



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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JUNE 17, 2013

Regular meeting of the City Council held on Monday, JUNE 17, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Absent: Ossing. Meeting adjourned at 9:08 PM.

ORDERED: That Council President Pope requested a moment of silence in honor of a true friend to the City of Marlborough, and our Commonwealth, former Governor Paul Cellucci, who passed away earlier this month after a courageous battle with ALS (Lou Gehrig's Disease), **FILE**; adopted.

ORDERED: That the Mayor and City Council President presented City Scholarships certificates to the following students, **FILE**; adopted.

Caroline Brassard
60 Applewood Drive
Marlborough High School

Andrew Clark
76 Porter Road
Assabet Valley

Alejandro Martinez Jr.
46 South Street
Assabet Valley

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

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Mirick O'Connell, on behalf of Sandra & Anthony Antico Real Estate LLC, for indoor recreation area that will include various children's entertainment features that can be used by children under the supervision of their parents or guardians for birthday parties and on other special occasions, 72 Jefferson St., Order No. 13-1005426, all were heard who wish to be heard, hearing recessed at 8:18 p.m.; adopted.

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

Absent: Councilor Ossing

ORDERED: That the Appointments of Melissa Vera, Mark Bartlett, and Mary Scott to the Marlborough Cultural Council for a term of three years commencing the day after their approval by City Council, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the following notification from the City Clerk re: 2013 Special State Election Call, **FILE**; adopted.

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

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

POLLING LOCATIONS ARE AS FOLLOWS:

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

ORDERED: That the Communication from Planning Board re: Country Club Estates Subdivision (Stow Rd., Robert Rd., and Country Club Circle), Proposed Taking of Permanent Easements, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: McDonalds USA, LLC Special Permit, 155 Boston Post Rd. West in proper legal form, Order No. 13-1005341B, **MOVED TO ITEM 22**; adopted.

ORDERED: That there being no objection thereto set **Monday, July 22, 2013** as date for a **PUBLIC HEARING** on the Petition from National Grid to install a Pull Box in the sidewalk at the intersection of Daniels Rd. and Graves Ln. and to install a 2-3" PVC duct tape in the sidewalk from existing Riser to Pull Box, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from USAT Certified Race Director, Mark Walter, re: 4th Annual Westborough Sprint Triathlon, **FILE AND REFER TO CHIEF LEONARD**; adopted.

ORDERED: That the Communication from Central Massachusetts Mosquito Control Project re: Investigating Resident's Complaints, **FILE AND REFER TO THE MAYOR'S OFFICE SO THAT PROPER NOTIFICATION CAN BE PUBLISHED ON CITY'S WEBSITE TO INFORM THE MEDIA**; adopted.

ORDERED: That the Minutes, Community Development Authority, February 28, March 28 and April 25, 2013, **FILE**; adopted.

ORDERED: That the Communication from Hanover Insurance Group on behalf of Kevin Lynch re: Property Damage, 96 Warren Ave., **FILE AND REFER TO LEGAL DEPARTMENT**; adopted.

ORDERED: That the Communication from Amica Insurance on behalf of Randeep Ghai re: Property Damage, 43 Violetwood Circle, **FILE AND REFER TO LEGAL DEPARTMENT**; adopted.

ORDERED: That the Communication from Wilber Insurance Service Enterprises, on behalf of Metlife and their insured Dawn and Lawrence Metcalf, Property Damage, 15 Brimsmead St., **FILE AND REFER TO LEGAL DEPARTMENT**; adopted.

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

- A. John Comeau, 48 Oakcrest Ave., residential mailbox claim 2(a)
- B. Dino's Trattoria, 277 Main St., other property damage

Suspension of the Rules requested – granted

ORDERED: That the Snow and Ice transfer request in the amount of \$1,580,000.00 which moves funds from Undesignated to Overtime-Snow & Ice, Snow Removal and Operating Expenses, **APPROVED**; adopted.

Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$1,580,000.00	10000	35900	Undesignated Fund	\$235,655.44	14001203	51390	Overtime-Snow & Ice	-\$235,655.44
Reason: To fund the snow & ice deficit for FY13								
				\$603,556.13	14001206	52960	Snow Removal	-\$603,556.13
Reason:								
				\$740,788.43	14001206	57040	Operating Expenses	-\$737,520.73

Suspension of the Rules requested - granted

ORDERED: That Various Year-End Intra-Department transfer requests in the amount of \$403,105.70 which moves funds from and to various accounts as noted on the attached spreadsheets to cover expenses and balance accounts for FY13, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:							FISCAL YEAR:			
		FROM ACCOUNT:					TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$3,162.00	\$2,000.00	14001503	51920	Sick Leave Buy Back -F/P/C	\$2,000.00	14001503	51470	Interim Foreman-F/P/C	\$2,586.00	
		Reason: Entitled employee ineligible for payment					Funds needed for contractual coverage for remainder of FY 13			
\$52,990.00	\$1,000.00	60081001	50850	Sewer Tr. Plt. Operator	\$1,000.00	60081003	51310	Overtime-Regular	\$1,371.00	
		Reason: Due to vacancy					Higher than anticipated system repairs/storm event cost			
\$16,053.00	\$1,000.00	60085006	55980	West Waste Water Tr.	\$1,000.00	60085003	51310	Overtime-Regular	\$1,688.00	
		Reason: Due to reduction in chemical use					Higher than anticipated system repairs/storm event cost			

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Police					FISCAL YEAR: FY2013			
		FROM ACCOUNT:					TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$23,881.00	\$1,000.00	12100003	51920	Sick Leave BuyBack	\$1,000.00	12100003	51490	Holiday	\$26,981.00	
		Reason: Surplus due to less buy back than anticipated					Anticipate needing funds based on remaining holiday avg. pay			
\$23,881.00	\$1,500.00	12100003	51920	Sick Leave BuyBack	\$1,500.00	12100006	55882	Meals for Prisoners	\$23.48	
		Reason: Surplus due to less buy back than anticipated					More long term prisoners than anticipated			

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Public Facilities					FISCAL YEAR: 2013			
		FROM ACCOUNT:					TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$122,057.27	\$80,000.00	11920006	52200	Natural gas	\$80,000.00	11920006	52120	Electricity	\$210,193.87	
		Reason: Warm temperature/lower therm rate					insufficient budget			
\$39,915.48	\$8,000.00	11920001	50560	Custodian	\$8,000.00	11920006	53420	Telephone	\$36,783.07	
		Reason: open position								
\$39,915.48	\$1,116.55	11920001	50560	custodian	\$1,116.55	11920002	50520	Principal clerk	\$1,996.24	
		Reason: open position								
\$39,915.48	\$14,367.15	11920001	50560	Custodian	\$14,367.15	11920001	50292	Bldg Maint Craftsmen	\$14,621.25	
		Reason: open position								

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:					FISCAL YEAR:				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$454,218.00	\$200,000.00	11990006	51500	Fringe	\$200,000.00	11960006	51710	Workers Comp	\$0.00
Reason: Funds available due to fewer employees retiring					More injuries then projected				
\$454,218.00	\$10,000.00	11990006	51500	Fringe	\$10,000.00	11330006	53460	Postage	\$23,463.47
Reason: Funds available due to fewer employees retiring					Required to mail FY 14 tax bills in June				
\$454,218.00	\$7,400.00	11990006	51500	Fringe	\$7,400.00	13102006	53080	Audit Services	\$0.00
Reason: Funds available due to fewer employees retiring					Audit services exceeded budgeted amount				
\$454,218.00	\$29,722.00	11990006	51500	Fringe	\$29,722.00	17110006	59964	2012 Multi Bond Pmt	\$474,833.00
Reason: Funds available due to fewer employees retiring					Bond Payments exceeded forecasted amount on new bond				
\$454,218.00	\$46,000.00	11990006	51500	Fringe	\$46,000.00	13100003	51753	Medicare Pmts	\$54,491.00
Reason: Funds available due to fewer employees retiring					More employees paying Medicare taxes				

Suspension of the Rules requested - granted

ORDERED: That the Public Facilities transfer request in the amount of \$100,000.00 which moves funds from Hurricane Sandy and Sewer-Loan Origination Fee to Electricity to cover increased utility costs for the remainder of the fiscal year, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT: Public Facilities					FISCAL YEAR: 2013				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$35,093.17	\$35,000.00	11990006	53023	Hurricane Sandy	\$100,000.00	11920006	52120	Electricity	\$210,193.87
Reason: Excess funds					Insufficient budget				
\$153,315.00	\$65,000.00	60019906	58891	Sewer-Loan Origination Fee					
Reason: Excess funds									

Suspension of the Rules requested - granted

ORDERED: That the Building Department transfer request in the amount of \$17,500.00 which moves funds from Stabilization-Building Department and Stabilization-Inspectional Services to Inspections-Contract Services to allow the Building Commissioner to hire professional consultants to assist his office in completing several complex design reviews so that building permits may be issued in a timely manner, be and is herewith **NOT APPROVED DUE TO INSUFFICIENT VOTES**; adopted.

DEPT: Inspections					FISCAL YEAR: 2013				
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	Stabilization-Building Dept	\$17,500.00	12410004	53140	Inspections-Contract Services	\$0.00
Reason: To fund additional inspections									
\$500.00	\$500.00	83600	32717	Stabilization-Inspectional Services					
Reason: To fund additional inspections									

Suspension of the Rules requested - granted

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 up to \$750,000 in excess of available appropriation for snow and ice removal for fiscal year 2014, **APPROVED**; adopted.

Suspension of the Rules requested - granted

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2014, re-authorize the revolving fund utilized by the Public Facilities Department. It is further ordered that:

- (a) departmental receipts credited to the fund shall be limited to lease payments and fees due the City from owners of antennae and related telecommunications equipment on property that is maintained by, or assigned or transferred to be maintained by, the Public Facilities Department, unless otherwise directed by the General Laws; and
- (b) expenditures from said fund shall be limited to the maintenance and related expenses for Sligo Hill and Stevens Park; and
- (c) the Director of Public Facilities shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than three hundred thousand dollars shall be expended during Fiscal Year 2014, unless otherwise authorized by the City Council and Mayor; and
- (e) the Director of Public Facilities shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and
- (f) no provisions of this order shall be changed unless approved by the Mayor and City Council.

APPROVED; adopted.

Suspension of the Rules requested - granted

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does hereby authorize a revolving fund during fiscal year 2014 for park and recreational facility maintenance and improvement purposes to be administered through the Department of Public Works. It is further ordered that:

- (a) departmental receipts credited to the fund, unless otherwise directed by the General Laws, shall be limited to: 1) payments, fees and/or rental income due the City from owners of antennae and related telecommunications equipment located or co-located at the wireless communications facility situated on property under the care, custody, management and control of the Department of Public Works at the Easterly Wastewater Treatment Plant at 860 Boston Post Road in Marlborough or any land adjacent thereto; and 2) lease payments and fees due the City from owners of antennae and related telecommunications equipment located on Fairmount Hill; and
- (b) that expenditures from said fund shall be limited to the maintenance and improvement of municipal parks and municipal recreational facilities; and
- (c) that the Commissioner of Public Works shall be the only officer authorized to approve expenditures from the fund; and
- (d) no more than \$50,000.00 shall be expended during fiscal year 2014, unless otherwise authorized by the City Council and Mayor; and
- (e) the Commissioner of Public Works shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and
- (f) no provisions of this order shall be changed unless approved by the Mayor and City Council.

APPROVED; adopted.

Suspension of the Rules requested - granted

ORDERED: That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2014, re-authorize a revolving fund to be utilized by the Mayor. It is further ordered that:

- (a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and
- (b) expenditures from said fund shall be limited to public safety training; and
- (c) the Mayor shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than forty-five thousand dollars shall be expended during Fiscal Year 2014, unless otherwise authorized by the City Council and Mayor; and
- (e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and

(f) no provisions of this order shall be changed unless approved by the Mayor and City Council.

APPROVED; adopted.

Suspension of the Rules requested – granted to allow the Mayor to speak.

Suspension of the Rules requested – granted to allow following Communication to be read:

ORDERED: That Building Department transfer request in the amount of \$70,000.000 which moves fund from Undesignated to Inspections-contract Services to fund contract services for an outside building code and plan review of large scale building projects, **APPROVED**; adopted.

FROM:

Acct. 10000-35900	\$70,000.00
Undesignated Funds	

TO:

Acct. # 12410004-53140	\$70,000.00
Inspection-Contract Services	

ORDERED: That the Application for Junk Dealer's License, Michael Komapovsky, d/b/a Aaurus Art Gallery, 305 Lincoln St., **APPROVED**; adopted.

ORDERED: That the Application for Fuel Storage License, Partners HealthCare System, Inc., off of Forest Street, to store 60,000 gallons above ground diesel fuel, **APPROVED**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer's License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald Lynch Blvd., **APPROVED**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer's License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main St., **APPROVED**; adopted.

ORDERED: That the Application of Best Buy Store #1966, 601 Donald Lynch Blvd. for Renewal of Junk Dealer's License, **APPROVED**; adopted.

ORDERED: That the Application of Best Buy Store #820, 769 Donald Lynch Blvd. for Renewal of Junk Dealer's License, **TABLED**; adopted.

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

That the Mayor is authorized to execute an agreement with the developer for relocating the said pedestrian access easement, **APPROVED**; adopted.

Yea: 9 - Nay: 0 – Abstained: 1 – Absent: 1

Yea: Delano, Elder, Tunnera, Seymour, Clancy, Landers, Pope, Oram & Robey

Abstained: Jenkins

Absent: Ossing

DECISION ON A SPECIAL PERMIT**IN CITY COUNCIL**

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

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

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

FINDINGS OF FACT AND RULING

1. McDonald's USA, LLC, One McDonald's Plaza, Oak Brook, IL 60523, has a Northeast Region office located at 690 Canton Street, Westwood, MA 02090, and is hereinafter referred to as the "Applicant."
2. The Applicant is a subsidiary of McDonald's Corporation, One McDonald's Plaza, Oak Brook, IL 60523 which owns the premises known and numbered as 155 Boston Post Road West, Marlborough, Massachusetts and further described on Marlborough Assessor's Maps as Map 78, Lot 15 (hereinafter, the "Site"). As the operator of the existing McDonald's restaurant and drive-through located at the Site, the Applicant proposes to remodel the restaurant and reconfigure the existing drive-through lane at the Site (hereinafter, the "Project").
3. Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application"). Pursuant to Sections 650-14.B and 650-17 of the Zoning Ordinance of the City of Marlborough (2008 Code), Applicant is seeking permission for a drive-through facility, since they are proposing to rebuild the existing drive-through, and the original construction pre-dated the need to obtain a special permit.
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Application, Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan titled "Site Development Plans for Proposed McDonald's with Drive-Thru, Location of Site: 155 Boston Post Road West, City of Marlborough, Middlesex County, Massachusetts, Map 78, Lot 15", prepared for McDonald's, drawn by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=20', dated February 18, 2013 (hereinafter, the "Plans").

6. The Plans were certified by the Building Inspector of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, April 8th, 2013.

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

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

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

A. Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by Applicant, its successors and/or assigns to the conditions more fully set forth herein.

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS Applicant a Special Permit to reconstruct and operate the drive-through lane as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:

1. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.

2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority. Any changes to the Plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.

3. Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant's facility.

4. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough without variance therefrom. Notwithstanding the foregoing, in no event shall the signage contain a so-called electronic message board or LCD components. The existing internally illuminated readerboard can remain. It is a further condition that the location of the signage shall not be substantially different than that shown on the Plans submitted herewith, allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.

5. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.

6. All illuminations of individual parking lot light fixtures shall not be modified from the existing condition without prior approval by the Site Plan Review Committee.

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

8. The existing stormwater system is proposed to remain and be unaltered. However, upon issuance of the Special Permit, the applicant, its successors and/or assigns shall monitor the existing catch basins on a semi-annual basis, and shall give reports to the City Engineer as requested. The catch basins are to be cleaned by Applicant, its successors and/or assigns annually, or at more frequent intervals as determined necessary by the City Engineer.

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

10. The drive-through shall employ a speaker system of a quality that seeks to minimize the noise emanating from the speaker system and with full compliance of the noise ordinance of the City of Marlborough. The drive-through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential zoning district, in accordance with the noise ordinance of the

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

12. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

13. Notwithstanding condition #1 above, the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow or increase the size of the building shown on the Plans.

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

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

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

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

18. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.

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

20. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant, its successors and/or assigns at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before Applicant, its successors and/or assigns has applied to the Building Inspector for a building permit concerning the Project. Applicant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor’s Office and the City Council immediately subsequent to recording.

Yea: 10- Nay: 0 – Absent: 1

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Pope, Oram & Robey

Absent: Ossing

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

Councilor Seymour abstained

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

ORDERED: That the Communication from the Planning Board regarding favorable recommendation of Medical Marijuana Dispensing Facilities – Zoning Moratorium **MOVED TO ITEM 25**; 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 BY ADDING THERETO AS FOLLOWS:

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

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

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

650-32 TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS

A. Purpose.

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

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

B. Temporary Moratorium.

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

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

Councilor Robey requested that the Council President send a letter to the MAPC (Metropolitan Area Planning Council)asking for their help in conducting a study to ensure zoning compliancy.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:08 PM.