

HEARING BEFORE THE CITY COUNCIL, JANUARY 14, 2008

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

All members were present except Councillors Salvatelli and Dombrowski.

The following ORDINANCE was the subject of the hearing:

Relative to Amending Chapter 2, Section 2-4 of the Revised Ordinances entitled "Expenditures and Reports of Officers and Boards; Financial Year" requiring as a condition to any amounts appropriated by the City Council, an "Appropriation Expenditure Summary" form be completed by the appropriate City Department Head and submitted to the City Council. (Legal Affairs-Petition #34-08)

Councillor Rowlands read the complete Ordinance. See page _____.

Councillor Lanciani said he thought this was referred to the Mayor's office and asked if there was a reply.

The City Clerk said it was referred to the Comptroller and the City Solicitor.

Councillor Lanciani said he had given some thought to requesting the Mayor's office for updates. He read the following from the City Council's Rules and Procedures: "Ways & Means Committee-The Ways & Means Committee shall consist of three members. The Ways & Means Committee shall meet with the Mayor, when necessary, in order to keep the City Council and executive office in constant communication. The Ways & Means Committee may discuss all appointments and internal matters, federal and state grants and revenue sharing programs, including CDA funds. The Ways & Means Committee will also determine and recommend action to the Council on all matters dealing with salaries, Council rules, license requests and elections." He said that he supports this petition.

Councillor Rowlands said this is a second reading tonight and if you want to raise the issue or an additional referral we can discuss it.

Councillor Lanciani said he understands what we're trying to do and has no problem with that.

Councillor Freda asked if this was going to be a summary once a year or every time they request money.

Councillor Rowlands said it is every time they request money. It will be an expenditure form every time they make an allocation.

Councillor Freda asked if every time a department head wants money they will have to submit this to us first along with what the Mayor sends us?

Councillor Rowlands said yes.

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

HEARING ADJOURNED AT 7:08 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JANUARY 14, 2008

Hearing opened at 7:18 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present except Councillors Salvatelli and Dombrowski.

Present at the hearing was Anthony Aveni, Metro North Associates.

The following PETITION was the subject of the hearing:

45-08 James L. Xarras, Union Square Realty Trust: Grant a Special Permit to use 70% of a vacant Industrial complex at 453-511 Lancaster Street located in an Industrial Zone and shown on Assessor's Map 443A, Lots 1 and 6 for a Mixed Use Project.

Introduced and made part of the record were the following:

- A. Petition submitted by James L. Xarras, Union Square Realty Trust accompanying plan entitled "Proposed Parking Plan in Leominster, Massachusetts for Union Square" prepared by Jeffrey L. Herz, Registered Professional Engineer, Metro North Associates, LLC P.O. Box 404, Leominster, MA 01453 and dated November 21, 2007.
- B. Notice of public hearing published in the Sentinel & Enterprise on December 7, 2007 and December 24, 2007.

- C. A letter from the Board of Health said “Our main concern is that all of the proposed uses must be consistent with the other surrounding uses. They must co-exist with each other without creating nuisances or unhealthy situations. An example of this would be allowing residential units to be near noisy companies, companies that utilize heavy trucking, or a company that discharges odors or steam into the atmosphere. Or, by allowing a restaurant or tavern to operate approximate to residential properties that could be impacted by noise, traffic and or lights.”
- D. A letter from the Conservation Commission said they do not have comment with regards to zoning issues but to remind the applicant that any construction within 200 feet of Fall Brook will require filing with the Leominster Conservation Commission, this includes re-paving and demolition.
- E. The Planning Board sent a letter on January 4, 2008 and said the Planning Board first hear this request on December 18, 2008 but did not feel they had enough information and continued the meeting to January 15, 2008. A second letter dated January 9, 2008 read as follows:

“Re: Mixed Use Development Project and Master Plan

As a point of clarification for mixed use projects of 20 acres or less, the Planning Board thinks that the master plan for the site needs to be prepared before any decision is granted on a Special Permit. Section 24.2.5 of the Leominster Zoning Ordinance contains the criteria for a master plan of a mixed use development of any size. The master plan would give the City Council and the Planning Board the information required to make good decisions regarding the project. This would also make the process for large projects (over 20 acres) consistent with smaller projects (20 acres and less).

This became a matter of discussion for the Board at their December 18th meeting as it became apparent that there is a potential for a number of mixed-use projects under 20 acres.”

Mr. Aveni, representing Mr. Xarras, said this property is the old Union Products building at 511 Lancaster Street. On the property there are several brick row buildings, which is typical of early 1900 construction, ranging in size from very small to very large for warehousing. A master plan with parking, loading docks as they are today, and areas of brush was shown. A master plan with parking and loading docks was presented to the Council to be seen and not the same master plan that will be presented to the Planning Board when the applicant goes before them. (Note: A master plan with parking and loading docks was shown to the Council but this is not the same master plan that will be presented to the Planning Board when the applicant goes before them.)

He said they have created 180 parking spaces with maneuvering isles adequate for fire apparatus and emergency vehicles and room for the trailers to back into the industrial areas of the buildings. He said he would like to go for a 70/30 Mixed Use - 70% Commercial use and 30% Industrial use.

Councillor Marchand asked Mr. Aveni to show the proximity to Lancaster Street.

Mr. Aveni said the buildings were fused together and added on to with catwalks put in place. He said their plan is to remove the catwalks and some portions of the buildings to create buildings that have more usable space to attract retail, studio type loft properties, possibly a restaurant and in the same fashion keeping industrial in place in the bigger warehouse parts of the building.

Councillor Rowlands asked how many acres in the site.

Mr. Aveni said the site has 9.2 acres.

Councillor Rowlands asked if there was only one owner.

Mr. Aveni said correct.

Councillor Rowlands asked what businesses are in there now.

Mr. Aveni said there are two industrial tenants there now. Bristol-Meyers Squibb is located in the back section of the warehouse and occupy approximately 55,000 square feet. They are assembling products for their new facility at Devens and are a short-term tenant. In the other back section is Bromfield Industries which is a major manufacturer of catscan winding motors for Catscan and MRI machines. It is a specialty tech skill operation. He said there has been a crew cleaning and painting to make it presentable being a major artery into the City.

Councillor Lanciani asked how many square feet Bromfield Industries occupies.

Mr. Aveni said approximately 20,000 square feet.

Councillor Marchand said he likes the idea of mixed use for that site. He asked Mr. Aveni if he was in a position to show a rendering to demonstrate the separation of commercial traffic with the industrial traffic in use.

Mr. Aveni said they are trying to keep the industrial parking to the rear with the exception of a small area in front. He said the 30% is pretty much covered in the back section where the loading docks are which is set up industrial. The other area fits the criteria for commercial. He said they are trying to keep the visibility in the front on Route 117 for commercial business.

Councillor Marchand asked him if they were planning on using the existing structures or would there be any demolishing or razing of the buildings.

Mr. Aveni said they are planning on using most of the structures that are there. There will probably be some demolition.

Councillor Marchand asked what type of businesses would be envisioned in this project.

HEARING BEFORE THE CITY COUNCIL, JANUARY 14, 2008, continued

Mr. Aveni said it could be very similar to Riverwalk in Lawrence. It has a mix of studios, retail, commercial space, office space, incubator type businesses, which come in small and grow into a large spot. It is very similar to Lawrence with the same type of structures being the mill buildings. The highest and best usage is lofts and office space.

Councillor Marchand asked if he was planning any residential on this site.

Mr. Aveni said we could possibly have residential. There is one building we would like to do lofts. That building is located across from the traffic lights on the road that goes through to Monson Chemical. He said they would like to possibly do professional lofts or residential lofts.

Councillor Freda asked if there was any environmental testing done on the property.

Mr. Aveni said a 21E has been done on the property. He said to his knowledge, from the documents he has gone through, the property has been cleaned, tanks have been removed and contaminated soil has been removed. There are several monitoring wells on the property. Mr. Aveni said to his knowledge most, if not all, of the contamination has been cleaned.

Councillor Freda asked if it abutted Gregg Lisciotti's property on Malburn Street.

Councillor Rowlands said Carter Hill Holdings is listed as an abutter.

Mr. Aveni said that property is located further up on Malburn Street at the corner of Aspinwall Avenue.

Councillor Nickel asked if the lines on the plan were proposed or existing parking spaces.

Mr. Aveni said they are existing and meet the size requirements.

Councillor Nickel asked how many parking spaces were outlined.

Mr. Aveni said 180 spaces.

Councillor Rowlands said he wanted to clarify Mixed Use regarding the 70%:30%. The one third-two third breakdown used when establishing whether it is a Special Permit or by right only applies to sites above 20 acres. Under 20 acres requires a Special Permit and does not have the one third-two third section. He read Section 24.2.5.2 from the Zoning Ordinance. He asked Mr. Aveni what the total square footage was.

Mr. Aveni said roughly about 300,000 square feet.

Councillor Rowlands said basically we are talking approximately 210,000 square feet of Commercial and 90,000 square feet of Industrial.

Councillor Tocci asked if there was access from Malburn Street and how would access be made for the back of the property.

Mr. Aveni said there was no access from Malburn Street but there is an area off of Route 117 where brush has been cleared for the access, a hill has been cut down and a retaining wall has been put in.

Councillor Marchand said there was a concern about access on a property further down from this property. Specifically there was concern with parking on Jim Whitney's property. He said Mr. Whitney spoke to the Council on the merit of working with a partner, whoever that property owner was, to make a safer egress onto the site because of the winding and bending Route 117. He asked Mr. Aveni if he envisioned himself working with the abutters to resolve any problems.

Mr. Aveni said he believes that Councillor Tocci's question of access into the back is what Mr. Whitney was talking about. He said the access land is owned by Union Square. He said there is a telephone pole in the middle of the driveway and he is in the process of speaking with National Grid about moving it.

Councillor Tocci said the other side of the property has plenty of room to get through to the industrial portion.

Mr. Aveni said yes, that road is the main access to Monson Chemical which the entrance of the road is owned by Mr. Xarras. They pass over his property to get to Monson Chemical. That access is completely paved.

Councillor Freda said one of the issues with Mr. Lisciotti's property was to keep trailer trucks off of Malburn Street. She asked if there has been any attempt to purchase any of the properties on Malburn Street to create an entrance.

Mr. Aveni said absolutely not. The brook separates the property and Malburn Street so that would not be feasible.

Councillor Rowlands said not all referrals were back and the Planning Board's recommendation was that the Site Plan process move forward before the Special Permit. He said he would like to have a site visit and would like to continue the hearing.

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

Councillor Rowlands said that Councillor Dombrowski will be abstaining from voting on this petition as he has represented Mr. Xarras in other litigation in the past. Councillor Rowlands also disclosed that his wife, Gail Rowlands, works for Mr. Dombrowski but he will not be abstaining from voting because he or his wife do not have a financial interest in this situation.

HEARING ADJOURNED AT 7:50 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2008, continued

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

Attendance was taken by a roll call vote; all members present except Councillor Salvatelli.

The Committee on Records reported that the records through January 7, 2008 were examined and found to be in order. The records were accepted.

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

- C-69 Relative to the appropriation of \$325,000.00 to the Snow and Ice Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-70 Relative to the appropriation of \$3,000.00 to the Conservation Commission Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-71 Relative to the appropriation of \$2,000.00 to the Cemetery Expense Account; same to be transferred from the Cemetery Perpetual Care Income Account.
- C-72 Relative to the appropriation of \$5,000.00 to the Election and Registration Account; same to be transferred from the Excess and Deficiency Account.
- C-73 Relative to the appropriation of \$1,400.00 to the License Commission Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-74 Relative to the appropriation of \$100,000.00 to the Police Department Overtime Account; same to be Transferred from the Excess and Deficiency Account.
- C-75 Relative to the appropriation of \$97,000.00 to the Highway Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.
- C-76 Relative to the appropriation of \$25,000.00 to the Highway Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-77 Relative to the appropriation of \$50,000.00 to the Snow and Ice Overtime Account; same to be transferred from the Excess and Deficiency Account.

The following COMMUNICATION was received under SUSPENSION OF THE RULES and referred to the FINANCE COMMITTEE. Vt. 8 "yeas". Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 8 "yeas"

- C-78 Dean J. Mazarella, Mayor: Request that the Snow and Ice Expense Account be authorized to incur liability and make expenditures in excess of appropriations up to an amount not to exceed \$250,000.00 as authorized by Chapter 44, Section 31D of the Massachusetts General Laws.

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE, given REGULAR COURSE and referred to the Department of Public Works, the Water and Sewer Commission, the Mayor, the Comptroller and the Fire Department.

- 46-08 Dennis A. Rosa and Richard M. Marchand: Request the City to provide an allowance/reimbursement of \$1,200.00 for water line replacements when deemed necessary by the Department of Public Works.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Conservation Commission, the Department of Public Works, the Director of Inspections, the Health Department, the Planning Board, the Police Department and Fire Department. A hearing was set for February 11, 2008 at 7:15 p.m. Vt. 8/0

- 47-08 Robert Walters, Agent for Harvard Realty Trust and Scott Bigelow, 375 Harvard Realty LLC and B& B Realty Trust: Rezone two parcels of land known as 391 Harvard Street and 375 Harvard Street and a parcel of land located at the intersection of Harvard and White Streets from Industrial to Commercial.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the License Commission, the Health Department, the Mayor and the Police Department.

- 48-08 Richard M. Marchand: Request the City Solicitor draft legislation to prohibit BYOB (Bring Your Own Booze) concept to be enforced throughout the City of Leominster and targeted for food establishments authorized by the local Board of Health.

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2008, continued

The following PETITION was received, referred to the CITY PROPERTY COMMITTEE and given REGULAR COURSE.

49-08 New England Farm Workers' Council: Request permission to use the City Council Chambers on February 1st, 4th, 11th, 25th; March 3rd, 10th, 17th, 24th, 31st; April 7th, 14th, 18th, 28th, 2008 to take fuel assistance applications.

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

Fire Department – Deputy Chief - Daniel P. Kirouac, Lieutenant - Lee A. Baron

Emergency Management - Communications Unit – Angelo A. Baldin, Admin Unit – Matthew P. Cipriani

Doyle Field Commission – Gilbert C. Donatelly, Sr. - Term to expire April 15, 2009
(To fill the unexpired term of Ellio Torcoletti)

Election Officer - Rita E. Souliere

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 7/0; Councillor Dombrowski abstained due to possible conflict of interest.

45-08 James L. Xarras, Union Square Realty Trust: Grant a Special Permit to use 70% of a vacant Industrial complex at 453-511 Lancaster Street located in an Industrial Zone and shown on Assessor's Map 443A, Lots 1 and 6 for a Mixed Use Project. (A hearing is scheduled on February 11, 2008 at 7:00 P.M.)

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 7 "yeas" and 1 "nay"; Councillor Freda opposed.

The City of Leominster
In the year two thousand and eight

An Ordinance amending Chapter 2 of the Revised Ordinances entitled "Administration."

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

Section 2-4 of the Revised Ordinances entitled "Expenditures and Reports of Officers and Boards; Financial Year" is hereby amended by inserting the following text at the end of the paragraph:

In addition, department heads shall provide information to the city council regarding expenditures by the departments of appropriated funds. Such information shall be provided in an appropriation expenditure summary report, in a form approved by the city council, and filed with the city clerk within fourteen days of final payment or completion of the project for which funds were appropriated, whichever occurs earlier.

Under Old Business, Councillor Dombrowski, Chairman of the President's Drinking Water Oversight Committee said there will be an informational meeting and an organizational meeting in the near future which will be posted.

Councillor Rosa, Chair of the Finance Committee, read the City's financial report as of December 6, 2007. The total appropriations granted from the Access and Deficiency Account (Free Cash Account) was \$2,836,452.00; Emergency Reserve Account balance is \$6,450.00; the Stabilization Account balance is \$8,461,976.06, with interest earned in FY 2008 of \$112,295.56. Councillor Rosa said our financial position remains good.

Councillor Rowlands gave a summary of the Legal Affairs Committee meeting on January 9, 2008 regarding Communications C-9 through C-13 from 2005. These communications were regarding liquor licenses. He said the Legal Affairs Committee's conclusion and recommendation was to leave them tabled at this point. The majority of the Legal Affairs Committee felt there was still merit for discussion but the timing was not correct.

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2008, continued

Upon recommendation of the WAYS & MEANS COMMITTEE the following ORDER was ADOPTED. Vt. 8 "yeas"

**CITY OF LEOMINSTER
PRESIDENTIAL PRIMARY
ELECTION ORDER
FEBRUARY 5, 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 1B	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
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 5 POND STREET
WARD 4B	LEOMINSTER VETERANS' QUARTERS 100 WEST STREET
WARD 4C	LEOMINSTER VETERANS' QUARTERS 100 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 fifth day of February 2008, then and there for the purpose of giving in their votes for the election of candidates for the following offices:
Presidential Preferences, State Committee Man, State Committee Woman, Ward Committee.

And it 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

The following ORDINANCE was read once and adopted as presented and ordered published. A hearing was set for January 28, 2008 at 7:30 P.M.. Vt. 8 "yeas"

1st Reading Ordinance – Amend Chapter 13, Section 13-29 of the Revised Ordinances entitled "Motor Vehicles and Traffic" by adding Section 13-29 Handicapped Parking Spaces establishing an Ordinance for handicap parking on a public way and creating one reserved space on Lancaster Street in front of St. Anna Rectory at pole #28.

The following ORDINANCE was read once and adopted as presented and referred to the Fire Department for review. Vt. 8 "yeas"

1st Reading Ordinance – Amend Chapter 22 of the Leominster Zoning Ordinances by creating a definition for "Athletic Training Facility" and adding it to the Table of Uses in Business A, Business B, Commercial and Industrial with a Special Permit by the Planning Board.

Councillor Marchand said that Councillor Rowlands and Councillor Lanciani will be attending the zoning workshop on Wednesday, January 16, 2006 at 6:00 P.M. at the Leominster Library. He requested a citation for Ellio Torcoletti for his many years of service and will invite him and his family to a meeting for recognition.

MEETING ADJOURNED AT 8:48 P.M.

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