

HEARING BEFORE THE CITY COUNCIL, APRIL 11, 2011

Hearing opened at 6:30 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee, presiding.

All members were present. Councillor Freda arrived late.

This hearing is continued from March 28, 2011.

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 said at the request of the applicant this hearing will be continued due to the fact that the Planning Board continued their hearing. No new evidence was taken in.

HEARING ADJOURNED AT 6:34 P.M. AND CONTINUED TO MAY 9, 2011 AT 6:30 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, APRIL 11, 2011

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 March 14, 2011 were examined and found to be in order. The records were accepted.

A recess was called at 7:35 P.M.

The meeting reconvened at 7:45 P.M.

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

C-71 Relative to the appropriation of \$3,300.00 to the Sanitation and Drainage Expense Account; same to be transferred from the Excess and Deficiency Account.

C-72 Relative to the appropriation of \$2,100.00 to the Sidewalk and Curbing Expense Account; same to be transferred from the Excess and Deficiency Account.

REGULAR MEETING OF THE CITY COUNCIL, APRIL 11, 2011, continued

C-73 Relative to the appropriation of \$6,000.00 to the Water Department Capital Outlay Expense Account; same to be transferred from the Water Department Salary and Wages Account.

C-74 Relative to the appropriation of \$20,000.00 to the Water Department Overtime Expense Account; same to be transferred from the Water Department Salary and Wages Account.

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

C-75 Dean J. Mazzarella: Request Joseph Tocci be exempt from the provisions in M.G.L. Chapter 268 (20B) Conflict of Interest as he is currently employed by the City of Leominster's Zoning Board of Appeals and will be doing contract work for the Leominster Department of Public Works.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE and given REGULAR COURSE.

43-11 Richard M. Marchand: Endorse a change to the language in the pending zoning legislation to amend "Table of Uses – Generally Permitted Uses" subsection 16.5.1.2 to read "No more than four (4) lodgers or boarders except in Residence B and C. All boarding/lodging houses need a special permit from the Planning Board."

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the City Solicitor.

- 44-11 Richard M. Marchand: Amend Section 14-20 of the Revised Ordinances entitled "Sex Offender Residency Restrictions" changing from 1,000 feet to 1,500 feet the area around a school that a Level 2 and Level 3 sex offender is prohibited from residing in and adding to Section 14-20.3H "Furthermore, notification of said violation will be conveyed to the City of Leominster License Commission.

The following PETITION was received, referred to the PUBLIC SAFETY COMMITTEE, given REGULAR COURSE and referred to the Department of Public Works and the Police Department.

- 45-11 Claire Freda: Install 35 MPH speed limit signs on Willard Street from the intersection of Central Street (Rte. 12) to the intersection of Lancaster Street (Rte. 117).

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

- 46-11 Kevin Caefer: Grant a Second Hand Dealer's License for the purchase of precious metals by appointments only.

The following PETITIONS were received, referred to the WAYS & MEAN COMMITTEE, given REGULAR COURSE and referred to the Treasurer's office.

- 47-11 Deglan, Inc d/b/a Hannoush Jewelers: Renew Second Hand Dealer's License for the purchase of precious metals at 100 Commercial Road.
- 48-11 Aime Lemoine: Renew License for one pool table at Seven R's d/b/a A & R's Double Inn, 166 Water Street.
- 49-11 Mason Recreation Center: Renew License for 7 pool tables and 24 bowling alleys at Mason's Bowling Center, 640 North Main Street.

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

Emergency Management – Sheltering Unit – Laural Aiesi  
Admin. Unit – Kathy Mills

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)	\$ 1,796,948.12
Stabilization Account	\$11,085,701.82
Emergency Reserved Account	\$ 1,443.00
Earned Interest	\$ 28,195.05

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

- 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.

REGULAR MEETING OF THE CITY COUNCIL, APRIL 11, 2011, continued

ORDERED: - that the sum of Two Thousand Dollars (\$2,000.00) be appropriated to 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.

ORDERED: - that the sum of Three Thousand Five Hundred Dollars (\$3,500.00) be appropriated 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.

ORDERED: - that the sum of Eight Thousand Dollars (\$8,000.00) be appropriated 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.

ORDERED: - that the sum of Eight Thousand Eight Hundred Fifty Seven Dollars and Twenty Five Cents (\$8,857.25) be appropriated 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.

ORDERED: - that the sum of One Thousand Five Hundred Dollars (\$1,500.00) be appropriated 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.

ORDERED: - that the sum of Forty Seven Thousand Five Hundred Dollars (\$47,500.00) be appropriated 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.

ORDERED: - that the sum of Eight Thousand One Hundred Ninety Nine Dollars and Thirteen Cents (\$8,199.13) be appropriated to the Forestry Department Expense Account; same to be transferred from the Excess and Deficiency Account.

Upon request of the PUBLIC SERVICE COMMITTEE, the following COMMUNICATION was given FURTHER TIME. Vt. 9/0

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.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 9/0

C-67 Dean J. Mazzarella, 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.

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

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. (The hearing is continued on May 9, 2011 at 6:30 P.M.)

Upon request of the LEGAL AFFAIRS COMMITTEE & THE PRESIDENT'S ZONING COMMITTEE, the following COMMUNICATION was given FURTHER TIME. Vt. 9/0

C-68 Dean J. Mazzarella, Mayor: Adopt the proposed changes to the Leominster Zoning Ordinance. (A hearing is set for April 25, 2011 at 6:45 P.M.)

Upon recommendation of the WAYS & MEANS COMMITTEE the following COMMUNICATION was given FURTHER TIME. Vt. 9/0

C-69 Dean J. Mazzarella, 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, APRIL 11, 2011, continued

Upon recommendation of the WAYS & MEANS COMMITTEE the following COMMUNICATION was given FURTHER TIME. Vt. 9/0. Councillor Lanciani abstained from voting on the portion related to Montachusett Home Care and Councillor Nickel abstained from voting on the portion related to the Montachusett Interfaith Hospitality Network due to possible conflicts of interest. Vt. 9/0.

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

Councillor Marchand read the following line items into the record.

	<u>Budget Year 37 (Proposed)</u>	<u>Budget Year 36</u>
Total Amount:	\$507,179.70	\$563,533.00
Salary & Wages:	\$233,361.61	-----
Expenses:	\$ 54,818.09	-----
Programs:	\$219,000.00	-----
Beacon of Hope	\$ 4,150.00	\$ 9,300.00
Boys & Girls Club	\$ 2,500.00	\$ 2,500.00
Community Health Connections (new)	\$ 3,000.00	-----
Housing Rehab Construction	\$ 85,500.00	\$223,959.00
Leom. Housing Authority-Lets Help One Another (new)	\$ 3,200.00	-----
Leom. Housing Authority-Allencrest Learning Center	\$ 6,300.00	\$ 1,400.00
Recreation Dept. Summer Program (new)	\$ 1,000.00	-----
Mayor's Office-Energy Assistance	\$ 10,250.00	\$ 10,000.00 plus an additional appropriation
Mayor's Office-Summer Youth Program	\$ 14,500.00	\$ 14,500.00
Mayor's Office-State Pool Fee	\$ 1,500.00	\$ 1,200.00
Montachusett Home Care-Financial Programs	\$ 3,000.00	\$ 5,000.00

Montachusett Interfaith Hospitality	\$ 5,000.00	\$ 11,000.00
Montachusett Addiction Council (new)	\$ 2,000.00	-----
Spanish American Center-Summer Program (new)	\$ 6,700.00	-----
Spanish American Center-Outreach Worker	\$ 3,000.00	\$ 3,100.00
Veteran's Hospice Homestead	\$ 5,000.00	\$ 11,000.00
YWCA/Bettered Women's Resources (new)	\$ 2,400.00	-----
Johnson Street Playground (new)	\$ 25,000.00	-----
HUD 108 Loan Core Area Sidewalks/Streetscapes (new)	\$ 35,000.00	-----

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITIONS were GRANTED. Vt. 9/0

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.

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.

40-11 Craig Long: Renew the license for two pool tables at Jake's Pub, Inc. d/b/a Hot Shotz, 1293 Main Street.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITION was GRANTED. Vt. 9/0

41-11 Christopher F. Rivard: Grant a Transient Vendors License for the sale of flowers and plants through May 2011.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITION was GRANTED. Vt. 5/4; Councillors Salvatelli, Marchand, Rowlands and Dombrowski opposed.

42-11 Russell Kassatly: Grant a Hawkers and Peddlers License for the sale of merchandise during the year 2011.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following RE-APPOINTMENT was CONFIRMED. Vt. 9 "yeas"

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

Councillor Rowlands, Chairman of the President's Zoning Committee, said the hearing for the proposed zoning is on April 25, 2011 at 6:45 P.M.

Council President Dombrowski said Stephen Mullaney of S J Mullaney Engineering has been to several of the meetings for the proposed zoning and is reviewing the ordinance as a courtesy. He said Mr. Mullaney sent him a draft of his comments and will get them to the City Clerk so everyone will have them.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following LICENSE was AMENDED and GRANTED. Vt. 9/0

Correction of the Second Hand Dealer's License previously granted to Spindle City Precious Metals to change the location from Four Points Sheraton to Super 8. (Petition 36-11, Granted March 14, 2011)

REGULAR MEETING OF THE CITY COUNCIL, APRIL 11, 2011, continued

Council President Dombrowski said the following outstanding items will be on the agenda and asked the Committees to report them at the next meeting. The current items are Seventh Street Oil Spill, Lancaster Street-New Police Station, Leominster High School Renovation, Emergency Management Roof, District Court Lease. This list will change as a reminder to what is going on.

Councillor Salvatelli said Councillor Cormier asked him about the Cemetery Fund and we have \$1,297,578.00 in the Perpetual Care Account. He said the entire Cemetery Department budget is \$122,000.00 with two people making a \$100,000.00. In other words there is no money in there. He said during the discussion of budgets we will have to see an increase to get that summer help. It is a very small budget for a very large, sacred cemetery.

Councillor Rowlands said he is again making a request for information to the Chairperson of Small Business and Economic Development in regard to the number of job creations for TIFF's. He said he has data but it is quite old. He said they have to track how many jobs were actually created associated with the open TIFF's out there and would like to get a summary.

Councillor Freda said she contacted the Mayor's office and Lisa Vallee sent her the information which they said they already sent us which they had on March 25<sup>th</sup> on the increment financing when they were down here. She said it reads as follows:

"The attached info details the obligated number of jobs for each TIFF. The current year Fiscal Year 10 accumulative amounts of jobs created to date. This information is based on a mandated EDIP (Economic Development Incentive Program) according to the State Mass. Office of Development. It is the mandated annual reporting that monitors the possible decertification when necessary. All active City of Leominster TIFF's are within the terms of the agreement made and Mass. Office of Business Development has confirmed this as well when they provided me with latest report of Fiscal Year 10."

Councillor Rowlands asked if she has the numbers.

Councillor Freda said we have the numbers on what she gave all of us previously when she was down here. The information said; create a minimum of 4 jobs within 3 years for Heat Trace. Fosta-Tek was create a minimum of 18 jobs within 3 years, Paper Store was to create a minimum of 5 jobs within 5 years and Dixie Consumer Products create a minimum of 25 jobs within 2 years.

Councillor Rowlands said he wasn't looking for what the requirements were but what the job creation is to date.

Councillor Freda said she understood he wanted to know if they were in compliance. She said she will get him the exact numbers of jobs created.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following Resolution was ADOPTED. Vt. 7 "yeas" and 2 "nays, Councillors Chalifoux Zephir and Freda opposed.

#### **RESOLUTION REGARDING APPONTMENT OF OFFICIALS**

WHEREAS, Section 2.3 of the Charter, Special Acts AND Acceptances of the City of Leominster (hereinafter "Charter") requires the Mayor to appoint all city officers, department heads or multiple member bodies:

WHEREAS, there exist numerous city officials whose appointments have expired; and

WHEREAS, Section 9.12 of the Charter requires the Leominster City Council to, by resolution, direct the Mayor's attention to those provisions of the Charter in which the Mayor is not in compliance.

Accordingly, it is hereby resolved by the City Council to direct the Mayor's attention to Section 2.3 of the Charter and request that all outstanding or expired appointments be made forthwith.

Adopted by the City Council  
April 11, 2011

Approved:  
/s/John M. Dombrowski, President of  
Leominster City Council

Adopted by the City Council on  
April 11, 2011 by a vote of 7/2.  
/s/Lynn A. Bouchard City Clerk  
and Clerk of the City Council

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Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following Resolution was ADOPTED. Vt. 9 "yeas".

#### **RESOLUTION REGARDING CAPITAL OUTLAY PROGRAM**

WHEREAS, the City of Leominster is currently facing significant anticipated expenses in addition to the standard operating expenses of the City;

WHEREAS, Section 6.4 of the Charter, Special Acts And Acceptances of the City of Leominster (hereinafter "Charter") requires the Mayor to prepare and submit to the City a detailed five (5) year Capital Outlay Program at least three (3) months prior to the final date for submission of the proposed operating budget;

REGULAR MEETING OF THE CITY COUNCIL, APRIL 11, 2011, continued

WHEREAS, Section 6.4 of the Charter requires the Capital Outlay Program to be revises and extended in each annual report;

WHEREAS, the Mayor has consistently failed to abide by the Charter regarding the requirements of the Capital Outlay Program; and

WHEREAS, Section 9.12 of the Charter required the Leominster City Council to, by resolution, direct the Mayor's attention to those provisions of the Charter in which the Mayor is not in compliance.

Accordingly, it is hereby resolved by the City Council to direct the Mayor's attention to Section 6.4 of the Charter and request that a Capital Outlay Program that complies with the Charter be prepared and submitted to the City Council forthwith and that same be revises and extended on an annual basis as further required by the Charter.

Adopted by the City Council  
April 11, 2011

Approved:  
/s/John M. Dombrowski, President of  
Leominster City Council

Adopted by the City Council on  
April 11, 2011 by a vote of 9/0.  
/s/Lynn A. Bouchard City Clerk  
and Clerk of the City Council

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Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following Resolution was ADOPTED. Vt. 8 "yeas" and 1 "nay", Councillor Freda opposed.

**RESOLUTION REGARDING REORGANIZATION PLANS**

WHEREAS, it has been brought to the City Council's attention that the Mayor has reorganized or proposed the reorganization of various city departments in the City of Leominster;

WHEREAS, in the event of a proposed reorganization by the Mayor, Section 5.2 of the Charter, Special Acts And Acceptances of the City of Leominster (hereinafter "Charter") requires the Mayor to submit reorganization plans to the City Council;

WHEREAS, the Mayor has failed to submit any reorganization plans to the City Council; and

WHEREAS, Section 9.12 of the Charter required the Leominster City Council to, by resolution, direct the Mayor's attention to those provisions of the Charter in which the Mayor is not in compliance.

Accordingly, it is hereby resolved by the City Council to direct the Mayor's attention to Section 5.2 of the Charter and request that a Reorganization Plan that complies with the Charter be prepared and submitted to the City Council forthwith.

Adopted by the City Council  
April 11, 2011

Approved:  
/s/John M. Dombrowski, President of  
Leominster City Council

Adopted by the City Council on  
April 11, 2011 by a vote of 8/1.  
/s/Lynn A. Bouchard City Clerk  
and Clerk of the City Council

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request the Mayor, Attorney Riley of Kopelman & Paige and the Planning Director come to the next meeting on April 25, 2011 at 6:15 P.M. to explain the C.D.B.G. petition.

Councillor Freda said the Rotary Vocational Awards Night will be April 27, 2011 at the Four Points Sheraton. The recipients are:

Fire	John Picone		<u>School Department</u>
Police	Robert Healy	K-5	Heather Parzuchowski
DPW	David Tucker	6-8	Leo LeClair
City Hall	Ralph Sacramone	9-12	John Dubzinski

Councillor Marchand said the Patrons Gala for the Leominster Art Association will be at St. Leo's Church on Friday. April 29, 2011 from 7-9 P.M. He said the National Little League opening day will be April 30, 2011. The Cleanup Day will be April 16<sup>th</sup>, 2011. The Leominster Youth Football League will be having another signup at City Hall from 6-8 P.M. on April 28<sup>th</sup>, 2011.

MEETING ADJOURNED AT 10:25 P.M.

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