control: Due to the size of the building, the construction of the building is governed by the Construction Control provisions of the Massachusetts State Building Code, as amended.
2. Use of Crushed Stone: Crushed stone shall be placed around the perimeter of the building to reduce exposure to fire due to lit smoking material.

3. Proposed Sign: As presented to the City Council, there will be signage installed on Simarano Drive, in conformance with the Sign Ordinance of the City of Marlborough without variance, which shall be replaced within three (3) years of its installation with a monument sign designed and installed by the Property Owner in accordance to requirements by the City Council. The Applicant shall install traffic and safety signage in compliance with the Manual on Uniform Traffic Control Devices as noted on the plan.
4. Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor site plan changes to the approved Plans.
5. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.
6. Parking Areas: (i) Parking areas will be swept at a minimum semiannually, or more frequently if needed. (ii) Pursuant to the provisions of M.G.L. c. 90, section 18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. The Applicant shall be responsible for providing, installing and maintaining all signage and/or markings required by the Marlborough Traffic Commission. Such signage and/or markings shall meet the standards of the Manual of Uniform Traffic Control Devices.
7. Local Job Fair: In order to promote local jobs for local residences, the Applicant shall ensure that its tenant, the operator of the day care center, will hold a Local Job Fair and to give preference, where practical and reasonable, to residents of the City of Marlborough.
8. Prohibition of Cell Towers: Except for the sole benefit of the public safety departments, the school district, the public works department, and other departments of the City of Marlborough with the approval of the City Council, no wireless communication tower or device is permitted on the Site outside the building.
9. Address on Signage: Signage for the site shall include the entire street address which is 70 Simarano Drive.

APPROVED; adopted.

ORDERED: That the Appointment of David Morticelli to the Community Development Authority for a term of two years to expire from date of City Council approval, **APPROVED**; adopted.

ORDERED: That the Reappointment of Brian Doheny as Comptroller/Treasurer for a term of three years, **APPROVED**; adopted.

Suspension of the Rules requested by Councilor Robey to add an item to the agenda, Order No. 15-1006251, which was tabled in committee and is the Communication from Council President Clancy regarding the best way to legally proceed pertinent to the vacated City Council seat – SUSPENSION GRANTED.

Councilor Ossing requested to be recorded in opposition.

Councilor Robey indicated that this item was tabled in committee and she would like to move it from committee and back to the city council for discussion.

Councilor Clancy addressed the body regarding his Order and the options available to the body, explaining that he has discussed the vacant seat with numerous ex-councilors who are willing to serve and who are not running for election. He stated that he would be recommending Robert Katz to fill the vacated seat and that Councilor Katz is willing to step forward and fill the seat for the remainder of 2015.

Councilor Delano stated there is a motion on the floor to nominate Robert Katz; Councilor Elder seconded the motion.

Councilor Robey stated her motion was to remove the order from Legislative and Legal Affairs and bring it back to the full City Council. President Clancy stated that the motion has been made and seconded for discussion.

Councilor Oram opposed the process and made a motion to table. MOTION DOES NOT CARRY

President Clancy called a recess at 8:58 PM and returned to open meeting at 9:00 PM.

MOTION made by Councilor Delano to table – ADOPTED

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:01 PM.