



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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APRIL 7, 2014

Regular meeting of the City Council held on Monday, APRIL 7, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Tunnera, Irish, Clancy, and Landers. Meeting adjourned at 9:18 PM.

Council President Pope recognized Boy Scout Troop 41 who were in attendance and are working on their Citizenship and Community Merit Badges.

ORDERED: That the minutes of the City Council meeting MARCH 24, 2014, **FILE**; adopted.

ORDERED: That the Fire Department transfer request in the amount of \$152,246.17 of which \$82,246.17 is necessary for retirements and remaining balance will fund necessary OT associated with absences, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 12200001-50450 \$152,246.17
Firefighter

TO:

Acct. # 12200003-51920 \$82,246.17
Sick Leave Buy Back

Acct. # 12200003-51300 \$70,000.00
Overtime

ORDERED: That the Legal Department transfer request in the amount of \$73,800.00 which moves funds from and to various accounts as noted on the spreadsheet to fund higher than anticipated outside legal expenses, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Legal					FISCAL YEAR:	2014		
		FROM ACCOUNT:					TO ACCOUNT:			
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available	
Balance									Balance	
\$4,851,941.00	\$70,000.00	10000	35900	Undesignated Fund	\$70,000.00	11510004	53110	Legal Services	\$37,573.35	
	Reason:						Legal expenses running higher than anticipated			
\$12,844.82	\$500.00	11510006	57600	Claims & Judgements	\$500.00	11510006	53880	Registry of Deeds	\$725.00	
	Reason:	Fewer claims than anticipated					Fund account through end of fiscal year			
\$12,844.82	\$800.00	11510006	57600	Claims & Judgements	\$800.00	11510006	57100	Instate Travel	\$58.00	
	Reason:	Fewer claims than anticipated					Fund account through end of fiscal year			
\$12,844.82	\$2,500.00	11510006	57600	Claims & Judgements	\$2,500.00	11510006	57350	Lawbook Updates	\$1,330.00	
	Reason:	Fewer claims than anticipated					Fund account through end of fiscal year			
	\$73,800.00	Total			\$73,800.00	Total				

ORDERED: That the Gift Acceptance in the amount of \$1,000.00 from the Cummings foundation in honor of Ginger Ryan, **ACCEPT FUNDS AND PLACE IN CONSERVATION MAINTENANCE FUND ACCOUNT #845-00005-54000 TO BE USED FOR CONSERVATION LAND MAINTENANCE PROJECTS**; adopted.

At President Pope's request to recess at 8:12 PM and returned to open meeting at 8:16 PM, APPROVED; adopted.

Suspension of the Rules requested to allow the Mayor to speak – CARRIES

ORDERED: That the Library Planning Grant, refer to **BACK TO MAYOR**; adopted.

Yea: 6 -Nay: 5

Yea: Delano, Page, Elder, Tunnera, Irish, and Pope

Nay: Clancy, Landers, Oram, Ossing, & Robey

ORDERED: Motion to Approve

That the City Council, under the provisions of Article VI Chapter 650-33 Results Way Mixed Use Overlay District Section 33D Exclusivity/Control and Article II Section 270-2 Site plan review and approval F Prior earthmoving, **approve** the draft "Site Plan" for the placement of fill material as provided in the plans dated March 20, 2014 Symmes Maini & McKee Associates, 1000 Massachusetts Avenue, Cambridge, Massachusetts 02138, for Marlborough Hills 200 Forest Street, Marlborough, MA consisting of sheets C-111 Site Preparation and Erosion Control Plan, C-141 Grading and Surface Treatment Plan and C-501 Details 1 Plan, collectively the "Plans" under the following terms and conditions:

1. That the work be performed in accordance with the Plans and the notes recited in the Plans;
2. That there be a preconstruction meeting with the Conservation Officer, the Site Contractor and the City Engineer (designee) once the erosion controls are in place and prior to doing any hauling for the purpose of reviewing the Plans and to exchange emergency contact information;
3. That in the event the future parking lot contemplated to be constructed in the fill area is not constructed within a year of the placement of the fill, it be loomed and seeded and the temporary erosion control of tackifier be placed on the fill prior to looming and seeding in order to accomplish the erosion control of the fill area.

APPROVED; adopted.

ORDERED: That the Communication from City Solicitor Rider re: Special Permit, DBK Realty, LLC, 1000 Nickerson Rd. in proper legal form, Order No. 13/14-100555D, **MOVED TO ITEM 26**; adopted.

ORDERED: That the Communication from City Solicitor Rider re: the Gutierrez Company, Comprehensive Permit off Ames St. and Rt. 20, with attached documents, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, MAY 5, 2014** as date for a **PUBLIC HEARING** on the Application for Special Permit from Amber Debole of TRM on behalf of T-Mobile Northeast, LLC for minor upgrade to existing telecom site, which consists of replacing all nine existing antennas, adding a cable divider, fiber jumpers, and hybrid cable to existing tower at 75 Donald Lynch Blvd., refer to **WIRELESS COMMUNICATION COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, MAY 5, 2014** as date for a **PUBLIC HEARING** on the Application for Special Permit from Mark Donahue of Fletcher Tilton on behalf of Chick-Fil-A, Inc. to construct and operate an approximate 4,876 square foot single story building with drive-thru service restaurant at 230 Boston Post Rd. West, refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Application for Renewal of Secondhand Article Dealer's License, Theresa Denoncourt Smith, Hint of Class Consignment, 72A-B Hosmer St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for for Renewal of Junk Dealer's License, Tony Bitar, Hannoush Jewelers, 601 Donald Lynch Blvd., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Secondhand Article License, Mary Giorgi, Giorgi's Consignment Boutique, 266 Main St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Traffic Commission, February 25, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Marlborough Community Development Authority, March 17 & 27, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, March 6, 2014, **FILE**; adopted.

ORDERED: That the Minutes, License Board, February 26, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, March 10, 2014, **FILE**; adopted.

ORDERED: That the Communication from Irene Richardson, 204 Ridge Rd. pertinent to a claim, refer to **LEGAL DEPARTMENT**; adopted.

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

- A. Bonnie Hill, 150 Simpson Rd., residential mailbox claim 2(b)
- B. Samantha Bower, 7 Nolan Way, pothole or other road defect claim
- C. Michael Sansonetti, 228 Littlefield Ln., residential mailbox claim 2(a)
- D. Charles Pinto, 84 Framingham Rd., residential mailbox claim 2(a) & other property damage

Reports of Committees:

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

Present: Chairman Delano; Urban Affairs Committee Members Councilors Clancy, Landers, and Tunnera (Councilor Page Absent); and Councilors Pope, Elder

Also Present: Assistant City Solicitor Cynthia Panagore Griffin; Attorney David Gadbois; Building Inspector Michael Mendoza; Joseph Zink. President and CEO, Atlantic Management; Patrick CSM

Order No.14-1005693A - Zoning Petition from City Councilor Elder to amend the Table of Uses, Section 650-17 by amending the business use so as to allow medical offices and/or clinics as of right in the Business (B) district and to expand the definition of Medical Office/Clinic.

PUBLIC HEARING: MARCH 10, 2014

The committee met to continue the review of the definition of Medical Office/Clinic after incorporating changes regarding the type of services allowed by including mental health services, restricting internal surgical care, and requiring a Special Permit for a facility that exceeds 5,000 square feet of space in any district where such use is not prohibited.

Motion made by Councilor Clancy, seconded by Chair, to approve as amended, Carries 3-1. Landers opposed.

Motion made by Councilor Clancy to ask for a suspension of the rules at the next City Council meeting to send to the City Solicitor to be placed in proper legal form and to advertise, seconded by the Chair, Carries 3-1.

Order No.14-1005446C - Communication from Attorney Gadbois re: Minor Site Plan Change, AvalonBay-200 Forest St. Plan is in City Clerk's office for viewing, Order No.13/14-1005446A.

The City Council is the Site Plan Authority for the Results Way Mixed Use Overlay District, Forest Park Project, and currently all site plan changes, both major and minor, must be brought before the full City Council for review and approval. During construction, minor changes may be required that need approval however due to the City Council process this could significantly slow the construction of the project. The committee would like delegate the Building Commissioner to act on their behalf for the purpose of approving minor changes to the site plan within the overlay district.

Motion made by Councilor Clancy to delegate to Councilors Pope and Delano the responsibility to create some initial language which will be put on the agenda for Monday night's meeting to be discussed and approved by the City Council, seconded by the Chair, Carries 4-0.

Councilor Clancy reported the following out of the Legislative and Legal Affairs Committee:

Members Present: Councilors Clancy, Delano and Robey

Also Present: Mayor Arthur Vigeant, Comptroller/Treasurer Brian Doheny, Councilor Landers

Order No. 13/14-100591A - The Committee reviewed the proposed changes to Section 67-10 Comptroller-Treasurer; appointment, term and duties. Changes to paragraph A, B and D were discussed. Paragraph A was amended with deletion of old wording and new wording was introduced, primarily the title of "Chief Financial Officer of the City" to the duties of the Comptroller-Treasurer. He/She shall oversee and have administrative oversight of the Municipal Finance Department which shall include the offices of Collector and Assessors.

Paragraph D of Section 67-10 was eliminated from the section. This section dealt with the responsibilities of the Water Registrar. These duties were to be turned over to the Commissioner of Public Works. This was taken up in the Council Order 14-1005691B.

Motion to approve by Councilor Delano seconded by the Chair, motion carried: 3-0

Order No. 13/14-100591B - The Committee reviewed the proposed changes to Section 7-31 of Article IV of the Code of the City of Marlborough, Paragraph B and a new C. The Commissioner of Public Works shall assume the duties of the Water Registrar for the City of Marlborough.

This would eliminate the Comptrollers duties as Water Registrar and formally place it under the responsibilities of the Commissioner of Public Works.

Motion to approve by Councilor Delano seconded by the Chair, motion carried: 3-0

Suspension of the Rules requested – granted

ORDERED: That the Proposed Amendment to the Code of the City of Marlborough, Zoning, Sections 650-17 and 650-5, Medical Offices and Clinics allowed by right in the Business Zone, Order No. 14-1005693A, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Marlborough City Council, as the duly empowered Site Plan Review authority for the Results Way Mixed Use Overlay District under § 650-33 (K) of the City Code, hereby delegates authority to the Building Commissioner, until further notice, to act as its duly authorized agent for the purpose of approving minor amendments to previously approved site plans, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, 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:

§ 67-10. Comptroller-Treasurer; appointment, term and duties

- A. The Mayor shall, subject to confirmation of the City Council, appoint a Comptroller-Treasurer for a term of two years. Such Comptroller-Treasurer shall take office on the first Monday next following his/her appointment. He/she shall perform the duties of the Treasurer as set forth in the General Laws of the Commonwealth of Massachusetts and the Code of the City of Marlborough and will be the Chief Financial Officer of the City. He/she shall comply with all other statutes, regulations and ordinances relative to his/her duties as Comptroller.
- B. The Comptroller-Treasurer shall have the additional duties to coordinate all financial policies of the City while working with all departments, without interfering with the statutory authority, duties and powers of each department. He/she shall oversee and have administrative oversight of the Municipal Finance Department which shall include the offices of Collector and Assessors’. He/she shall, subject to the approval of the Mayor, establish formal controls of expenditures and appropriations, and provide financial advice and long range planning for all departments.
- C. The Comptroller-Treasurer shall assist and make recommendations to the Mayor in the development and evaluation of the capital and operating budgets. He/she shall perform all duties which the Mayor and City Council shall direct.

ORDERED ADVERTISED AND PLACE ON THE CITY COUNCIL AGENDA FOR MAY 5, 2014; adopted.

Suspension of the Rules requested - granted

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:

§ 7-31. Powers and duties of Commissioner

- A. The Commissioner of Public Works shall be the supervisory and administrative head of the Department of Public Works. The Commissioner is hereby vested with the authority, duty and power to regulate and coordinate all functions reasonably related to the duties and responsibilities of the Department of Public Works as herein transferred to the Department and as the City Council may from time to time by ordinance provide, any other provision of law to the contrary notwithstanding.
- B. The Commissioner of Public Works shall have all the authority of the former Board of Cemetery Commissioners and shall be responsible for and have the authority conveyed by §§ 19-3, 19-4, 19-9, 19-10 and 19-11 of Article II, and § 19-13 of Article III of Chapter 19 of the Code. The City shall create a renamed, uncodified division to be called the Forestry, Parks and Cemetery Division. [Added 6-29-1998 by Ord. No. 98-7503B]
- 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.

ORDERED ADVERTISED AND PLACE ON THE CITY COUNCIL AGENDA FOR MAY 5, 2014.

ORDERED: That the Operations and Oversight Committee investigate the status for streaming and making available on our website all City Council and sub-committee meetings, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Petition of NGrid and Verizon to relocate existing P6 Laviolette Street 35 feet south towards the entrance to Lake Williams condominiums which will be used as a primary riser pole to feed a pad-mounted transformer required to provide service to the new building (destroyed by fire), **APPROVED WITH FOLLOWING CONDITIONS**, adopted:

- 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 shall not 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;
- 4) Ensure construction safety controls are established (signage, drums, police details, etc.) and are in accordance with the latest MUTCD standards;
- 5) Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended;
- 6) Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765;
- 7) National Grid to work closely with other private utility companies to expedite the transfer of overhead wires from old to new poles;
- 8) If existing pole 6 is no longer necessary, this pole is to be removed immediately after overhead wires are transferred.

ORDERED: That the DPW transfer request in the amount of \$63,600.00 which moves funds from Fringes to various accounts to fund costs associated with the retirement of a member of the Public Works Department, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		DPW - Administration				FISCAL YEAR:		2014		
FROM ACCOUNT:						TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$283,339.04	\$63,600.00	11990006	51500	Fringes	\$22,500.00	14001001	50600	DPW Commissioner	\$37,550.22	
	Reason:					Retirement				
					\$40,000.00	14001003	51920	Sick Leave Buy Back	\$595.07	
	Reason:					Retirement				
					\$1,100.00	14001003	51430	Longevity	\$2.01	
	Reason:					Retirement				
	\$63,600.00	Total			\$63,600.00	Total				

ORDERED: That the Comptroller's Office transfer request in the amount of \$21,500.00 which moves funds from Fringes to Postage and Office Supplies to supplement accounts for FY14, **APPROVED**; 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	
\$283,339.04	\$20,000.00	11990006	51500	Fringes	\$20,000.00	11330006	53460	Postage	\$303.30	
	Reason:	Surplus in account				Additional funds for mailings				
\$283,339.04	\$1,500.00	11990006	51500	Fringes	\$1,500.00	11330005	54220	Office Supplies	\$512.78	
	Reason:	Surplus in account				Additional funds for supplies				
	\$21,500.00	Total			\$21,500.00	Total				

ORDERED: That the Assessor's Office transfer request in the amount of \$7,000.00 which moves funds from Senior Clerk to Legal/Appeal/Tax to fund anticipated legal expenses associated with abatement filings and appraisals for the remainder of the fiscal year, **APPROVED**; adopted.

FROM:

Acct. # 11410002-50770 \$7,000.00
Senior Clerk

TO:

Acct. # 11410006-53114 \$7,000.00
Legal/Appeal/Tax

DECISION ON AN APPLICATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to DBK Realty, LLC (Applicant) and Ktron Incorporated (Tenant), each having a usual place of business at 583 Berlin Road, Marlborough, Massachusetts 01752 as provided in the Decision and subject to the following Procedural Findings, Findings of Facts and Conditions:

PROCEDURAL FINDINGS

1. DBK Realty, LLC is a limited liability company organized, existing and in good standing under the laws of the Commonwealth of Massachusetts having a usual place of business at 583 Berlin Road, Marlborough hereinafter referred to as the Applicant.
2. Ktron Incorporated is a corporation organized, existing and in good standing under the laws of the Commonwealth of Massachusetts having a usual place of business at 583 Berlin Road, Marlborough hereinafter referred to as the Tenant.
3. The Applicant is the owner of the property shown as "Lot #1" on a Plan of Land in Marlborough, MA recorded in the Middlesex South District Registry of Deeds as Plan No. 535 of 2013 and being a portion of the land owned by the Applicant described in said Registry of Deeds in Book 61865 Page 419. Said Lot #1 is further known as 1000 Nickerson Road, Marlborough, MA, as shown on the City of Marlborough Assessors Maps as a portion of Map 88, Parcel 29 (hereinafter referred to as the "Site").
4. The Applicant, on or about September 19, 2013 filed with the City Clerk of the City of Marlborough, an Application to City Council for issuance of Special Permit (hereinafter referred to as the "Application") under the Ordinances of the City of Marlborough, Article VI Section 650-24, Paragraph E Sub-paragraph (2) (c) (d) to permit Tenant to conduct a business owned and operated by Tenant for the manufacturing of specialty parts for defense, medical instrument and airline industries on approximately six acres of land located at 1000 Nickerson Road being Lot #1 referenced in paragraph 3 above (the "Project").
5. The manufacturing of said specialty parts requires the storage and use of toxic materials/chemicals in the cleaning and welding of the parts. Toxic materials/chemicals herein are hereinafter referred to as Hazardous Materials.
6. A portion of the Site is located in Zone B of the City of Marlborough Water Supply Protection District and is subject to the Zoning Ordinance Chapter 650 section 24 Paragraph E Sub-Paragraph (2) (c) (d).

7. The Application filed on September 19, 2013 consisted of an original and two copies of the following: (a) Application to the City Council for issuance of Special Permit (b) Special Permit-Summary Impact Statement with Exhibit A List of Hazardous Waste Materials (c) Filing Fee check in the amount of \$1,000.00 (d) (e) Plan Delivery Certification (f) Tax Payment Certification (g) Abutters List (h) Preliminary Site Plan (the "Site Plan") (i) Planning Department Certification (collectively the "Documents") which Documents are incorporated herein and become a part of this decision. Twelve sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer and the Conservation Officer, all in accordance with Chapter 650 Section 650-59 of the Zoning Code of the City of Marlborough. The Abutters List was updated as of January 1, 2014 and filed with the City Clerk.
8. The Applicant filed with the Application a Certificate of Completeness of Application on a form signed by the Building Commissioner on behalf of the City Planner for the City of Marlborough as having complied with the provisions of Chapter 650 (Zoning Code) Section 650-59, C. (7) (a), (b) and (c).
9. Under the provisions of Massachusetts General Laws Chapter 40A, on October 3, 2013 Applicant filed with the City Clerk to be placed on the City Council Agenda for October 7, 2013 an agreement to extend the public hearing date to no later than February 11, 2014. At the October 7, 2013 meeting, the Council voted to approve the agreement.
10. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A Sections 9 and 11, the City Council established February 10, 2014 as the date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the MetroWest Daily News and mailed said notice to those entitled thereto, all in accordance with Massachusetts General Laws Chapter 40A.
11. The Marlborough City Council held a public hearing on the Application on February 10, 2014 in accordance with the published notice, (the "Public Hearing"). The hearing was opened at the time provided for in the notice and following the completion of testimony the hearing was closed on said date.
12. The Applicant presented testimony at the Public Hearing detailing the construction of the Site, the construction of the building, especially as it pertained to the use of Hazardous Materials therein, its impact upon municipal service, the neighborhood, traffic, drainage and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the public hearing. A subject of concern to the public was the content of the public notice.
13. The Applicant provided written and oral documentation and testimony to the City Council and the City Council's Urban Affairs and Housing Committee ("Urban Affairs") regarding the Site, traffic impacts, open space, landscaping, drainage, lighting, water and sewer use, and other utilities associated with the Site.
14. The Applicant provided to Urban Affairs written and oral documentation as to the handling of the Hazardous Materials (HM) (a) HM will be unloaded inside the building. In the event of a spill during the unloading process, the unloading area is designed so that the HM will drain into a 300 gallon capacity polypropylene containment catch tank with no drain. The maximum delivery of HM to the building at any one time is 250 gallons. The HM will be

transferred within the building to the Wash Room, where they are stored and used. The Wash Room is described in a "Spill Prevention and Control Plan" dated January 15, 2014, a copy of which was provided to the City Council.

15. Tenant currently conducts its business at 583 Berlin Road, Marlborough, MA. Applicant provided to the City Council, as proof that Tenant is qualified to conduct its business and the handling of HM, a copy of the Commonwealth of Massachusetts Department of Environmental Protection Waste Water Permit WO33266, a copy of the Waste Water Permit # CAT22901919 issued by the City of Marlborough, a copy of the license issued to the in-house Wastewater Treatment Plant Operator issued by D.E.P to James P. Leveille an employee of Tenant and a copy of the Annual Inspection Permit issued by the City of Marlborough to Tenant dated April 11, 2013.
16. The Site is located north of Nickerson Road and is bounded to the west by Hayes Memorial Drive, to the north by Lot #2 shown on the Plan of Land referred to in paragraph 3 above, and to the east by an industrial subdivision.
17. The Site approximately of 6 acres and is located within the Limited Industrial district. According to the Building Inspector, the Project proposes a use which is allowed as of right in the LI district.
18. According to the Building Inspector, the Project meets all requirements of the zoning ordinance.
19. The Project consists of one building of approximately forty thousand (40,000 s/f) square feet and will be located as shown on the Site Plan submittal.
20. Access to the building and parking will be off of Nickerson Road as shown on the Site Plan.
21. According to the Applicant, the Project will generate 2000 gallons of treated sewage per day and approximately 1000 gallons of domestic sewage per day. The sewage will be directed through the City of Marlborough's wastewater system to the westerly wastewater treatment plant through a connection to a sewer manhole located on Northborough Road. Said plant has the capacity to treat the wastewater generated by the Project.
22. According to the Applicant, natural gas is available to serve the Project Site.
23. According to the Applicant, telephone, electricity and cable TV services are all available to serve the Project.
24. According to the Applicant, the Site Plan provides for proper management of storm water runoff from the project; proposed runoff rates are less than existing; there will be no adverse impact to any surrounding areas; the drain systems have been properly designed to handle the design flow rates; and reduced TSS results in improved quality of storm water runoff to receiving areas.
25. According to the Applicant, all buildings will be fully sprinkled and constructed in accordance with the latest life safety and building codes.
26. The Applicant will maintain all walls, driveways and storm drainage structures.

**BASED UPON THE ABOVE, THE CITY COUNCIL OF THE CITY OF
MABLBOROUGH MAKES THE FOLLOWING FINDINGS:**

- A. The City Council finds that it may grant a Special Permit (Special Permit) subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the “City”).
- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or General Laws C.40A, et. seq.
- C. The City Council finds that the use of the site for the Project is an appropriate use, and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The construction of the Project will complement the existing light manufacturing nature of the abutting properties and the surrounding neighborhood, and will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.
- D. The Site Plan, as submitted, and as may be amended by Site Plan Review Committee during the site plan review process, provides improvements that will protect the environment. The City Council makes this determination subject to the completion and adherence by the Applicant to the approved site plan by the Site Plan Review Committee and the conditions more fully set forth herein.
- E. The Applicant has complied with all the procedural rules and regulations of the City Council of the City of Marlborough and Chapter 650 (Zoning Code) of the City of Marlborough and Massachusetts General Laws Chapter 40A, Sections 9 and 11.

GRANT OF SPECIAL PERMIT WITH CONDITIONS

The City Council of the City of Marlborough pursuant to its authority under Chapter 650 (Zoning Code) of the Code of the City of Marlborough and Massachusetts General Laws Chapter 40A, **GRANTS** to the Applicant a Special Permit to construct the Project to be used as a light manufacturing facility using hazardous or toxic chemicals as set forth in the application documents and as per site plans submitted to the City Council, and subject to the following conditions which shall be binding on the Applicant, its successors and assigns, as well as on the Tenant:

- 1. **Construction.** Construction of all structures on the Site is to be in accordance with all building codes and zoning regulations in effect in the City of Marlborough and Commonwealth of Massachusetts and shall be built according to the site entitled Ktron, Inc. 1000 Nickerson Road Marlborough, MA Preliminary Site Plan prepared by Bruce Saluk & Assoc., Inc. Civil Engineering & Land Surveying 576 Boston Post Road East Marlborough, MA 01752 Tel: 508 485 1662 Fax: 508 481 9929” filed with the Application and as may have been amended during the application process. The Applicant's Site Plan indicates a permitted building area where the building is to be located.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Code, prior to issuance of the Building Permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall become further conditions to this Special Permit and no Occupancy Permit shall be issued until all conditions are complied with by the Applicant. Site Plan Review shall be consistent with this Special Permit. Any violation of a condition of the Site Plan Approval shall be a violation of this Special Permit.
3. Hazardous Waste. (a) The Applicant shall comply with all directives by the Department of Environmental Protection of the Commonwealth of Massachusetts, The Conservation Commission, the Fire Chief, and the Department of Public Works of the City of Marlborough relative to the existence of any hazardous waste and toxic materials/chemicals which may be located on the Site, compliance of the provisions of MGL Chapter 21E, Chapter 510 Sewers of the Code of the City of Marlborough and any other applicable government codes and as they relate to the use of hazardous and toxic materials/chemicals; (b) No more than 300 gallons of hazardous and toxic materials/chemicals may be delivered to the Site at any one time; (c) No more than 2000 gallons of hazardous and toxic materials/chemicals may be stored on the Site at any one time; (d) There shall be no loading or unloading of hazardous and toxic materials/chemicals outside of the building and no storage of hazardous and toxic materials/chemicals outside the building.
4. Compliance with Local State and Federal Laws. The Applicant shall comply with all applicable rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and Federal Agencies as they may apply to the construction, maintenance and operation of the Project, including, without limitation, compliance with local Conservation Commission Orders, the Massachusetts Environmental Policy Act (MEPA), and the State Building Code. The terms and conditions of such decisions and findings will become a part of this decision.
5. Inspectional Services Mitigation. Applicant shall, prior to issuance of the Building Permit for the Project, provide a payment to the City of Marlborough Inspectional Services fund in the amount of three thousand (\$3,000.00) dollars to offset the increases in costs associated with the Project. The City shall expend said funds as needed to contract for temporary staff, materials, supplies and equipment so as to enable the Inspections Staff to provide adequate and timely inspections of the Project construction.
6. Detention Basins. The on-Site detention basins shall be inspected by the Applicant not less than annually with respect to sedimentation accumulation with copies of annual written reports given by the Applicant to the City Engineer and the Conservation Officer. To the extent such reports indicate the need for sediment removal; the same shall be removed by the Applicant.

7. Catch Basins. All catch basins shall be installed by the Applicant in accordance with the City Code or as required by the Site Plan Review Committee, as more fully shown on the Site Plan. The catch basins shall be monitored on an annual basis with reports given to the City Engineer and the Conservation Agent. The catch basins are to be cleaned by the Applicant annually, or at more frequent intervals as determined by the City Engineer and the Conservation Agent. The existing catch basins and all drainage structures and detention facilities shall be monitored by Applicant on an annual basis, per the storm water operation and maintenance plan to be developed by Applicant, with a written report given to the City Engineer and Conservation Commission by June 1st of each year. The catch basins are to be cleaned by Applicant when debris buildup is within 24 inches of the pipe invert to remain functioning properly.
8. Snow Storage. Snow storage is to be provided on-Site, but not within the Water Supply Protection District. The Applicant may elect to utilize off-Site storage. Snowmelt runoff is to be directed toward catch basins.
9. Parking Areas. (i) Parking areas will be swept, as necessary. (ii) Pursuant to the provisions of MGL c. 90, § 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. Applicant shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the standards of the Uniform Manual of Traffic Control Devices.
10. Construction Traffic. During construction of the Project, the Applicant shall impose on each of its contractors a requirement that all heavy equipment accessing the Site shall use Route 20 and not to use residential streets abutting the Project.
11. Off-Site Improvements. In connection with the installation of improvements within public right-of-ways which requires a street opening permit, the City Engineer shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. A police detail shall be provided for any utility work performed within the public way.
12. Landscaping. Pursuant to Chapter 270 of the Marlborough City Code, the Project shall be subject to Site Plan Review at which time, and under which procedure, changes and alterations to the Site Plan may be incorporated. The Project landscaping shall be implemented as shown on the Site Plan submitted with the Application as may be amended during Site Plan Review. The Project shall be sufficiently screened with landscaping so that the building and areas where trucks unload and park are not significantly visible from Hayes Memorial Drive. The Site Plan Review staff is authorized to assure that this condition is implemented through the Site Plan Review process. In addition, following the construction of the Project, but before final signoff is approved by Site Plan Review staff prior to occupancy; the Site Plan Review staff shall again review the adequacy of the landscaping that was planted in conformance with the Project's Site Plan. The Site Plan Review staff shall determine whether the planted landscaping is adequate to screen the Site and, if staff determines that it is not, they shall have the authority to require reasonable landscaping changes to assure that the project's building is not significantly visible from Hayes Memorial Drive.

13. Utilities Review. The detailed review of on-Site and off-Site utilities will be performed as part of the Site Plan Review process and such utilities as may be required by the City Engineer during this review shall be provided. The Applicant will deliver to the City Engineer, prior to the commencement of construction of the water and sewer improvements, copies of the final plans and schedule of work of such improvements for final review and approval by the City Engineer.
14. Water-Sewer. Water and sewer services provided to the Project shall be subject to currently applicable citywide water and sewer policies and charges subject to annual adjustment by the Commissioner of Public Works. Prior to occupancy, Tenant shall obtain a Waste Water Permit from the City of Marlborough for operation of the on-Site pretreatment facility. Applicant shall develop an on-Site water supply for irrigation purposes. Use of the City's water supply for irrigation purposes may only be permitted, upon demonstration by the Applicant to the City Engineer, that on-Site supplies are inadequate, due to quantity or quality.
15. Spill Prevention and Control Plan. Prior to the operation of the pretreatment facility and use of hazardous and toxic material/chemicals, Tenant shall submit to the Department of Public Works and Fire Chief for approval a Spill Prevention and Control Plan (“the Plan”) consistent with that which was submitted to the Council at the Public Hearing. Any changes to the Plan must be approved by the Fire Chief and the Department of Public Works.
16. Conservation Commission. The Applicant shall comply with the terms and conditions of any final Order of Conditions duly issued pursuant to the Wetlands Protection Act (MGL c. 131, § 40).
17. Prior to the issuance of any Permanent Occupancy Permit (“Occupancy Permit”) for this Project, Applicant must complete all landscaping, architectural design and planting installation together with all other site improvements, unless weather is prohibitive in which case landscaping and planting installation shall be complete within a reasonable time, but no more than 6 months from the issuance of the Occupancy Permit, taking into consideration the weather conditions.
18. All signage erected on the subject property shall be monument-type signs that are consistent in size, lay-out and design, including fonts, as is the existing signage in the office park known as “Marlborough Technology Park”. The signs shall be painted with flat tone paint without gloss and with exterior illumination only.
19. All signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance, and shall be as shown on the Site Plan. No LED signs shall be used.
20. All illuminations of individual parking area light fixtures shall not exceed 250-watt fixtures and shall be screened from abutting property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.

21. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
22. Applicant shall provide as-built plans for the Site prior to the issuance of an Occupancy Permit.
23. The building to be constructed on the Site shall have brick siding on the sides facing Hayes Memorial Drive and Nickerson Road. The brick shall be similar in style and design to the brick used at Marlborough Technology Park.
24. No outside storage, except for wooden pallets, is permitted. Wooden pallets may only be stored within the fenced-in area of the dumpster and may not be viewable from any public way.
25. In accordance with the provisions of MGL c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before a Building Permit is issued. Applicant shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

Yea: 11 – Nay: 0

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

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Article II Of Chapter 270, entitled "Building And Site Development," is hereby amended by inserting the following new section:

§ 270–8A. Specifications and Permit of the Marlborough Fire department, Bi-Directional/Unidirectional Antenna for In-Building Fire Department and Police Department Radio Coverage.

- A. The Marlborough Fire Department requires that, in accordance with 780 CMR 915.1, et seq., of the Code of Massachusetts Regulations, as amended, all new buildings and all existing buildings undergoing renovations or rehabilitation constituting new construction, herein defined as 30% or more of gross square footage, provide reliable radio communications for fire fighters, EMS, and police officers within the building based upon the existing coverage levels of the Marlborough Fire Department and the Marlborough Police Department communication systems at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

- B. The installation and operation of radio-based fire department communication systems must comply with the document entitled “Marlborough Fire Department Bi-Directional/Unidirectional Antenna Specifications For In-Building Fire Department Radio Coverage In Buildings,” which document may be obtained at the Marlborough Fire Department and is incorporated herein by reference. The Marlborough Fire Department is authorized to promulgate and amend, from time to time, said regulations. No radio-based fire department communication systems shall be installed or operated without first filing with the Marlborough Fire Department a written application and obtaining a permit therefor. No occupancy permit shall be issued by the Building Department without said permit, or a written waiver therefrom by the Marlborough Fire Department.
- C. Each permit issued by the Marlborough Fire Department under this section is subject to the fee for installation and maintenance of a Fire Department and Police Department communications system which is listed in Section 328-2 of Chapter 328.

Section 328-2 of Article II of Chapter 328, entitled “Fire Department Fee Schedule,” is hereby amended by inserting the following new fee:

Type	Fee
Installation and Maintenance of Fire Department and Police Department Communications System	\$50.00

ORDERED ADVERTISED AND PLACED ON THE CITY COUNCIL AGENDA FOR MAY 5, 2014; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, ACTING UPON A RECOMMENDATION OF THE MAYOR, THAT ARTICLE VI, 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 in its entirety § 67-32, and inserting in place thereof the following new § 67-32:

§ 67-32. Senior Assessor; Powers and Duties

- A. There shall be a Senior Assessor in the Assessor's Office who shall be a full-time employee. He/she shall assist the Principal Assessor in the performance of his/her duties and, in the absence of the same, shall assume the duties of said Principal Assessor in the administration and management of the Assessor's Office. His/her compensation shall be fixed by ordinance.

ORDERED ADVERTISED AND PLACE ON THE CITY COUNCIL AGENDA FOR MAY 5, 2014; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:18 PM.