

HEARING BEFORE THE CITY COUNCIL, OCTOBER 14, 2008

The hearing opened at 7:15 P.M with Councillor Rowlands, Chair of the Legal Affairs Committee, presiding.

All members were present.

The following PETITION was the subject of the hearing:

11-09 Ronald and Lisa Vallee: Grant a Special Permit for work in the flood plain to allow a single family home at 56 Juniper Road, shown on Assessors Map 473 as lot 420/7, to connect to the city sewer system due to a failed septic system.

Introduced and made part of the record were the following:

- A. Petition 11-09 submitted by Lisa Vallee, 56 Juniper Road, Leominster, MA with accompanying plan entitled "Proposed Sewer Connection Plan For 56 Juniper Road in Leominster, Massachusetts" prepared by Brian F. Milisci, Registered Civil Engineer, Whitman & Bingham Associates, 510 Mechanic Street Leominster, MA dated September 3, 2008, and a revised plan with revisions through October 7, 2008.
- B. Notice of public hearing published in the Sentinel & Enterprise on September 22, 2008 and September 29, 2008.
- C. Positive recommendations were received from the Health Department, the Building Inspector, the Planning Department, the Department of Public Works
- D. The Conversation Commission recommendation said "This project will fall under an Emergency Order. The Emergency Order will be issued as soon as the Commission is notified that work will begin. The Emergency Order will be valid for 30 days from issuance."
- E. A letter from Chris Knuth, the Health Director, to the MA Division of Fisheries & Wildlife.

Councillor Rowlands read the recommendations.

Jamie Rheault said 56 Juniper Road is part of the Samoset tract and approximately 90% of these homes have septic systems. He said the applicant is pumping out the system monthly to prevent problems. The revised plan shows an additional manhole and a change from 6 inch pipe to 8 inch pipe. The reason for the change is for the neighboring septic system to have the ability to connect to the City sewer in the future if and when it fails. He said the School Department owns a piece of land where the pipe will be layed and an easement will be drawn up by an attorney.

Councillor Nickel asked if it was gravity fed.

Mr. Rheault said yes, it is gravity fed.

Councillor Salvatelli asked if the pipe was going under or over the brook.

Mr. Rheault said it will be going under the brook.

Councillor Rowlands asked when they anticipated completion of the project.

Mr. Rheault said mid November. He said it would only take a few days once the appeal period is over and permits pulled.

Councillor Marchand asked what would happen if the sewage gets into the brook.

Mr. Rheault said the owners will be responsible and it will be written into the easement and recorded.

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

HEARING ADJOURNED AT 7:34 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, OCTOBER 14, 2008

Meeting was 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 September 22, 2008 were examined and found to be in order. The records were accepted.

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

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

- C-21 Relative to the appropriation of \$2,400.00 to the Highway Overtime Account; same to be transferred from the Emergency Reserve Account.
- C-22 Relative to the appropriation of \$10,000.00 to the Sanitation and Drainage Expense Account; same to be transferred from the Emergency Reserve Account.
- C-23 Relative to the appropriation of \$780,293.19 to the Water Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-24 Relative to the appropriation of \$658,866.31 to the Sewer Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-25 Relative to the appropriation of \$1,200.00 to the Parking Meter Expense Account; same to be transferred from the Emergency Reserve Account.
- C-26 Relative to the appropriation of \$20,000.00 to the Highway General Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-27 Relative to the appropriation of \$210,000.00 to the Debt Service-Interest on Loans Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-28 Relative to the appropriation of \$175,000.00 to the Debt Service-Principal Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-29 Relative to the appropriation of \$10,000.00 to the City Solicitor Expense Account; same to be transferred from the Emergency Reserve Account.

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

- C-30 Relative to the appropriation of \$100,000.00 to the Fiscal Year 2009 Revenue; same to be transferred from previous years Worker’s Compensation Loss Funds as listed:

FY 2001	\$314.12
FY 2002	\$214.27
FY 2003	\$1,199.59
FY 2004	\$40,602.12
FY 2007	\$18,000.00
FY 2008	\$39,669.90
- C-31 Relative to the appropriation of \$48,500.00 to the Municipal Buildings Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Department of Public Works, the Mayor and the Water and Sewer Commission.

- 14-09 John M. Dombrowski, David E. Rowlands and Wayne A Nickel, Drinking Water Oversight Committee: Request that the Leominster City Council adopt a Resolution relative to the manual application of the identified coagulant and pH water treatments at the Notown Reservoir.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Building Inspector, the Conservation Commission, the Department of Public Works, the Health Department and Planning Board.. A hearing was set for November 10, 2008 at 7:15 P.M. Vt. 9/0

- 15-09 Christine Lane for CWL Holdings LLC: Grant a Special Permit to construct a two-family dwelling at 43 Cotton Street located in a flood plain and shown on Assessor’s Map 5 as Lot 13.

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

Election Officers- Robert Mason and Annemarie M. Barba

Leominster Fire Department – Permanent Promotions

- Alfred F. Kirouac - Deputy Chief
- Jason J. LeBlanc - Lieutenant

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

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

Excess and Deficiency Account (Free Cash)	\$5,464,869.00
Emergency Reserve Account	\$14,000.00
Stabilization Account	\$8,773,330.98
Interest earned for FY-09	\$39,861.01

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

- C-15 Relative to the appropriation of \$2,600.00 to the Purchasing Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- RE: Appraisal of property for potential police station site.
Property: 511 Lancaster Street
Owner: 511 Lancaster Street Realty Trust
- C-16 Relative to the appropriation of \$7,000.00 to the Parking Meter Salary & Wages Account; same to be transferred from the Parking Meter Receipts Reserved for Appropriation Account.
- RE: Parking payroll for FY 09
- C-17 Relative to the appropriation of \$11,000.00 to the Parking Meter Expense Account; same to be transferred from the Parking Meter Receipts Reserved for Appropriation Account.
- RE: Parking meter expenses for FY 09
- C-18 Relative to the reduction of the FY 2009 Sewer Department Budget by \$59,000.00; Sewer Expenses Account reduced by \$48,500.00 and Sewer Capital Outlay Expense Account reduced by \$10,500.00.
- C-19 Dean J. Mazzearella, Mayor: Request that an Energy Assistance Donation Account be established as authorized by Massachusetts General Laws Chapter 44, Section 53A.

Upon request of the FINANCE COMMITTEE, the following COMMUNICATION was TABLED for study. Vt. 9 "yeas"

- C-20 Relative to determining the factor to be used in setting the Fiscal Year 2009 tax rate.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was AMENDED and GRANTED AS AMENDED. Vt. 9 "yeas" Amended to change the last sentence of Section 21-13.2.6 to read "A revocation of the permit shall preclude the permittee from the sale or renewal of plans but shall not relieve permittee of its obligations to covered **households under plans in force and effect on the date of revocation nor shall** revocation relieve the permittee of its obligation to maintain its bond in full force and effect."

- C-153 Dean J. Mazzearella, Mayor: Amend Chapter 21, Article II of the Revised Ordinances entitled "Water Department" by adding Section 21-13.2 "Water Line and Sewer Main Line Protection Plans" which establishes standards and minimum requirements for persons or businesses that seek to offer water line and/or sewer main line protection plans to homeowners.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was AMENDED and GRANTED WITH CONDITIONS. Vt. 9 "yeas" Amended from "70% Commercial use and 30% Industrial use" to "50% Commercial use and 50% Industrial use."

- 5-09 Robert Bolio, President BRJ Ltd.: Grant a Special Permit for a Mixed Use Development Project to allow 50% Commercial use and 50% Industrial use at 39 Spruce Street located in an Industrial zone and shown on Assessor's Map 20, as Lot 14.

The conditions are:

1. Compliance with all federal, state, and city regulations, ordinances, and codes.
2. An approval, by the Planning Board, of the Site Plan including any conditions that the Planning Board deems necessary to be added to the Site Plan.
3. Full compliance with said approved Site Plan including any conditions put on the Site Plan by the Planning Board.
4. No more than 50% of this project site may be used for any one of, or any combination of, the following non-industrial uses which are specified in the Mixed Use Development Project definition in Section 22-4 of the Leominster Zoning Ordinance:
 - a. Personal and consumer service establishments
 - b. Retail Stores
 - c. Banks
 - d. Restaurants including drive-in
 - e. Such other commercial uses typically found in such Mixed Use Centers and Parks

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

5. A full engineering study of the sprinkler and fire alarm system by a registered engineer be commissioned with all repairs and upgrades recommended by the study.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED. Vt. 9 "yeas"

- 11-09 Ronald and Lisa Vallee: Grant a Special Permit for work in the flood plain to allow a single family home at 56 Juniper Road, shown on Assessors Map 473 as lot 420/7 to connect to the city sewer system due to a failed septic system.

Upon recommendation of the PUBLIC SAFETY AND CITY PROPERTY COMMITTEE, the following PETITION was AMENDED AND GRANTED AS AMENDED. Vt. 9 /0.

- 12-09 Richard M. Marchand, Executive Director-Leominster Downtown Corporation: Close off West Street from School Street to Main Street and Park Street from Main Street to the West Street Intersection between the hours of 6:00 A.M. to 6:00 P.M. to accommodate the annual Johnny Appleseed Arts and Cultural Festival and request the use of the City Hall parking lot as well as the City owned parking lot between the First Baptist Church and the First Church Unitarian on September 12, 2009 (rain date September 26, 2009); September 11, 2010 (rain date September 25, 2010).

Upon recommendation of the PUBLIC SAFETY AND CITY PROPERTY COMMITTEES, the following PETITION was GRANTED. Vt. 9/0

- 13-09 New England Farm Workers' Council: Request permission to use the City Council Chambers on October 8th, November 3rd, 13th, 17th, 19th, December 1st, 11th, 15th, 29th 2008, and January 5th, 12th, 16th, 26th 2009 to take fuel assistance applications.

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

Leominster License Commission - Melissa A. Maguire
term to expire April 15, 2014

Under Old Business, Councillor Dombrowski, Chairman of the President's Drinking Water Oversight Committee, said they had a very informative meeting. He said Roger Brooks, Pat LaPointe, Charles Reed and Rob Little from Woodward & Curran attended. Councillor Dombrowski said they are on schedule with the consent order. He said plans for the filtration plant will not be needed for the DEP until January 1, 2009 but the plans are needed to secure a low interest loan in October. He said the plans will be submitted by October 15, 2008.

Councillor Dombrowski said TTHM reduction will take priority and the coagulant was approved by DEP. He said the plant at Notown will be upgraded to automatically apply coagulant and chemicals to stabilize the Ph which has dropped. The automated TTHM reduction system will be designed next Spring and could be ten months or more for the final solution to be in place. He said the filters have been working very well and have not become overly clogged and they are looking into active carbon filtration which has greater potential for removing the organic materials. He said the TTHM numbers are up at Notown Reservoir including levels above 110. He said questions were raised by the Committee on why the administration did not administer TTHM medication manually and said it was explained by Woodward & Curran that they have full approval from DEP and that the manual application can be done. He said they have requested that it be done manually and they have put together a Resolution that it be done manually until such time as the automation is in place. He said there will be extra cost for manual application which will have to be looked at for the following year. He said the water levels for all the reservoirs are at 93% and the supply levels are very good especially when compared to last year. He said with plenty of rain in the summer and fall months, it resulted in a reduction in usage which means about \$55,000.00 less income than last year. He said Mr. Brooks discussed the lack of industrial users, however, the reduction due to lower industrial users seems to have settled. He said plenty of rain seems to be the culprit and the reduction seems minimal.

Councillor Dombrowski said Pat LaPointe of the DPW discussed what a great job Paul Kennedy has done fighting abuse and destruction in the watershed. He said they also discussed the continued need for the Route 2 closed run-off system on Route 2. Mr. LaPointe talked about pipe replacement projects including Abbott Avenue. He said Woodward & Curran costs are still roughly One Million Dollars and has not changed much recently, however, they will have potential involvement in the project management of the filtration project.

Councillor Dombrowski said Mr. Brooks stated that the water system needs roughly One Million Dollars per year in capital needs and the budget is no where near that which was slightly over \$134,000.00 last year. He said another key point Mr. Brooks explained is that the price for pipe has tripled.

He said the most important thing that came out of the meeting is that the TTHM situation can be remedied with manual application.

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

Councillor Rowlands said he received a copy of the trash contract and he is happy to see that they have bonding company. He said there was a petition passed and sent to the Mayor’s office in regards to the \$1,200.00 rebate for the work done on water and sewer and wanted to know what action, if any, needs to be taken to get it into ordinance form.

Councillor Marchand asked the Public Service Chairman and the City Clerk to work together on it and report back at the next meeting.

Councillor Tocci said on October 27, 2008 there will be an informational meeting with Conservation Agent Joanne DiNardo regarding the Solar Power Energy Exploratory Committee. Ms. DiNardo will be giving an update on what the City is doing and what we have coming up in the future.

Under New Business, Councillor Marchand said there will be a public meeting on October 15, 2008 at the Leominster Library from 6:30-8:30 P.M. on the zoning change project.

Upon the recommendation of the PUBLIC SERVICE COMMITTEE, the ORDER OF LAYOUT was ADOPTED. 9 “yeas”

Order of Layout and deed acceptance - Gamache Lane

CITY OF LEOMINSTER
ORDER OF LAYOUT
GAMACHE LANE

OCTOBER 15, 2008

ORDERED:

WHEREAS, it appears that the public convenience and necessity require the laying out of a public way known as Gamache Lane in the location as shown on a plan entitled: Donovan Subdivision Street Acceptance Plan in Leominster, Massachusetts,” dated September 20, 2007, prepared by Hannigan Engineering, Inc. (Layout Plan”);

NOW, THEREFORE, BE IT ORDERED:

That a way to be known as Gamache Lane is hereby laid out as a public way in the location as shown on the Layout Plan, pursuant to the OCTOBER 14, 2008 vote of the City Council on Communication No. 89-08.

IN WITNESS WHEREOF, we, the duly elected and qualified City Councilors of the City of Leominster have hereunto set our hands as of the 14th day of OCTOBER, 2008.

CITY COUNCIL
CITY OF LEOMINSTER

Upon the recommendation of the WAYS & MEANS COMMITTEE, the ELECTION ORDER was passed. Vt. 9 “yeas”

CITY OF LEOMINSTER
STATE ELECTION
ELECTION ORDER
NOVEMBER 4, 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 |

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

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 4th day of November 2008, then and there for the purpose of giving in their votes for the election of candidates for the following offices: Electors of President and Vice President, Senator in Congress, Representative in Congress, Councilor, Senator in General Court, Representative in General Court, Register of Probate.

QUESTION 1: LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 6, 2008?

SUMMARY

This proposed law would reduce the state personal income tax rate to 2.65% for all categories of taxable income for the tax year beginning on or after January 1, 2009, and would eliminate the tax for all tax years beginning on or after January 1, 2010.

The personal income tax applies to income received or gain realized by individuals and married couples, by estates of deceased persons, by certain trustees and other fiduciaries, by persons who are partners in and receive income from partnerships, by corporate trusts, and by persons who receive income as shareholders of "S corporations" as defined under federal tax law. The proposed law would not affect the tax due on income or gain realized in a tax year beginning before January 1, 2009.

The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

A YES VOTE would reduce the state personal income tax rate to 2.65% for the tax year beginning on January 1, 2009, and would eliminate the tax for all tax years beginning on or after January 1, 2010.

A NO VOTE would make no change in state income tax laws.

QUESTION 2: LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 6, 2008?

SUMMARY

This proposed law would replace the criminal penalties for possession of one ounce or less of marijuana with a new system of civil penalties, to be enforced by issuing citations, and would exclude information regarding this civil offense from the state's criminal record information system. Offenders age 18 or older would be subject to forfeiture of the marijuana plus a civil penalty of \$100. Offenders under the age of 18 would be subject to the same forfeiture and, if they complete a drug awareness program within one year of the offense, the same \$100 penalty.

Offenders under 18 and their parents or legal guardian would be notified of the offense and the option for the offender to complete a drug awareness program developed by the state Department of Youth Services. Such programs would include ten hours of community service and at least four hours of instruction or group discussion concerning the use and abuse of marijuana and other drugs and emphasizing early detection and prevention of substance abuse.

The penalty for offenders under 18 who fail to complete such a program within one year could be increased to as much as \$1,000, unless the offender showed an inability to pay, an inability to participate in such a program, or the unavailability of such a program. Such an offender's parents could also be held liable for the increased penalty. Failure by an offender under 17 to complete such a program could also be a basis for a delinquency proceeding.

The proposed law would define possession of one ounce or less of marijuana as including possession of one ounce or less of tetrahydrocannabinol ("THC"), or having metabolized products of marijuana or THC in one's body.

Under the proposed law, possessing an ounce or less of marijuana could not be grounds for state or local government entities imposing any other penalty, sanction, or disqualification, such as denying student financial aid, public housing, public financial assistance including unemployment benefits, the right to operate a motor vehicle, or the opportunity to serve as a foster or adoptive parent. The proposed law would allow local ordinances or bylaws that prohibit the public use of marijuana, and would not affect existing laws, practices, or policies concerning operating a motor vehicle or taking other actions while under the influence of marijuana, unlawful possession of prescription forms of marijuana, or selling, manufacturing, or trafficking in marijuana.

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

The money received from the new civil penalties would go to the city or town where the offense occurred.

A **YES VOTE** would replace the criminal penalties for possession of one ounce or less of marijuana with a new system of civil penalties.

A **NO VOTE** would make no change in state criminal laws concerning possession of marijuana.

QUESTION 3: LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 6, 2008?

SUMMARY

This proposed law would prohibit any dog racing or racing meeting in Massachusetts where any form of betting or wagering on the speed or ability of dogs occurs.

The State Racing Commission would be prohibited from accepting or approving any application or request for racing dates for dog racing.

Any person violating the proposed law could be required to pay a civil penalty of not less than \$20,000 to the Commission. The penalty would be used for the Commission's administrative purposes, subject to appropriation by the state Legislature. All existing parts of the chapter of the state's General Laws concerning dog and horse racing meetings would be interpreted as if they did not refer to dogs.

These changes would take effect January 1, 2010. The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

A **YES VOTE** would prohibit dog races on which betting or wagering occurs, effective January 1, 2010.

A **NO VOTE** would make no change in the laws governing dog racing.

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

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

84-08 Roger Brooks: Amend Chapter 21, Section 21-22.3 entitled "Sewer User Rate Schedule" to increase the in city rate from \$1.70 per unit to \$1.95 per unit and the out of city rate from \$4.00 per unit to \$4.25 per unit effective July 1, 2008. FURTHER TIME. Vt. 9/0

MEETING ADJOURNED AT 9:00 P.M.

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