

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 23, 2009

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

All members were present except Councillor Freda who refrained from the hearing due to a possible conflict of interest. Councillors Dombrowski and Marchand arrived late.

Present at the hearing was John A. Kucich, a Registered Professional Engineer, Bohler Engineering and Donald Lonergan, architect with DRL Associates.

The following PETITION was the subject of the hearing:

38-09 Gordon R. Edmonds, President and CEO of Leominster Credit Union: Grant a Special Permit to build a three story building connecting to the existing building with parking lot expansion at 20 Adams Street as shown on Assessor's Map 14 as Lots 8, 9 and 10 and located within a flood plain.

Introduced and made part of the record were the following:

- A. Petition #38-09 submitted by Gordon R. Edmonds for Leominster Credit Union with accompanying plans prepared by John A. Kucich, a Registered Professional Engineer, Bohler Engineering, 352 Turnpike Road, Southborough, MA entitled "Site Development Plans for Leominster Credit Union Proposed Executive Offices and Operations Building," December 29, 2008, flood storage volume calculations, and Drainage Report, December 17, 2008.
- B. Notice of public hearing published in the Sentinel & Enterprise on February 1, 2009 and February 9, 2009.
- C. Positive letters of recommendations from the Planning Board, Director of Inspections, the Department of Public Works.
- D. A letter from the Health Director stating that attention should be paid to the potential increases in traffic that would occur and how this could impact the entrance to Union Street.
- E. A letter from the Conservation Commission stating they do not have a recommendation with regard to zoning matters but that all state laws be followed, in particular to Commercial multi-story units. The Conservation Commission requested that a rain garden be added to help with stormwater filtering. The issuance of an Order of Conditions is contingent on the final recommendations from the Planning Commission, DPW and the City Council.

Councillor Rowlands read the recommendations from the Building Inspector, the Planning Department, the Department of Public Works, the Health Department and the Conservation Commission.

Mr. Kucich said they have been before the Planning Board and Conservation Commission and they are proposing to add a 29,000 square foot addition to the existing structure. He said he calls it an addition because there is a second story connection to the credit union. He said the location of the structure is on the corner of Adams Street and Union Street and the site work is very simple for the project. He said there already is access to the utilities to the site that will be maintained and upgraded. He said from an elevation standpoint the elevation of the flood plain throughout the property is probably at the elevation of 402 feet which covers a good portion of the property. He said what they propose to do to mitigate any affects of that is to lift the building up as high as they can to make sure the floor elevation would be out of the flood plain and be in accordance with the building code. To do that we need to ensure we provide compensatory storage within the state regulations under building codes as well as under Conservation Commission under the Massachusetts Wetlands Protection Act, which we have done. He said the compensatory storage is on the west side of the site.

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 23, 2009, continued

Rosemary Bracani, 149 Avon Street and a Board member of the Leominster Credit Union is in favor of the petition. She said they have been looking all over and they think this is the best spot.

Councillor Rowlands said he has reviewed the plans for compensatory storage as well as the protection of while construction.

Councillor Nickel said he is looking forward to the expansion. It will be an improvement to have the Grange Hall building down.

Councillor Rowlands said a recommendation came back suggesting sensitivity to traffic. He said he wanted to point out that it was discussed by the Planning Board and it is their jurisdiction. He said the City Council will just be looking at the flood plain issue

Councillor Lanciani said he will miss the Grange Hall but looks forward to the Leominster Credit Union improving the area.

Councillor Marchand said it will be a great asset to the area but has concern about flooding. He said earlier this year we had a difficult rain storm and it was completely flooded at the drive-thru area where he saw employees carrying bags of money that were soaked. He asked if it would be resolved with this plan.

Mr. Kucich said there aren't any plans to provide additional flood storage or to build up the banks from it happening again. Unfortunately the location of this site is in the flood plain.

Councillor Salvatelli said the building of Walgreens gave Leominster Credit Union more visibility and he is glad the Grange Hall building will be taken down for safety reasons.

Councillor Rowlands said the request from the Conservation Commission is for a rain garden and asked Mr. Kucich where they stand with that.

Mr. Kucich said it is already on the plans and has been incorporated.

Councillor Rowlands asked if they would have a problem putting this as a condition.

Mr. Kucich said there will not be an issue.

Councillor Nickel asked what kind of green advantages this building will have.

Mr. Lonergan said there aren't a lot of innovated measures that they can do but what they will try to do is the biggest bang for the buck by bringing up the existing site to compliance. He said more efficient lighting will be installed and more efficient equipment will be used.

Chris Miller, 41 Union Street says he has issues with water from Leominster Credit Union and wants to know if they will be able to stop the water going in his backyard.

Mr. Kucich said he is not exactly sure where the water issue is coming from or what the issue is but he can say that there are very strict laws and regulation when you develop property, one of which you have to make sure you attenuate the post development stormwater flows to be less or equal to the predevelopment flows to avoid a situation of exasperated flooding or changing draining patterns all of which this project has been designed to accommodate. He said the site is in a flood plain and he senses that is the issue and in a larger storm event there might be a breach of the river in certain areas. He said this project will not fix any of these issues, it's the nature of the site itself and what this project will do is make sure it is in accordance with the laws and regulations and the stormwater flows leaving the site after development will have rates less than what was there beforehand.

No one spoke in opposition of the petition.

HEARING ADJOURNED AT 6:54 P.M.

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

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 23, 2009

Hearing opened at 6:55 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present.

Present at the hearing was Kevin Clemens, Engineer from GPD Associates.

The following PETITION was the subject of the hearing:

39-09 Robert E. Wilson, GPD Associates: Grant a Special Permit to modify the existing foundation of the cell tower at 369 Nashua Street as shown on Assessor's Map 372 as Lot 2 and located within a flood plain.

Introduced and made part of the record were the following:

- A. Petition #39-09 submitted by Robert Wilson for GPD Associates with accompanying plans prepared by Mark S. Salopek, a Registered Professional Engineer, GPD Associates, 520 South Main Street, Suite 2531, Akron, Ohio entitled "Leominster 2 USID #61489 Existing 248' Pirod Guyed Tower," dated 11/21/08 with revisions 11/24/08.
- B. Notice of public hearing published in the Sentinel & Enterprise on February 1, 2009 and February 9, 2009.
- C. Positive letters of recommendations from the Planning Board, Director of Inspections, the Health Director and the Department of Public Works.
- D. A letter from the Conservation Agent said there is no need to add compensatory flood plain storage.

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 23, 2009, continued

Councillor Rowlands read the recommendations from the, the Building Inspector, the Planning Department, the Department of Public Works, Health Department and the Conservation Commission.

Mr. Clemens said they want to add a concrete foundation around the existing foundation to strengthen the tower and at no point during this process will the existing tower be weaker structurally than it is currently. He said in addition they want to add steel to the tower between sixty to eighty feet and again, no steel will be removed from the tower at any point therefore at no point the structure will be weaker than it is currently.

Mr. Clemens said they feel this modification is necessary because in the tower's existing state it is not adequate per the code in which it stands and adding this foundation will bring it into compliance at a rating of 82%. He said currently it is at 140% and explained that when the tower was designed the foundation was designed upon normal soils, which is an assumed value. He said it is within code and acceptable however, when they took over AT&T and started their engineering they determined they would not use normal soils and always get a geotechnical report and a foundation verification. During the course of the geotechnical report they found that the soils were weaker than normal soils therefore the foundation needs to be modified.

Councillor Rowlands ask if the additional metal would be added on be additional antennas or additional structure.

Mr. Clemens said it is addition structure. He said they are going to overlap the existing x-braced members with bolt on steel.

Councillor Rowlands asked if there were any noticeable issues or damage from the ice storm.

Mr. Clemens said from what he heard the ice storm didn't exceed code.

Councillor Marchand said in regards to the steel added to the structure, are you talking about width and height or are you talking about replacement of the existing.

Mr. Clemens said currently the tower has existing steel from 60-80 feet in an x-frame pattern and we are going to overlap that existing x-frame with bolt on steel and an addition x-frame which will strengthen the tower and while the modification are being performed it will not weaken it at all.

Councillor Marchand said so you are going to encapsulate the existing tower with the new steel.

Mr. Clemens said exactly.

Councillor Marchand asked if the tower in compliance with the regulations on the fall zone.

Mr. Clemens said yes and at no point will the tower fall outside the property and there is nothing within the fall zone.

Councillor Marchand said you are dealing with the flood plain and mitigation.

Mr. Clemens said yes, the existing foundation bears 18.5 feet below grade so when they excavate the dirt they are only putting a concrete pad that is 6 feet below grade. During that point the only engineering structural quality that the soil gets is what is at the bottom of the 18 feet so we are not going to touch that so it won't be weakened.

Councillor Marchand asked who owned the tower and will they be adding more antennas or other structures to the existing tower.

Mr. Clemens said the owner is AT&T and Metro PCS would like to co-locate on the tower. He said these modifications are because the existing tower fails.

Councillor Marchand said the modification is because it fails and not because of the new client.

Mr. Clemens said exactly.

Councillor Marchand asked what the checks and balances were for the new client, do you have to go to the Conservation Commission or coming back to the City Council?

Mr. Clemens said he believes they come back to the City Council and also GPD will be on site during the construction and perform a post modification inspection.

Councillor Marchand asked if he had an approximated date or age of the tower.

Mr. Clemens said he has tower drawings from 2002 and believes it was installed between 2003-2004.

Councillor Marchand said so there was a problem with the engineering design at that point that has led to this.

Mr. Clemens said in the current code assumed soil values are given and whoever designed the tower did not account for the fact that the tower was in a flood plain, that the soils are buoyant and are weaker than normal soils.

Councillor Salvatelli asked if there were statistics on how many accidents there are for these types of things.

Mr. Clemens said because there is a high safety factor and statutes in place for everything they do actual tower failure for structural reasons are very low.

Councillor Dombrowski said he wanted to make sure they are not increasing the height of the tower.

Mr. Clemens said not at all.

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 23, 2009, continued

Councillor Dombrowski asked Mr. Clemens how he is defining fall zone.

Mr. Clemens said it is a guyed tower and it is 250 feet tall therefore if the tower falls in one direction flat it is within 250 feet, the nearest property line is 270 feet.

Councillor Nickel asked if his company was a registered engineering company.

Mr. Clemens said that is correct.

Councillor Nickel asked if Mr. Clemens was saying when this tower was put up it did not meet the standards at that time or did the standards change after this tower went up.

Mr. Clemens said it met the standards at the time and still meets the standards however, our engineering group and AT&T is taking a more conservative approach and wants an exact geotechnical data at the site. He said in the code it gives values and that if I analyzed it under these values the tower passes, however, our company knows it is in a flood plain; we know the soils in this area are weaker by nature and therefore wanted a geotechnical report for safety reasons.

Councillor Nickel said he was glad to hear that.

Councillor Freda asked if this would strengthen the ability to add more co-locators.

Mr. Clemens said primarily it will fortify the existing tower and the modifications from 60-80 feet will reinforce it so the applicant Metro PCS can provide a co-location on the tower.

Councillor Freda asked if he said modifying with additional feet.

Mr. Clemens said no, the tower will not be extended at all, it is an existing 248 foot tower and it will stay that height.

Councillor Freda asked if it would allow them to add more and if so how many.

Mr. Clemens said yes it would allow us to add more but with the tower capacity just one which is the proposed applicant Metro PCS. He said we are retrofitting the tower for this applicant as far as the tower from 60-80 feet.

Councillor Freda said so you are basically modifying it, even though you are saying primarily the testing took place because you had someone that wanted to co-locate.

Mr. Clemens said correct.

Councillor Freda asked if that was when you realized the soils analysis.

Mr. Clemens said every time a co-locator wants to go on a tower, by code they are required to do a structural analysis. He said at that point is when they determined they needed a geotechnical report. He said they did a structural analysis on the tower in its existing and proposed with the co-locator state.

Councillor Freda said you did say that the fall zone is at least 250 feet on your own property in all directions.

Mr. Clemens said that is correct and the closest property line is to the left of the tower and is 270 feet and in other areas it is 852 feet and 477 feet.

Councillor Rowlands asked if there was an actual soil sample taken at this site when the tower was initially put in.

Mr. Clemens said according to what they have on their records and what AT&T has on their records, no.

Councillor Rowlands asked if the concrete holding the guy wires were sufficient.

Mr. Clemens said yes, and the anchors are very large.

Councillor Rowlands asked if he had any idea how you can put up a tower of this size without doing a soil sample.

Mr. Clemens said because code allowed assumed soils. He said there is a new code that will be adopted soon will eliminate that.

Councillor Lanciani praised Mr. Clemens on his presentation and honesty.

Councillor Marchand said he agreed with Councillor Lanciani.

Councillor Rowlands asked what the wind condition the tower is rated for.

Mr. Clemens said it is an 85 mph sustained wind speed which means the wind doesn't stop at an 85 mph pace which is the equivalent to a 100 mph 3 second gust. It was also analyzed with ½ inch of radial ice around it.

Councillor Rowlands said it is remarkable that no soil samples were done. He said you can't put a house up or a foundation in, never mind a tower, without putting a hole in the ground to see what the consistency of the soil is. He asked when the law will take affect.

Mr. Clemens said as soon as Massachusetts adopts the 2006 IBC with supplements and currently they have not adopted the supplements.

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 23, 2009, continued

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

HEARING ADJOURNED AT 7:12 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 23, 2009

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

A moment of silence was taken for our departed Veteran Army PFC. Jonathan Roberge.

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

The Committee on Records reported that the records through February 9, 2009 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-65 Relative to the appropriation of \$950.00 to the Health Department Expense Account; same to be transferred from the Emergency Reserve Account.

C-66 Relative to the appropriation of \$1,200.00 to the License Commission Expense Account; same to be transferred from the License Commission Salary and Wages Account.

- C-67 Relative to the appropriation of \$40,000.00 to the Veterans Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-68 Relative to the appropriation of \$225,000.00 to the Snow and Ice Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-69 Relative to the appropriation of \$25,000.00 to the Snow and Ice Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-70 Relative to the appropriation of \$22,044.00 to the Council on Aging Salary and Wages Account; same to be transferred from the Excess and Deficiency Account.
- C-71 Relative to the appropriation of \$10,000.00 to the Parking Meter Expense Account; same to be transferred from the Parking Meter Receipts Reserved for Appropriation Account.
- C-72 Relative to the appropriation of \$4,200.00 to the Parking Meter Salary and Wages Account; same to be transferred from the Parking Meter Receipts Reserved for Appropriation Account.

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

- C-73 Relative to the appropriation of \$37,000 to the Police & Fire Indemnification Expense Retiree’s 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 Police Department Salary and Wages Account.
- C-75 Relative to the appropriation of \$150,000.00 to the Police Department Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-76 Relative to the appropriation of \$10,000.00 to the Wire Department Overtime Account; same to be transferred from the Excess and Deficiency Account.

Councillor Salvatelli, 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)	\$1,634,951.58
Stabilization Account	\$7,005,109.17
Interest earned for FY-09	\$125,639.20
Emergency Reserve Account	\$7,450.00

REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 23, 2009, continued

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

- C-60 Relative to the appropriation of \$2,500.00 to the Rockwell Pond Improvement Expense Account; same to be transferred from the Emergency Reserve Account.

ORDERED: - that the sum of Two Thousand Five Hundred Dollars (\$2,500.00) be appropriated to the Rockwell Pond Improvement Account; same to be transferred from the Emergency Reserve Account.

RE: Survey work in the Rockwell Dam area

Upon request of the FINANCE COMMITTEE, the following COMMUNICATION was given FURTHER TIME. Vt. 9 “yeas”

- C-61 Relative to the appropriation of \$85,000.00 to the Library Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

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

- C-62 Relative to the appropriation of \$3,000.00 to the Cemetery Expense Account; same to be transferred from the Cemetery Perpetual Care Income Account.

ORDERED: - that the sum of Three Thousand Dollars (\$3,000.00) be appropriated to the Cemetery Expense Account; same to be transferred from the Cemetery Perpetual Care Income Account.

RE: These funds are to be utilized to purchase fertilizer, grass seed and lime for seasonal grounds maintenance.

- C-63 Relative to the appropriation of \$1,000.00 to the Veterans Graves Service Office; same to be transferred from the

Excess and Deficiency Account.

ORDERED: - that the sum of One Thousand Dollars (\$1,000.00) be appropriated to the Veterans Grave Service Office; same to be transferred from the Excess and Deficiency Account.

RE: These funds are for the stipend to compensate the Veterans Graves Service Officer.

C-64 Relative to the appropriation of \$550.00 to the Economic Development Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Five Hundred Fifty Dollars (\$550.00) be appropriated to the Economic Development Expense Account; same to be transferred from the excess and Deficiency Account.

RE: These funds will be used for an economic development sign to be placed at the former transfer station located on Jungle Road.

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

36-09 David Rowlands: Accept Wildflower Road as a public way.

37-09 David Rowlands: Accept Farm Hill Road as a public way.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE the following PETITION was GRANTED. Vt. 8 "yeas"; Councillor Freda abstained due to a possible conflict of interest. A condition of this Special Permit is that the applicant will install a rain garden to help with stormwater filtering.

38-09 Gordon R. Edmonds, President and CEO of Leominster Credit Union: Grant a Special Permit to build a three story building connecting to the existing building with parking lot expansion at 20 Adams Street as shown on Assessor's Map 14 as Lots 8, 9 and 10 and located within a flood plain.

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

39-09 Robert E. Wilson, GPD Associates: Grant a Special Permit to modify the existing foundation of the cell tower at 369 Nashua Street as shown on Assessor's Map 372 as Lot 2 and located within a flood plain.

Under Old Business, Councillor Marchand, Chair of the President's Drinking Water Oversight Committee, said the Committee will meet on March 16, 2009. He said data has been received and will be given to the Council. He said hopefully at the March 16, 2009 meeting they will have a chance to reflect on some of the data and at that time agree upon a list of questions to be raised the night of the meeting.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to have representatives from Woodard & Curran, Violi Water, Patrick LaPointe and Roger Brooks from the Leominster Water Department attend the meeting.

Council President Nickel asked Councillor Freda if she has a date for the meeting with the School Department.
REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 23, 2009, continued

Councillor Freda said she did not, the Superintendent was away last week.

Councillor Rowlands said they have a hearing scheduled with Health Alliance on March 2, 2009 and the applicant will be asking for a continuance to March 30, 2009. The hearing will be opened and continued to March 30, 2009.

Council President Nickel asked the Clerk to set up a Special City Council Meeting following the hearing on March 30, 2009.

Councillor Freda said she would like a letter sent to Kate Griffin-Brooks to find out how many cell towers there are in the community. She said she thinks it is a good idea to know if there are quite a few in a certain small area.

Under New Business, Councillor Salvatelli said there is new leadership in the House of Representatives and the Ways & Means Committee. They project the budgets that come from there are going to be considerably lengthy and it will take a lot of time for the Committee to settle down and come up with a budget from the Legislators. This will be very trying on the cities and towns. He said the Commission of Education is telling the School Committees to hold off as long as possible on the budgets because there is 53 billion dollars that will be set aside for the stabilization fund and he is urging the School Committees to stay as flexible as possible. Councillor Salvatelli said we are heading for some rough times and he wants patience. He said it is not going to be from the lack of trying, it's going to be from lack of getting the information to him when it is available. He said he is predicting they might not have a budget sent to them by the State until July, the State particularly with the billions of dollars that are missing in this year's budget. He said we could be on a weekly budget if things don't turn out the way they're suppose to. He said next year's budget is being cut over two million dollars due to cuts in local aid.

MEETING ADJOURNED AT 8:40 P.M.

Lynn A. Bouchard, City Clerk

And Clerk of the City Council