

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009

Hearing opened at 6:32 P.M. with Councillor Dombrowski, Chair of the Public Service Committee presiding.

All members were present.

The following PETITION was the subject of the hearing:

63-09 Massachusetts Electric: Tanzio Road: Relocate 1 singly owned pole on Tanzio Road beginning at a point approximately 1,243 feet southwest of the centerline of the intersection of Lancaster Street and continuing approximately 75 feet in a northeasterly direction.

David Bremner, from the engineering department at National Grid in Leominster, said they are developing the property with improvements to the road. He said the point of delivery will be at this pole #7 and the engineering department has decided, with the developers, this would be the best location.

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

HEARING ADJOURNED AT 6:35 P.M.

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

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009

Hearing opened at 6:37 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present.

The following ORDINANCE was the subject of the hearing:

Relative to amending Chapter 14 of the Revised Ordinances entitled "Offenses-Miscellaneous" by creating a new Section 14-19 prohibiting the feeding or baiting of waterfowl.

Councillor Rowlands read a letter from Brian Riley of Kopelman & Paige dated April 21, 2009.

Dear Ms. Bouchard:

I have enclosed an ordinance prepared pursuant to the above referenced petition, which I approve as to form. As noted in my April 10, 2009 letter to the Legal Affairs Committee regarding this petition, I have used the sample ordinance/by-law on the Attorney General's website as the basis for the enclosed ordinance. In accordance with the petition, the ordinance applies to the entire City and would impose only a warning for the first offense, with subsequent offenses subject to a \$50.00 fine.

I retained the provision from the sample ordinance that exempts any domesticated waterfowl, whether kept as a personal pet or pursuant to "farming" or other commercial raising of birds as defined in the cited statutes. I also retained the paragraph that would allow the Division of Fisheries and Wildlife to feed such waterfowl in an emergency (trapped by ice, for example), and extended that authority to the Mayor as well. I did not include, however, the sample ordinance's extending of enforcement authority to the Division of Fisheries and Wildlife personnel. While this was included in the sample, in my opinion, this would be impractical and a City ordinance is better enforced civilly by City officials or criminally through an application for criminal complaint in District Court. The Council may, of course, make amendments to the enclosed ordinance if it chooses.

If you have further questions, please feel free to contact me.

Very truly yours,
Brian W. Riley

Phil Reddy, 79 Elm Street, spoke in support of the ordinance. He said he has circulated the Massachusetts Division of Fisheries and Wildlife information to all of the Council members so they would be aware of the rationale behind the ordinance. He said the specific reasons why it is important to have such an ordinance is because the geese congregate wherever people feed them, the feeding encourages the birds to stay in areas where they normally would not and to build up a flock in sizes the habitat cannot support. He said the food that they're fed is not their proper diet and feeding makes the geese less wary of people and lowers the natural winter mortality. He said people may enjoy feeding the ducks and geese but it is in the bird's best interest that they don't. He said that is the official position by the Massachusetts Division of Fisheries and Wildlife. He said we have tried to use other measures like signs but it doesn't work. The numbers have dramatically increased on Rockwell Pond for several years and last fall the count was up in the 50-60 range and included other species such as waterfowl that we normally would not see in this area because of the feeding. He said when numbers of geese exceed the habitat capacity, what you get is

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009, continued

much more aggressive behavior on the part of the geese and fighting over nesting areas because there is not enough areas. He said in the middle of the night you will hear fighting over the nesting areas.

Mr. Reddy said the biggest problem is the pollution and it is considerable with Canadian geese. He said when they congregate in large numbers in a small area the amount of pollution that is caused by the droppings is serious and provides an unusual amount of pollution not only in the pond but downstream. He said it is a well thought out proposal and thinks the ordinance is only in existence because the signage has not worked. He said the signage educates the public that we shouldn't be feeding geese and other waterfowl but the ordinance says you really must adhere to the rules and if you are not going to do this there will be penalties.

Susan Gallant, 13 Elm Street, said this ban or outlaw on the feeding of all waterfowl for the entire City of Leominster is not sensible. She said it is because a handful of neighbors on Elm Street are after one particular neighbor that feeds the ducks and geese on his own property. She said these neighbors should put up a two foot fence along the water to stop the waterfowl from coming on their lawns. She said whether or not you pass this law the waterfowl will still continue to go on their property to eat the grass and still create the droppings. Ms. Gallant said the City is making a big mistake in the approval of this chapter and there are many people that do not think this is right including Joanne DiNardo of the Conservation Commission, to whom I have spoken to. Ms. Gallant said she has lived there for 34 years and has never heard of anything so stupid and said next you will try to ban feeding all the wild birds. She said if they are on their own property people shouldn't be fined for feeding them. She said this is for every pond in the City that this will affect.

Councillor Freda said she has received several phone calls and there was a lot of confusion because of the headline in the newspaper stating that the Council had banned the feeding of waterfowl. She said a lot of people were asking how it was banned when no one really knew about it. She said she spent a lot of time explaining that it wasn't banned and the original idea was accepted and has moved to one level of acceptance and this is the second level. There was a lot of confusion with the headline in the newspaper and the people who do not understand the process that we go through.

No other Councillors spoke regarding this petition.

HEARING ADJOURNED AT 6:47 P.M.

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

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009

Hearing opened at 6:50 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee presiding.

All members were present.

This hearing is continued from April 13, 2009.

The following PETITION was the subject of the hearing:

41-09 Tim Dolan, Sudbury P B & J L C/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 was a letter dated May 11, 2009 from Whitman & Bingham Associates regarding this petition.

Dear Councillors,

On behalf of our client, Sudbury P.B. & J., Whitman & Bingham Associates LLC respectfully requests that the Special Permit hearing for this evening, May 11, 2009 be continued to the next available Council meeting.

The continuation is being requested as to allow the applicant to work with the Planning Board on the Site Plan Approval for the above referenced project. No representation from the applicant will be present at this evening's Council meeting.

Thank you for your consideration in this matter and we look forward to seeing the Council in the near future. If you should have any additional comments or questions please feel free to contact me at my office.

Sincerely,
Wesley R. Flis
Project Engineer

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009, continued

Councillor Rowlands said there was a variance sought by this petitioner from the Zoning Board of Appeals and the petitioner rearranged the plan and no longer needed a variance in regard to the buffer zone. He said they had a buffer size of 25 feet and what was required was 50 feet. He said they moved the housing and met the 50 foot buffer size and withdrew from the Zoning Board of Appeals.

Leo Kusmirek, 21 River Street, said he is in opposition of this as a neighbor and abutter to the proposed development. He said the traffic situation on River Street is ridiculous and the volume and speed of the cars and disregard for the people who own property on River Street is a daily problem. He said to put in three more units, particularly at the end of the road where the traffic backs up, doesn't make any sense to him. Mr. Kusmirek said there is a water situation on the property which is a foot deep and there 365 days a year. He said he is not sure of the source of the water. He said his concern is what happens when the neighbor fills it and the water shows up on his property. He said he knows he will eventually do something with the land and his concern is for his own property.

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

HEARING ADJOURNED AT 6:57 P.M. AND CONTINUED TO MAY 26, 2009 AT 6:55 P.M.

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

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009

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

All members were present.

This hearing is continued from April 13, 2009.

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 recommendation received from Kate Griffin-Brooks, Planning Director.

Barbara Drury read a letter she wrote regarding the dream of owning her own business and overnight boarding.

Joan Hoyt, a Lunenburg resident and a client of Barbara's for 2 ½ years, said it would be a good thing for the community as well as a supportive practice for successful local business during these tough economic times. She said in regard to Mr. Lisciotti's letter read at the last meeting, if you visited Manilow's unannounced you would see an immaculate facility with no odor inside or outside. She said Barbara and her staff immediately clean up excrement and is confident that she will continue if she is allowed to have boarding, not only because she cares about being a good neighbor but especially because she cares about the health and safety of the dogs in her care. She said we, who use her facility, know that the well being of the dogs is her primary concern. She said cleanliness and possible odor are truly non issues if Manilow's is allowed to offer boarding. Ms. Hoyt said as for possible barking, I can't emphasize enough that the location is ideal since there are no private residences nearby. She said any barking that takes places is outside during playtime which would not be during evening boarding hours. Currently when the dogs in daycare are napping during a rest period they are in crates in a room where she would provide boarding and once the dogs are crated and the lights are turned off they do not bark or cause other disturbances. She said she feels certain this would be the same if dogs were boarded overnight.

Ms. Hoyt said at the Planning Board meeting the Chairman explained to her why the other two kennels in the City were allowed in rural residential neighborhoods. She said Manilow's location, with no private residences nearby, is an equally appropriate location since there are no neighbors who could be disturbed since the closest neighbors are commercial and industrial business. She said she hopes that they consider the merits of Barbara's current business and allow her to expand her services to include boarding. She believes this additional service will generate more income so that she is able to operate the business which is greatly valued by her clients.

Shelby Gauvin, a resident of Fitchburg and a client for 5 years, said Barbara takes wonderful care of her dogs. She said her dogs go every Friday and if you have dogs you know how hard it is when you are planning a vacation to make sure the dogs are well cared for and she would feel better knowing that her dogs were going to a safe place, someone who cares for them and knows them and well taken care of. She said she hopes that Barbara will be allowed to have overnight boarding.

Donald Piermarini, 215 West Street, said she has known Barbara all her life, her father for over 50 years and Barbara's sisters. He said it is a perfect location that is isolated, next to a railroad bed, next to Route 2 and ideal for I-190 for her clients moving back and forth to her location going to work. He said she is asking for a dog care kennel for her working clients. She hires people to

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009, continued

work for her and is an asset to the single women in our workforce in Leominster as she is a single woman. She earns money, maintains a business, pays her taxes and is a homeowner. He said she is not a liability.

Councillor Dombrowski asked what type of permit she operating on now.

Ms. Drury said a Special Permit from the Zoning Board of Appeals. She said when she opened her business 6 years ago the one stipulation was that there would be no overnight boarding.

Councillor Dombrowski asked what the rational was behind the stipulation.

Ms. Drury said she was not sure.

Councillor Dombrowski asked how she went about filing this petition the way it is.

Ms. Drury said she was told by other it would be the best way to go about it.

Councillor Dombrowski asked if she looked at Section 22-13 of the bylaw.

Ms. Drury said yes.

Councillor Salvatelli asked when a dog stays overnight does an adult stay with them all night.

Ms. Drury said no.

Councillor Salvatelli said if someone goes away for three days they would take them to you and you would place them in a cage for that evening.

Ms. Drury said yes.

Councillor Salvatelli said so basically they are alone.

Ms. Drury said yes.

Councillor Salvatelli asked if there are certain fees that go along with overnight boarding like \$25.00 per night.

Ms. Drury said yes and that is about right.

Councillor Salvatelli asked if it is standard practice for someone to take their dog to your place of business and board it for three days of which you would be there during the day and after 8:00 P.M. – 9:00 P.M. they would be alone.

Ms. Drury said yes it is. It is 50/50. She said half of the people that have kennels have somebody there the other half don't have anybody.

Councillor Salvatelli asked what the advantage would be to have someone there.

Ms. Drury said fires. She said she plans on putting in some webcams so that she can keep an eye on things from her home.

Councillor Salvatelli said the advantages would be if there were any accidents or a break in somebody would be right there. He asked if there were any sleeping facilities there.

Ms. Drury said no.

Councillor Tocci asked if there was a reason why you want to change the whole City.

Ms. Drury said she was told by political people that it was the best move to go.

Councillor Lanciani said he agrees with everyone that spoke on her behalf and when she first went to the Zoning Board of Appeals he spoke on her behalf. He said he was at the Planning Board meeting when they told her she could do so by right in an industrial zone but when he looked at the letter from the City Solicitor stating she felt that it was not a valid argument by having it by right. Mr. Lanciani read a letter from August 13, 2007 from Kopelman & Paige referencing the boarding of animals. The letter states that because the Leominster Zoning Ordinance does not list doggy care, doggy boarding or commercial kennels as uses permitted in the "I" district and it is their opinion that use conducted by Manilow's is a prohibited one and consequently, it is her opinion, that the Board has no authority to grant the 2003 Special Permit and no authority to amend it to allow overnight boarding of dogs. Therefore, it is her opinion, there is no authority in the zoning ordinance for the granting of a Special Permit for a doggy care center for the overnight boarding of dogs even if such operation is licensed as a kennel under M.G.L. Chapter 140, Section 137A. Licensing is a separate matter for zoning.

Councillor Rowlands said the petition before us is for us to change the ordinance in the City to allow for a commercial kennel business to operate in an industrial with a Special Permit from the Planning Board. He said he doesn't know if the history of what happened or where that business is today and how it got there is necessarily relevant. He said this is a petition across the board that says put a "yes" for kennels in the Table of Use entry under Industrial. He said this is an example how one business would benefit from the city wide change. He said if this were to pass, the petitioner would still have to go before the Planning Board for a Special Permit and it would be allowed because we would have passed a petition to make that possible.

HEARING BEFORE THE CITY COUNCIL, MAY 11, 2009, continued

Councillor Freda asked if that is the clarification that this is the only way she can do this? She can't receive a Special Permit from the Zoning Board, that is something that they did do in the past and that they can't do anymore. She said the discussion at the Planning Board meeting the other night seemed to indicate that this is the only way that would allow her to do that.

Councillor Rowlands said he did not look at alternative ways but only what is before us. He said he doesn't know all the avenues that may or may not be available.

Councillor Freda said that at the Planning Board meeting the other night they were trying to explain that the only way this could be allowed is once this is granted they would have the authority to be able to look at it. She said if you had a Jytek Park situation then their Special Permit process would kick in to looking at that.

Councillor Rowlands said if there is no Table of Use entry then it is a no, so this would put in a Table of Use entry. He said he would hope the proper mechanism would be that you come in here, you see our Planning Department, and they would point you in the right direction. He said that direction is to petition to change the zoning ordinance. He said he would tend to agree that there is no other mechanism but hasn't done a full research to see if there are other options.

Councillor Marchand told Ms. Drury she has wonderful people supporting her and it says a lot for what type of business she runs. He said she does bring a service to the community. He said he was glad the tone in the forum was different than what he heard. There seemed to be a little animosity toward a couple of other kennels in town that play an important role for the City and once there was clarification on the reason why they exist where they do you accepted that.

Councillor Marchand asked Ms. Drury if she has boarded dogs there before and was she told by the Planning Director that she could before the Building Inspector came back and said you couldn't?

Ms. Drury said yes.

Councillor Marchand asked how many did you have the ability to board?

Ms. Drury said she has 50 crates inside the nap room but at one time there were probably no more than 10 dogs in that room.

Councillor Marchand said so the Planning Director violated the conditions of the Special Permit that was originally granted to you under the ZBA.

Ms. Drury said yes.

Councillor Marchand said Kopelman & Paige came back with a letter stating they shouldn't have given it to you in the first place and then there was a violation by the Planning Director in the conditions and you have complied with that.

Ms. Drury said yes.

Councillor Marchand said let's take you out of the equation right now and we are dealing with the zoning for the whole City. He said it is not really about your kennel, it's about the entire City at large. He asked if she had a chance to investigate other areas where a kennel could be located besides the industrial. He said you picked on industrial because that is where you exist but do you think that other areas that would be compatible that should be under the table of uses for this, because that is one of the glitches that is not defined.

Ms. Drury said she wasn't sure how to answer that.

Councillor Marchand asked what happens if that property gets sold? He said he has been told the owner of the property potentially could be selling the property which means that you could cut a deal for a continued lease agreement with the new owner, whoever that happens to be, or you might be asked to move and might see something else exercise there as far as zoning rights.

Ms. Drury said she has no control over the property because it is not hers.

Councillor Marchand asked if she has to get a license to board the dogs overnight.

Ms. Drury said when she got permission before she only had to get the dog officer to come down to inspect the place.

Councillor Marchand said you mentioned how you will have the ability to view the kennel by using technology and asked about fire alarm systems and water safety in case there is a fire.

Ms. Drury said she believes there is and there is at least smoke detectors.

Councillor Marchand told Ms. Drury she has a great business and it is going to be difficult dealing with the industrial component.

No one spoke in opposition of this petition.

HEARING ADJOURNED AT 9:25 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, MAY 11, 2009

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

Eagle Scout Colin Sanabria led the Pledge of Allegiance.

A recess was called at 7:35 P.M. to hold a public forum.

The meeting reconvened at 7:43 P.M.

The Committee on Records reported that the records through April 27, 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-96 Relative to the appropriation of \$5,000.00 to the Fire Department Expense Account; same to be transferred from the Excess & Deficiency Account.
- C-97 Relative to the appropriation of \$75,000.00 to the Highway Expense Account; same to be transferred from the Excess & Deficiency Account.
- C-98 Relative to the appropriation of \$35,500.00 to the Sanitation & Drainage Expense Account; same to be transferred from the Excess & Deficiency Account.

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

- C-99 Relative to the additional appropriation of \$6,143.00 to the Year 35 Community Development Block Grant as listed below;
- | | |
|--|------------|
| Leominster OPD - Housing Rehabilitation Program
(Includes \$4,915.00 for Elder Safety Rehab Services) | \$4,915.00 |
| Leominster OPD - Planning & Administration | \$1,228.00 |

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE and given REGULAR COURSE. A hearing was set for May 26, 2009 at 7:10 P.M. Vt. 9/0

- 66-09 Massachusetts Electric Company and Verizon New England, Inc: Adams Street: Install 2 jointly owned poles and remove 1 jointly owned pole on Adams Street beginning at a point approximately 100 feet west of the centerline of the intersection of Union Street continuing approximately 100 feet in a westerly direction.

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

- 67-09 Craig Long: Renew license for two pool tables at Jake's Pub, d/b/a Hot Shots at 1293 Main Street.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas". Councillor Nickel abstained due to a possible conflict of interest.

- C-95 Relative to the appropriation of \$100,000.00 to the Fire Department Overtime Account same to be transferred from the Excess and Deficiency Account.
- ORDERED: - that the sum of One Hundred Thousand Dollars (\$100,000.00) be appropriated to the Fire Department Overtime Account; same to be transferred from the Excess and Deficiency Account.

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

- 63-09 Massachusetts Electric: Tanzio Road: Relocate 1 singly owned pole on Tanzio Road beginning at a point approximately 1243 feet southwest of the centerline of the intersection of Lancaster Street and continuing approximately 75 feet in a northeasterly direction.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. (The hearing will be continued on May 26, 2009 at 6:55 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.

REGULAR MEETING OF THE CITY COUNCIL, MAY 11, 2009, continued

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

- 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.
- 64-09 Kelley Freda: Create a City Ordinance requiring all pet owners and keepers to dispose of their pet's solid waste.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED. Vt. 7 "yeas" and 2 "nays"; Councillors Marchand and Rosa opposed.

- 65-09 Edward Cataldo: Amend Chapter 4, Sections 4-2.1 through 4-2.9 of the Revised Ordinances entitled "Buildings" to change the fees charged by the Building Department.

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

- C-93 Dean J. Mazarella, 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.

Councillor Marchand, President's Drinking Water Oversight Committee, said a great question was raised by Councillor Rowlands regarding some of the graphic organizers that were shared with the Council regarding TTHM spikes. He said he did receive communication from Mr. Chalifoux who is the project manager from Viola. Councillor Marchand said this will probably be the next agenda item on the meeting which will be set up soon to discuss the magnitude of this. He said the spikes occur as a result of some of the upgrades that are needed and the timing of the process in order to resolve the TTHM levels. He said he will set the meeting up with the Clerk's office this week and confirm at the next meeting. It will probably be in July.

The following ORDINANCE was read once, ADOPTED as presented and ordered published. Vt. 8 "yeas". Councillor Nickel abstained 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. (Legal Affairs Petition 103-08)

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 8 "yeas" and 1 "nay", Councillor Freda opposed.

City of Leominster

In the year two thousand and nine

ORDINANCE amending Chapter 14 of the Revised Ordinances entitled "Offenses – Miscellaneous."

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

Chapter 14 of the Revised Ordinances entitled "Offenses – Miscellaneous" is hereby amended by inserting the following new section.

Sec. 14-19 Feeding or Baiting of Waterfowl Prohibited

No person, except the Director of the Massachusetts Division of Fisheries and Wildlife or his agent or designee, as authorized pursuant to Chapter 131 of the General Laws, shall feed or bait any waterfowl of the family Anatidae, including, but not restricting to ducks, geese, and swans, at any place within the City of Leominster. As used in this paragraph, "feeding" and "baiting" shall mean the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of any shelled, shucked, or unshucked corn, wheat, or other grain, bread or salt, or any other feed or nutritive substances, in any manner of form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any such areas where such food items have been placed, exposed, deposited, distributed, or scattered.

Nothing in this ordinance shall be construed to limit the feeding or domesticated waterfowl, as defined by the Division of Fisheries and Wildlife, by a farmer as defined in Section 1A of Chapter 128 on property owned or leased by him, or the feeding of waterfowl or other birds by propagators licensed under Section 23 of Chapter 131 of the General Laws when such waterfowl or other birds are confined in such a manner as may be required pursuant to said Section 23 and any Rules and regulations issued

under authority thereof; or the feeding by any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by such person.

Notwithstanding the above, the Mayor or his agent or designee or the Director of the Massachusetts Division of Fisheries and Wildlife or his agent or designee may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The Director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the Mayor by first class mail.

Any person who violates any provision of this ordinance shall be given a written warning for a first offense and shall be subject to a fine of fifty dollars (\$50.00) for each offense thereafter.

This ordinance may be enforced by City Police, Officers, the Board of Health and its agents, or the Conservation Commission and its agents.

Under Old Business, Councillor Marchand said they are one week off on the collection for pickup of yard waste from the winter storm. He said it is an unfortunate incident that took place at Doyle Field. He said there are good things that are happening with the playground project. He said we have a Recreation Commission, the Lion's Club and other organizations that are down there helping out and volunteers and the City has saved an incredible amount of money by these folks coming forward and helping out with this project. He said there was a lot of discussion regarding the process as far as financing is concerned. He said he understands that the woman who was contracted through the company to come on board is top notch. He said she did a great job representing the company but also doing the hands on. He said they ran into all kinds of dilemmas like the weather and a huge platform of concrete that was buried in the soil that had to be removed. It is unfortunate that the incident involving a worker from the work release program took place but he thinks we have to recognize how fortunate we are to have such a great group of people putting together a wonderful playground. He said once the playground is up and phase 2 gets completed a year from now everyone will be excited about going with their children and grandchildren to use it and we will forget about some of the things that took place. He said it is unfortunate what the prisoner did but you can't have 100 percent security there all the time when you are working with volunteers. We will find out what happened. He said he would be remised without demonstrating some support for the Recreation Department and everyone that is involved with the project because they are doing a great and they have had a lot of different barriers and road blocks to get past in the past week.

Councillor Tocci thanked the Councillors who went to her energy seminar on April 30, 2009. She said it was very informative and the first of many. She said Joanne DiNardo from Conservation could not make it on May 26, 2009 to speak before the Council on the update for solar energy and the grants. She said we are trying to schedule her on June 8, 2009.

Councillor Lanciani asked the Chair of Public Service if he has had an opportunity to set up another informational meeting with the parties regarding rubbish. He said it has been approximately a month and we could set something for either the next meeting or shortly after so we can get updated with the questions that were asked regarding rubbish, containers for larger families and bags.

Councillor Dombrowski said it was a good idea and probably should be done on an off night. He said he would set it up.

Councillor Lanciani asked if Petition #56-09 be placed on the next agenda.

Councillor Salvatelli said he wanted to mention that FEMA required that the Litchfield site and the Doyle Field site be picked up first before any other storm material be picked up. He said some citizen threw a propane tank into the pile of debris and it went into the machine, broke it and put the pickup time back in days. He said those two places became dumps with wooden sheds, materials, and the ultimate was the propane tank and we are lucky someone did not get killed.

Councillor Nickel said he has been asked when the pickup was starting. He said one of the big questions is when they are they going to start.

Councillor Salvatelli said he believes they will be working 10 to 12 hours a day starting Monday.

Councillor Rowlands said he would like to establish a Legal Affairs Committee meeting on May 20, 2009 at 7:00 P.M.

Councillor Salvatelli said he would like to establish a Finance Committee meeting on May 20, 2009 at 6:30 P.M.

Councillor Nickel said he had a letter from Mr. Brooks from the Department of Public Work regarding the state revolving fund, the sewer rates and water issues and he thinks we should get an update and do something one way or another especially when we are coming close to another fiscal year. He said this has been on the agenda waiting for action for quite a while and knows the Legal Affairs Committee has plenty of work to do along with the zoning issues. Councillor Nickel said we need to look at this and give Mr. Brooks an answer in which way to go.

Under New Business, Councillor Salvatelli said he had a recent concern from a citizen which he thought was interesting. He said the individual indicated that there are people knocking on doors trying to sell things throughout the neighborhoods and approximately 30 adults out in one day selling magazines. He said the individual said in years gone past if you went to the Police Department you would have to register first and then given an I.D. indicating that you did have a license to go door to door. Councillor Salvatelli said he can't imagine anything so dangerous, particularly with the elderly, knocking on doors asking to purchase things without some sort of identification. He said the person called the Police Department and they told him he did come in and get a license, but how is the citizen going to know that? He said I don't want anyone at my door without some sort

REGULAR MEETING OF THE CITY COUNCIL, MAY 11, 2009, continued

of license to indicate they have been to the Police Department and they are legitimate, otherwise slam the door in their faces and tell them you're not interested. He said a lot of elderly people that can be taken in and he doesn't want to see anybody hurt.

Councillor Freda said she got the same phone call probably from the same person. She said she checked with the Clerk and it is a federal right for them to be doing that and they cannot be stopped. She said she doesn't disagree and there is concern not just for the elderly but little children that are home alone after school and having someone at their door.

Councillor Nickel said he had a constituent who was upstairs giving her child a bath and came downstairs and heard her children talking and some gentleman had walked into her living room to sell magazines with two other little children in the living room. He said she immediately called police. He said it was a Tennessee license plate. Councillor Nickel said years ago we had a snow storm and a couple of gentlemen walked around offering to shovel sidewalks and driveways and when they went to houses and the homeowner asked how much they would come up with an absonant price and the people would say no. Councillor Nickel said after they went through every house in the neighborhood and realized who was home and who wasn't, and then they went around the neighborhood and broke into the houses where they didn't get an answer. He said it goes to show you how important this is. He said if you have somebody suspicious, by all means call the Police Department and let them find out who they are. He said it sounds like the federal laws have taken away the power of the cities to do anything about it.

MEETING ADJOURNED AT 9:05 P.M.

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