



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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

FEBRUARY 10, 2014

Regular meeting of the City Council held on Monday, February 10, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Tunnera, Irish, Clancy, and Landers. Absent: Elder. Meeting adjourned at 9:20 PM.

ORDERED: That the minutes of the City Council meeting JANUARY 27, 2014, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Attorney Gadbois on behalf of DBK Realty, LLC, to construct a facility at 1000 Nickerson Rd. to store and use toxic chemicals in the manufacture of small specialty parts for the medical instrument, airline and defense industries, all were heard who wish to be heard, hearing recessed at 8:30 PM.

Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Tunnera, Irish, Clancy & Landers. Absent: Elder

The City Clerk read a disclosure statement on behalf of Councilor Elder pursuant to MGL Chapter 39, § 23D that he will review all evidence received at tonight's public hearing, including but not limited to the relevant video recordings; and that he further intends to certify in writing that he has examined all such evidence, before the votes are taken on said applications.

City Council President Pope presented a proclamation to Attorney David Gadbois declaring March 6, 2014 as David Gadbois Day in the City of Marlborough.

ORDERED: That following transfer requests in the amount of \$63,559.06 which moves funds from Fringe to Sick Leave Buy Back to fund costs associated with the retirements of members of the Police and Public Works Departments, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --											
DEPT:		DPW - Water				FISCAL YEAR:		2014			
Available Balance		FROM ACCOUNT:				TO ACCOUNT:		Available Balance			
Amount	Org Code	Object	Account Description:			Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$18,740.88	11990006	51500	Fringes			\$18,740.88	61090003	51920	Sick Leave Buy Back	\$1,472.32
	Reason:	Sick Leave Buy Back					Retirement				

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		DPW - Streets Division				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$18,741.00	11990006	5150	Fringes	\$18,741.00	14001303	51920	Sick Leave Buy Back	\$2,183.89	
Reason:		Sick Leave Buy Back				Retirement				

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Police				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$26,077.18	11990006	51500	Fringes	\$26,077.18	12100003	51920	Sick Leave Buy Back	\$15,130.53	
Reason:		Sick Leave Buy Back				Retirement				

ORDERED: That the transfer request in the amount of \$12,000.00 which moves funds from Fringe to Actuarial Study to fund an actuarial study regarding our OPEB (Other Post-Employment Benefits) obligations, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Comptroller				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$12,000.00	11990006	51500	Fringes	\$12,000.00	11990006	53052	Actuarial Study	\$3,000.00	
Reason:		Surplus in account				Update OPEB report for GASB 45				

ORDERED: That the transfer request in the amount of \$10,000.00 which moves funds from Fringe to Conference & Training to fund participation in the Supervisory and Leadership Development Program through the Collins Center for Public Management, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Personnel				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$463,313.00	\$10,000.00	11990006	51500	Fringes	\$10,000.00	11520006	57380	Conference & Training	\$13,754.31	
Reason:		Surplus in account				Personnel Management training				

ORDERED: That the transfer request in the amount of \$1,710.00 which moves funds from P/T Nurse to Medical Supplies to fund higher than anticipated demand for flu vaccinations, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Board of Health				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$12,608.15	\$1,710.00	15120001	50391	Part Time Nurse	\$1,710.00	15120005	55050	Medical Supplies	\$152.93	
Reason:		Surplus due to retirement				Heavy activity this year for flu vaccines				

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Conservation Grant in the amount of \$2,000.00 from The Butler Family Foundation to assist with ongoing maintenance of the Felton Conservation Land and other conservation related maintenance; adopted.

ORDERED: That pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, upon the recommendation of the Mayor, approves expenditures in excess of available appropriation up to \$1,250,000 for snow and ice removal for fiscal year 2014, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Reappointments of the following to the Disabilities Commission refer to **PERSONNEL COMMITTEE**; adopted.

Debra McManus for a term of two years, John Usinas for a term of three years, Richard Towle for a term of two years and Pat Winske for a term of three years.

ORDERED: That the Retirement of DPW Commissioner Ronald LaFrenier, **FILE**; adopted.

ORDERED: That the Appointment of John Ghiloni as DPW Commissioner for term of five years effective the day after his appointment, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED:

Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that Article VI, Board of Tax Assessors, of the Code of the City of Marlborough (hereinafter, the "City Code"), as amended, be further amended as follows:

I. By striking paragraphs A. and B. in their entirety from § 67-27, and inserting in place thereof the following:

A. There shall be a Board of Tax Assessors comprised of three members who shall be appointed by the Mayor, subject to confirmation by the City Council, for a term of three years and until his/her successor is qualified.

B. No member of the Board of Tax Assessors shall receive compensation if he/she is an employee of the City of Marlborough or an employee of a vendor or company which provides contracted services to the Assessors' Office.

C. The members of the Board of Tax Assessors shall annually choose as Chairman one of their number who is not an employee of the Assessors' Office and not an employee of a vendor or company which provides contracted services to the Assessors' Office.

II. By striking in its entirety § 67-28, and inserting in place thereof the following new § 67-28:

§ 67-28 Principal Assessor; powers and duties.

- A. There shall be a Principal Assessor, appointed by the Mayor and subject to confirmation by the City Council, who shall serve a term of three years and until his/her successor is qualified. The Principal Assessor shall not be subject to an additional appointment by the Mayor to the Board of Tax Assessors.
- B. The Principal Assessor shall serve as a member of the Board of Tax Assessors and shall oversee the day to day operations of the Assessors' Office. The Principal Assessor shall also be responsible for the administrative, technical and supervisory work related to the valuation and revaluation of all residential, industrial and commercial real estate and personal property, including triennial recertification in conformance with regulations of the Department of Revenue, and for the preparation of estimates of city-wide valuations for use in budget appropriations.
- C. The Principal Assessor shall obtain evidence of all assets and income as required to be reported pursuant to all exemption and deferral programs, including certified or notarized statements, income tax returns or other verification satisfactory to the Principal Assessor.
- D. Additional responsibilities of the Principal Assessor include managing the defense of the City in cases before the Appellate Tax Board or other governing bodies, and in conjunction with the Board of Tax Assessors, processing tax exemptions and abatements.
- E. The Principal Assessor shall be qualified in accordance with the regulations of the Department of Revenue, and shall at the time of appointment be designated a Massachusetts Accredited Assessor (MAA), or shall obtain said designation within one year of appointment. The Principal Assessor shall also be designated a Certified General Real Estate Appraiser by the Commonwealth of Massachusetts at the time of appointment, or shall obtain said designation within one year of appointment.
- III. By striking from § 67-32, as amended, the word "Chairman" as it appears therein and inserting in place thereof the words "Principal Assessor," by striking the word "He" as it appears therein and inserting in place thereof the words "He/She," and by striking the words "Tax Assessing Department" and "Assessor's Office" as they appear therein and inserting in place thereof the words "Assessors' Office."

REFER TO LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE; adopted.

ORDERED:

Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that § 67-10 of Article VI of the Code of the City of Marlborough (hereinafter, the "City Code"), as amended, be further amended as follows:

1. To paragraph A. of § 67-10, by deleting from the first sentence " , except for the initial term as set forth below." and by inserting a period after the word "years".

- 2. To paragraph A. of § 67-10, by inserting in the third sentence after the word “Marlborough” the words “and will be the Chief Financial Officer of the City.”
- 3. To paragraph A of § 67-10, by deleting the last sentence of said paragraph.
- 4. To paragraph B. of § 67-10, by deleting the second sentence in its entirety and inserting in place thereof the following sentence: “He/She shall oversee and have administrative oversight of the Municipal Finance Department which shall include the offices of Collector and Assessors’.”
- 5. By deleting in its entirety paragraph D. of § 67-10.

REFER TO LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE; adopted.

ORDERED:

Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that § 7-31 of Article IV of the Code of the City of Marlborough (hereinafter, the “City Code”), as amended, be further amended as follows:

By inserting, after paragraph B., a new paragraph C.: “The Commissioner of Public Works shall assume the duties and responsibilities of the Water Registrar, City of Marlborough. Said Commissioner of Public Works shall comply with and be responsible for the duties of the Water Registrar as contained in §§ 510-14 and 608-8 of the City Code, and file reports as required by § 67-9 of the City Code.”

REFER TO LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE; adopted.

ORDERED: That the Communication from Council President Pope re: Reappointment of Lisa Thomas as City Clerk for a three year term to expire on February 28, 2017, refer to **PERSONNEL COMMITTEE;** adopted.

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Section 650-17, entitled “Table of Uses,” is hereby amended:
 - i. by amending the business use entitled “Medical clinic” so as now to be entitled “Medical office/clinic”; and
 - ii. by regulating that business use, as amended, so as to allow medical offices and/or clinics as of right in the Business (B) district, as follows:

Medical office/clinic	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I
	SP	SP	SP	SP	SP	Y	Y	Y	N	N	N

- II. Section 650-5, entitled “Definitions; word usage,” is hereby amended:
- i. by amending the heading entitled “MEDICAL CLINIC” so as now to be entitled “MEDICAL OFFICE/CLINIC”; and
 - ii. by deleting the definition of “MEDICAL CLINIC” and inserting in place thereof a definition for “MEDICAL OFFICE/CLINIC,” as follows:

MEDICAL OFFICE/CLINIC – Buildings or portions thereof used by or for licensed physicians and other licensed healthcare practitioners, at which not more than three (3) physicians at one time are practicing daily at the office or clinic with the necessary support staff and occupying a total of no more than 5,000 square feet of space which is designed, intended or used for providing, on a less than 24-hour basis, medical services, including but not limited to urgent care for the treatment of injuries or illness, laboratory testing and x-rays, and occupational health services for employers and employees; but, however, not including elective surgical care, dental clinics, narcotic detoxification and/or maintenance facilities, and medical marijuana treatment centers.

That there being no objection thereto set **Monday, March 10, 2014** as a date for a **PUBLIC HEARING**, refer to **PLANNING BOARD, URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Communication from City Solicitor Donald Rider re: Proposed Zoning Amendment, Dental Clinics containing the revisions recommended by the Committee, Order No. 13/14-1005578B, **MOVED TO ITEM 31**; adopted.

ORDERED: That the Communication from City Solicitor Donald Rider re: Application for Special Permit by Atty. Bergeron on behalf of Sandra & Anthony Antico Real Estate LLC and Sky High Studios, Inc. to open commercial recreation establishment at the property, specifically an exercise and fitness facility, at 289 Elm Street, in proper legal form, Order No. 13/14-1005582D, **MOVED TO ITEM 30**; adopted.

ORDERED: That the Communication from Tree Warden Christopher White re: Vegetation Management Plan 2014-2018, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Communication from Bohler Engineering on behalf of VNG Co. re: request to extend Time Limitations to hold **PUBLIC HEARING** on the Application for Special Permit, 413 Lakeside Ave. to propose construction of a new compressed natural gas (CNG) facility with one new dispenser including minor site modifications and piping to February 28, 2014 until 5:00 PM, Order No. 13-1005581, **APPROVED**; adopted.

ORDERED: That the Minutes, Board of Assessors, September 25, 2013 & January 23, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Marlborough High School Council, January 8, 2014, **FILE**; adopted.

ORDERED: That Minutes, Planning Board, January 13, 2014, **FILE**; adopted.

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

- A. Yvonne Burton, 73 Minehan Lane, residential mailbox claim 2(a)
- B. Krista Duane, 562 Hemenway Street, pothole or other road defect
- C. Lorrain Galvin, 217 Miles Standish Drive, residential mailbox claim 2(a)

Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Robey, Oram, and Elder. Councilors Pope, Clancy, Landers and Page were also in attendance. The meeting convened at 7:00 PM.

Order No. 14-1005662 – Mid Year DPW Transfers for \$16,300.00. The Finance Committee reviewed the Mayor's letter dated January 23, 2014 requesting two mid year transfers from within various DPW accounts totaling \$16,300.00. The purpose is to fund line items associated with interim/temporary promotions due to absences and vacancies, police overtime for details associated with water and sewer repairs, and overtime incurred from water main breaks. **The Finance Committee voted 4 – 0 (Councilor Irish absent) to approve the two transfers.**

Council President Pope orally reported that the Rules Committee met on February 3, 2014 to review the current City Council Rules. She reminded Council that they accepted the Rules at the Organizational Meeting. Some minor changes have been made and the Council Secretary will be providing a "clean" copy to all Councilors by which a vote can take place at the next meeting.

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

Committee members Delano, Clancy, Landers, Tunnera, & Page along with Councilors Elder, Irish, Oram, Robey, and President Pope were in attendance.

The Urban Affairs Committee met to take up **Order No. 14-1005670.**

Communication from Tim Cummings, MEDC-Urban Land Institute (ULI TAP) Technical Assistance Program Final Report: Coordinating Action in Downtown Marlborough. -REFER TO URBAN AFFAIRS

A presentation of the final recommendations was made by the ULI panel of experts. In attendance were:

- Dick Lampman, G. Greene Construction (TAP Co-Chair - Construction)
- Scott Payette, Scott Payette Architects (TAP Co-Chair - Design)
- Andrew Suttor, Riemer & Braunstein
- Michelle Anders (SP), ULI Boston
- Michael Miller, MassDevelopment

Also in attendance was Tim Cummings, Executive Director MEDC

The panel presented the results of their observations, interviews, and discussions outlining their process, Planning Considerations, Challenges & Opportunities, Vision, and Recommendations. Among other items of note the panel opined that downtown parking is "abundant" and that we only utilize approximately 50% of available-sufficient to support quite a bit of future growth.

Granger Boulevard is well under capacity and thus one or more lanes can be eliminated and used for bike lanes or pedestrian areas, streetscaping, or other visually appealing purposes. Recommended eliminating the “slip lane” feeding onto Granger from Route 20.

There is an opportunity to extend business hours to enhance the restaurant business. Lighting downtown, and in cross streets and alleys may need to be improved.

The current zoning is outdated and does not allow for mixed-use development and thus should be updated by means of an overlay district. A boutique type hotel may work well in an underutilized site, along with a gym/fitness center, and entertainment.

Allow for zero-foot setback minimums, change FAR (floor area ratios) requirements, change parking requirements to 2.5 space/1000 sq. ft. versus the current 10 space/1000, enforce current on-street parking regulations, and advertise free parking.

Establish a clearinghouse for incentives, financing, and tax credit programs.

Other recommendations were to maintain Main St. as a two-way thoroughfare, add bicycle lanes, extend the bike path downtown, reuse the US Postal Service Distribution Center parcel, and allow “blade” signs downtown.

Tim Cummings of the MEDC agreed to form a committee including local residents, MAPC, and city councilors to further study the details of a zoning change, gather stakeholder input, and make a recommendation back to the City Council for action by the beginning of May, 2014.

Motion made by Councilor Clancy to table, carried 5-0.

Councilor Delano reported the following out of the Operations and Oversight Committee Committee:

Present: Chairman Elder; Operations and Oversight Committee Members Councilors Delano and Landers, Councilors Page, Robey, Oram

Also Present: Mayor Arthur Vigeant

1-13-14- Order No. 14-1005647

Communication from Mayor Vigeant requesting that a proposed Order which would revoke the City's acceptance of MGL Chapter 41, Section 100B and City of Marlborough, City Code Section 125-49, Retiree Indemnification Review Board be referred to the Operations and Oversight Committee for further discussion.

-REFER TO OPERATIONS AND OVERSIGHT

Mayor Arthur Vigeant came before the Operations and Oversight Committee on February 3, 2014 to discuss the revocation of MGL Chapter 41, Section 100B per his letter dated January 9, 2014 to the City Council. In forty-one years there have been at most three cases of medical expenses, co-payments and medicines not covered by insurance, reimbursement to police officers or firefighters who have retired due to disability. Although the reimbursements were not for large amounts, the Mayor is concerned about potential abuse in the future as labor attorneys become involved in the reimbursement requests. The Committee believes the Mayor should provide some alternate solutions before revoking this local option.

Councilor Delano makes a motion to refer back to the Mayor. Councilor Landers seconds the motion to refer back to the Mayor. No discussion on the motion, all are in favor. It is approved, 3-0.

ORDERED: That the Fire Department transfer requests in the amount of \$48,704.98 which moves funds from Fringe to Firefighter to fund vacation buyback and a transfer in the amount of \$45,709.92 which moves funds from Fringe to Sick Leave and Firefighter to fund sick leave buy back and benefits associated with an anticipated retirement, **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500	\$48,704.98
Fringe	

TO:

Acct. # 12200001-50450	\$48,704.98
Firefighter	

FROM:

Acct. # 11990006-51500	\$45,709.92
Fringe	

TO:

Acct. # 12200003-51920	\$37,063.80
Sick Leave	

Acct. # 12200001-50450	\$8,646.12
Firefighter	

ORDERED: That the Fire Department transfer request in the amount of \$100,000.00 which moves funds from Firefighter to Overtime due to injuries, unanticipated retirements and long term illnesses of several members of the department, **APPROVED**; adopted.

FROM:

Acct. # 12200001-50450	\$100,000.00
Firefighter	

TO:

Acct. # 12200003-51300	\$100,000.00
Overtime	

ORDERED: That the Police Department transfer request in the amounts of \$168,090.00 and \$4,000.00 which moves funds from and to various accounts to fund overtime costs associated with retirements of and injuries to officers in the department and for in-service training for newly promoted officers as well as increased membership dues respectively, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:	Police								FY:	2014
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$1,319,816	\$91,000.00	12100001	50420	Police Officers	\$91,000.00	12100003	51310	OT - Regular	\$40,164	
	Reason:	Surplus due to vacancies and injuries					Funds needed because of high use due to vacancies and injuries			
\$204,841	\$47,590.00	12100003	51213	Public Safety Disp.	\$47,590	12100003	51310	OT - Regular	\$40,164	
	Reason:	Surplus due to vacancy and grant funds					Funds needed because of high use due to vacancies and injuries			
\$137,903	\$14,000.00	12100003	51320	OT - Court	\$14,000	12100003	51310	OT - Regular	\$40,164	
	Reason:	Fewer officers needed for court thus far					Funds needed because of high use due to vacancies and injuries			
\$137,903	\$5,500.00	12100003	51320	OT - Court	\$5,500.00	12100003	51319	OT - Cell Watch	\$183	
	Reason:	Fewer officers needed for court thus far					More prisoners needing suicide watch			
\$137,903	\$10,000.00	12100003	51320	OT - Court	\$10,000	12100003	51490	Holiday	\$99,171	
	Reason:	Fewer officers needed for court thus far					Several mid week holidays resulting in higher holiday pay			
\$168,090.00		Total			\$168,090.00	Total				

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:	Police								FY:	2014
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$137,903	\$2,000.00	12100003	51320	OT - Court	\$2,000.00	12100003	51395	In Service Training	\$1,883	
	Reason:	Fewer officers needed for court thus far					More funds needed due to new FTO's and Sgts.			
\$137,903	\$2,000.00	12100003	51320	OT - Court	\$2,000	12100006	57340	Dues and Subscriptions	\$32	
	Reason:	Fewer officers needed for court thus far					Increases in dues and subscription costs			
	Reason:									
	Reason:									
	Reason:									
	Reason:									
\$4,000.00		Total			\$4,000.00	Total				

ORDERED: That the Public Facilities Department transfer request in the amount of \$10,000.00 which moves funds from Custodian to Gross Overtime due to weather related emergencies and HVAC issues, **APPROVED**; adopted.

FROM:

Acct. # 11920003-50560 \$10,000.00
Custodian

TO:

Acct. # 11920003-51300 \$10,000.00
Gross Overtime

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 473, ENTITLED "POLES, WIRES AND CONDUITS," AND CHAPTER 7, ENTITLED "ADMINISTRATION," AS FOLLOWS:

- A. Chapter 473 is hereby amended by deleting section 473-1 in its entirety and replacing it with the following:

§ 473-1. Appointment of Inspector of Wires

The Mayor shall appoint an Inspector of Wires for a term of three years. The position of Inspector of Wires shall be a salaried position.

- B. Chapter 7 is hereby amended by deleting section 7-80 in its entirety and replacing it with the following:

§ 7-80. Assistant Plumbing Inspector & Assistant Wiring Inspector.

There shall be an Assistant Plumbing Inspector and an Assistant Wiring Inspector, who shall perform the duties of the Plumbing Inspector and the Wiring Inspector, respectively, as needed under the direction of the Building Inspector. The positions of Assistant Plumbing Inspector and Assistant Wiring Inspector shall be compensated in accordance with the salary ordinance on a per inspection basis.

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

Councilor Irish abstained

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:

POSITION	EFFECTIVE DATE	MINIMUM	MAXIMUM
Wiring Inspector* (* part-time salary based on a 19 hour work week)	1/2/14	630.80	630.80
Assistant Wiring Inspector & Assistant Plumbing Inspector	1/2/14	\$25.00 / per inspection	

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

Councilor Irish abstained

ORDERED: That the Building Department transfer requests totaling \$17,500.00 for various reasons as noted on the attached spreadsheet, **APPROVED;** adopted.

BUDGET TRANSFERS --										
DEPT:		Inspectional Services				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$17,000.00	\$17,000.00	83600	32703	Stabilizaiton - Bldg Dept	\$7,650.00	12410001	50260	Assistant Bldg Inspector	\$61,518.94	
		Reason: To offset additional costs & promote timely inspections				To ensure adequate funding through FY14				
\$500.00	\$500.00	83600	32717	Stabilizaiton - Bldg Dept	\$6,850.00	12410001	50380	Electrical Inspector	\$13,285.43	
		Reason: To offset additional costs & promote timely inspections				To ensure adequate funding through FY14 and to account for pending salary ordinance amendments				
					\$3,000.00	12410001	50960	Assistant Plumbing Inspector	\$356.88	
		Reason:				To ensure adequate funding through FY14 and to account for pending salary ordinance amendments				
		Reason:								
	\$17,500.00	Total			\$17,500.00	Total				

Councilor Irish abstained

Yea: 9 - Nay: 0 – Absent: 1 – Abstain: 1
Yea: Delano, Page, Tunnera, Clancy, Landers, Ossing, Pope, Oram & Robey
Absent: Elder
Abstain: Irish

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO.**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Sandra and Anthony Antico Real Estate LLC (the “Applicant Landlord”) and Sky High Studios, Inc. (hereinafter “Applicant Tenant”), as provided in this Decision and subject to the following Findings of Fact and Conditions:

FINDINGS OF FACT

1. The Applicant Landlord is a duly organized and existing Massachusetts Limited Liability Company with its principal place of business located at 72 Jefferson Street, Marlborough, MA 01752. Applicant Tenant is a duly organized Massachusetts corporation with a principal place of business at 289 Elm Street, Suite 114, Marlborough, MA 01752.
2. The Applicant Landlord is the title owner of the property located at 289 Elm Street, which is shown on a plan attached to this decision as Attachment #1 (the “Site”). Applicant Landlord and Applicant Tenant have executed a Lease regarding Suite 114 at the Site, and Suite 114’s use pursuant to the terms of this special permit.
3. The Applicants seeks permission to utilize Suite 114 as a commercial recreation establishment.
4. The Applicant Landlord and Applicant Tenant, on October 18, 2013, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of §650-17 and pursuant to the procedures specified in §650-59 of the Marlborough Zoning Ordinance (the “Application”).
5. The Site contains an existing commercial building as shown on the site plan submitted with the Application (the “Site Plan”), an 8 ½ x 11 version of which is attached hereto as Attachment #2. No modifications are proposed to the exterior of the building, no structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.
6. The Applicants seek a special permit allowing the establishment of commercial recreation establishment that will provide for fitness training using both pole fitness and aerial aerobics techniques.
7. The Site Plan was certified by the Building Commissioner, acting on behalf of the City Planner, as having complied with Rule 5, items A through J, of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.
8. Pursuant to the Rules and Regulations of the City Council and the provisions of M.G.L. c. 40A, the City Council established a date for public hearing for the Application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent written notice of said hearing to those abutters entitled to notice under law.

9. The Marlborough City Council pursuant to M.G.L. c. 40A held a public hearing on January 13, 2014, concerning the Application. The hearing was opened and closed at that meeting.

10. The Applicants' attorney presented evidence at the public hearing detailing the proposed use and its limited impact upon City services, the neighborhood and traffic.

11. At the public hearing, Lauren Forest, President of Sky High Studios, Inc., who will also be managing the operation of the business, described the proposed business as being one that would provide a unique combination of exercise instruction, combining two forms of adult (age 15 and older) exercise and fitness training that have become increasingly popular: pole fitness and aerial aerobics. She testified that neither of these forms of fitness training is currently available in this geographical area. She provided illustrations of the equipment to be used in such training. All of the equipment, she said, is currently available for viewing at the proposed permit location. She indicated at the public hearing that her hours of operation were proposed to be:

- Monday-Thursday: 10:00 AM – 9:00 PM
- Friday-Sunday: (regular) 10:00 AM – 4:00 PM
- Friday-Sunday (special events) 5:00 PM – 10:00 PM

She indicated that, given the location of Suite 114, the operation of the business would not in any way disrupt area residences. She estimated that the total number of people at the site at any one time would be 20, and that the peak parking demand would be for 20 parking spaces. She said that she also intends to allow the use of the facility for private functions. She showed building plans indicating where Suite 114 is located in the building, and showing that it is located far away from any residence in the area.

12. A number of Marlborough residents spoke in favor of the proposal. A petition supporting the proposal was also presented by Applicant Tenant. The petition, which includes over 100 signatures, is in the files of the Urban Affairs Committee. No one spoke in opposition to the proposal.

13. Following the close of the public hearing, the Urban Affairs Committee conducted meetings regarding the proposal on January 21, 2014. At that time, the members of the Committee developed proposed permit conditions that are reflected below. There was a vote of the Committee recommending approval of the proposal with those conditions. The vote was 5-0 in favor.

REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT

A. The City Council finds that the Applicants have complied with all Rules and Regulations promulgated by the Marlborough City Council for an application as they pertain to the Special Permit.

B. The use of Suite 114 for a commercial recreation establishment to provide instruction in pole fitness and aerial aerobics is an appropriate use of Suite 114 and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions provided for herein. The use sought and its impacts and characteristics are not in conflict with the public health, safety, convenience and welfare, provided the safeguards and limitations imposed herein are met.

C. The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, GRANTS the Applicant Landlord and the Applicant Tenant, their successors and assigns, a Special Permit to operate a commercial recreation establishment as per plans filed with the City Council and the City Clerk, SUBJECT TO THE FOLLOWING CONDITIONS:

1. Signage: Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.
2. Compliance with Local, State and Federal Laws: The Applicant Landlord and the Applicant Tenant agree to comply with all rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance, equipping and operation of the facility.
3. Hours of Operation: The hours of operation of the facility shall not be earlier than 8:30 AM or later than 9 PM on Mondays through Fridays, and between 10 AM and 4 PM on Saturdays, Sundays and holidays. For special events held on Fridays, Saturdays and Sundays, the facility shall not operate later than 10 PM.
4. Limits of Use: The proposed use of Suite 114 is to provide a place for pole fitness and aerial aerobic instruction and functions related thereto. No other kinds of recreation or public amusement shall be allowed on Suite 114 except those deemed by the Building Inspector to be ancillary to this use.
5. Certificate of Occupancy Required: No use of Suite 114 will be made pursuant to this special permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner regarding the use of Suite 114.
6. No Expansion of Use Area: Only the area of Suite 114, containing approximately 2,000 sq. ft, which has been specified in a sketch in the files of the Urban Affairs Committee, a copy of which is attached hereto as Attachment 3, will be used for the proposed use. To the extent that a substantial increase in the area used for this use is desired, the Building Inspector shall determine whether such increase constitutes a substantial change of the permitted use, and if so, no such expansion shall be permitted unless and until this special permit has been modified by the City Council.
7. No Alcohol. No alcohol shall be served or consumed at or in Suite 114.

8. As-Built Plans. The build-out of Suite 114 shall be completed, and the Applicant Landlord shall submit to the Building Inspector the as-built plans for Suite 114, on or before May 30, 2014. In the event this deadline is not complied with, the Applicant Landlord shall submit to the City Council, on or before June 12, 2014, a written report explaining the non-compliance.

9. Recordation: In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant Landlord shall, at its expense, record this Special Permit with the Middlesex South District 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 being filed. Prior to the Building Inspector’s issuance of a building permit for Suite 114, the Applicant Landlord shall provide a copy of the recorded Special Permit to the City Clerk, the City Solicitor, and the Building Inspector.

Yea: 10 – Nay: 0 – Absent: 1

Yea: Delano, Page, Tunnera, Irish, Clancy, Landers, Ossing, Pope, Robey & Oram

Absent: Elder

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

I. Section 650-17, entitled “Table of Uses,” is hereby amended by regulating the business use entitled “Medical and dental clinic” so as to delete in its entirety “Medical and dental clinics” and to insert in its place the following two separate sections which will allow dental clinics as of right in the Business (B) district, as follows:

Medical clinics RR A1 A2 A3 RB RC RCR B CA LI I

SP SP SP SP SP Y Y N N N N

Dental clinics RR A1 A2 A3 RB RC RCR B CA LI I

SP SP SP SP SP Y Y Y N N N

II. A. Section 650-5, entitled “Definitions; word usage,” is hereby amended by inserting after the definition for “CUSTOMARY HOME OCCUPATION” the following definition:

DENTAL CLINIC – Buildings or portions thereof used by licensed dentists to provide dental care services on less than a 24-hour basis, and at which are employed not more than three (3) dentists practicing daily at the clinic with the necessary support staff.

B. Section 650-5, entitled “Definitions; word usage,” is hereby amended by deleting from the heading “MEDICAL AND DENTAL CLINIC” the words “AND DENTAL” and by deleting from the definition of “MEDICAL AND DENTAL CLINIC” the comma which precedes the word “dental” and by deleting the word “dental” as follows:

MEDICAL CLINIC – An institution licensed under MGL c. 111, § 51 for the purpose of providing medical, surgical or mental health services on an outpatient basis.

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:20 PM.