



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

**Lisa M. Thomas  
140 Main St.**

**Marlborough, MA 01752  
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**JULY 22, 2013**

Regular meeting of the City Council held on Monday, JULY 22, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Clancy, and Landers. Absent: Seymour. Meeting adjourned at 9:15 PM.

**ORDERED:** That the minutes of the City Council Meeting JULY 8, 2013, **FILE**; adopted.

**ORDERED:** That the **PUBLIC HEARING** On the Petition of NGrid to install a Pull Box in the sidewalk at the intersection of Daniels Rd. and Graves Lane and to install 2-3" PVC duct bank in the sidewalk from existing Riser Pole to Pull Box., Order No. 13-1005467, all were heard who wish to be heard, hearing recessed at 8:05 p.m.; adopted.

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

**Absent: Seymour**

At Council President Pope's request to recess at 8:09 PM and return to open meeting at 8:10 PM, **APPROVED**; adopted.

**ORDERED: EQUIPMENT BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum of \$1,513,720 (one million five hundred thirteen thousand seven hundred twenty) dollars be and is hereby appropriated for departmental equipment.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$1,513,720.

Pursuant to the provisions of Chapter 44, Section 7 (9) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than five (5) years from its date of issue.

**ORDERED: BUILDING RENOVATION BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum of \$1,510,000 (one million five hundred ten thousand) dollars be and is hereby appropriated for building renovations.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$1,510,000.

Pursuant to the provisions of Chapter 44, Section 7 (3A) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than twenty (20) years from its date of issue.

**ORDERED: STREET MAINTENANCE AND CONSTRUCTION PROJECT BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum of \$7,470,000 (seven million four hundred seventy thousand) dollars be and is hereby appropriated for street construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$7,470,000.

Pursuant to the provisions of Chapter 44, Section 7 (5) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue.

**ORDERED: SIDEWALK CONSTRUCTION AND REPAIR PROJECT BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$100,000 (one hundred thousand) dollars be and is hereby appropriated for sidewalk construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$100,000.

Pursuant to the provisions of Chapter 44, Section 7 (6) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than five (5) years from its date of issue.

**ORDERED: SEWER PROJECT BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$200,000 (two hundred thousand) dollars be and is hereby appropriated for sewer construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$200,000.

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

**ORDERED: WATER PROJECTS-44s8(5) BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE, CHANGE WRITTEN DOLLAR AMOUNT IN PARENTHESIS TO CORRELATE TO NUMERIC DOLLAR AMOUNT AND ORDERED ADVERTISED; adopted:**

That the sum or \$835,000 (eight hundred thirty five thousand) dollars be and is hereby appropriated for water main construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$835,000.

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

**ORDERED: WATER PROJECTS-44s8(7A) BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$200,000 (two hundred thousand) dollars be and is hereby appropriated for water meters.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$200,000.

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

**ORDERED: ENVIRONMENTAL AND SITE UPGRADE BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$300,000 (three hundred thousand) dollars be and is hereby appropriated for repairs to the landfill cap and drainage system.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$300,000.

Pursuant to the provisions of Chapter 44, Section 8 (21) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from its date of issue.

**ORDERED: FORESTRY & PARKS PROJECT BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$595,000 (five hundred ninety five thousand) dollars be and is hereby appropriated for reconstruction of municipal outdoor recreational facilities.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$595,000.

Pursuant to the provisions of Chapter 44, Section 7 (25) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than fifteen (15) years from its date of issue.

**ORDERED: CEMETERY PROJECT BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$20,600 (twenty thousand six hundred) dollars be and is hereby appropriated for irrigation upgrades to Evergreen Cemetery.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$20,600.

Pursuant to the provisions of Chapter 44, Section 7 (20) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than five (5) years from its date of issue.

**ORDERED: TECHNOLOGY UPGRADE BOND**

**At a regular meeting of the City Council On JULY 22, 2013, the following BOND was referred to FINANCE COMMITTEE AND ORDERED ADVERTISED; adopted:**

That the sum or \$165,800 (one hundred sixty five thousand eight hundred) dollars be and is hereby appropriated for computer hardware.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$165,800.

Pursuant to the provisions of Chapter 44, Section 7 (28) of the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than ten (10) years from its date of issue.

**ORDERED:** That the Appointment of Brian Doheny as Comptroller/Treasurer for term of two years effective on the first Monday following his appointment, refer to **PERSONNEL COMMITTEE**; adopted.

**Suspension of the Rules requested - granted to allow the Police Chief to speak.**

**ORDERED:** WHEREAS, the deferred operation of the amendment to the City Code of the City of Marlborough, as set forth herein below, would tend to defeat its purpose, which is to make effective as soon as possible the provisions thereof, therefore it is hereby declared to be a Special Emergency Ordinance, necessary to the welfare, health and safety of the people or their property in the City of Marlborough.

THEREFORE, be it voted by the City Council of the City of Marlborough that the foregoing be declared an emergency measure as provided in Section 20 of the Charter of the City of Marlborough; adopted.

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

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 468, ENTITLED "PEDDLING AND SOLICITING," AS FOLLOWS:

Chapter 468 is hereby amended by inserting the following:

§ 468-34 Additional Requirements For City-Sponsored Events

- A. The requirements of this section shall be in addition to other requirements of this chapter, other ordinances of the City Code, and state law.
- B. No hawker or peddler shall display, sell or offer goods or merchandise for sale without a license issued by the Event Director. Said license shall be person-specific and event-specific.
- C. Procedure for obtaining a license.
  - (a) An applicant for a license to display, sell or offer sell goods or merchandise for sale shall apply to the Event Director on the day of the event. Said license applicant must provide to the Event Director a copy of a current state-issued hawker and peddler license issued to the applicant and a valid identification card which bears a recent photograph of the applicant such as a driver's license, military id or state-issued identification card.
  - (b) No license shall issue without a successful CORI check. License applicants shall apply to the commonwealth of Massachusetts for a Criminal Offender Record Information ("CORI") check and provide a copy of a current CORI check to the Chief of Police no later than one week before the event.
  - (c) The cost for each license shall be \$50.00 per person payable to the Event Director at the time of application by cash, check or money order made payable to the City of Marlborough. Charitable and non-profit organizations are exempt from paying said license fee.
- D. License holders shall prominently display the license on the cart or other apparatus used for the conveyance, storage or display of goods or merchandise.
- E. Failure to comply with this chapter or any other ordinance of the City or state law, or any fraud, misrepresentation or false statement made in connection with the application for a license or the selling of goods and merchandise may result in revocation by the Marlborough Police Department of the license described herein.

Chapter 468 is hereby further amended by inserting in § 468-31 after the words "§ 468-30" the words "and § 468-34."

Chapter 468 is also hereby further amended by inserting in § 468-32 after the words "§ 468-30" the words "and § 468-34"; adopted.

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

ORDERED: Communication from Margaret Dwyer re: Resignation from the Marlborough School Committee effective immediately, **FILE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: Special Permit, 587 Bolton St., Inc. to serve food outdoors as the Bolton St. Tavern is located in an LI zone, 587 Bolton St., Order No. 13-1005456A, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: 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., Unit 103, Order No. 13-1005426A, **MOVE TO REPORTS OF COMMITTEE**; adopted.

**Suspension of the Rules requested, granted to allow the DPW Commissioner to speak**

ORDERED: That the Communication from DPW Commissioner, Ronald LaFreniere re: Proposed Amendment to Chapter 510, Code of the City of Marlborough, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Communication from Historical Commission Chair, Gray Brown re: Historical Preservation Restriction – 197 Stow Rd., refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Gadbois re: Historical Preservation Restriction – 197 Stow Rd., refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Gadbois re: Application for Sewer Connection Permit, AvalonBay Communities, Inc., Simarano Dr., refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from MassDevelopment re: Approved Revenue Bond Project on behalf of Mass Memorial Healthcare, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer's License, Andrew Spaventa, ecoATM, 601 Donald Lynch Blvd., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

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

ORDERED: That the Minutes, Planning Board, June 3 & 17, 2013, **FILE**; adopted.

ORDERED: That the Minutes, Community Development Authority, June 27, 2013, **FILE**; adopted.

ORDERED: That the Communication from Hanover Insurance on behalf of Suzanne Degeorge, 5 Barnes Circle, refer to **LEGAL DEPARTMENT**; adopted.

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

- A. Leonard Tedoschi, 262 Pleasant St., pothole or other road defect

Reports of Committees:

Councilor Elder reported the following out of Urban Affairs Committee:

Present: Chairman Elder, Councilor Landers, Councilor Clancy, Councilor Robey, Councilor Tunnera; Also Present: President Pope; Solicitor Rider; Attorney Bergeron for petitioner, Attorney Mitrakas for petitioner

**Order No. 13-1005426** - Application for Special Permit from Mirick O'Connell on behalf of Sandra and Anthony Antico Real Estate LLC for indoor recreation area at 72 Jefferson Street.

Attorney Bergeron opens with an overview of some changes he has made to language in the terms and conditions.

The floor is opened for councilors to comment. Councilor Clancy voiced his opinion that there should be an age limit that only permits 2-12 year olds to use the bouncy house, and all employees must have a CORI form approved and on file in Unit 103.

The Chair began reading the conditions.

The Chair added a new condition number (4) four that stated all employees must have a CORI form approved and on file at the business.

Councilor Robey voiced concerns that an 8 AM opening time was too early. The Chair and committee members thought the 8AM opening was acceptable.

Condition number (11) eleven "B" was deleted for purpose of clarity.

Condition number (5) five was amended to include painting ceramics and other crafts.

Condition number (9) nine was amended to clarify that the Recreation Director will be the one to determine what constitutes a major sporting event.

Councilor Robey expressed her concern that allowing any party to occur during a sporting event should be prohibited in the conditions to avoid parking issues.

The Chair and President Pope were confident that the applicant-tenant would take appropriate measures on her own in these cases.

Solicitor Rider suggested that language be added that states the City Council will be notified by the Board of Health Director if there is a violation of Sanitary Code.

Motion by Councilor Clancy to approve as amended, seconded by the Chair.  
Adopted 4-1 Robey opposed.



Motion by Councilor Clancy to suspend rules at July 22 City Council meeting to refer draft decision to Solicitor to put in proper legal form for final action. Adopted 4-1 Robey opposed.

Chair called a recess prior to review of second special permit application.

**Order No. 13-1005456 - Application for Special Permit from Atty. Mitrakas on behalf of 587 Bolton Street Inc. to serve food outdoors (new exterior deck).**

Recess was called back to order at 7:18 PM. The floor was opened for questions. Atty. Mitrakas publicly disclosed that he was a member of the License Board and noted that the License Board granted preliminary approval of the service of alcoholic beverages on the deck, although he did not and would not participate in any of those discussions.

Councilor Robey voiced concerns about noise and outdoor music on the deck as mentioned by abutters at the hearing. Atty. Mitrakas stated that applicant has no intention of including background music on the deck, although any extension of the entertainment license would have to be approved by the License Board, including a television, background music or anything of that nature.

The Chair began reading the conditions. The Chair amended the conditions to state that no patron is allowed on the deck after and before the documented hours of operation.

Councilor Clancy addressed concerns of smokers using the deck resulting in condition number (9) nine "D" that states proper no smoking signage will be installed around the deck.

Councilor Clancy and the Chair agreed on a one year look back policy that will allow the deck hours to be 11AM to 11PM Friday and Saturday unless, in one year, there are noise complaints from neighbors, police, or the Ward Councilor.

Solicitor Rider noted that the zoning requirement in the area calls for a six foot high fence to be erected for the privacy of the neighbors.

Attorney Mitrakas stated the Building Inspector was comfortable allowing a written document detailing an agreement between the applicant and the abutting neighbor to be drawn up due to the dense foliage that currently separates the properties.

Solicitor Rider accepted that a written agreement would be sufficient, and it was added as condition number (9) nine "G." Also, those documented agreements are to be forwarded to the City Council upon completion.

Motion made by Councilor Tunnera to approve as amended, seconded by the Chair. Adopted 5-0.

Motion made by Councilor Clancy to suspend the rules to bring the Special Permit to a vote on July 22, seconded by the Chair. Adopted 5-0.

Motion made by Councilor Clancy to adjourn the meeting, seconded by the Chair.

Adopted 5-0.

Councilor Tunnera reported the following out of the Personnel Committee:

**Order No. 13-1005480** - Reappointments of William Brewin, Nena Bloomquist and Rustin Kyle as members of the Marlborough Public Library Board of Trustees expiring two years from date of City Council approval. Motion by Councilor Elder to approve, seconded by the Chair to approve the appointment of Bloomquist only; Brewin and Kyle not in attendance. Adopted 2-0

**Order No. 13-1005371** - Reappointment of Police Chief Leonard for term of four years to expire on date of confirmation. Motion made by Councilor Elder to approve, seconded by the Chair. Adopted 2-0

**Order No. 13-1005381** - Reappointments of Eric Asman and Joyce Torelli to Community Development Authority for terms of three years expiring from date of confirmation by City Council. Motion made by Councilor Elder to approve, seconded by the Chair. Adopted 2-0.

**Order No. 13-1005382** - Appointment of Mitchell Gorka to Zoning Board of Appeals for term of three years expiring from date of confirmation by City Council (Mr. Gorka presently serving as Alternate Member of the ZBA). Motion made by Councilor Elder to send to City Council without recommendation. Adopted 2-0.

**Order No. 13-1005464** - Appointment 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 the City Council. Motion made by Councilor Elder to approve, seconded by the Chair. Adopted 2-0.

Councilor Landers reported the following out of the Public Services Committee:

Present: Councilor Landers, Councilor Clancy, Councilor Jenkins; Also Present: President Pope, Councilor Elder, Councilor Tunnera, and Councilor Robey; Fire Chief Fortin; Jeffery Aaron part-owner of Bunker Floor Supply; Attorney David Manoogian for Savers

**Order No. 13-1005386 - Application for Fuel Storage Permit, Bunker Floor Supply, 289 Elm St., for storage of 2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids.**

The Chair opened by asking the applicant Jeffery Aaron to describe a little bit about his business and how it works.

Mr. Aaron, part-owner of Bunker Floor Supply on 289 Elm Street, said that he is a whole sale distributor to the hard wood flooring trade. He does no retail at the store location meaning the product comes in on pallets and leaves on pallets; none are opened. The largest container of polyurethane solution, either oil or water based, they carry is five gallons, but most of his business is dealt in quarts. The numbers presented in the application (2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids) are figures that Deputy Flynn requested he display as the maximum amount of product Mr. Aaron would have at any given time. Mr. Aaron

explained that these figures were necessary because the flow of product in and out of the building is constant thus the actual numbers fluctuate.

The Chair asked Chief Fortin if he had any concerns to which the Chief replied that he had none. Chief Fortin went on to say that there are many small containers, not one large one, and he has the cleaning equipment necessary to deal with small spills.

Councilor Clancy voiced concerns that the building owner, Mr. Antico, whom the applicant shares a building with, might be looking to store fuel there resulting in an abundance of combustibles in the building.

Councilor Jenkins asked how many trucks come and go from the facility on a daily basis. Mr. Aaron said the numbers vary, but he believed the figure was approximately 5-6 trucks outbound and 3-4 inbound daily.

Councilor Clancy asked if they mixed paint there to which the applicant answered that he will not.

President Pope voiced concerns about housing this much combustible liquid near a residential area. Chief Fortin quelled some of her concern when he stated that everything is in small containers separate from one another, and the building was designed for this particular use. The sprinklers were designed for combustible liquids, so the liquid might burn but it will not explode.

Councilor Robey asked for a clarification as to why this particular client needed a permit and not other local hardware stores. The Chief answered that the law states if one has 10,000 gallons or more they must be licensed.

Motion made by Councilor Clancy, seconded by Councilor Jenkins, to recommend approval of the Application for Fuel Storage Permit, Bunker Floor Supply, 289 Elm St., for storage of 2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids. Adopted 3-0.

**Suspension of the Rules requested – granted**

ORDERED: That the Reappointment of Police Chief Leonard for a term of four years to expire on the date of confirmation by City Council, **APPROVED**; adopted.

**Suspension of the Rules requested - granted**

**PROPOSED FINDINGS AND REASONS FOR APPROVAL  
OF SPECIAL PERMIT APPLICATION  
587 BOLTON ST., INC.  
CITY OF MARLBOROUGH, MA COUNCIL ORDER 13-1005456**

The City Council of the City of Marlborough hereby **GRANTS** the Application for Special Permit of Applicant, as provided in the Decision and **SUBJECT TO THE FOLLOWING FINDINGS OF FACT AND CONDITIONS:**

## EVIDENCE

1. The Applicant is 587 Bolton St., Inc., a Massachusetts Business Corporation with a principal place of business at 19 Westgate Road, Framingham, MA 01701 (“Applicant”);
2. The location of the proposed project is 587 Bolton Street, Marlborough, MA and more particularly identified on the City of Marlborough Assessor’s Map as Map 30 Parcel 7 (“Site”);
3. The Applicant seeks a Special Permit to serve food and drink on an outdoor deck to be constructed on the Site (“Project”);
4. The outdoor deck shall be constructed according to the attached Plan of Patrick J. Slattery, Architect (“Plan”).
5. The Applicant is the Lessee of the Site for the purpose of this Special Permit Application;
6. The property is located in zone LI, which requires a Special Permit for the outdoor service of food;
7. The Building Inspector, on behalf of the City Planner, has properly provided a Certificate of Completeness of Application as required by Para. 7 of the Rules and Regulations of Application/Petition for Special Permit by the City of Council under the Marlborough Zoning Ordinance, Chapter 650-59;
8. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to allow the service of food outdoors on the Site;
9. A Public Hearing was held on July 8, 2013 in compliance with the requirements of the Code of the City of Marlborough and by the provisions of MGL Chapter 40A, as amended; and that all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlborough; and
10. The Applicant presented oral testimony and demonstrative evidence at the Public Hearing and demonstrated that the Project meets all applicable Special permit criteria provided by MGL Chapter 40A, as amended, and the Code of the City of Marlborough including, without limitation, Chapter 650, Section 18, Attachment of Uses 1:3 (31) and generally Section 650-59;

## **BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:**

The City Council, pursuant to its authority under MGL Chapter 40A and the City of Marlborough Zoning Ordinance, Chapter 650, **GRANTS** the Applicant its Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS A THROUGH H:**

1. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to construct an outdoor deck on the Site and serve food on the same;
2. The Marlborough City Council finds that all necessary fees for said Special Permit have been paid;
3. The Marlborough City Council finds that the Application for Special Permit (“Application”) was properly completed and filed by Applicant, and that all necessary

abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlborough prior to Application submission;

4. The Preliminary Site Plan accompanying said Application was completed in accordance with the all applicable Rules and Regulations;
5. The Summary Impact Statement filed with said Application is sufficient for said Application and that no further studies or requirements are necessary;
6. The City Department reports as required by the Code of the City of Marlborough have been received and incorporated as deemed appropriate by the said Marlborough City Council into this final decision;
7. The Marlborough City Council finds generally that the use sought by Applicant and its impact and characteristics, as conditioned hereinafter, are not in conflict with the public health, safety, convenience and welfare and are not detrimental or offensive; and further, that the construction of the outdoor deck and service of food on the same is appropriate for the Site and does not derogate from the intent and purpose of MGL Chapter 40A and/or the Code for the City of Marlborough;
8. The Marlborough City Council therefore **GRANTS** to the Applicant a Special Permit to construct an outdoor deck pursuant to the attached Plan and serve food on the same, pursuant to its authority under MGL Chapter 40A and the Code of the City of Marlborough, **with the following Conditions:**

- A. No Site Plan Review or approval as provided under Chapter 270, Building and Site Development, shall be required.
- B. Construction of the deck is to be in accordance with all applicable building codes currently in effect in the City of Marlborough and according to the attached Plan.
- C. Pursuant to recommendations from the Urban Affairs Committee of the Marlborough City Council, no patron shall be allowed on the deck except between the following hours on the following days:

Sunday: 10 am to 10 pm  
Monday: 11 am to 10 pm  
Tuesday: 11 am to 10 pm  
Wednesday: 11 am to 10 pm  
Thursday: 11 am to 10 pm  
Friday: 11 am to 11 pm  
Saturday: 11 am to 11 pm

The hours listed above shall be subject to a review by the City Council one year after the date of final approval of this Special Permit; if the Chief of Police and the pertinent ward councilor deem the hours listed above to be unacceptable, the City Council may revisit those hours.

- D. Applicant shall erect 2 signs advising patrons that smoking on the deck is prohibited; 1 sign shall be visible to patrons at the exit from the indoor restaurant onto the deck, and the other sign shall be visible to patrons who are located on the deck.

- E. The terms of this Special Permit will be reduced to writing in a recordable form acceptable to the City of Marlborough's Legal Department, and, prior to the issuance of any Building Permit, shall be recorded with the Middlesex South District Registry of Deeds at the Applicant's expense, with a copy of the recorded Special Permit provided forthwith by Applicant to the City Council, the Building Inspector, and the Legal Department.
- F. All work performed at the Site shall be in compliance with this Decision. No other building or construction shall occur or happen without a change or modification of this Special Permit.
- G. Given the existing green buffer serving as a so-called living fence between the Site and a residence located at 30 Reservoir Street, written evidence of a fully executed agreement between Applicant and the current owners of the residence at 30 Reservoir Street, declaring the owners' waiver of Applicant's construction of a minimum 6' high solid fence as otherwise called for by Chapter 650-18(31)(a)[2] of the Marlborough Zoning Ordinance, shall be provided by Applicant to the City Council, the Building Inspector, and the Legal Department simultaneously with the copy of the recorded Special Permit referenced in Condition E above; provided, however, that no building permit shall issue unless and until copies of said agreement have been so provided. If Applicant shall be unable to provide the said agreement as aforesaid, Applicant must, before the issuance of a building permit for the deck, either obtain a variance from the Marlborough Zoning Board of Appeals or establish compliance with the aforesaid Ordinance provision.
- H. Any service of alcoholic drinks on the deck shall be subject to prior approval by the Marlborough License Board and the Alcoholic Beverages Control Commission.

**Yea: 10- Nay: 0 – Absent: 1**

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

**Absent: Seymour**

**Suspension of the Rules requested - granted**

ORDERED: That 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., Unit 103, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE AUGUST 26, 2013 CITY COUNCIL MEETING**; adopted.

ORDERED: That the Mayor be requested to begin discussions with the Fire and Police Chiefs, and other appropriate municipal personnel, to explore options that would extend emergency services to the westerly section of the City including, but not limited to, the construction of a new fire station on land donated to the City by MetLife, the construction of a smaller "satellite" emergency services station, a partnership with the Town of Northborough and/or any other viable option that would meet the future emergency

service needs of the City. And, it is further Ordered, that the Mayor explore the costs associated therewith and report his findings to the City Council within 90 days if possible, refer to the **MAYOR**; adopted.

ORDERED: That the Application for Taxi License, Yan Fang Ye, d/b/a Ye's Taxi, 20 Devens St, be and is herewith **APPROVED WITH THE FOLLOWING CONDITIONS**; adopted.

- 1) **The license is approved for one (1) vehicle only;**
- 2) **The vehicle shall be parked in the driveway at all times and not on the street as agreed upon by applicant;**
- 3) **All new employees shall submit a CORI report to the Chief of Police for review and approval before commencing employment and/or operating any vehicle so licensed.**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:15 PM.