

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 23, 2009

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

All members were present except Councillors Marchand and Rosa.

The following ORDINANCE was the subject of the hearing:

Relative to amending Chapter 4, Section 4-2 of the Revised Ordinances entitled "Building" to include the fees for the replacement of Hot Water Heaters \$20.00 per heater, Replacement of Gas Appliance, Boilers, Furnaces, etc. \$20.00 per appliance.

Councillor Rowlands said this part was omitted when they adopted the new ordinance. It is not a rate increase.

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

No Councillors spoke.

HEARING ADJOURNED AT 6:37 P.M

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

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 23, 2009

Hearing opened at 6:40 P.M. with Councillor Dombrowski, Chairman of the Public Service Committee, presiding.

All members were present.

Heeran Ramberan representing Massachusetts Electric was in attendance.

The following PETITION was the subject of the hearing:

15-10 Massachusetts Electric: Tanzio Road: Install 16 singly owned poles on Tanzio Road beginning at a point approximately 856 feet west of the centerline of the intersection of Lancaster Street and continuing approximately 2,273 feet in a northwesterly direction.

Mr. Ramberan said he is representing National Grid and is requesting permission to install 16 singly owned poles along Tanzio Road with overhead wires and fixtures. He said the purpose for this construction is to distribute power to present and future commercial customers in this development.

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

Councillor Nickel said there was a previous petition for 12 poles but was given leave to withdraw by National Grid because they had to refigure the poles.

Councillor Dombrowski said he understands that National Grid has reached an arrangement with the property owner.

Mr. Ramberan said yes we did.

Councillor Marchand asked if the petitioner is National Grid or Mass. Electric because the petition is under Mass. Electric.

Councillor Dombrowski said the petition is under Mass. Electric and the speaker identified himself as being with National Grid.

Mr. Ramberan said it is the same company.

HEARING ADJOURNED AT 6:44 P.M

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

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 23, 2009

Hearing opened at 6:45 P.M. with Councillor Salvatelli, Chairman of the Finance Committee, presiding.

All members were present.

Present at the hearing were Chief Assessor Walter Poirier, Assessor Christopher Paquette and Assessor James Dillon.

The following PETITION was the subject of the hearing:

C-10 Relative to determining the factor to be used in setting the Fiscal Year 2010 tax rate.

Mr. Poirier said it was a tough year. He said there was about \$406 million less gross value this year due to market conditions. The bulk of it was out of residential. He said they had a bumper year in abatement applications this year. There were over 400. He said that is the most they have had since he has been on the board. Part of that is due to a misconception the general taxpayer has. They have the idea that we should be at current market value and we are not. We have always been two calendar years behind the fiscal year in our sales. He said this is 2010 and we are required to use 2008 sales.

Mr. Poirier said they abated \$4.5 million in value in residential and \$1.887 million in commercial and industrial value. They have 111 appellate tax board cases right now, more than the City has ever seen and all from one tax payer. Market adjustments have been made to the different classes. Single families alone accounted for adjustments of -\$219 million which is roughly 10% of that class. Condominiums dropped \$43 million, approximately 15%. Two and three families also dropped around 15%. He said for the total drop in value for residential was \$330 million a drop in commercial/industrial was not as drastic. He said in 2008 we started to see vacancy rates and renegotiated rents, which affects commercial/industrial value. He said new growth was the lowest it has been in 15 years. Total new growth was roughly \$45 million with the bulk of it occurring in commercial, industrial and \$18 million alone to personal property. He said \$4.5 million is attributed to the new Wal-Mart including their personal property, inventory which is taxable because of the way they do business. He said they are not a corporation they are an LLC and as an LLC they are fully taxable on furniture, fixtures and inventory.

Mr. Poirier said growth was only \$541,000.00 in tax dollars. He said there have been years when we were over a million and we have been living on commercial growth for the past 3 out of the 4 years. Orchard Hill Park, Lowes, Walgreens, Wal-Mart, are the big ticket items that contribute to the increase in commercial and industrial growth. He said we are back to 78% residential and 22% commercial/industrial personal property from a point where we were 85%:18%.

Mr. Poirier said we are still under the levy and have excess levy capacity. He said the total taxable value of the City is \$3,510,329,703.00. This year new single family homes were 14 and there were no new condominiums which is the first time since 1996.

Mr. Poirier said if a factor of 1 is adopted it would render a tax rate of \$13.82 for all classes. We have then split it by 5%, 10%, 25% and 50%. He said this City has never split the tax rate and may not exceed 1.5% because of the state regulation and law. He said as you split you place more burden more and more on industrial as tax dollars are shifted to them so if you are to split it to 1.5% the residential rate would be \$9.90 and the C.I.P rate would be \$20.74. He said there are only 80 communities that have set tax rates right now. He said last year 106 communities had split tax rates out of 352 communities.

Mr. Poirier said in Fiscal Year 2007 we had the highest single family average assessment we have ever had at \$276,000.00 and this year the average single family is assessed at \$238,471.00. He said using the tax rate of \$13.82 would translate into a tax bill of an increase of roughly \$78.00 over last year. Mr. Poirier said all the tax rate is, quite simply, is a total amount to be raised divided by the total valuation.

Mr. Poirier said there are two options they get to vote on a residential exemption which allows a diminishment of 10% of the total residential value to those who are eligible. One, two and three family home which is owner occupied are eligible. He said the higher the value gets the benefit is accrued and the break even point is roughly \$266,500.00 and that is when there is no increase or decrease in tax. Anything about \$266,500.00 gets an increase in their taxes over and above what they normally pay and with the residential exemption anything below that figure would continue to get a decrease. Less value on the property the higher the benefit. He said there are 5,948 eligible homes and are below \$266,500.00, and 2,035 single family homes that are valued above that. He said the 2,035 single family homes will get an automatic decrease in their bill. He said open space and industrial will retain the same rate. He said there is a small business exemption.

Councillor Salvatelli said in the simplest terms what do you tell a resident why his house was worth \$280,000. last year and worth \$235,000. but this year had an increase of \$100.00 in taxes?

Mr. Poirier said it occurs because proposition 2 ½ does not apply to the individual and it never has. He said it doesn't guarantee that your taxes will only go up 2 1/2%. It only guarantees is that the City may only raise 2 ½% more than it did the previous year plus the new growth. Your taxes are based upon your value. The real estate market does not move uniformly, even in the residential class. He said you have locations, styles of homes and market perceptions that play into the values so the way prop 2 ½ was constructed is that they constrained the levy but haven't constrained taxes on the individual parcel.

Councillor Salvatelli said the City was eligible to raise fifty million dollars in taxes last year. The next year we still have to raise fifty million dollars and we can put the addition of growth which is very minimal and then prop. 2 ½ which is 1.297. If we wanted to or if the City chose to you could add additional money by increasing the prop. 2 ½ because we have more levy, is that correct?

Mr. Poirier said yes you have excess levy capacity.

Councillor Salvatelli said we could go 5%.

Mr. Poirier said yes, you could raise another \$5 million dollars in the same year.

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

Councillor Salvatelli said the law indicates even with Prop 2 ½ if your value goes down your taxes could easily go up.

Mr. Poirier said absolutely.

Councillor Tocci asked how much excess tax levy do we have now.

Mr. Poirier said roughly \$5.2 million.

Councillor Tocci said in percentage.

Mr. Poirier said we can raise another 11% more.

Councillor Rowlands asked what the legal costs pertaining to abatements.

Mr. Poirier said he does not see the bills.

Councillor Rowlands said there is a burden associated with it.

Mr. Poirier said for this instance the 111 appeals are by one entity, the bulk of them will be heard over a three day period so it won't be that great. We need legal council because they are all filed formally but the bulk of them are condominiums so they are fairly easy to defend and we are not bringing in any valuation experts. The only time we have ever needed a valuation expert was when dealing with the number one tax payer within the City.

Councillor Rowlands said he will be looking for a number that would come done to the Council.

Mr. Poirier said he would have to ask the Mayor because all the bills go to him for normal appeals.

Councillor Freda asked how many appeals were successful.

Mr. Poirier said out of 400 and subtracting the 111 we're down to 289 and out of those were 90% was residential and not many of them were successful. He said if there was a data era, absolutely. He said this is the first time since 1991-1992 that values have dropped. We were living high. People are looking at what they think they can get for their property now. He said he is looking at a date 2 years hence. An appraiser has a 6 month window and he doesn't. He said his window is 18 months to 2 years.

Councillor Freda said even as an appraiser they don't want them to go more than 3 months because it is changing so drastically. She said this isn't the worse of it.

Frank Montolio, 168 Stuart Avenue said if we have to raise \$50 million why don't we do \$1.00 per square foot. It would work.

David McKeyan of the Northern Central Mass. Chamber of Commerce said he applauds the efforts of the Assessor on clarifying this very confusing process we go through. He said there already has been a shift in the burden of taxes being paid by commercial and industrial taxpayers. He said he is there to encourage the factor of 1.

Edward Gagne, 29 North Meadow Road said in the previously years he focused on what the Council has done for the City of Leominster financially and personally but over the past year probably what you didn't do has meant so much to every single taxpayer in the City. He said 5 million plus jobs have been cut, eliminated, disappeared but here in Leominster every single one of the staff that works for the City of Leominster are still here. He said you did not eliminate the essential services in all of the departments. He said when all of the staff retire their pension funds are there and in tact. He said he is glad to be a citizen of Leominster.

Councillor Rowlands said you have to take into account what you spend so if you have to raise \$50 million dollars as the City's portion of the budget and we need to spend \$50 million dollars and you raise that on assessed values of homes and those assessed values drop and you don't drop your expenses so the only thing can do it raise the tax rate.

Mr. Poirier said the tax rate is not predicated on anything more than the assessment vs. the levy. He said all the tax rate is nothing more than a function of the total value divided into the amount of levy to be raised.

Councillor Rowlands said and the levy is based on what you spend.

Mr. Poirier said the levy is based on the needs of the City.

Councillor Rowlands asked if there is a saturation point for a City our size that you may grow at one location and might cause and a loss at another location and your net gain is minimal. He said it is a critical question relative to the mall because malls don't reorganize or restructure into much else besides malls.

Mr. Poirier said a best example of that is the Methuen Mall which has evolved. It has had a second reincarnation. They focused away from department stores and more to women's and men's clothing. This mall was a very thriving mall in 2006 with only 2 ½% vacancy. This is a nationwide epidemic that malls all over are failing. The owner of that mall has lost a mall to foreclosure. He said the entity that bought our mall is very large and whether or not they can absorb this depends on their portfolio just as if those of us that had stock portfolios or money markets we were affected. He said he have lost a lot of retail in this area.

Mr. Paquette said Circuit City was one of the better performing stores in the northeast. He said Leominster made it through the first couple of cuts and it came to a surprise to them they were closing but it was a corporate issue not a Circuit City vs. Best Buy issue in this locality, it was corporate mismanagement.

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

Councillor Rowlands asked what is the combined tax revenue was for Orchard Hills, Olive Garden, Best Buy, Wal-Mart, Lowes and all their associated stores within.

Mr. Poirier said he can give him value which is roughly \$35 million in value at Orchard Hill, Target is \$10 million, Lowes with the Texas Roadhouse is roughly \$17 million, Wal-Mart is \$10 million plus another \$4 million for their personal property. He said roughly \$75 million to \$80 million within the last 4-5 years.

HEARING ADJOURNED AT 7:40 P.M

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

REGULAR MEETING OF THE CITY COUNCIL, NOVEMBER 23, 2009

Meeting was called to order at 7:32 P.M.

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

The Committee on Records reported that the records through November 9, 2009 were examined and found to be in order. The records were accepted.

A recess was called at 7:34 P.M. to continue the hearing on the 2010 tax rate.

Meeting reconvened at 7:44 P.M.

A recess was called at 7:45 P.M. to hold the public forum.

Meeting reconvened at 7:53 P.M.

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

- C-24 Dean J. Mazzearella, Mayor: Request that the City of Leominster transfer the sum of One Hundred Seventeen Thousand Dollars (\$117,000.00) from the Excess and Deficiency Account Fund to the School Capital Outlay Expense Account, for the purposes of completing schematic designs for the potential renovations and repairs at Leominster High School located at 122 Granite Street; that the City acknowledges that the Massachusetts School Building Authority's (MSBA) grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA and any costs the City incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City.
- C-25 Dean J. Mazzearella, Mayor: Request that the City of Leominster transfer the sum of Two Hundred Thirty Three Thousand Dollars (\$233,000.00) from the School Choice Tuition Revolving Fund to the School Capital Outlay Expense Account for the purposes of completing schematic designs for the potential renovations and repairs at Leominster High School located at 122 Granite Street; that the City acknowledges that the Massachusetts School Building authority's (MSBA) grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA and any costs the City incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City.
- C-26 Dean J. Mazzearella, Mayor: Request that the Snow and Ice Expense Account be authorized to incur liability and to make expenditures in excess of appropriations up to an amount to exceed \$250,000.00 as authorized by Chapter 44, Section 31 of the Massachusetts General Laws.
- C-27 Relative to the appropriation of \$5,800.00 to the Parking Meter Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-28 Relative to the appropriation of \$800,000.00 to the Doyle Field Capital Outlay Expense Account; same to be raised by Fiscal Year 2010 Revenue.
- C-29 Relative to the appropriation of \$157,817.00 to the General Fund Capital Investment Program Fund; same to be raised by Fiscal Year 2010 Revenue.
- C-30 Relative to the appropriation of \$617,200.00 to the School Transportation Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-31 Relative to the appropriation of \$104,000.00 to the Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.

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

- C-32 Relative to the appropriation of \$1,500.00 to the Senior Tax Relief Expense Account; same to be transferred from the Emergency Reserve Account.
- C-33 Relative to the appropriation of \$550,329.75 to the Sewer Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-34 Relative to the appropriation of \$756,616.35 to the Water Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-35 Relative to the appropriation of \$50,000.00 to the Fiscal Year 2010 Revenue; same to be transferred from the Excess and Deficiency Account.
- C-36 Relative to the appropriation of \$130,000.00 to the Fiscal Year 2010 Revenue; same to be transferred from the Excess and Deficiency Account.
- C-37 Relative to the appropriation of \$10,000.00 to the Sidewalk and Curbing Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-38 Relative to the appropriation of \$24,000.00 to the Other Finance Offices and Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-39 Relative to the appropriation of \$1,505,533.57 to the Stabilization Fund; same to be raised by Fiscal Year 2010 Revenue.

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

- C-40 Dean J. Mazzarella, Mayor: Amend the Leominster City Council's Rules of Procedure, Order and Committees, to include a section for Rules of Conduct.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Department of Public Works and The City Council's Legal Services.

- 17-10 David Rowlands: Amend the Leominster Municipal Code Article XIV "Department of Public Works" and Add Article XXVIII "Department Of Water and Sewer" which eliminates the Water and Service Divisions from the Department of Public Works and creates a separate Water and Sewer Division.

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

Election Officers for 2009-2010 – Claire M. Babineau, Annemarie M. Barba,
Diane Eredita, Linda Guidi, Violet E. Racine

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

- C-21 Relative to the appropriation of \$4,875.00 to the Police Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- ORDERED: - That the sum of Four Thousand Eight Hundred Seventy Five Dollars (\$4,875.00) be appropriated to the Police Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- RE: These funds are for the assessment center services rendered for the Police Sergeant exam.
- C-22 Relative to the appropriation of \$32,000.00 to the Election and Registration Expense Account; same to be transferred from the Excess and Deficiency Account.
- ORDERED: - That the sum of Thirty Two Thousand Dollars (\$32,000.00) be appropriated to the Election and Registration Expense Account; same to be transferred from the Excess and Deficiency Account.
- RE: These funds are required to hold the Special State Primary on December 8, 2009 and Special State Election on January 19, 2010. This will cover half of the estimated expenses.

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

- 15-10 Massachusetts Electric: Tanzio Road: Install 16 singly owned poles on Tanzio Road beginning at a point approximately 856 feet west of the centerline of the intersection of Lancaster Street and continuing approximately 2,273 feet in a northwesterly direction.

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

Upon request of the CITY PROPERTY COMMITTEE, the following COMMUNICATION was given FURTHER TIME. Vt. 9/0

C-18 Dean J. Mazzearella, Mayor: Request the land located on Jungle Road as shown on Assessor's Map 301, Lot 1A (former Transfer Station site) be declared surplus.

Upon recommendation of the CITY PROPERTY COMMITTEE, the following PETITION was given LEAVE TO WITHDRAW WITHOUT PREJUDICE. Vt. 9/0

16-10 Gary Cormier, President of the Villa del Rio Board of Trustees: Request permission to allow replacement of the trash receptacle 20-25 feet to the left of its original place and to the right of the storage shed, inches away from the surveyed property line and erect a stockade fence behind the receptacle.

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

C-23 Dean J. Mazzearella, Mayor: Request that Edward A. Lambert, Jr. be exempt from the provisions in M.G.L. Chapter 268A (20B) Conflict of Interest as he is currently employed by the City of Leominster's Police Department as a Police Fleet Maintenance Worker and will be taking on a position for the City Clerk-Elections and Registration Office to set up polling places as well.

Under Old Business, Councillor Rowlands said he didn't know if the zoning hearing was televised and a few people couldn't make it. He said they made some headway and had a very productive meeting. He said Ralph Wilmur from VHB attended and will be making some serious changes. He said it is the first step forward they have had in a while and part of the goal is to establish a Legal Affairs Committee meeting where they can continue to do that.

The following Committee meetings were established for December 9, 2009:

City Property 6:15 P.M.
Finance 6:45 P.M.
Legal Affairs 8:15 P.M.

The following Committee meetings was established for December 16, 2009

Finance 6:45 P.M.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to invite the Athletic Director, the Doyle Field Commission, Mr. O'Brien, Mr. Caisse and Mr. Richard with his crew to attend the Finance Committee meeting on December 9, 2009 at 6:45 P.M. regarding appropriations for the Doyle Field.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to invite Roger Brooks, Patrick LaPointe, John Richard to attend the Finance Committee meeting on December 16, 2009 at 6:45 P.M. to discuss the appropriations for the Water and Sewer Department.

Councillor Freda asked the Finance Chairman if she could get a breakdown of Chris Young's budget. She would like to know who used the field and how much is allocated to those teams. She says she thinks there is some confusion as to some of the other teams that use it when they can. She said she knows that some of the teams have been pushed back from night time use because lights were not available to them if they didn't have lighting payments available in their budgets. She said she wants to know who uses the field and when.

Councillor Salvatelli said he will have Mr. Young do that but he has already approached him. He asked Councillor Freda if she was talking about girl's soccer.

Councillor Freda said she is talking about all soccer teams. She said parents can't go to the games now. She said they want a ridiculous amount of money to put the lights on for them to use the field. So if you are asking taxpayers of soccer parents, boys and girls, to foot some of the bill they need to know their kids can play at night when the parents can watch the game.

Councillor Rowlands said we received an email from the City Clerk's Office regarding the Mayor's new policy with regard to how we have to communicate with the department heads. He said in the past when he has a request for service he sends an email request to the Mayor and to his assistant and then sends a corresponding copy for clarity to a department head, especially if it is a complicated thing. He said now we are being told that there is a policy that you can't communicate with the department head by sending them a copy of the original email or request. He said he finds nothing in the Charter that supports that sort of filtering of information. He said a citizen can go onto the City's web page and look up a department head and send in a communication but as a City Councillor he can't even send a corresponding copy to a department head which is not an order to work, which we clearly cannot hand out work but there is nothing that says we cannot communicate and says there is no justification for that. He said it is less efficient and means multiple hops that are unnecessary and feels it is a form of filtration they do not have to adhere to.

Councillor Freda reminded the Council on November 30, 2009 at 6:30 at the Eagles will be a Ward 3 meeting regarding the zoning changes and all are invited. The Planning Board Chairman and the Planning Director will be there.

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

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 9 "yeas"

City of Leominster
In the year two thousand and nine

AN ORDINANCE

Amending Chapter 4 or the Revised Ordinances entitled "Buildings."

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

Chapter 4 of the Revised Ordinances entitled "Buildings," is hereby amended by inserting Into Section 4-2, at the end of the subsection entitled "Remodeling: Repairs, Renovations, Alterations," the following:

Replacement of Hot Water Heaters	\$20.00 per heater
Replacement of Gas Appliances, Boilers, Furnaces, Etc.	\$20.00 per appliance

Under New Business, Councillor Freda congratulated the Pop Warner Peewees Super bowl champs and Coach Pallota who had a successful year and are the Super bowl Peewee champs.

Councillor Rowlands said the Charter says that by April 15th appointments have to redone. He said there are many appointments within the City that have not been made and have expired. He said it is a major portion of checks and balance of City government to have the executive branch make the appointments and let the legislature branch make the confirmation and by by-passing that process and not making the appointments and skipping that he feels they are missing the checks and balances outlined in the Charter. He is requesting clarification why so many appointments have lapsed.

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

C-10 Relative to determining the factor to be used in setting the Fiscal Year 2010 tax rate. GRANTED to adopt a Factor of 1. Vt. 9 "yeas"

MEETING ADJOURNED AT 8:32 P.M.

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