

HEARING BEFORE THE CITY COUNCIL, JUNE 14, 2010

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

All members were present except Councillor Freda.

Present at the hearing was Peter Fales, agent for Clear Wireless, LLC.

The following PETITION was the subject of the hearing.

56-10 Clear Wireless, LLC: Grant a Special Permit to add three antennas with associated ground equipment to the existing tower located at 369 Nashua Street as shown on Assessor's Map 372 as Lot 1 and located within a flood plain.

Introduced and made part of the record were the following:

- A. Petition 56-10 submitted by Peter Fales, agent for Clear Wireless, LLC with accompanying plan entitled "Clearwire Technologies, Inc., Sprint Together with Nextel, Site name AT&T Tower, Site number: MA-WORC5105A, 369 Nashua Street, Leominster, MA 01453", prepared by Chappell Engineering Associates, LLC dated August 13, 2009.
- B. A copy of the Site Lease
- C. Notice of public hearing published in the Sentinel & Enterprise on May 17, 2010 and May 25, 2010.
- D. Positive recommendations were received from the Health Department, the Department of Public Works, the Building Inspector and the Planning Department.
- E. The Conservation Commission has confirmed that there is no need to add compensatory flood plain storage at 369 Nashua Street. In this case the de minimus rule applies since the amount of additional impervious surface is considered negligible.

Mr. Fales said Clear Wireless is looking to co-locate on the AT&T managed guy tower at 369 Nashua Street and according to the bylaw the co-location of a new wireless communications facility on an existing guy tower/lattice monopole shall require only a building permit provided that the installation of the WCF does not increase the height of the structure nor the size of the existing secured area at the base. He said the tower is 200 plus feet and Clear Wireless is looking to put 3 panel antennas along with 3 microwave dishes that are 2 feet in diameter on the same array of 100 feet so they won't be extending the height of the tower. He said a 7 foot by 7 foot concrete pad with associated radio equipment inside the compound and the fence will not be moving out. He said normally this would be a building permit only but since it is in the flood plain that is why the meeting tonight. An emergency 911 GPS antenna will be on the proposed ice bridge from the concrete pad to the tower which all wireless carriers have for their installations.

Councillor Rowlands asked what a GPS 911 antenna will do for us.

Mr. Fales said it needs a 360° view usually on the south side and what it does it helps 911 calls.

Councillor Rowlands asked if there is one on the tower now.

Mr. Fales said whatever carriers are there now have one.

Councillor Rowlands said so you are adding a whole new carrier to this tower?

Mr. Fales said correct. He said Clear Wireless is a new carrier for wireless internet provider that are owned mostly by Sprint/Nextel. He said it is similar to an air card where there is just internet and there is no phone service.

Councillor Dombrowski asked for clarification on the fall zone.

Mr. Fales said they are not adding anything that would change the height of the tower.

Councillor Rowlands reminded the Council that the applicant is here for a Special Permit to work in the flood plain only.

HEARING ADJOURNED AT 6:34 P.M.

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

## REGULAR MEETING OF THE CITY COUNCIL, JUNE 14, 2010

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

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

The following COMMUNICATION was received with an EMERGENCY PREAMBLE and referred to the FINANCE COMMITTEE. Vt. 8 "yeas". Upon recommendation of the FINANCE COMMITTEE the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas"

C-108b Relative to the appropriation of \$8,936.50 to the Planning Department Salary & Wages Account; same to be transferred from the Excess and Deficiency Account.

RE: Salaries: \$7,269.18 and Expenses \$1,667.32, total \$8,936.50

ORDERED: - that the sum of Eight Thousand Nine Hundred Thirty Six Dollars and Fifty Cents (\$8,936.50) be appropriated to the Planning Department Salary & Wages Account; same to be transferred from the Excess & Deficiency Account.

The following COMMUNICATIONS were received, referred to the FINANCE COMMITTEE and given REGULAR COURSE. A hearing was set for June 28, 2010 at 6:45 P.M. Vt. 8 "yeas"

C-109 Relative to the appropriation of \$97,730,000.00 to the City of Leominster General Fund Fiscal Year 2011 Budget, same to be raised by Fiscal Year 2011 Revenue.

C-110 Relative to the appropriation of \$4,400,000.00 to the Water Department Fiscal Year 2011 Budget; same to be raised by Fiscal Year 2011 Water Department Estimated Receipts as authorized by Chapter 44, Section 53E of the Massachusetts General Laws.

C-111 Relative to the appropriation of \$3,600,000.00 to the Sewer Department Fiscal Year 2011 Budget; same to be raised by Fiscal Year 2011 Sewer Department Estimated Receipts as authorized by Chapter 44, Section 53E of the Massachusetts General Laws.

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

C-112 Relative to the appropriation of \$142.00 to the Emergency Management Salary and Wages Account; same to be transferred from the Emergency Management Expense Account.

C-113 Relative to the appropriation of \$30,000.00 to the Council on Aging Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

C-114 Relative to the appropriation of \$50,000.00 to the Unemployment Expense Account; same to be transferred from the Excess and Deficiency Account.

C-115 Relative to the appropriation of \$600.00 to the Health Department Expense Account; same to be transferred from the Emergency Reserve Account.

C-116 Relative to the appropriation of \$800.00 to the License Commission Expense Account; same to be transferred from the Emergency Reserve Account.

C-117 Relative to the appropriation of \$79,211.00 to the Recreation Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

C-118 Relative to the appropriation of \$225,000.00 to the Police Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

C-119 Relative to the appropriation of \$7,500.00 to the Emergency Management Agency Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

C-120 Relative to the appropriation of \$491,760.00 from the School Choice Tuition Revolving Fund and \$191,240.00 from the Excess and Deficiency Account, to the Leominster High School Capital Outlay Expense Account, for purposes of replacing and repairing portions of the roof at Leominster High School, located at 122 Granite Street; provided that the roof repairs are one part of a larger capital project at the High School which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years and for which the City may be eligible for a school construction grant from the Massachusetts School Building Authority (MSBA); that the City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based upon 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; provided further that any grant that the City may receive from the MSBA for the Project shall not exceed the lesser of (1) seventy-two and one hundredth (72.01%) percent of eligible, approved project costs, as determined by the MSBA, or the total maximum grant amount determined by the MSBA.

C-121 Dean J. Mazarella, Mayor: Request the that the sum of \$42,400,000.00 be expended under the direction of the School Building Committee, to pay cost of remodeling, reconstructing and making extraordinary repairs to Leominster High School located at 122 Granite Street and for the payment of any and all other costs incidental and related thereto. This project would materially extend the useful life of the school and preserve an asset that

## REGULAR MEETING OF THE CITY COUNCIL, JUNE 14, 2010, continued

otherwise is capable of supporting the educational program for which the City may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"); that to meet said appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said sum under M.G.L. Chapter 44, or any other enabling authority; that the City acknowledges that the MSBA grant program is a non-entitlement discretionary program based on need, as determined by the MSBA, and any project costs the City incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City; provided further that any grant that the City may receive from the MSBA for the Project shall not exceed the lesser or (1)[72.01] percent ([72.01%]) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the City and the MSBA.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Police Department.

62-10 Edward Cataldo: Amend Section 13-91A(c) of the Leominster City Ordinances entitled "Unregistered Motor Vehicles" to include the Building Inspector of the City of Leominster as an enforcement agent.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Comptroller.

63-10 Dean J. Mazzarella, Mayor: Update the current fee schedule for Weights and Measures.

The following PETITION was received, referred to the CITY PROPERTY COMMITTEE and given REGULAR COURSE.

64-10 Kelly A. Woodland, Mayoral Aide: Accept a gift from Central Flag & Gift of thirteen brackets for flags and one 5'x 8' flag.

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

65-10 Wayne A. Nickel: Amend the City Council's Rules and Procedure #10 allowing for reconsideration of a vote at the next meeting.

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

Office of Emergency Management – Admin Unit -Melissa Bois  
Auxillary Police - Matthew Perkins, Pedro Ruiz

Leominster Fire Department, Firefighters – Andrew Ciprotti, Jeremy Murphy, Jonathan Campagna,  
James Cameron, Steven Provencher, Derek Ranno, Paul Apollonio

The following APPOINTMENT was received under the SUSPENSION OF THE RULES, referred to the WAYS & MEANS COMMITTEE and given REGULAR COURSE. Vt. 8/0

Leominster Fire Department, Lieutenant – Audra Brown

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)	\$ 883,266.40
Emergency Reserve Account	\$830.00
Stabilization Account	\$11,547,495.44
Interest Earned	\$32,440.60

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 8 "yeas"

C-103 Relative to the appropriation of \$100,000.00 to the FY 2011 Worker's Compensation Loss Fund; \$50,000.00 to be transferred from the FY 2008 Worker's Compensation Loss Fund and \$50,000.00 to be transferred from the FY 2009 Worker's Compensation Loss Fund.

ORDERED: - that the sum of One Hundred Thousand Dollars (\$100,000.00) be appropriated to the FY 2011 Worker's Compensation Loss Fund; \$50,000.00 to be transferred from the FY 2008 Worker's Compensation Loss Fund and \$50,000.00 to be transferred from the FY 2009 Worker's Compensation Loss Fund.

C-104 Relative to the appropriation of \$40,000.00 to the Highway General Expense Account; same to be transferred from the Snow and Ice Expense Account.

## REGULAR MEETING OF THE CITY COUNCIL, JUNE 14, 2010, continued

ORDERED: - that the sum of Forty Thousand Dollars (\$40,000.00) be appropriated to the Highway General Expense Account; same to be transferred from Snow and Ice Expense Account.

Upon recommendation of the FINANCE COMMITTEE the following COMMUNICATION was RATIFIED. Vt. 8 "yeas"

C-107 Relative to the appropriation of \$12,490.00 to the Municipal Buildings Maintenance Expense Account; same to be transferred from the Excess and Deficiency Account.

Upon recommendation of the PUBLIC SERVICE COMMITTEE the following PETITION was AMENDED and GRANTED AS AMENDED. Subject to the Municipal Agreement being signed. Vt. 8/0

60-10 New England Fun Center: Allow Roll On America to connect into the Leominster water system through a Special Act of the Legislature.

Upon request of the LEGAL AFFAIRS COMMITTEE the following COMMUNICATIONS were given FURTHER TIME. Vt. 8/0

C-95 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional Wine and Malt Pouring License to be issued only in conjunction with a redevelopment project.

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C-97 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional Wine and Malt Pouring License to be issued only in conjunction with a redevelopment project.

C-98 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional All Alcohol Pouring License to be issued only in conjunction with a redevelopment project.

C-99 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional All Alcohol Pouring License to be issued only in conjunction with a redevelopment project.

C-100 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional All Alcohol Pouring License to be issued only in conjunction with a redevelopment project.

C-101 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional All Alcohol Pouring License to be issued only to downtown establishments and only in conjunction with a redevelopment project.

C-102 Dean J. Mazzaella, Mayor: Request authorization to file a home rule petition authorizing the City of Leominster to grant one (1) additional All Alcohol Pouring License to be issued only to downtown establishments and only in conjunction with a redevelopment project.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE the following PETITION was GRANTED. Vt. 8/0

32-10 Leominster Historical Commission: Adopt a Demolition Delay Ordinance.

Upon request of the LEGAL AFFAIRS COMMITTEE the following PETITION was given FURTHER TIME. Vt. 8/0

33-10 Gennaro Coscia: Enact a City By-law that would prohibit all Level 2 and 3 sex offenders from living within 2,000 feet of a school, playground or anywhere children regularly gather.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE the following PETITION was GRANTED. Vt. 8/0

56-10 Clear Wireless, LLC: Grant a Special Permit to add three antennas with associated ground equipment to the existing tower located at 369 Nashua Street as shown on Assessor's Map 372 as Lot 1 and located within a flood plain.

Upon request of the LEGAL AFFAIRS COMMITTEE the following PETITION was given FURTHER TIME and referred to the City Solicitor for an opinion. Vt. 8/0

61-10 David R. Cormier, Robert Salvatelli, David Rowlands, James Lanciani Jr., Richard M. Marchand and Wayne A. Nickel: Move and extend the existing Residence A zoning line to include the following parcels: Map 246, Parcels 7, 4, 3, 2, 1, 8, 15 and Map 244 Parcels 1A, 2A. (A hearing is set for July 12, 2010 at 7:00 P.M.)

REGULAR MEETING OF THE CITY COUNCIL, JUNE 14, 2010, continued

Upon recommendation of the WAYS & MEANS COMMITTEE the following COMMUNICATION was GRANTED. Vt.8/0

C-105 Dean J. Mazzearella, Mayor: Authorize the City of Leominster to pursue \$31,646.00 through the United States Department of Justice – Justice Assistant Grant Program (JAG).

Upon request of the WAYS & MEANS COMMITTEE the following COMMUNICATION was given FURTHER TIME. Vt. 8/0

C-106 Dean J. Mazzearella, Mayor: Amend Section 16-31 (d) of the Revised Ordinances entitled “Method of Step Advances” to eliminate advancement to the next scheduled step rate for Fiscal Year 2011 for those employees in the “S” classification plan.

Upon recommendation of the WAYS & MEANS COMMITTEE the following APPOINTMENTS were CONFIRMED. Vt. 8 “yeas”

Board of Appeals Alternate Members – terms to expire April 15, 2011  
Paul Romano, Michael Ciccolini

Board of Health – term to expire April 15, 2012  
Dr. Peter L. Lanza

Board of Health – term to expire April 15, 2013  
Patrick Perla

Conservation Commission – term to expire April 15, 2012  
Scott Pearson - (to fill the term previously held by Edward Cuddahy)

Conservation Commission – terms to expire April 15, 2013  
Julia McKinney (to fill the term previously held by Mary Charpentier)  
Scott Buchanan

Cultural Council – terms to expire April 15, 2013  
Laura Proietti (to fill the term previously held by Shawn P. Bernard)

Library Board of Trustees – term to expire April 15, 2012  
Kathleen Reynolds Daignault

Water/Sewer Commission – terms to expire April 15, 2011  
Joseph Saucier, Michael Mimnaugh

Water/Sewer Commission – terms to expire April 15, 2012  
Michael Croteau, Kevin Boivon

Water/Sewer Commission – terms to expire April 15, 2013  
Thomas Hazzard, Michael A. Mahan

Under Old Business, Councillor Rowlands said he is extremely happy, after several years to see that we have a Water and Sewer Commission that is going to provide oversight to a system that has been under dramatic change over the last several years.

Councillor Rowlands established a Legal Affairs Committee meeting on June 23, 2010 at 7:00 P.M. In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request the License Commission to attend the meeting.

Councillor Rowlands said regarding C-106 there has been a lot of questions raised related to Human Resources in the City and discrepancies in pay vs. what is reflected in the City Ordinance, reporting structure who reports to who and he said it would be good to have the HR Department come down and have a discussion and check in to see how things are going. He said he is not familiar with an environment where the HR Department is under the same management. He said he has never seen that before. He said he is asking for consideration of bringing the HR person down on July 12, 2010 for discussion.

Councillor Chalifoux-Zephir asked for clarification on what he wants to discuss with the Human Resource Director.

Councillor Rowlands said some of the discussion in committee meeting that came out of C-106 which is step increases, has raised issues of concern about equity. For example, it is his understanding that we have CDBG employees who don't report to CDBG supervisors, we have a City ordinance that says we pay a library maintenance person who is an S-3 but is being payed as an S-5. It seems like there needs to be some correction in the ordinance. He said we allocated \$25,000.00 to have a review of job descriptions, titles and salaries associated with those and he would like to know the status of that. He said there are several HR issues. He said he worked in the private sector and no way in any job has he seen the HR management structure work under the management. You have to have an outlet to talk to somebody outside the management chain about issues related to Human Resources. That is almost guaranteed in any private business he has seen in the private sector. If you don't, how can you go to your HR person and have and feel comfortable about discussions that are about the work environment. He said it is valuable to have a discussion with the HR person and see how things are going and see if some of these issues can be resolved.

## REGULAR MEETING OF THE CITY COUNCIL, JUNE 14, 2010, continued

Councillor Salvatelli said he doesn't disagree with Councillor Rowlands but doesn't like the form of it. He prefers a committee meeting because people ask a lot more direct questions at these meetings and could be a considerable amount of time on this subject and believes more time is needed than what is available at the July 12, 2010 meeting. He said every time they have brought someone before them before a meeting it continues on and on and we get nothing but frustration and we don't accomplish our goal.

Councillor Chalifoux-Zephir said she agrees with Councillor Salvatelli that a committee meeting would be a better forum for this type of conversation.

Councillor Rowlands said he doesn't object to the committee meeting.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to request the Human Resources Director to appear before the July 12, 2010 meeting.

Councillor Salvatelli established a Finance Committee meeting on June 22, 2010 at 6:30 P.M. for C-109, C-110 and C-111. On June 23, 2010 at 7:00 P.M. a Legal Affair Committee meeting was established.

Under New Business, Councillor Marchand congratulated the staff and volunteers of the Starburst Committee. Due to inclement weather they were unable to host an event and at the Summer Stroll or the Johnny Appleseed Festival they will be brought in to celebrate.

Councillor Marchand requested a letter be sent to Mr. LaPointe to get an update on the Doyle Field project and see if there are going to be any restrictions after the new turf goes in.

Councillor Dombrowski said he submitted a petition signed by close to 70 residents and one other Councillor that didn't make it on the agenda. He said he read Kopelman & Paige's opinion and said he said he didn't know an opinion was being solicited from Kopelman & Paige which he takes exception to. He said he didn't know why the petition couldn't have been treated like a resolution like we have done in the past, which he takes exception to. He said the fact that we are wasting money with the city solicitor in these times for such an opinion is troubling and the fact that the opinion was faxed to the Mayor's office is pretty troubling also. He said we are dealing with contaminated materials that the licensed site professionals are saying they are within 500 feet of a residence it is an imminent hazard. He said given the parameters and the slow pace of DEP's investigation this is something that needs to be addressed. He said at a minimum he should have received a phone call out of courtesy.

Councillor Nickel apologized. He said the letter went to the first person on the list stating if the petitioners still wants the petition to go in front of the City Council it can happen. He said we have not heard back and told Councillor Dombrowski to speak with the Clerk and we can have it on the agenda for the next meeting.

Councillor Dombrowski accepted his apology.

Councillor Chalifoux-Zephir said Kopelman and Paige provided a lot of information and got to the heart of the matter. She said DEP is the investigative authority and we are not environmental experts. It makes sense to me that DEP would be continuing the investigation. As a City Council we should be on top of their findings or be in touch with DEP about the investigation which is ongoing.

Councillor Nickel said this petition will be on the next agenda for discussion.

HEARING ADJOURNED AT 8:47 P.M.

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