

HEARING BEFORE THE CITY COUNCIL, JULY 28, 2008

Hearing opened at 7:17 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present.

Present at the hearing were Tom Bovenzi representing the applicant, Paula LeBlanc from Gateway Business and Kent Oldfield from Boucher Construction.

The following PETITION was the subject of the hearing:

98-08 Stephen Boucher for Gateway Business Center LLC: Grant a Special Permit for a Mixed Use Development Project at 435 Lancaster Street consisting of 5.95 acres in an Industrial zone and shown on Assessor's Map 443 as Lot 1.

Introduced and made part of the record were the following:

- A. Petition 98-08 submitted by Stephen Boucher for Gateway Business Center LLC with accompanying sketches, and plan entitled "Parking & Use Plan located in Leominster, Massachusetts, owned by Gateway Business Center LLC" and dated May 5, 2008.
- B. Notice of public hearing published in the Sentinel & Enterprise on July 7, 2008 and July 14, 2008.
- C. Positive letters of recommendations from the Planning Board, the Department of Public Works and the Director of Inspections.
- D. A letter of recommendation from the Health Inspector expressing concern with potential increase in traffic that could impact the entrance to Lancaster Street.
- E. A letter from the Conservation Commission stating they do not have a recommendation with regard to zoning matters. However, they recommend that all state laws shall be followed, in particular the DEP Laws as applicable to this type of mixed use building. The property does not fall within an area that is under the jurisdiction of the Conservation Commission as granted by MGL CH 131 § 40.

Councillor Rowlands read the recommendations.

Tom Bovenzi said the site has an existing building which is the Gateway Business Center. He said there are many uses at that site and they are looking for the Council to grant a Special Permit that will allow these uses to continue on in their current fashion. He said there is currently a three story building in the front with office and manufacturing buildings in the rear. He said there is parking along the side and the rear of the building. At this site there is manufacturing, warehousing, business offices and a television studio. He said the approval of this application will allow these continued uses at that site as well as other uses in those same categories and uses that are allowed in the industrial district. He said there would be a limitation for parking not to exceed 222 as shown on the site plan which was shown. He said a Site Plan Approval is necessary from the Planning Board.

Councillor Rowlands said the Mixed Use definition is specific on what uses are allowed by right because the land is industrial. The non-industrial uses are defined to be more concise in the list. He said the law reads you have to pick two out of the eight to be considered a Mixed Use Project. He asked Mr. Bovenzi to touch on the non-industrial uses.

Mr. Bovenzi said the Mixed Use Development by definition is two or more of the following uses; businesses and professional offices, which there are business offices at the site and industrial manufacturing establishments, which those types of uses are provided in the warehouses in the back. Other uses allowed are servicing of employees which there is a cafeteria and a health facility on this site. He said with this Special Permit you will allow the owner of the property to have the flexibility so if a computer store was in there today and it required five parking spaces then a retail store that requires three parking spaces could go into that space. He said they do propose more than two uses.

Kent Oldfield said most of the technical aspects will be taken care of with the Site Plan Approval. He said parking will be throughout the site with an excess of 222 spaces. He said they have calculated, with the uses that they have, they will require having 183 spaces. Mr. Oldfield explained the sketches to the Council.

Councillor Rowlands asked if the warehousing was from goods produced in the City.

Mr. Bovenzi said yes.

Councillor Rowlands said that was allowed and that is the right use of industrial space. He said he is assuming that LATV is an allowed industrial use.

Councillor Marchand said that LATV was a Special Permit by the City Council.

Councillor Marchand said you have one client on campus that came before the City Council for a Special Permit and asked Mr. Bovenzi what happens to the status of the Special Permit if the Mixed Use zoning goes through for that project?

Mr. Bovenzi said in his opinion it would not affect, obviate or eliminate what was granted under that Special Permit and they have taken efforts to put into the application that any current uses that are allowed would still be allowed under that. He said some of the uses on this property were in existence prior to any changes to the zoning by operation of the grandfathering clause; other uses by Special Permit, other uses were by right. He said his intent is to allow the owner of the property to have a true Mixed Use Development by having the flexibility and LATV's Special Permit would not be eliminated as a result of that.

Councillor Marchand said his position on this is to package the deal because for the sake of zoning, who is there, who has the right, who does not, it would be a quagmire of a process for the City to be able to stay on top of who's on first, who's on second. With respect to the existing clients if there is a possibility you could take a look to see how they play into the overall

package without going back to see who was grandfathered and who wasn't. He said he is looking at the project as the entire site and not just units on the site.

Mr. Bovenzi said they do propose some language that the Council might consider that is in the application stating "This Special Permit shall authorize any existing use to be changed to any other use permitted under the definition of Mixed Use Development.

Councillor Marchand said Mixed Use is a hot topic and there is legislature before the City Council submitted by the City Council and VHB working with the Mayor and Administration to come up with a new approach to zoning in the City which they will be looking at possibly in September. Councillor Marchand asked Mr. Bovenzi if he will be flexible to the changes that come down the road. For example, if this development gets locked in within the next 90 days or so does this put you in a position where everyone is grandfathered in? Does it work for you or not work for you?

Mr. Bovenzi said it works. He said what is there today will work.

Councillor Salvatelli asked Councillor Rowlands if this is the first time we got this type of request.

Councillor Rowlands said no, this is the third one.

Councillor Salvatelli said it seems different than the ones they had before. He said the concept is different, and not that he is opposed to it, but it looks like they have a piece of property and asking for a blank check within the rules of the Mixed Use.

Councillor Rowlands said the ones we do have specify a percentage that is commercial and the City Council has the authority to limit any certain percentage of a certain use. He said one of the flaws is the zoning is that it doesn't say you can put any other type of business use in there or commercial. The Mixed Use Ordinance has a very short list of non-industrial types.

Councillor Rowlands said he wants to make sure the applicant is aware of the limitations today in the existing laws of the non-industrial uses and he said he passed out the 17 page document that outlines the whole Mixed Use story to the petitioners.

Councillor Salvatelli said in that area there was one with 30% which came in looking for something completely different and down the road on Whitney's property they came in all on Special Permits. He said you are talking about three properties within a half a mile coming in with different requests but the same concept within less than a year.

Councillor Rowlands said there are three mechanisms that he knows of to put non-industrial in industrial. One is Mixed Use, one is rezoning the property completely and the other is the use variance. The Whitney building on Lancaster Street and LATV went by the mechanism of a use variance; a Special Permit for a specific building for a specific location. If you change that square footage by an inch or the use they have to come back for another Special Permit. He said Mixed Use under 20 acres has its own regulations. He said the first one was the Whitney project on Spruce Street (which is the same mechanism as the one before us today), the other was the Union Products building which had a percentage applied and work done but the mechanism is the same as today.

Councillor Dombrowski asked Ms. LeBlanc to identify those areas that are available for prospective tenants in the building.

Ms. LeBlanc said the third floor has 2,500 square feet which is ideally for small office space. She said there is also 3,200 square feet on the third floor. The second floor is where LATV is. There are two available sections on this floor containing 3,200 square feet and 500 square feet. On the first floor there is approximately 7,000 square feet. She said there is about 22,000 to 25,000 square feet left to rent in the building. She said there is more than enough parking for these areas depending on the use.

Councilor Dombrowski asked that the total floor area for the three floors.

Ms. LeBlanc said about 100,000 square feet.

Councillor Dombrowski said you are asking for roughly 25%.

Ms. LeBlanc said exactly.

Councillor Dombrowski asked them to describe the neighborhood.

Mr. Oldfield said this property is on the corner of Lancaster Street and Elm Hill Avenue. He said there is a warehouse and factory in the back as well as Page Electric. He said across Lancaster Street there is the Shell gas station as well as the old Union Products further down Lancaster Street. He said there are only a few residential properties located across the street from Elm Hill Avenue and everything else is pretty much commercial.

Councillor Dombrowski asked if there was any shared parking with the neighbors.

Mr. Oldfield said no, right now all the parking is for this property. He said there is one out parcel that is residential that is available and for sale.

Councillor Dombrowski asked how long the second and third floor has been vacant.

Ms. LeBlanc said the second floor has been vacant for about four to five years. The third floor space of 3,200 square feet has been vacant less than a year and the other space probably has never been used since the building was bought ten years ago. She said the first floor had warehousing but moved.

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Councillor Dombrowski recapped the space available stating 5,700 square feet on the third floor, 3,700 square feet on the second floor and 7,000 square feet on the first floor and asked Ms. LeBlanc if she thought this was 25%.

Ms. LeBlanc said yes.

Councillor Tocci asked if they were going to make the front of the building look like retail.

Ms. LeBlanc said no, they are going to leave it the way it is.

Councillor Nickel said he has walked the building and sees there has been a lot of work in the past and it will be cleaned up and presentable and looks forward to supporting this project.

Councillor Marchand said if they had to relocated LATV in the building, because they are the non-compliance of the Mixed Use, you would possibly have to come back, other than that you would just exercise your right as Mixed Use. He said he has seen a good portion of the building and the building appears to be going in the direction of a professional business potential commercial establishment and he wouldn't want them to get locked into a space of that magnitude without being able to move forward with another tenant.

Councillor Freda said she is the Ward Councillor and everything that Mr. Boucher said that was going to be done has been done better than what was said to be done. She said she supports this project. She said she has a lot of faith Mr. Boucher's ability to continue. Councillor Freda said she wanted to clarify that she is not sure an adult bookstore can go in that building. It can go into a commercial area and has hard restrictions.

This hearing will be continued to August 11, 2008 at 6:30 P.M.

HEARING ADJOURNED AT 7:59 P.M.

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

Hearing opened at 8:02 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present except Councillor Dombrowski.

Present at the hearing were David Mullaney and Stephen Mullaney of S.J. Mullaney Engineering, agent for the applicant.

All members were present except Councillor Dombrowski due to a possible conflict of interest.

Present at the hearing were David Mullaney and Stephen Mullaney of S.J. Mullaney Engineering, agent for the applicant.

The following PETITION was the subject of the hearing:

- 102-08 David R. Mullaney, 511 Lancaster Street LLC: Grant a Special Permit for a Mixed Use Development Project to allow 15% Commercial use at 463 – 477 Lancaster Street located in an Industrial zone and shown on Assessor's Map 443, as Lots 2, 3 and 4.
- A. Petition 102-08 submitted by David R. Mullaney, President of 511 Lancaster St., LLC, with accompanying sketches, and plan entitled "Site Plan of Land in Leominster, Massachusetts, located at 463-477 Lancaster Street prepared by Stephen J. Mullaney Civil Engineer for S. J. Mullaney Engineering, Inc., 305 Whitney Street, Leominster and dated May 30, 2008.
  - B. Notice of public hearing published in the Sentinel & Enterprise on July 7, 2008 and July 14, 2008.
  - C. Positive letters of recommendations from the Planning Board, the Department of Public Works, the Director of Inspections and the Fire Department.
  - D. A letter of recommendation from the Health Inspector stated "The proposal appears to be consistent with the uses of the abutting properties. As we commented on a similar proposal for an adjacent property, we would be concerned with any potential traffic impacts that the project may create."
  - E. A letter from the Police Department/Traffic Division said "Due to the planned building's offset driveway with Viscoloid Avenue and the amount of traffic the petitioner's traffic study suggests would be created at the site, I would request any traffic exiting the site be controlled by a traffic light. After reading the petitioner's plan, it looks like a traffic light may have already been planned for."
  - F. A letter from the Conservation Commission stating "They do not have a recommendation with regard to zoning matters. However, they recommend that all state laws shall be followed, in particular the DEP Laws as applicable to this type of mixed use building. The property does not fall within an area that is under the jurisdiction of the Conservation Commission as granted by MGL CH 131 § 40. However, the actual property does fall within the 200 foot buffer of a bordering brook. If the scope of the project changes to a point that the buffer zone will be impacted, then the Conservation Commission must be notified."

Stephen Mullaney said this property is adjacent to the property which was the subject of the prior hearing and adjacent to another Mixed Use Project that was considered a few months back. Mr. Mullaney reviewed the plan with the Council. He said there are 13.67 acres of land. The land extends out to Elm Hill Avenue and Litchfield Street where the CXS Railroad crosses the street. He said the property is the former site of Borden Chemical and prior to that it was the Dupont Company and before that the Viscoloid Company. There were several buildings of different sizes on this property at different points in time over the last century or so and some have been torn down or expanded. He said when the property was purchased in 1999 the property was vacant and since then the applicant has taken the remaining industrial buildings on the property and expanded to 111,000 square feet of fully occupied industrial space which is all by right industrial uses.

Mr. Mullaney said some of his tenants are the Monson Company, R & R Mechanical Company, Modern Dispersions, Full Circle Communication, DFS Construction, Padovano Carpet Cleaning, Dan Richards Plumbing and All Points Limousine. He said the applicant has been overhauling the property over the years and have come to the last portion of the property to be developed which is a two acre area right along Lancaster Street. He said to put an industrial building on the side closest to Lancaster Street would not be conducive to the terrain and the loading docks would have to be right by the street which would be a traffic hazards and unsightly.

Mr. Mullaney said the applicant is seeking a Special Permit to allow a very specific amount of mixed use of 15% in terms of land area which would be 2 acres out of the 13.67 acres and 15% in terms of building area which would be 20,000 square feet. He said the type of mixed use tenants they are looking at are retailers, restaurants, banks and offices. He said they do not have anyone specific at this time. He said they have already been through Site Plan review which was submitted concurrently to the Council and the Planning Board in early June. He said the Planning Board approved the Site Plan and all the technical details of the site have been worked out.

Mr. Mullaney said the utility connection made to Lancaster Street has been reviewed by Department of Public Works and drainage improvements will be made on the property which have been approved by the Department of Public Works. The traffic flow on the site would make use of two existing curb cuts. He last year when traffic lights were installed New England Development had to reconstruct the sidewalks and the curb cuts as part of the mitigation. He said they are proposing to make the westerly curb cut a one-way entrance and have the other curb cut be a two-way for in and out. He said the intersection operates as a four-way intersection. He said they are proposing to provide through traffic along the front of the building and a one-way traffic isle around the rear of the building with some areas for some small trucks to unload and there is a potential for a drive-through lane if a bank came in. He said there are 64 parking spaces that zoning requires but there is plenty of space to accommodate more parking if needed.

Councillor Rowlands read the recommendations from the Conservation Commission, the Department of Public Works, the Health Director and the Fire Department.

Councillor Rowlands said a concern that he has is the traffic flow.

Mr. Mullaney said there is an existing driveway that straddles the lot line between Mr. Xarras' property and the applicant's property. He said the driveway comes out to Elm Hill Avenue at Litchfield Street. He said that is the primary truck access for Monson Company and the other industrial tenants. It is a right-of-way that has been established by recorded deeds and plans back to the 1940's. He said there are common rights for both of these property owners to use it and it is our intention to continue to use this as our route for heavy truck traffic that comes in and out of the distribution facility. He said they purposely designed this site so they will remain segregated.

Councillor Rowlands asked if this site needs to be looked at as multiple owners of one mixed use piece of property.

Mr. Mullaney said the Special Permit has already been granted for the Union Products property and they have received their Special Permit for their property. The traffic study has been reviewed by the Planning Board as part of their Site Plan review and they have demonstrated that the traffic signal timing is sufficient to accommodate the traffic flow that would result from their commercial use. He said as far as what happens with the neighboring properties on either side, they have no control over what they do.

Councillor Rowlands said he agrees with that but he wants to make the point that as an individual piece of property they probably won't have a problem with the traffic but does the aggregate of all these changes in the zoning and the road make a difference? He asked Mr. Mullaney if the aggregate of having two or three driveways emptying out on Lancaster Street, one of which is signaled and two that are not and very close to each other, have a potential problem on that intersection?

Mr. Mullaney said the traffic study that was done by H.W. Lockner for designing the traffic signal and the plans that were done for the traffic signal itself by Vanesse & Associates taking into consideration not only the development that New England Development has with the Lowes and Wal-Mart. He said they also look at background growth where they consider other properties along the corridor, the current occupancy, what their future occupancy would be and project it out to five years. He said as far as our property the 111,000 square feet of industrial space has been fully occupied for the entirety of the time that any intersection analysis was being done by those companies. Union Products was in operation when those studies were started. He said he believes that demonstrates there is not substantial change in traffic and listening to the Gateway presentation earlier tonight they mentioned they had an industrial tenant on one of the floors that moved out but that tenant was there when the traffic studies were done. He said bringing in new uses are only replacing those have left within the past few years.

Councillor Rowlands said it is not a volume issue. He asked if there was any discussion of a shared single entrance from this location that would be under the purview of a four-way intersection.

Mr. Mullaney said it was discussed by his clients and from a liability perspective. He said they have heavy truck traffic coming in and out of this driveway and has been doing it routinely for the last eight years. They would not want to see a restaurant with an alcohol pouring license located on a neighboring property and have a patron cross the truck traffic perhaps

HEARING BEFORE THE CITY COUNCIL, JULY 28, 2008, continued

impaired in their driving. This site has been laid out to particularly segregate the industrial traffic coming from our property and to keep commercial traffic from our property to be totally contained.

Councillor Freda said we need to be careful on looking at this project and not discriminate against one of the projects within this area on how they are going to go in and out with traffic, particularly when they have come from the Planning Board. She said she is in support of this project. She said David Mullaney has also developed the area in the back and she has followed him, as Ward Councillor, and he has done everything he said he was going to do. She said we are fortunate that we have people that care about the neighborhood and take the time to talk with everyone involved. She said she has been very involved with that area.

Councillor Rowlands read the Mixed Use Project Ordinance.

Councillor Freda said these people are here under the zoning we are dealing with now and not whether we think it is flawed. She said she thinks we may be overstepping our bounds by asking one to do something that we didn't ask others to do and is concerned.

Councillor Marchand said the unique thing is that you already have Site Plan Approval which is a courageous move forward and that if it got shot down on this level it would have been a tremendous amount of money wasted on the other level. He said if we can tap into some of the Site Plan Approval process it might be able to shed some light on some of the concerns. He asked Mr. Mullaney if they were the last owner at that location in or is there a fourth component which may be coming before the City Council.

Mr. Mullaney said he was not aware of any more.

Councillor Marchand said we are talking about the old Borden Chemical site, Mylar Brush Company, Union Products and they are the last to come forth. He asked Mr. Mullaney if the Site Plan Approval addressed the curb cuts with any suggestions or modifications.

Mr. Mullaney said it was suggested by the Department of Public Works that they continue the sidewalk improvement. He said a portion of the sidewalk was reconstructed last year and a portion wasn't and we agreed we would improve the whole sidewalk along our frontage. He said as far as the curb cuts, the Development Review and the Planning Board were both in agreement with the proposal to make the westerly driveway a one-way in and have the driveway at the traffic light be two-way.

Councillor Marchand asked if the standards remain constant between each one of the three parties for sidewalk construction.

Mr. Mullaney said yes, it will be a concrete sidewalk with granite curbing.

Councillor Rowlands said they do not have the recommendation back from the Planning Board and the details of the Site Plan Approval and he would like to coordinate a site visit.

Councillor Marchand said he would like to have access to both properties; this one and the one at the prior hearing since they abut each other.

Councillor Rowlands said he will coordinate the site visit and get back to the Clerk for posting.

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

This hearing will be continued on August 11, 2008 at 6:45 P.M

HEARING ADJOURNED AT 8:34 P.M.

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

Hearing opened at 8:36 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present. Councillor Dombrowski arrived late.

This hearing is continued from July 14, 2008.

The following ORDINANCE was the subject of the hearing.

Relative to amending Chapter 13, Article III, Section 13-34 entitled "No Parking on Certain Street" prohibiting parking from the corner of the ninety-degree bend bordering Carter Park, east side of Summer Street for a distance of approximately one hundred and eighty seven feet heading towards Water Street and from the corner of the ninety-degree bend bordering Carter Park, north side of Summer Street, for a distance of approximately forty-five feet heading west towards Main Street.

HEARING BEFORE THE CITY COUNCIL, JULY 28, 2008, continued

Councillor Rowlands said they had a lengthy discussion in subcommittee.

MaryAnn Cormier of 264 West Street who owns and operates Ron and Maryann's Rooming House at 41 Summer Street spoke in support. She said she has owned the rooming house since 1981 and this petition is in the interest of public safety.

No one spoke in opposition.

Councillor Rowlands said the proper signs and markings on the road should be done to accommodate the no parking.

Councillor Lanciani said he strongly supports the petition and the ordinance as it is without any changes. He said the businesses that are run there need to hire an architect or engineer to do a parking survey and to mark out their back yard for parking. He said it is not up to the City of Leominster to provide parking for the number of spaces that are already there. He said if there is a need for handicapped parking he believes there should be two handicapped spots adjacent to the building to where the handicapped ramp is and if it is done properly that will help create the two spaces that they need. He said Sergeant Kinney and Mr. Bissonette should see that signage and spaces are clearly marked.

Council President Marchand said the administrator of the program came down and indicated that she can implement policy to make sure that the staff members are not overtaxing the streets or the neighborhood with their parking. He said this type of business required confidentiality and if your car is parked there for 24 hours or longer in one space there is none. He said from a public safety point of view he visited on the 22<sup>nd</sup>, 4<sup>th</sup> and 5<sup>th</sup> of this month and observed empty spaces in the back of the property each one of the three days. He said the road was congested with parking and in some cases not parking within designated lines the way they are suppose to be. He said he doesn't have the confidence in the owner or the tenants of the building to put a plan in place for public safety purposes because the street is just too narrow and the fact that there are residents who do live in that neighborhood. He said my support is in favor of the petition as stated.

Councilor Rowlands said in subcommittee the question was raised about making a portion of the street one way and the other point of discussion was the other users like people walking their dogs which add to the complexity of the situation. He said there are many issues that compound the parking problem.

Councillor Nickel said this is in his Ward and this is a situation that warrants some relief otherwise it is a public safety issues. He said we would really be remised if we didn't take action and do what we can. He is in favor of this petition.

HEARING ADJOURNED AT 8:47 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2008

Meeting called to order at 8:00 P.M.

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

The Committee on Records reported that the records through July 14, 2008 were examined and found to be in order. The records were accepted.

A recess was called at 8:01 to continue the public hearings and hold a public forum.

The meeting reconvened at 8:56 P.M.

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

C-6 Mayor Dean J. Mazzarella: Accept a Resolution in regards to the improvements to Imagination Station at Doyle Field.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Conservation Commission, the Planning Board, the Health Director, the Department of Public Works, the Director of Inspections, the Police Department and the Fire Department. A hearing was set for August 25, 2008 at 7:15 P.M. Vt. 9/0

5-09 Robert Bolio, President BRJ Ltd.: Grant a Special Permit for a Mixed Use Development Project to allow 70% Commercial use and 30% Industrial use at 39 Spruce Street located in an Industrial zone and shown on Assessor's Map 20, as Lot 14.

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2008, continued

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

Emergency Management- Admin Unit – Diane Beaudoin

Veterans Graves Registration Officer – Claude Poirier - term to expire June 30, 2009

A recess was called at 8:58 P.M. to allow Patrick LaPointe and Gordon Robertson to speak regarding C3 and C4.

The meeting reconvened at 9:38 P.M.

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

Emergency Reserve Account.	\$ 200,000.00
Stabilization Account	\$8,712,152.38
Interest Earned for FY'08	\$ 362,471.88

Upon request of the FINANCE COMMITTEE, the following COMMUNICATION was given FURTHER TIME. Vt. 8 “yeas” and 1 “nay”, Councillor Freda opposed.

C-1 Relative to the appropriation of \$55,000.00 to the Highway Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.

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

C-2 Relative to the appropriation of \$3,000.00 to the Conservation Commission Expense Account; same to be transferred from the Wetland’s Fees Reserved for Appropriation Account.

ORDERED: - that the sum of Three Thousand Dollars (\$3,000.00) be appropriated to the Conservation Commission Expense Account; same to be transferred from the Wetland’s Fees Reserved for Appropriation.

C-5 Relative to the appropriation of \$846,089.00 to the Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.

ORDERED: - that the sum of Eight Hundred Forty Six Thousand Eighty Nine Dollars (\$846,089.00) be appropriated to the Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.

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

C-3 Mayor Dean J. Mazzearella: Consider taking, by Eminent Domain, rights associated with properties located at 705 Mechanic Street and 720 Mechanic Street as they pertain to the Bridge Replacement Project on Mechanic Street over the Nashua River.

C-4 Mayor Dean J. Mazzearella: Consider entering into an agreement to obtain rights associated with properties located at 473 Florence Street and 475 Florence Street as they pertain to the Bridge Replacement Project on Mechanic Street over the Nashua River.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Hearing continued to August 25, 2008 at 6:45 P.M.. Vt. 9/0

95-08 David Rowlands, Virginia A. Tocci, John M. Dombrowski, James Lanciani Jr., Robert A. Salvatelli, Richard M. Marchand and Wayne Nickel: Amend the Leominster Zoning Ordinance, Chapter 22 - Sections 22-24, by removing “Mixed Use Development Projects” and inserting in its place a new Section 22-24 creating “Industrial Mixed Use Overlay Districts” (Small and Large) and modify the Table of Uses Section 22-26 to reflect said changes.

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

98-08 Stephen Boucher for Gateway Business Center LLC: Grant a Special Permit for a Mixed Use Development Project at 435 Lancaster Street consisting of 5.95 acres in an Industrial zone and shown on Assessor’s Map 443 as Lot 1.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0. Councillor Dombrowski abstained due to a possible conflict of interest.

102-08 David R. Mullaney, 511 Lancaster Street LLC: Grant a Special Permit for a Mixed Use Development Project to allow 15% Commercial use at 463- 477 Lancaster Street located in an Industrial zone and shown on Assessor’s Map 443, as Lots 2, 3 and 4.

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2008, continued

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was referred to the Mayor and given FURTHER TIME. Vt. 8/0. Councillor Nickel abstained due to a possible conflict of interest.

103-08 Gail M. Allen, Chairman of the Board of Trustees and Patrick L. Muldoon, President and Chief Executive Officer, Health Alliance: Modify the Health Care Overlay District, Article XIII as shown on a plan entitled "Modification to the Health Care Overlay District, Article XIII" (A hearing is scheduled on August 11, 2008 at 7:15 P.M.)

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given further time. Vt. 9/0

1-09 David Rowlands: Designate Industrial Road no parking on the east side of Eastern Avenue to Jordan Way.  
2-09 David M. Barry: Grant a Special Permit to remove 3,030 sq. ft. of an existing building and replace it with 3,675 sq. ft. of new building at 44 Pond Street, located in the Flood Plain and shown on Assessor's Map 7, as Lot 5. (A hearing is scheduled for August 11, 2008 at 7:00 P.M.)  
3-09 John M. Dombrowski: Amend Chapter 21 of the Revised Ordinance entitled "Water and Sewers" by amending Section 21-13 (b) and 21-13 (h) relative to water service and the responsibility of the installation, maintenance, repair, renovation or replacement of the service pipe, stopcock, valve and other fixtures.

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

99-08 Richard Marchand: Place a street light on Pole #59 in the vicinity of 600 Merriam Avenue.

Upon request of the PUBLIC SAFETY COMMITTEE, the following PETITIONS were given FURTHER TIME. Vt. 9/0

100-08 Claire M. Freda: Request the police determine the safety and traffic volume for the possible closure of the bridge on Old Mill Road.  
4-09 Dick O'Brien, Regional Director for the Trustees of Reservations: Establish two pedestrian crosswalks on Abbott Avenue.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following APPOINTMENTS were CONFIRMED. Vt. 9 "yeas"

Emergency Management Auxiliary Police Unit  
Eric P. Almeida, Eric M. Schmidt Sr., Roland R. Rivard

Leominster Planning Board – John B. McLaughlin - term to expire April 15, 2010

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

Trust Fund Commission - John Howard - term to expire April 15, 2011

Under New Business, Councillor Lanciani said they have a letter from the Leominster Housing Authority that was sent to the Mayor referencing the fact that Councillor Marchand's Mother had fallen and the Housing Authority is asking for assistance in repaving the section of asphalt and adding a more defined curb to the existing sidewalk. Councillor Lanciani said he does not know what has been done or what will be done but hope that we can follow up with this.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following ORDER was ADOPTED. Vt. 9 "yeas"

CITY OF LEOMINSTER

MUNICIPAL ELECTION ORDER

SEPTEMBER 16, 2008

Ordered: - that the City Clerk be and she hereby is authorized and directed to notify and warn the voters of the City of Leominster to assemble in their respective polling places in the several wards and precincts of the City, designated by the City Council as follows:

WARD 1A	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 1 B	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY



REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2008, continued

WARD 1C	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 2A	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 2B	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 2C	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 3A	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 3B	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 3C	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 4A	SENIOR CITIZEN DROP-IN CENTER 23 POND STREET
WARD 4B	LEOMINSTER VETERANS' QUARTERS 23 WEST STREET
WARD 4C	LEOMINSTER VETERANS' QUARTERS 23 WEST STREET
WARD 5A	AUDITORIUM, CITY HALL 25 WEST STREET
WARD 5B	AUDITORIUM, CITY HALL 25 WEST STREET
WARD 5C	FIRST BAPTIST CHURCH OF LEOMINSTER 23 WEST STREET

On Tuesday, the 16<sup>th</sup> day of September 2008, then and there for the purpose of giving in their votes for the election of candidates for the following offices: Senator in Congress, Representative in Congress – 1<sup>st</sup> District, Councillor – 7<sup>th</sup> District, Senator in General Court – Worcester & Middlesex, Representative in General Court – 4<sup>th</sup> Worcester District, Register of Probate – Worcester County.

And if is further ORDERED: - that the polls shall be opened at 7:00 A.M. and closed at 8:00 P.M. and that notice shall be given by publication of this order in a conspicuous place in the office of the City Clerk.

Per Order Leominster City Council  
True Copy Attest:  
Lynn A. Bouchard, City Clerk

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Under Old Business, Councillor Dombrowski, Chairman of the President's Drinking Water Oversight Committee, says they have a slew of reports and they will have to be reviewed and they will report back.

Upon recommendation of the PUBLIC SERVICE COMMITTEE, the following LAYOUT was ADOPTED. Vt. 9/0

Order of Layout - Accept and approve the Layout of Southers Crossing

The City of Leominster  
Order of Layout  
Southers Crossing

WHEREAS, by its vote of February 28, 2005, on Communication No. 49-05, the City council of the City of Leominster granted a petition to lay out and accept as public the way known as Southers Crossing; and

WHEREAS, it appears that common convenience and necessity require that the way shown as "Southers Crossing: on a plan entitled: "Southers Crossing" Street Acceptance Plan in Leominster, Massachusetts," scale: 1" = 40' dated December 18, 2002, prepared for Robert Eyles by Hannigan Engineering, Inc. (the "Plan"), be laid out as a public way in the City of Leominster in accordance with said Plan;

NOW, THEREFORE BE IT ORDERED:

That said Southers Crossing is hereby laid out as a public way in accordance with said Plan, and that the Mayor is hereby authorized to acquire the necessary interests in land by gift.

IN WITNESS WHEREOF, we, the duly elected and qualified City Councilors of the City of Leominster have hereunto set our hands as of the 28<sup>th</sup> day of July, 2008.

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A motion to give the following ORDINANCE FURTHER TIME was defeated Vt. 3 “yeas” and 6 “nays”; Councillors Salvatelli, Nickel, Freda, Dombrowski, Rosa and Lanciani opposed.

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 7 “yeas” and 2 “nays”; Councillors Rowlands and Marchand opposed.

The City of Leominster  
In the year two thousand and eight

Ordinance – amend Chapter 22 of the Revised Ordinances entitled “Zoning” Article II, Section 22 to be amended as follows:

1. Section 22-26, Table of Uses, Business Uses is hereby amended by:
  - (a) adding a double asterisk (\*\*) as a footnote to the “N” under the “RC” column for the Beautician and Barber shop entries; and
  - (b) adding “Section 22-20.3” under the “References” column for the Beautician and Barber shop entries; and
  - (c) adding an explanation of footnote \*\* at the end of the Business Uses section of the Section 22-26 Table of Uses to read as follows: “Except that, by special permit from the Planning Board, a beautician or barber shop may be allowed in the Residential C District in accordance with Section 22-20.3”.
2. Section 22-20 Residence C Districts, is hereby amended by adding a new Section 20.3 to read as follows:
  - 20.3 The Planning Board may grant a special permit to allow the conduct of a beautician or barber shop as a second principal use within an existing building in the RC District, provided the following criteria are met:
    - 20.3.2 At the time of the application for the special permit, the building has a predominantly single- or two-family residential appearance and is in lawful, mixed commercial and residential use either: (a) as a pre-existing non-conforming use; or (b) in conformance with a previously granted variance; or (c) in conformance with Section 22-16.2.
    - 20.3.3 The proposed beautician or barber shop will replace only the lawfully existing non-residential use of the building, and no changes will be made to the building to accommodate the proposed non-residential use which would significantly alter the single- or two-family character of the building’s exterior.
    - 20.3.4 The existing residential use of the building will not be reduced in area to accommodate the proposed non-residential use;
    - 20.3.4 On-site parking shall be provided in accordance with Section 22-67; and
    - 20.3.5 Signs shall conform to Section 22-84.1

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Upon request of the LEGAL AFFAIRS COMMITTEE, the following ORDINANCE was referred to the Mayor and given FURTHER TIME. Vt. 8/1; Councillor Salvatelli opposed.

2<sup>nd</sup> Reading Ordinance - amend Chapter 22, Section 16.10 through 16.10.2 (Generally Permitted Uses in an Industrial or Commercial District) to change the Special Permitting granting authority from the City Council to the Planning Board.

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2008, continued

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained.  
Vt. 9 “yeas”

The City Of Leominster

In the year two thousand and eight

Ordinance-Amend Chapter 13, Article III, Section 13-34 of the Revised Ordinances entitled “No Parking on Certain Streets.”

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

Summer Street (east side), from the corner of the ninety-degree bend bordering Carter Park  
For a distance of approximately one hundred and eighty-seven feet heading towards Water Street.

Summer Street (north side), from the corner of the ninety degree bend bordering Carter Park  
For a distance of approximately forty-five feet heading west towards Main Street.

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Subcommittee meetings were established for Legal Affairs on August 7, 2008 at 7:00 P.M. and the President’s Drinking Water Oversight Committee for August 28, 2008 at 7:00 P.M.

The following PETITION was removed from the table and placed on the calendar for action. It was so voted. Vt. 9/0 The Committee reports as follows:

97-06 Dorothy Rouleau: Adopt a Demolition Delay Bylaw to protect historically significant resources of the City of Leominster by considering alternatives to demolition of buildings 75 years old or more. LEAVE TO WITHDRAW WITHOUT PREJUDICE. Vt. 8/1, Councillor Salvatelli opposed.

MEETING ADJOURNED AT 11:20 P.M.

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