

HEARING BEFORE THE CITY COUNCIL, APRIL 13, 2009

Hearing opened at 6:30 P.M. with Councillor Marchand, Clerk of the Public Service Committee presiding.

All members were present except Councillor Dombrowski.

The following PETITION was the subject of the hearing:

52-09 Massachusetts Electric: Cottage Street: Install 1 singly owned pole on Cottage Street beginning at a point approximately 150 feet southeast of the centerline of the intersection of Cotton Street.

Iris Price, representing National Grid/Massachusetts Electric, said the reason for the new pole is for a new house is being built on Carter Street.

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

No Councillors spoke.

HEARING ADJOURNED AT 6:32 P.M.

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

HEARING BEFORE THE CITY COUNCIL, APRIL 13, 2009

Hearing opened at 6:35 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present. Councillor Dombrowski arrived late.

The following PETITION was the subject of the hearing:

53-09 Barbara Drury and ten registered voters: Request that the Leominster Zoning Ordinance be changed to allow dog kennels in an industrial zone with a Special Permit from the Planning Board.

Councillor Rowlands read the recommendations from the Building Inspector and the Health Inspector. He said a recommendation has not been received from the Planning Board because there is a hearing scheduled for May 5, 2009. Councillor Rowlands said a letter was received from Lisciotti Development objecting to the kennel location there and pointed out that one of the conditions put forth by the Zoning Board of Appeals when they allowed that business was that the daycare operate from 6:45 A.M. to 7:00 P.M. and there will not be any overnight boarding of dogs or animals.

Barbara Drury said she is the owner of Manilow's Canine Playground/Doggie Day Care which is located at 391 Harvard Street in Leominster and has been in business for over 5 years. She said they would like to be able to add the service of overnight boarding to their facility. She said since she has been in business they have had several requests for the service of overnight boarding and it has been frustrating to not be able to offer the service. She said if we were able to offer overnight boarding it would fulfill a need that is out there in our community. She said their business has seen a big decrease in customers due to the failing economy and the addition of overnight boarding would make a significant increase for our small business and a great opportunity for our City as well.

Ms. Drury said a kennel is a name for a structure or shelter that may house dogs and it is a place or piece of property at which dogs are housed overnight, a place where dogs are housed temporarily for a fee. She said it is their wish to do all of those things if they were allowed to do overnight boarding. She said they will provide a safe happy environment where dogs can be housed while their owners are away for business or pleasure and they would do their best to make sure their stress is limited and make the dogs feel like they were at their home away from home.

Ms. Drury said the location at 391 Harvard Street would be a suitable location as there are no residential homes that abut the property so it would not interfere with any neighboring homes and any noise would not disturb the surrounding properties. She said it is their hope that the Leominster Zoning Ordinance be changed to allow dog kennels in an industrial zone with a Special Permit from the Planning Board.

Councillor Rowlands said we are looking at a general ordinance for the City and not for a specific site though he is interested in the specifics of her site to give them some idea how this plays out. Councillor Rowlands asked Ms. Drury how many animals are at her location for overnight.

Ms. Drury said between 10 and 20 and right now during the day we have about 25 dogs. She said it would start off slow maybe only 10 dogs but have capacity for 20.

Councillor Rowlands asked what time they close at night.

Ms. Drury said 6:30 P.M. She read a letter from Mr. Melissa Sulin from Fallon Animal Clinic in Lunenburg that is in favor of the petition.

HEARING BEFORE THE CITY COUNCIL, APRIL 13, 2009, continued

Joan Hoyt said she is a Lunenburg resident and a customer of Manilow's for approximately 2 ½ years and is in favor of the petition. She said her dogs receive good care while there. She said Ms. Drury is a dedicated dog lover, a very ethical person who provides exceptional canine services. Ms. Hoyt said there are other dog day care facilities in the twin cities that offer daycare and overnight boarding and said it is only fair that Ms. Drury be granted the same business opportunity as other facilities. She said she hopes the Council will pass this petition to allow her to have overnight boarding.

Cathy Rocheleau of 30 Constitution Drive said she supports the petition. She said she has been going to the facility for doggy day care and training for approximately 2 ½ years and would like to see it approved for overnight boarding. She feels it would be a very valuable service for dog owners. Ms. Rocheleau said the facilities are very clean and Ms. Drury is very organized and wouldn't foresee any issue with overnight boarding the way she runs her doggy day care.

Councillor Rowlands said he wanted to clarify that even though we are talking specifically about her specific place what we are talking about is changing the entire zoning ordinance for the City of Leominster. He said that is an important point especially when we are in the middle of revamping our zoning. He said the negative recommendation from the Building Inspector weighs heavily on our decision. He said they will not be closing the hearing because they do not have all the information.

Councillor Salvatelli asked the applicant if she owned the building.

Ms. Drury said no, it is owned by Elmer Fitzgerald who lives in Ashby.

No one in the audience spoke in opposition of the petition.

HEARING ADJOURNED AT 6:53 P.M. AND CONTINUED TO MAY 11, 2009 AT 7:00 P.M.

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

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

All members were present.

Present at the hearing was Wesley Flis of Whitman & Bingham Associates, Paul Tocci and Tim Dolan.

41-09 Tim Dolan, Sudbury P B & J LLC/Prime Dev. LLC: Grant a Special Permit to construct a three unit apartment dwelling creating five units in total on the properties located at 37 River Street, Lot 3 River Street and 42 Hamilton Street as shown on Assessor's Map 232 as Lots 2, 3B, and 16.

Introduced and made part of the record were the following:

- A. Petition #41-09 submitted by Tim Dolan, Sudbury PB&J LLC/Prime Dev. LLC, 521 Trapelo Road, Belmont, MA, with accompanying Site Plan entitled "Proposed Site & Grading Plan for Lot #3 River Street in Leominster, Massachusetts" prepared by Brian F. Milisci, Registered Professional Engineer, Whitman & Bingham Associates, 510 Mechanic Street, Leominster, MA, dated December 1, 2008 and an Assessor's map.
- B. Notice of public hearing published in the Sentinel & Enterprise on March 23, 2009 and March 30, 2009.
- C. Letter of recommendation from the Building Inspector stating that a variance will be required from the Zoning Board of Appeals for the required planting screen and for further width of the buffer zone.
- D. The following comments were received from the Planning Board:
The Planning Board voted unanimously to disapprove this project. Three extra housing units for a total of five housing units on this small lot is too dense for this location that is a single and two-family neighborhood.
- E. The following comments were received from the Conservation Commission:
The Conservation Commission does not have a recommendation with regard to zoning matters but the project is within an area that is under the jurisdiction of the Conservation Commission. A portion of this project is within the 200 foot area of the Nashua River. An Order of Conditions was approved on March 24, 2009 for DEP 199-900. The water table is too high to make it feasible to install a rain garden and asked that additional vegetation be planted to help absorb excess water.
- F. The following comments were received from the Department of Public Works:
"We have enclosed a letter sent to this company as to how we will require road repairs to be done, including the use of flowable fill. These two streets have recently been paved and both are heavily traveled roads. This company did comply with our requirements on their most recently completed project and the road remains in very good condition."

Councillor Rowlands said this is before the City Council on the issue of density which requires a Special Permit by the City Council. He said four units are allowed by right per acre and this plan has five units and 27,511 square feet which is roughly .6 acre and if you do the math it turns out that 5 units on 27,511 square feet would be the same density as 8 units on an acre which requires a Special Permit from City Council. He also said this is a Residential B neighborhood and it requires Site Plan Approval from the Planning Board.

Councillor Rowlands read the recommendations from the Building Inspector, the Planning Board, the Department of Public Works and the Conservation Commission. He said they might have to go before the Zoning Board of Appeals for the buffer. He said this project requires Site Plan Approval from the Planning Board and we have a recommendation of denial from them. He said the denial was not a Site Plan denial but as a recommendation to this Special Permit showing the Planning Board has concerns.

Wesley Flis said they are here because of Section 19.2.6 and as stated we will need a variance from the Zoning Board of Appeals. He said they met with the Zoning Board last week for the variance on the 50 foot buffer and they continued the meeting to May 6, 2009 so they could work out a few issues. Mr. Flis said they meet the requirements for the plantings and they can use a solid fence instead of the center strip landscaping requirement which is an immediate buffer between the adjacent properties and proposed units. He said they met with the Conservation Commission for an Order of Conditions. He said they gave them a favorable Order of Conditions for the work within the 200 foot riparian zone. Mr. Flis said they have a meeting with the Planning Board April 21, 2009 for Site Plan review and they believe they meet all requirements.

Mr. Flis said the land is in two pieces where there is an existing 2-unit and another lot that is vacant. He said by right the applicant has the ability to put in another duplex to create four total units and he is asking for a Special Permit for 5 units. The applicant doesn't see a large increase from 4 to 5 units vs. 4-6 units. He said they don't see the density being that much of a difference between 4 and 5 units.

Councillor Rowlands said 4 units on .62 acres would still not make it under the 5 units and would still require a Special Permit for density.

Mr. Flis said the way they read the zoning regulations, and checked with Mr. Cataldo, there are two separate pieces of property both meeting the Residence B zoning requirements and in Residence B you are allowed duplexes. He said on the plan it is showing 5 units, two existing to the left of lot and three to the right of the lot. He said the plan shows 10 parking spaces which comes out to 2 spaces per unit. He said between the building and the impervious area created by the driveways and walkways they are at 26.5% which is under the 30% required and as Councillor Rowlands stated before we are slightly under the 8 units per acre obviously over 5 units per acre and they meet the requirements of the land area which is 10,000 s.f., the frontage is over the 100 feet and the side offsets meet requirements. Mr. Flis said the plan shows a 20 foot separation between buildings because of insurance and there is common space in the back of the property to be lawn area. The back yard is gently sloped and there is not a lot of pitch from back to front which Conservation issues came from getting the drainage off the site. He said there is high ground water so some of the recommendations of the Conservation Commission wouldn't be met. He said they recommended shrubbery in front of the building which the applicant will take into consideration.

Mr. Flis said in Mr. LaPointes' letter it said this is the unit they dealt with before and it is a good example of what the applicant is looking to put up, it will be similar. He said they will be connecting to the municipal water and sewer and a drain will be tied into the existing drainage system and because of the high ground water the applicant is looking to do slab on grade instead of foundation because they have had some issue with the other two units.

Councillor Rowlands asked how the front of the building would look.

Mr. Flis said they have not started the design. He said the land is relatively flat so there wouldn't be too much of a step into the units but pretty similar to the façade of what's out there now.

Mr. Dolan said they are having water problems there and they are pumping out water.

Mr. Rowlands asked where they pumped the water to.

Mr. Dolan said in the town drain.

Councillor Nickel asked if they would have garages.

Mr. Dolan said maybe a one car garage.

Councillor Nickel asked how many stories high.

Mr. Tocci said they haven't formalized the process and they are open.

Councillor Nickel said in Ward 2 they had the same scenario with density, the units are two stories high with peaked roof. Some of the neighbors are not thrilled with the height of the building around them. He said a project with density issues, two stories and a peaked roof is about 3 ½ stories high. A property with a density issue should be one or two stories with a flat roof.

Mr. Tocci said they want something esthetically pleasing and he doesn't particularly like the flat roof. He said he is not opposed to not putting garages in. If it becomes an issue we can change any architectural look.

Councillor Nickel asked if there is enough space for the cars.

Mr. Tocci said yes.

Councillor Rowlands said in terms of space for cars you still wouldn't exceed the 30% of impervious surface.

Mr. Flis said correct, we show 6 spaces in front of the units as they are now.

Councillor Lanciani asked when the other two homes built.

Mr. Tocci said they just finished the two family.

HEARING BEFORE THE CITY COUNCIL, APRIL 13, 2009, continued

Councillor Lanciani asked if either one of them were rented or sold.

Mr. Dolan said yes.

Councillor Marchand asked if they had a neighborhood meeting about the additional three units.

Mr. Flis said they did not but some of the abutters came to the ZBA meeting. He said the direct abutter from the right was there.

Councillor Marchand said at that time you were talking about the buffer.

Mr. Flis said yes and the number of units was talked about and made clear they were looking at a difference of 2 units by right or 3 units with a Special Permit from the City Council.

Mr. Dolan said he has talked to the neighborhood. He has been living there for several years.

Councillor Marchand said the Planning Board has a strong fist as far as I'm concerned regarding the density component. He asked how many bedrooms will be in each unit.

Mr. Tocci said three bedrooms.

Councillor Marchand said you are dedicating 2 parking spaces, 1 ½ by law, for three bedrooms.

Mr. Flis said we show 6 spaces for the new 3 units. He said there is already 4 existing spaces.

Councillor Marchand said how many people will be renting.

Mr. Flis said hopefully families of 4.

Councillor Marchand asked if they had the ability for extra parking on site.

Mr. Flis said yes.

Councillor Marchand said there is parking on one side of the road on River Street but because the road is narrow it can't be used and there are problems with speeding. He said he has concerns on parking and density. He said this is in his Ward and this is the first he has heard from the applicant. He said he would like to meet with them and with the neighbors and go over what the impact would be with additional units. He said he would like to walk the site and take a look at additional parking and curb cuts.

Councillor Rowlands said in his opinion, since the Planning Board gave us a negative recommendation he would like to leave it up to them for Site Plan approval to see where they will go and that is next week. He said this whole thing is a moot point if they don't approve the Site Plan because it requires both Site Plan approval and a Special Permit from the City Council. He said you are allowed by right to have two units.

Councillor Dombrowski asked if they will still need a variance whether it is two units or three units?

Mr. Flis said if it is two units they do not need a variance, it's a matter of right. He said they have Conservation approval and they would have to go back and get the Order of Conditions revised if it is a two unit and they would be happy to see less impervious area and that would be the only permit we would need besides a building permit.

Mr. Flis said if this was to be continued there wouldn't be an issue with time frame.

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

HEARING ADJOURNED AT 7:26 P.M. AND CONTINUED TO MAY 11, 2009 AT 6:45 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, APRIL 13, 2009

Meeting was called to order at 7:30 P.M.

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

A recess was called at 7:33 P.M. to hold a public forum.

The meeting reconvened at 7:45 P.M.

The Committee on Records reported that the records through March 30, 2009 were examined and found to be in order. The records were accepted.

REGULAR MEETING OF THE CITY COUNCIL, APRIL 13, 2009, continued

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

- C-88 Relative to the appropriation of \$11,000.00 to the Sanitation and Drainage Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-89 Relative to the appropriation of \$10,000.00 to the Sidewalk, Curbing and Road Repair Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-90 Relative to the appropriation of \$3,000.00 to the Cemetery Overtime Account; same to be transferred from the Emergency Reserve Account.
- C-91 Relative to the appropriation of \$7,750.00 to the Recreation Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

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

- C-92 Dean J. Mazzarella, Mayor: Authorize the Mayor to pursue the United States Department of Justice – Justice Assistance Grant Program (JAG) in the amount of \$102,647.00

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

- C-93 Dean J. Mazzarella, Mayor: Amend Section 16-31 (d) of the Revised Ordinances entitled Method of Step Advances by requiring approval of the Mayor to advance to the next scheduled step rate for employees in the “S” Classification Plan.

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

- 59-09 Game Stop Store d/b/a Movie Stop Store #7045: Renew the Second Hand Dealer’s License for the premises at 82 Orchard Hill Drive.
- 60-09 Game Stop Store #1485: Renew the Second Hand Dealer’s License for the premises at 26 Orchard Hill Drive.)
- 61-09 Game Stop Store #3594: Renew the Second Hand Dealer’s License for the premises at 100 Commercial Road.
- 62-09 Mark & Robyn Ellis, Ellis Marine Supply Partnership: Renew the Second Hand Dealer’s License to sell used power boats for the premises at 646 Central Street.

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

Office of Emergency Management – Term to expire April 15, 2010
Assistant Director – James LeBlanc, Richard Gauvin
Deputy Director – Alfred Staal, Thomas Piper, Daniel Thibodeau

Auxiliary Police Officers – Term to expire April 15, 2010
Nikito Baker, Ryan N. Caneen, John Caron, Donn A. Deane, Shaun Calcari, Karen Nesbitt, Justin P. Nichols, Vincente Figueroa, Eric Almeida, Eric Schmidt, Sr., Reginald Cortana, Thomas Piper, Roland Rivard.

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)	\$1,446,151.58
Stabilization Account	\$7,035,651.75
Interest earned for FY-09	\$156,181.78
Emergency Reserve Account	\$6,450.00
Expenses from the Ice Storm	\$1,854,000.00

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

- C-83 Relative to the appropriation of \$150,000.00 to the School Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) be appropriated to the School Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Feasibility Study/Owner’s Project Manager for High School Renovation Account.

REGULAR MEETING OF THE CITY COUNCIL, APRIL 13, 2009, continued

C-84 Relative to the appropriation of \$6,000.00 to the Mayor's Salary & Wages Account; \$5,000.00 to be transferred from the Mayor's Salary and Wages Account and \$1,000.00 from the Emergency Reserve Account.

ORDERED: - that the sum of Six Thousand Dollars (\$6,000.00) be appropriated to the Mayor's Salary and Wages Account; \$5,000.00 to be transferred from the Mayor's Salary and Wages Account and \$1,000.00 from the Emergency Reserve Account.

RE: These funds are to be utilized for the temporary replacement of the Mayoral Aide, Kelly Woodland, while she is on maternity leave.

C-85 Relative to the appropriation of \$64,200.00 to the Library Expense Account; same to be transferred from the Library State Aid Reserved for Appropriation Account.

ORDERED: - that the sum of Sixty Four Thousand Two Hundred Dollars (\$64,200.00) be appropriated to the Library Expense Account; same to be transferred from the Library State Air Reserved for Appropriation Account.

RE: These funds are to be utilized to purchase library materials mandated by the state to qualify for state aid for the following fiscal year.

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

51-09 Richard M. Marchand: Request the City of Leominster establish a Johnny Appleseed Arts & Cultural Festival Donation Account as authorized by Chapter 44 Section 53A of the Massachusetts General Law.

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

52-09 Massachusetts Electric: Cottage Street: Install 1 singly owned pole on Cottage Street beginning at a point approximately 150 feet southeast of the centerline of the intersection of Cotton Street.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0. The hearing is continued to May 11, 2009 at 6:45 P.M.

41-09 Tim Dolan, Sudbury P B & J LLC/Prime Dev. LLC: Grant a Special Permit to construct a three unit apartment dwelling creating five units in total on the properties located at 37 River Street, Lot 3 River Street and 42 Hamilton Street as shown on Assessor's Map 232 as Lots 2, 3B, and 16.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0. The hearing is continued to May 11, 2009 at 7:00 P.M.

53-09 Barbara Drury and ten registered voters: Request that the Leominster Zoning Ordinance be changed to allow dog kennels in an industrial zone with a Special Permit from the Planning Board.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED. Vt. 8/1; Councillor Freda opposed.

54-09 Brian Gingras et al: Create an ordinance prohibiting the feeding of ducks, geese and other waterfowl within the City.

Upon request of the PUBLIC SAFETY COMMITTEE, the following PETITION was given LEAVE TO WITHDRAW WITHOUT PREJUDICE. Vt. 9/0

55-09 Ann Fish et al: Request the City close off the unpaved portion of Fourth Avenue where it meets Florence Street.

Upon recommendation of the SMALL BUSINESS and ECONOMIC DEVELOPMENT COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 9/0

C-86 Dean J. Mazzarella, Mayor and Lisa Vallee, Economic Development Coordinator: Approve the Leominster Business Park EOA (Tanzio Road Extension Project) as an Economic Opportunity Area under the Economic Development Incentive Program.

The following letter from Lisa Vallee, the Economic Development Coordinator, dated April 13, 2009 was read into the record.
Dear Councilor Tocci,

As requested, here is some background information to further support C-86; Request Leominster Business Park EOA Tanzio Road Extension Project) as an Economic Opportunity Area under the Economic Development Incentive Program (EDIP).

In 1994, the City of Leominster was approved by the State Executive Office of Economic Affairs, to be an Economic Target Area. This city-wide status allowed Leominster to apply for designated Economic Opportunity Areas (EOAs). Upon State approval of EOAs, businesses located within the designation can then be considered for the Economic Development Incentive Program (EDIP). The EDIP classification enables businesses within

the EOA to apply for the Tax Incentive Financing (TIF) program. The TIF program is driven by business investments and job creation that allows tax break considerations.

All EOA requests must be approved by the State's Economic Assistance Coordinating Council (EACC). The EACC requires a majority City Council vote to be included in an EOA Application.

Please approve the request for the Leominster Business Park EOA, which will allow for further economic growth and job creation.

Sincerely,
Lisa Vallee
Economic Development Coordinator
Office of Planning and Development

Upon recommendation of the WAYS & MEANS COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 9 "yeas". Councillor Nickel disclosed that he is on the Board of the Montachusett Interfaith Hospitality Network and will abstain from that vote, Councillor Lanciani disclosed that he is on the Board of the Montachusett Home Care Corporation and will abstain from that vote and Councillor Rosa disclosed that he is on the Board of the Beacon Of Hope and will abstain from that vote. They do not have any financial interest and will vote on this communication as a whole.

C-87 Relative to the appropriation of \$507,270.00 to the following accounts for the Year 35 Community Development Block Grant.

Leominster Board of Health – Code Enforcement	\$78,778.00
Leominster OPD - Economic Development Program	\$72,090.00
Leominster OPD - Housing Rehabilitation Program. (Includes \$10,000 for Elder Safety Rehab Services)	\$178,878.00
Leominster OPD - Planning & Administration	\$101,454.00
Battered Women's Resources – Second Chance Program	\$2,500.00
Beacon of Hope – Respite Services	\$7,800.00
Boys and Girls Club (North Central Mass)	\$4,600.00
Leominster Housing Authority – Allencrest Learning Center	\$1,570.00
Leominster Mayor's Office – Energy Assistance	\$10,000.00
Leominster Mayor's Office – Summer Youth Program	\$14,500.00
Leominster Mayor's Office – State Pool Fee Assistance	\$1,200.00
Leominster Recreation Department – Summer Financial Assistance	\$800.00
Montachusett Addiction Council – MAC Substance Abuse Center	\$2,700.00
Montachusett Interfaith Hospitality Network - Interfaith Network	\$10,000.00
Montachusett Home Care Corporation – Money Management for Elder Program	\$3,100.00
Multi-Service Center, Inc. - For Your Health	\$5,000.00
Spanish American Center – Community Outreach Worker (Information and Referral)	\$4,300.00
Veterans Hospice Homestead – Hero Homestead	\$8,000.00

ORDERED: - that the sum of Five Hundred Seven Thousand Two Hundred Seventy Dollars (\$507,270.00) be appropriated to the Year 35 Community Development Block Grant.

Leominster Board of Health – Code Enforcement	\$78,778.00
Leominster OPD - Economic Development Program	\$72,090.00
Leominster OPD - Housing Rehabilitation Program. (Includes \$10,000 for Elder Safety Rehab Services)	\$178,878.00
Leominster OPD - Planning & Administration	\$101,454.00
Battered Women's Resources – Second Chance Program	\$2,500.00
Beacon of Hope – Respite Services	\$7,800.00
Boys and Girls Club (North Central Mass)	\$4,600.00

REGULAR MEETING OF THE CITY COUNCIL, APRIL 13, 2009, continued

Leominster Housing Authority – Allencrest Learning Center	\$1,570.00
Leominster Mayor's Office – Energy Assistance	\$10,000.00
Leominster Mayor's Office – Summer Youth Program	\$14,500.00
Leominster Mayor's Office – State Pool Fee Assistance	\$1,200.00
Leominster Recreation Department – Summer Financial Assistance	\$800.00
Montachusett Addiction Council – MAC Substance Abuse Center	\$2,700.00
Montachusett Interfaith Hospitality Network - Interfaith Network	\$10,000.00
Montachusett Home Care Corporation – Money Management for Elder Program	\$3,100.00
Multi-Service Center, Inc. - For Your Health	\$5,000.00
Spanish American Center – Community Outreach Worker (Information and Referral)	\$4,300.00
Veterans Hospice Homestead – Hero Homestead	\$8,000.00

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

- 43-09 Phillip McBain: Renew the license for two pool tables at Captain's Lounge at 1536 Main Street.
- 44-09 Aime Lemoine: Renew the license for one pool table at Seven R's d/b/a A & R's Double Inn at 166 Water Street.
- 45-09 Carol and David Shields: Renew the license for three pool tables at South Leominster Lounge d/b/a Forte's Lounge at 1030 Central Street.

Upon request of the WAYS & MEANS COMMITTEE, the following PETITION was TABLED FOR STUDY. Vt. 9/0

- 56-09 Kym Leblanc: Renew the license for one pool table at the Tankard, 13 Central Street.

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

- 57-09 William Plant: Renew the license for nine pool tables at J.C. Fenwick's, 37 Mechanic Street.
- 58-09 Leroy J. DiMauro: Renew the Second Hand Dealer's License for the premises located at 609 Main Street.

Under Old Business, Councillor Marchand, Chair of the President's Drinking Water Oversight Committee, said they had a committee meeting with several members, representation from the Water Department, Department of Public Works, Woodward and Curran and also Viola Water and it was an intense meeting with a lot to cover. He said the City is in a position where the timeline for compliance with the orders regarding the filtration plan are in line. He said there was discussion on how could the process take place the way it did as far as the hiring of the contractors and the clerk of the works and the consultants. He said some factual data that is always questionable and debatable but the bottom line is we are moving in a direction where we are going to resolve most of this in the near future.

Councillor Rowlands said there was a slide presentation received that night and should be on the next agenda for the Water Committee meeting. He said they also received an updated report to the TTHM's with regard to the quarterly report in March and all the numbers were below 80 with a continued improvement in the TTHM level. The report came post meeting.

Councillor Rowlands said regarding the May 9, 2008 addendum #1 of the trash contract, one of his constituents said they had recycling at their residents in their apartment complex that is no longer available. He said he looked into the contract and it lists all the units in the City; the houses, the condominium units and multi families that are eligible. He said he looked back at the 2005/2006 contract and those numbers are the same so he is confused about the residential number of houses are the same in both why someone who had recycling no longer does. He said it was a great meeting and we moved forward but there are some questions with regard of the contract and specifics. He said it makes a big difference for some people to have a bulk item furniture pickup on a weekly basis as outlined in this contract and if that is not the case he would like to see the follow-up documentation that supports that is no longer the case.

Councillor Salvatelli said the Ward Three Councillor previously asked him about the rental of the cemetery chapel. He said for last year it brought in \$90.00. He said he was asked who Mr. LaPointe has to go to when requesting funds to be appropriated from the Perpetual Care Fund. He said the Mayor has the final say and the money must be used for some sort of maintenance.

Councillor Marchand said one of his constituents in Ward Five at a small condominium to recycling with the City. He said they do not have rubbish removal but were able to recycle so the question is what do they do with their recycling now? He said if we could ask the Health Director to get the information out publicly it would be appreciated. A press release would be fine.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following ORDINANCE was given FURTHER TIME. Vt. 8 "yeas"; Councillor Nickel abstained from voting due to a possible conflict of interest.

1st Reading Ordinance – Relative to amending Chapter 22 of the Revised Ordinances entitled "Zoning," Article XIII Health Care Overlay District as shown on a plan entitled "Modification to the Health Care Overlay District, Article XIII" dated June 19, 2008 and revised on March 30, 2009.

The following letter from Brian Riley, the City Solicitor, dated April 8, 2009 was read into the record. This letter pertains to the preceding ordinance.

Dear Ms. Bouchard:

I have enclosed an ordinance form prepared in accordance with the above referenced petition, and I approve this ordinance as to form. Please note that as an amendment to the Zoning Ordinance, the City Council must take final action on this ordinance within 90 days of its March 30, 2009 hearing in order to avoid having to hold a new hearing. In addition, because of the abutters' petition filed last summer, it will require a three-fourths vote of the entire City Council in order to approve this zoning amendment, or seven (7) votes in favor.

At the hearing, there was discussion as to the means to make the agreed upon conditions between the Health Alliance Hospital ("Hospital") and the abutters (which conditions are set forth on the March 30, 2009 revised plan submitted with the petition by Whitman and Bingham) binding on the Hospital. Once the amendment is finally approved by the City Council, the Hospital has indicated that it will record the plan. I recommend that the Hospital record marginal notations on the deeds of each of the abutting property owners, and provide the City Clerk with a copy of such recording. In the event that the Hospital or any of the abutters conveys their property, therefore, there will be marginal references on the various deeds that will put any purchaser on notice of the plan and its conditions. In addition, I have made specific reference to the plan and its conditions in Section 96.2 of the ordinance. This makes the Development Envelopes, as stated on the plan with conditions, an actual part of the Zoning Ordinance. If the Hospital was to initiate a building or take other action within the Overlay District that was not in compliance with the plan, therefore, this would constitute a violation of Article XIII and be enforceable by the City as a zoning violation. In my opinion, the recording of the plan in the Registry of Deeds and the incorporation of the plan with conditions into the text of the Zoning Ordinance provides ample protection for the abutters as to the integrity of the conditions, without the need for a side agreement between parties.

I would also note, however, that the abutters would not be protected from a scenario where the Hospital petitions for a new amendment to Article XIII and a new Development Envelope without the conditions, and the City Council approves that petition. There is nothing in Article XIII that would prevent an Overlay District Development from being amended at a later date, nor could the City Council agree not to consider a future amendment petition, in my opinion. If the abutters wished to seek some greater level of guarantee that the Hospital would not seek such a change for an extended period of time, they may take this up with the Hospital directly. It should further be noted, however, that given the negotiations between the parties and the extensive expansion potential that Development Envelope #2 and the Multi-Use Area Development Envelope provide, it may be very unlikely that the scenario I proposed would happen anytime soon, and in any event the plan conditions could not be varied without a two-thirds vote of the City Council.

If you have further question in this regard, please feel free to contact me.

Very truly yours,
Brian Riley

Under New Business, Councillor Tocci said on April 30, 2009 at 6:30 P.M. there will be an energy seminar at City all in the auditorium sponsored by Mass. Municipal Association.

Councillor Marchand said there was an oil spill in Ward Five this week and it was traced back to the Northwest School. He said it was an oil tank that was breached and 6,000 gallons of oil was removed from the tank and brought to other locations. He said the good news was that it has been identified and resolved. He said the school district will be going to gas.

A Finance Committee meeting was established for April 22, 2009 at 6:45 P.M.

MEETING ADJOURNED AT 9:12 P.M.

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