

HEARING BEFORE THE CITY COUNCIL, MARCH 28, 2011

Hearing opened at 6:31 P.M. with Councillor Rowlands , Chair of the Legal Affairs Committee, presiding.

All members were present except Councillors Chalifoux Zephir, Lanciani and Marchand.

The following ORDINANCE was the subject of the hearing:

Relative to amending the Revised Ordinance entitled “Junk and Second Hand Dealers” by deleting Chapter 11 in its entirety and replacing it with a revised Chapter 11. (Legal Affairs Petition 28-11)

Councillor Rowlands, Chairman of the Legal Affairs Committee, said there is one proposed change. He said the proposal that we will be voting on in terms of an amendment dealing with the issue of a business that was a transitory business or business that could not for some reason hold onto the records for the one year period required as part of this change. He said the following addition would address that issue.

“For any licensed business that will not or may not be located in Leominster for the minimum one year record keeping period set forth in this section (transitory businesses or businesses conducting inventory liquidation for example) such business must file with the City Clerk copies of all records of any transactions conducted within 12 months prior to the final transaction, at or before the time that it closes operations at the license location.”

He said there would be a required filing with the City Clerk if you are a transitory business that is coming through or a business that will not have records for a one year period.

Councillor Freda said there was a legal notice regarding the same type of ordinance for Fitchburg. She said they are in their first reading and thought it might be a good idea to measure the two because they talked about having an internet registry also.

Councillor Dombrowski asked if the wording, as explained, was going to be an amendment.

Councillor Rowlands said yes.

Councillor Rowlands passed out a sample of a petition and a log that do not need approval but will be an aid to the City Clerk in gathering information.

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

HEARING ADJOURNED AT 6:38 P.M.

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

HEARING BEFORE THE CITY COUNCIL, MARCH 28, 2011

Hearing opened at 7:00 P.M. with Councillor Rowlands , Chair of the Legal Affairs Committee, presiding.

All members were present except Councillors Chalifoux Zephir, Lanciani and Marchand.

The following PETITION was the subject of the hearing:

33-11 Paul A. DiGeronimo, Manager of Johnny Appleseed Realty, LLC: Rezone 1.13 acres of land on Sawtelle Road and Montrose Street from Commercial to Residence B as shown on Assessor’s Map 442, Lot 18 and Map 523, Lot 14.

Councillor Rowlands, Chairman of the Legal Affairs Committee, said the applicant requests that the hearing be continued with no new evidence taken, in order to give the Planning Board time to have their hearing and send a recommendation to the Council.

HEARING ADJOURNED AT 7:01 P.M. AND CONTINUED TO APRIL 11, 2011 AT 6:30 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, MARCH 28, 2011

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

Attendance was taken by a roll call vote; all members were present except Councillors Chalifoux Zephir, Marchand and Lanciani.

The following COMMUNICATIONS were received, referred to the FINANCE COMMITTEE and given REGULAR COURSE.

- C-60 Relative to the appropriation of \$2,000.00 to the Cemetery Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-61 Relative to the appropriation of \$3,500.00 to the Cemetery Expense Account; same to be transferred from the Cemetery Perpetual Care Income Account.
- C-62 Relative to the appropriation of \$8,000.00 to the Cemetery Salary and Wages Account; same to be transferred from the Cemetery Perpetual Care Income Account.
- C-63 Relative to the appropriation of \$8,857.25 to the Sanitation and Drainage Account; same to be transferred from the Excess and Deficiency Account.
- C-64 Relative to the appropriation of \$1,500.00 to the City Council Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-65 Relative to the appropriation of \$47,500.00 to the Library Expense Account; same to be transferred from the Library State Aid Reserved for Appropriation Account.
- C-66 Relative to the appropriation of \$8,199.13 to the Forestry Department Expense Account; same to be transferred from the Excess and Deficiency Account.

The following COMMUNICATION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Mayor for additional information.

- C-67 Dean J. Mazarella, Mayor: Amend Section 1 of Chapter 296 of the Acts of 2002 relative to the use of retired police officers by the City of Leominster by changing the maximum age restriction to sixty-eight.

The following COMMUNICATION was received, referred to the LEGAL AFFAIRS & THE PRESIDENT'S ZONING COMMITTEES, given REGULAR COURSE and referred to the Planning Board, the President's Zoning Committee, the Zoning Board of Appeals and the Director of Inspector. A hearing was set for April 25, 2011 at 6:45 P.M. Vt. 6/0

- C-68 Dean J. Mazarella, Mayor: Adopt the proposed changes to the Leominster Zoning Ordinance.

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

- C-69 Dean J. Mazarella, Mayor: Allow the Mayor the flexibility to offer a salary within the step range when hiring department heads; salary not to exceed the top step in that classification.
REGULAR MEETING OF THE CITY COUNCIL, MARCH 28, 2011, continued

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

- C-70 Dean J. Mazarella, Mayor: Approve the proposed amount of \$507,179.70 for the Community Development Block Grant for Year 37.

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE, given REGULAR COURSE and referred to the Department of Public Works, the City Solicitor, the Planning Board and the Planning Director.

- 37-11 David Rowlands: Require that any construction that creates new street(s) or extensively modifies existing streets be secured by a bond in the full amount needed to complete construction of said street(s) from a surety company licensed to do business in the Commonwealth of Massachusetts and that said bond shall not be released until the street(s) are completed and accepted by the City of Leominster.

The following PETITIONS were received, referred to the WAYS & MEANS COMMITTEE, given REGULAR COURSE and referred to the Treasurer.

- 38-11 Kym Leblanc: Renew the license for one pool table at The Tankard, 13 Central Street.
- 39-11 William Plant: Renew the license for nine pool tables at J. C. Fenwicks Co., 37 Mechanic Street.
- 40-11 Craig Long: Renew the license for two pool tables at Jake's Pub, Inc. d/b/a Hot Shotz, 1293 Main Street.
- 41-11 Christopher F. Rivard: Grant a Transient Vendors License for the sale of flowers and plants through May 2011.
- 42-11 Russell Kassatly: Grant a Hawkers and Peddlers License for the sale of merchandise during the year 2011.

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

Registrar of Voters – Nancy Piermarini – term to expire April 15, 2014

A recess was called at 7:50 P.M.

The meeting reconvened at 7:52 P.M.

Councillor Robert Salvatelli, Chairman of the Finance Committee, read the financial report for the City onto the record. Account balances are as follows:

Excess and Deficiency Account (Free Cash)	\$ 1,802,348.12
Stabilization Account	\$11,083,229.57
Emergency Reserved Account	\$ 1,443.00
Earned Interest	\$ 25,722.80

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was AMENDED, GRANTED AS AMENDED and ORDERED. 6 “yeas” Amended by changing “Snow and Ice Expense Account” to “Snow and Ice Overtime Account”.

C-56 Relative to the appropriation of \$25,000.00 to the Snow and Ice Overtime Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Twenty Five Thousand Dollars (\$25,000.00) be appropriated to the Snow and Ice Overtime Account; same to be transferred from the Excess and Deficiency Account.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. 6 “yeas”

C-57 Relative to the appropriation of \$150,000.00 to the Snow and Ice Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) be appropriated to the Snow and Ice Expense Account; same to be transferred from the Excess and Deficiency Account.

C-58 Relative to the appropriation of \$48,500.00 to the Emergency Management Agency Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Forty Eight Thousand Five Hundred Dollars (\$48,500.00) be appropriated to the Emergency Management Agency Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

REGULAR MEETING OF THE CITY COUNCIL, MARCH 28, 2011, continued

C-59 Relative to the appropriation of \$10,000.00 to the Parking Meter Salary & Wages Account; same to be transferred from the Parking Meter Receipts Reserved Account.

ORDERED: - that the sum of Ten Thousand Dollars (\$10,000.00) be appropriated to the Parking Meter Salary & Wages Account; same to be transferred from Parking Meter Receipts Reserved for Appropriation Account.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 6/0. (Hearing continued to April 11, 2011 at 6:30 P.M.)

33-11 Paul A. DiGeronimo, Manager of Johnny Appleseed Realty, LLC: Rezone 1.13 acres of land on Sawtelle Road and Montrose Street from Commercial to Residence B as shown on Assessor’s Map 442, Lot 18 and Map 523, Lot 14.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following APPOINTMENTS were CONFIRMED. Vt. 6 “yeas”

APPOINTMENTS

Emergency Management, Admin Unit – Casey Lucas

Council on Aging – terms to expire April 15, 2014

James E. Hines, John Harmon, Carol DeCarolis

Ann Lucier – to fill the unexpired term of Bob Larose-
term to expire April 15, 2013

RE-APPOINTMENTS

Emergency Management – Assistant Directors – terms to expire April 15, 2012
James LeBlanc, Richard Gauvin

Emergency Management - Deputy Directors – terms to expire April 15, 2012
Alfred Staal, Thomas Piper, Daniel Thibodeau, Jean Hudson

Emergency Management - Auxiliary Police Officers – terms to expire April 15, 2012
Nikito Baker, John Caron, Donn A. Deane, Shaun Calcari,
Justin P. Nichols, Edward Coffin, Erick Schmidt Sr., Oscar
Myles, Pedro Ruiz, Elympse Octavuis, Matt Perkins, Vincente Figueroa

David Rowlands, Chair of the President’s Zoning Committee, said they received the proposed zoning changes and page replacement for pages 40-43 were received from the Planning Director. A hearing was set for April 25, 2011 at 6:45 P.M.

The following ORDINANCE was read a second time, ADOPTED AS AMENDED AND PASSED TO BE ORDAINED. Vt. 6 “yeas” The wording of the Ordinance was amended to conform with the draft received from Kopelman & Paige on March 23, 2011.

The City of Leominster
In the year two thousand and eleven

AN ORDINANCE

Amending Chapter 11 of the Revised Ordinances entitled “Junk and Secondhand Dealers.”

CHAPTER 11. JUNK AND SECONDHAND DEALERS.

As to abandoned junk motor vehicles, see §§ 13-90 to 13-92 of this Revision.

§ 11-1. License– Required; revocation and term.

§ 11-2. Same– Certificate from inspector of weights and measures required.

§ 11-3. Same– To designate place.

§ 11-4. Same– Fees.

REGULAR MEETING OF THE CITY COUNCIL, MARCH 28, 2011, continued

§ 11-5. Display of license.

§ 11-6. Records– Purchases of junk, old metals or secondhand articles; inspection.

§ 11-6.1 Records – Purchases of precious metals; inspection.

§ 11-7. Purchase from minors prohibited.

§ 11-8. Storage regulations.

§ 11-9. Penalties for violation.

Sec. 11-1. License– Required; revocation and term.

The city council may license suitable persons to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals, precious metals or secondhand articles pursuant to the provisions of chapter 140 of the General Laws. All such licenses may be revoked at pleasure and shall expire on April thirtieth of each year.

As to licenses generally, see ch. 12 of this Revision.

Sec. 11-2. Same– Certificate from inspector of weights and measures required.

No person shall be licensed under the provisions of this chapter until he presents a certificate from the inspector of weights and measures stating that all weighing and measuring devices intended to be used by such person have been duly inspected and sealed as required by law.

Sec. 11-3. Same– To designate place.

Any license granted under this ordinance shall specify the location at which the licensee will carry on the business. No dealer in junk, old metals, precious metals or secondhand articles shall carry on his/her business in any other place than that designated in his/her license, unless consent to his/her relocation is granted in writing by the council. The council shall notify the Leominster Police Department of any approved license or relocation.

Sec. 11-4. Same– Fees.

Any person receiving a license under this chapter shall pay a fee to the city clerk of \$100.00.

Sec. 11-5. Display of license.

All licenses granted under the provisions of this chapter shall be displayed in plain sight at the specified business location.

Sec. 11-6. Records– Purchases of junk, old metals or secondhand articles; inspection.

Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall keep a book in which shall be written at the time of every purchase of any such articles a description thereof, the name, age and residence of the person from whom and the day and hour when such purchase was made. The licensee shall also require the seller to produce positive photo identification and shall keep a photo or photocopy of such identification. Such books shall at all times be open to the inspection of the mayor and the council, any police officer or any person authorized by the mayor or council to make such inspection. Such books and copies of identification shall be maintained by the licensee for a minimum of one year from the date of the last entry. Licensees shall make all books and records available to the Leominster Police Department for photocopying at all reasonable times.

Sec. 11-6.1. Records – Purchases of precious metals; inspection.

Whoever is in the business of purchasing gold, silver, platinum or other precious metals shall maintain a book hereafter referred to as a Precious Metals Registry, written in the English language, and kept by the business owner, manager, and/or employees responsible for said transactions. The form for the Precious Metals Registry will be supplied by the Leominster Police Department. An entry in said Registry will be made for each item and include a description of said item, total weight, karats (kt), quantity purchased, and purchase price.

Any person who sells gold, silver, platinum, or other precious metals shall be required to show the buyer prior to said sale a positive photo identification, which shall be the seller's driver's license from the state in which he/she resides, State Identification Card, or Passport. The Precious Metals Registry entry shall also include the following information of seller: Name, Date of Birth, Address, and Driver's license number and state, or State Identification number and state, or Passport number and country where issued. A photo or photocopy of the seller's positive identification shall be kept by the buyer for a period of one year from the date of the transaction.

The Precious Metals Registry and any precious metals purchased shall be available for the inspection by the Chief of Police of a city or town or any other police officer or duly authorized agent or inspector designated by the Chief of Police, and the Registry shall be maintained for a minimum of one year from the date of the last entry. Licensees shall make all books and records available to the Leominster Police Department for photocopying at all reasonable times.

REGULAR MEETING OF THE CITY COUNCIL, MARCH 28, 2011, continued

All gold, silver, platinum, or other precious metals purchased in said transaction shall not be sold or transferred until the expiration of a 21-day hold period from date of purchase. During said 21-day hold period, the licensee is prohibited from making any alterations to precious metals purchased. Prohibited alterations shall include, but not be limited to, melting, cutting, disassembling or breaking down of the precious metal articles.

For any licensed business that will not or may not be located in Leominster for the minimum one year recordkeeping period set forth in this section (transitory businesses or businesses conducting inventory liquidation, for example), such businesses must file with the City Clerk copies of all records of any transactions, conducted within twelve months prior to the final transaction, at or before the time that it closes operations at the licensed location.

Sec. 11-7. Purchase from minors prohibited.

No dealer in junk, old metals, precious metals, or secondhand articles shall directly or indirectly purchase or receive by way of barter or exchange such goods or allow such goods to be deposited upon or within his premises, shop or vehicle by any minor, knowing or having reason to believe him to be such.

Sec. 11-8. Storage regulations.

No junk, old metals or secondhand articles shall be stored in any yard nearer than four feet to any building, and a clear space of four feet shall be left between any junk, old metal or secondhand articles so stored and the rear or side line of the lot, unless such lines are the line of a street or passageway at least four feet wide. All combustible material shall be kept under cover between sunset and sunrise.

Sec. 11-9. Penalties for violation.

Any person who violates any provision of this ordinance shall be subject to a fine in the amount of \$300.00 and/or the suspension, modification or revocation of such license. Any person/licensee found to have committed a third violation of this ordinance or of the conditions of said license shall be subject to the revocation of the license and be ineligible to apply for a new license for a period of one year after such revocation.

Councillor Salvatelli said he had a request from Councillor Marchand regarding potholes. He said the DPW only has \$11,000.00 and he expects them to come down for more money. He said Councillor Cormier asked him about the Open Space

Donation Account and the Councillor has been given the information. In 2002 we had a high amount of \$7,771.00 and a low amount in 2009 of \$1,176.00 of contributions. This money was used for preservation.

Councillor Cormier said so far in FY11 we have \$2,630.00 in contributions and asked if we had any idea roughly how many different donor that came from.

Councillor Salvatelli said it is a \$1.00 per household.

Councillor Rowlands said he thought the State was offering a match on this or some percentage of the Open Space Fund.

Councillor Salvatelli said he doesn't know but will look into it.

Councillor Dombrowski said they are going to have to insist that the 5 year Capital Plan be followed. He said he will be drafting a Resolution for people to review and sign if they like and will have it available by Thursday of next week.

Under New Business, Councillor Nickel said over the weekend Harry Wesley passed. Councillor Nickel said he did a lot of photography and there were very few baseball games and other sports events that you didn't see a picture in the Fitchburg Sentinel with his name on it. He said he didn't want the evening go by without mentioning his name and acknowledging to the family the achievements he did on behalf of the Leominster youths particularly the baseball teams.

Councillor Salvatelli said the Mayor is obligated to come down under the Charter to recommend department heads to us, is that correct?

Council President Dombrowski said yes, and the deadline has come and gone.

Councillor Salvatelli asked if there were department heads not appointed.

Council President Dombrowski said yes.

Councillor Salvatelli asked for examples on who they would be.

The Clerk said the Assessor and Comptroller.

Councillor Rowlands said half the boards aren't appointed.

Council President Dombrowski asked the Clerk for a list of Board Members and Department Heads whose terms have expired and have not been reappointed. He said pursuant to the Charter if the Council feel the administration is not conforming with the Charter then they are required to direct him to do so.

REGULAR MEETING OF THE CITY COUNCIL, MARCH 28, 2011, continued

Councillor Freda said she worries about the Assessor's office because he is dealing directly with the Department of Revenue. It is a very important position.

Councillor Rowlands said there is nothing more important than the Comptroller's position, especially when we don't have an Assistant Comptroller and we have systems that date back to the 1970's in terms of how they are handled. We also have appeals happening on decisions made by some of the boards that go to court and this always comes up with constituents raising questions to him. The ignoring of the terms of appointments is extremely important.

The Finance Committee established a meeting for April 11, 2011 at 6:00 P.M.

MEETING ADJOURNED AT 8:38 P.M.

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