

HEARING BEFORE THE CITY COUNCIL, MAY 26, 2009

Hearing opened at 6:55 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present.

This hearing is continued from May 11, 2009

The following PETITION was the subject of the hearing

41-09 Tim Dolan, Sudbury P B & J LLC/Prime Dev. LLC: Grant a Special Permit to construct a three unit apartment dwelling creating five units in total on the properties located at 37 River Street, Lot 3 River Street and 42 Hamilton Street as shown on Assessor's Map 232 as Lots 2, 3B, and 16.

Councillor Rowland read a letter from Whitman & Bingham to the Planning Board into the record.

May 13, 2009

Dear Board Members:

On behalf of our client, Sudbury, P.B. & J., Whitman & Bingham Associates, LLC respectfully requests that you reconsider the last vote taken regarding the above referenced project.

Thank you for your consideration in this matter and we look forward to working with the Board on this project. If you should have any additional comments or questions please feel free to contact me at my office.

Sincerely,
Whitman & Bingham Associates, LLC
Wesley R. Flis, P.E.
Project Engineer

Councillor Rowland read a letter from Whitman & Bingham to the City Council into the record.

May 26, 2009

Dear Councilors:

On behalf of our client, Sudbury P.B.& J., Whitman & Bingham Associates, LLC respectfully requests that the special permit application be considered as withdrawn without prejudice for the above referenced proposal.

We thank you for your consideration and patience on this matter. If you should have any additional comments or questions please feel free to contact me at my office,

Sincerely,
Whitman & Bingham Associates, LLC
Wesley R. Flis, P.E.
Project Engineer

No one in the audience spoke in favor or in opposition of the petition.

No Councilors spoke regarding this petition.

HEARING ADJOURNED AT 7:59 P.M.

Lynn A. Bouchard, City Clerk
and Clerk of the City Council

Hearing opened at 7:10 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present except Councillor Marchand.

The following PETITION was the subject of the hearing:

66-09 Massachusetts Electric Company and Verizon New England, Inc: Adams Street: Install 2 jointly owned poles and remove 1 jointly owned pole on Adams Street beginning at a point approximately 100 feet west of the centerline of the intersection of Union Street continuing approximately 100 feet in a westerly direction.

Ken Dobie from Massachusetts Electric spoke in support. He said they want to remove one pole, place a new one across the street and install another one down the street. He said this is in conjunction with Leominster Credit Union expanding.

HEARING BEFORE THE CITY COUNCIL, MAY 26, 2009, continued

No one in the audience spoke in favor or in opposition of this petition.

Councillor Salvatelli asked if the pole that was going in across the street will be located in front of a house.

Mr. Dobie said pole #2 is not and pole #1 is almost next to the furniture building but not quite.

Councillor Salvatelli said on Union Street the first one is close to Gariepy's and asked if the second one will be near the open field?

Mr. Dobie said no it's the parking lot.

Councillor Salvatelli asked across the street?

Mr. Dobie said yes.

Councillor Rowlands asked if they have spoken to Gariepy on this?

Mr. Dobie said that he couldn't say.

HEARING ADJOURNED AT 7:15 P.M.

Lynn A. Bouchard, City Clerk
and Clerk of the City Council

REGULAR MEETING OF THE CITY COUNCIL, MAY 26, 2009

Meeting was called to order at 7:30 P.M.

Attendance was taken by a roll call vote; all members were present.

The Committee on Records reported that the records through May 11, 2009 were examined and found to be in order. The records were accepted.

Upon request of the Mayor the following COMMUNICATION was WITHDRAWN.

C-101 Relative to the appropriation of \$17,151.00 to the Emergency Management Capital Outlay Expense Account; same to be transferred from the Excess & Deficiency Account.

The following COMMUNICATION was received, referred to the WAYS & MEANS COMMITTEE and given REGULAR COURSE.

C-102 Relative to the appropriation of an additional \$137,704.00 to the Year 34 Community Development Block Grant as listed below;

Whitney Street Improvement	\$123,934.00
Administration Expenses	13,770.00

The following COMMUNICATION was received, referred to the WAYS & MEANS COMMITTEE, given REGULAR COURSE and referred to Personnel Director and the Mayor

C-103 Dean J. Mazzarella, Mayor: Amend Section 16-31 (d) of the Revised Ordinances entitled "Method of step advances" to eliminate advancement to the next scheduled step rate for Fiscal Year 2010 for those employees in the "S" classification plan.

The following COMMUNICATIONS were received under SUSPENSION OF THE RULES, referred to the FINANCE COMMITTEE and given REGULAR COURSE. Vt. 9 "yeas"

C-104 Relative to the appropriation of \$17,700.00 to the Other Finance Offices and Accounts; same to be transferred from the Excess and Deficiency Account.

C-105 Relative to the appropriation of \$20,000.00 to the Veterans Expense Account; same to be transferred from the Excess and Deficiency Account.

The following PETITIONS were received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Mayor.

REGULAR MEETING OF THE CITY COUNCIL, MAY 26, 2009, continued

- 68-09 Roger Brooks: Amend Chapter 21, Section 21-22.3 entitled "Sewer user rate schedule" to increase the rate of those users who utilize sewer service only to a minimum of Seventy Five Dollars per quarter within the City and One Hundred Dollars per quarter for outside the City
- 69-09 Roger Brooks: Amend Chapter 21, Section 21-22.4 entitled "Sewer connection charges" to increase the fee for all individual domestic units, including apartment units and condominium units within the City to One Thousand Five Hundred Dollars per unit for connection.
- 70-09 Roger Brooks: Amend Chapter 21, Section 21-22.3 entitled "Sewer user rate schedule" to increase the City unit rate from \$2.30 to \$2.60, the Lunenburg Inter-Municipal Agreement unit rate from \$2.90 to \$3.20 and the out of City unit rate from \$5.40 to \$6.00 effective October 1, 2009 and further increase the City unit rate from \$2.60 to \$3.05, the Lunenburg Inter-Municipal Agreement unit rate from \$3.20 to \$3.65 and the out of City unit rate from \$6.00 to \$6.60 effective October 1, 2010.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request that Roger Brooks, the Business Manager of the Water Department, to attend the June 3, 2009 Legal Affairs Committee meeting at 7:00 P.M. relative to petitions 68-09, 69-09 and 70-09. Vt. 9/0

Councillor Salvatelli, Chairman of the Finance Committee, read the Financial Report for the City into the record. Account balances are as follows:

Excess and Deficiency Account (Free Cash)	\$1,231,901.00
Stabilization Account	6,356,771.17
Emergency Reserve Account	3,450.00
Storm Related Costs	2,554,000.00

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas", Councillor Nickel abstained due to a possible conflict of interest.

- C-96 Relative to the appropriation of \$5,000.00 to the Fire Department Expense Account; same to be transferred from the Excess & Deficiency Account.

ORDERED: - that the sum of Five Thousand Dollars (\$5,000.00) be appropriated to the Fire Department Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: For the assessment center services associated with the Lieutenant promotional exam to be held in June.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 9 "yeas"

- C-97 Relative to the appropriation of \$75,000.00 to the Highway Expense Account; same to be transferred from the Excess & Deficiency Account.

ORDERED: - that the sum of Seventy Five Thousand Dollars (\$75,000.00) be appropriated to the Highway Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: For the repairs, tires and welding on the highway vehicles.

- C-98 Relative to the appropriation of \$35,500.00 to the Sanitation & Drainage Expense Account; same to be transferred from the Excess & Deficiency Account.

ORDERED: - that the sum of Thirty Five Thousand Five Hundred Dollars (\$35,500.00) be appropriated to the Sanitation & Drainage Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: For drainage repairs

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was RATIFIED. Vt. 9 "yeas"

- C-100 Relative to the appropriation of \$300,000.00 to the Storm Expense Account; same to be transferred from the Stabilization Fund. (Granted with an Emergency Preamble on May 21, 2009; another vote is required.)

Upon recommendation of the PUBLIC SERVICE COMMITTEE, the following PETITION was GRANTED. Vt. 9/0

- 66-09 Massachusetts Electric Company and Verizon New England, Inc: Adams Street: Install 2 jointly owned poles and remove 1 jointly owned pole on Adams Street beginning at a point approximately 100 feet west of the centerline of the intersection of Union Street continuing approximately 100 feet in a westerly direction.

REGULAR MEETING OF THE CITY COUNCIL, MAY 26, 2009, continued

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given LEAVE TO WITHDRAW WITHOUT PREJUDICE. Vt. 9/0

- 41-09 Tim Dolan, Sudbury P B & J LLC/Prime Dev. LLC: Grant a Special Permit to construct a three unit apartment dwelling creating five units in total on the properties located at 37 River Street, Lot 3 River Street and 42 Hamilton Street as shown on Assessor's Map 232 as Lots 2, 3B, and 16.
- 53-09 Barbara Drury and ten registered voters: Request that the Leominster Zoning Ordinance be changed to allow dog kennels in an industrial zone with a Special Permit from the Planning Board.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME and referred to the Mayor. Vt. 9/0

- 64-09 Kelley Freda: Create a City Ordinance requiring all pet owners and keepers to dispose of their pet's solid waste.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 9 "yeas"

- C-99 Relative to the additional appropriation of \$6,143.00 to the Year 35 Community Development Block Grant as listed below;

Leominster OPD - Housing Rehabilitation Program (Includes \$4,915.00 for Elder Safety Rehab Services)	\$4,915.00
Leominster OPD - Planning & Administration	\$1,228.00

ORDERED: - that the sum of \$6,143.00 be appropriated to the Year 35 Community Development Block Grant as follows:

Leominster OPD - Housing Rehabilitation Program (Includes \$4,915.00 for Elder Safety Rehab Services)	\$4,915.00
Leominster OPD - Planning & Administration	\$1,228.00

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITION was GRANTED. Vt. 8/0, Councillor Dombrowski abstained due to a possible conflict of interest.

- 67-09 Craig Long: Renew license for two pool tables at Jake's Pub, d/b/a Hot Shots at 1293 Main Street.

Under Old Business, Councillor Marchand, Chairman of the Drinking Water Oversight Committee, said they are going to invite the Water Department along with some of the contractors to answer questions that were raised at the last meeting. He said they would like to have the meeting before the end of June.

The following letter from the Mayor and read into the record.

May 21, 2009

Dear Members of the City Council:

RE: Ordinance to amend Chapter 14; Offenses – Miscellaneous Sec. 14-19 Feeding or Baiting of Waterfowl Prohibited

I am returning to you, the above captioned amendment and vetoing the same. I do not support this ordinance for the reason that I believe the matter is of public education alone and would be next to impossible to enforce. Furthermore, in support of my opposition, the key departments that have interest and that would be most involved, the Environmental Inspector, Conservation Commission and Health Department are not in favor of this petition.

If you have any questions, please contact me at anytime.

Sincerely,
Dean Mazzarella
Mayor

Upon recommendation of the LEGAL AFFAIRS COMMITTEE to override the Mayor's veto of the following ORDINANCE was OVERRIDDEN. Vt. 8 "yeas" and 1 "nay", Councillor Freda opposed. (Complete Ordinance on Page 215)

In accordance with Section 2-7 of the City Charter – Mayor's Veto –Reconsideration of Vote- Relative to amending Chapter 14 entitled "Offenses-Miscellaneous" by creating a new Section 14-19 prohibiting the feeding or baiting of waterfowl.

Councillor Rowlands said prior to or as part of the budget process he would like to receive the information regarding to the second ambulance.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request the Fire Chief to attend an informational meeting regarding the second ambulance on June 8, 2009 at 6:45 P.M . Vt. 9/0

REGULAR MEETING OF THE CITY COUNCIL, MAY 26, 2009, continued

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request the Health Director Chris Knuth and the Purchasing Agent Greg Chapdelaine, the Department of Public Works Director Patrick LaPointe and Mr. Fiore to a Public Service Committee meeting regarding recycling and trash pickup on June 10, 2009 at 6:30 P.M. Vt. 9/0

Councillor Rowlands said he has two petitions that are tabled regarding accepting Wildflower and Farm Hill Road as public roads and would like them placed on the next agenda.

Councillor Freda asked if June 8, 2009 was still available for the Superintendent of Schools to come down for an informational meeting.

Councillor Nickel said our regular Council meeting on June 6, 2009 is pretty full.

Councillor Salvatelli said June 10, 2009 is free.

Councillor Nickel said he could offer her June 10th at 7:30 P.M.

Councillor Freda said she would wait and check.

Councillor Marchand asked for June 10, 2009 at 7:30 for the Presidents Drinking Water Oversight Committee

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request the Business Manager of the Water Department Roger Brooks, Viola Water and Woodard & Curran to attend an informational meeting regarding the drinking water on June 10, 2009 at 6:30 P.M. Vt. 9/0

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request Dr. Binkley, School Committee member Mr. Comeau and the business agent Erin McNamara to attend an informational meeting regarding the explanation of the privatization of the lunch on June 8, 2009 at 6:00 P.M. Vt. 9/0

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 8 “yeas”, Councillor Nickel abstained due to a possible conflict of interest.

City of Leominster
In the year two thousand and nine

AN ORDINANCE amending Chapter 22 of the Revised Ordinances, entitled “Zoning.”

Be it ordained by the City Council of the City of Leominster, as follows:

Chapter 22 of the Revised Ordinances, entitled “Zoning,” Article XIII, Health Care Overlay District, is hereby amended as follows:

The Zoning Map is amended by extending the boundaries and the Development Envelope of the Health Care Overlay District to the sideline of Nelson Street, between Washington Street and Arlington Street, as shown on a plan entitled “Proposed Modification to the HCOD Boundary and HCOD Development Envelope,” prepared by Whitman and Bingham Associates, RLS, dated June 19, 2009, revised on March 30, 2009, on file with the office of the City Clerk.

Article XIII is further amended in Section 92.2 by deleting the words “Maximum Height: The greater of 7 stories or 98 feet” and inserting in their place the words “Maximum Height: The greater of 5 stories or 98 feet,” with the remainder of the sentence unchanged.

Article XIII is further amended at Section 92.2, “Dimensional Requirements,” by adding the following after the existing provisions:

The following requirements shall apply to buildings in the “Development Envelope #2” as adopted by the City Council:

- a. Minimum Lot Width, Minimum Lot Area and Minimum Lot Frontage: Not Required for Internal Building Envelope.
- b. Minimum Yard: Front, Side and Rear – Non Required for internal Building Envelope.
- c. Maximum Height: 7 stories or 126 feet
- d. Development Limit: 300,000 Square Feet
- e. Ground Floor Location and Elevation: The Location and Zero elevation for the purposes of calculating building height and elevation shall be the current floor elevation of 453.9 as measured at Entrance D Lobby as indicated on the W & B Plan.

The following requirements shall apply to buildings in the “Multi-Use Area Development Envelope” as adopted by the City Council:

- a. Minimum Lot Width: None
- b. Minimum Lot Area: None
- c. Minimum Lot Frontage: 25

REGULAR MEETING OF THE CITY COUNCIL, MAY 26, 2009, continued

- d. Maximum Height: 5 stories or 98 feet
- e. Minimum Yard:
- | | Building Ht. | Front | Side | Rear |
|-----|--------------|-------|------|------|
| 2 ½ | 20 | 15 | 30 | |
| 3 ½ | 35 | 30 | 40 | |
| 5 | 50 | 50 | 50 | |
- f. Minimum Setback from Development Envelope: 15 feet
- g. Development Limit: 100,000 Square Feet

Article XIII is further amended in Section 22-95, "Permitted Uses," by adding the following subparagraph:

- 95.3 Commercial Uses. Uses customarily allowed in the Commercial – C District shall be permitted within the Multi-Use Area Development Envelope, subject to the requirements of Article XI: Parking and Off Street Loading.

Article XIII is further amended in Section 96.2 by deleting the following words:

Upon or at any time after the designation of an HC Overlay District, one or more Development Envelopes for such HC Overlay District shall be designated by the City Council. Until the City Council designates at least one (1) Development Envelope for a particular HC Overlay District, the Development Envelope shall be deemed to include the entire HC Overlay District. Upon designation of a Development Envelope for any HC Overlay District, the City Council shall also specify the Development Limit.

And by inserting the following in their place:

The City Council has designated a Development Envelope identified as "Development Envelope #2" as shown on a plan entitled "Proposed Modification to the Health Care Overlay District," prepared by Whitman and Bingham Associates, LLC dated June 19, 2008, revised on March 30, 2009, on file with the City Clerk. The City Council has further designated a "Multi-Use Area Development Envelope," which is set forth in said plan and subject to the use requirements of Section 95.3 of this ordinance. The designation of such Development Envelopes is expressly made subject to all conditions set forth in said plan. The City Council has also specified the Development Limit for Development Envelope #2 and the Multi-Use Area Development Envelope, which is set forth in Section 92.2 of this ordinance.

Article XIII is further amended by inserting the following paragraph in Section 22-4, "Definitions":

- k. Story. The distance in feet from the surface of a building floor to the next successive building floor or in the case of the uppermost floor from the surface of the uppermost floor to the surface of the roof deck.

Councillor Rowlands, Chair of the LEGAL AFFAIRS COMMITTEE, moved that the following PETITION was removed from the table and placed on the calendar for action. It was so voted 8/0, Councillor Nickel abstained due to a possible conflict of interest. Committee reports as follows:

- 33-09 Peter Latchis and Abutters: Opposition to the modifications to the Health Care Overlay District as submitted by Health Alliance dated June 19, 2008. LEAVE TO WITHDRAW. Vt. 8/0. Councillor Nickel abstained due to a possible conflict of interest. Committee reports as follows:

Councillor Rowlands, Chair of the WAYS & MEANS COMMITTEE, moved that the following PETITION was removed from the table and placed on the calendar for action. It was so voted 9/0. Committee reports as follows:

- 56-09 Kym Leblanc: Renew the license for one pool table at the Tankard, 13 Central Street. GRANTED. Vt. 9/0

MEETING ADJOURNED AT 8:53 P.M.

Lynn A. Bouchard, City Clerk
and Clerk of the City Council