

HEARING BEFORE THE CITY COUNCIL, DECEMBER 27, 2010

Hearing opened at 7:00 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 14-19 of the Leominster City Ordinance regarding the feeding of waterfowl to include gulls and to allow the Mayor to grant permission to the Department of Conservation and Recreation Natural Resources Director to feed gulls for the purpose of catching them for research.

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

No Councillors spoke on this ordinance.

HEARING ADJOURNED AT 7:02 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, DECEMBER 27, 2010

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

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

The Committee on Records reported that the records through December 13, 2010 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-33 Relative to the appropriation of \$2,000.00 to the Planning Department Salary and Wages Account; same to be transferred from the Planning Department Salary and Wages Account.

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

Leominster Fire Department – Chief – Robert Sideleau, Jr.

Office of Emergency Management – Logistics Unit – Joseph Nichols, Kevin Wells

Planning Board – Michael Cooley – term to expire April 15, 2011

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)	\$ 4,352,864.00
Emergency Reserve Account	\$2,568.00
Stabilization Account	\$11,671,111.04

Councillor Salvatelli said we have three invoices that have been submitted for sand and salt. He said the December 12th storm comes to about \$1,916.00 for overtime and sand; the next day was \$2,617.00 and on December 20th cost \$2,664.00. He said they are using anywhere between 110 and 160 yards of sand and the overtime account comes to about a little less than \$1,000.00. He said they did a great job.

Upon recommendation of the FINANCE COMMITTEE the following COMMUNICATION was RATIFIED. Vt. 7 “yeas”, Councillor Nickel and Cormier abstained due to a possible conflict of interest.

C-30 Relative to the appropriation of \$150,000.00 to the Fire Department Overtime Account; same to be transferred from the Excess and Deficiency Account. (Granted with an Emergency Preamble on December 13, 2010; another vote is required.)

Upon request of the PUBLIC SERVICE COMMITTEE the following PETITION was given FURTHER TIME. Vt. 9/0

27 -11 V.P. Holman Construction, Inc.: Accept Farm Hill Road as a City street from Prospect Street 1,228 feet ± to the currently accepted portion of Farm Hill Road.

REGULAR MEETING OF THE CITY COUNCIL, DECEMBER 27, 2010, continued

In regard to Communication C-31 Councillor Rowlands read the following letters and the Certificate of Announcement and 120 Day Waiver Form.

December 9, 2010

City Council
25 West Street
Leominster, MA 01453

Re: Morse Property – Parmenter Road
Right of First Refusal

Members of the City Council,

I respectfully request the acceptance of the attached Certificate of Announcement and 120 Day Waiver Form. The City of Leominster has right of first refusal as provided in G.L. Chapter 61B, for property located on Parmenter Road, Map 530, Lot 10. The city is not interested in obtaining this property, however, the Massachusetts Department of Conservation and Recreation (DCR) is interested in acquiring said property. DCR is requesting said waiver to be approved so they may acquire the property within a shorter time period provided in 301 CMR 51.08.

If I can be of further assistance, please contact my office.

Sincerely,



12/14/2010

Leominster City Council
Legal Affairs Committee
25 West St
Leominster, MA 01453

CLERK'S OFFICE
LEOMINSTER, MA
1 DEC 14 A 11:35

Dear Committee members,

The property consisting of 8 acres, located at Assessors Map 530-10, the Morse property, has been under Chapter 61B for many years. Thus it has enjoyed a 75% reduction in value. This is the reason we have right of first refusal, as the owner wishes to sell the property for \$8100 to an individual. The property is land locked and in the middle of the state forest, with the only access being a right to pass along a cart path. The statute allows the city to transfer its right of first refusal to either a non-profit conservation organization, or to a unit of the State of Massachusetts. It is our opinion that the property is unbuildable, and that under ownership of the state it will be used exclusively for passive recreation. By the Mayor's submission of this petition, it appears as though it has been determined that we do not want ownership of the property.

Respectfully,



Leominster Board of Assessors

**CERTIFICATE OF ANNOUNCEMENT AND
120 DAY WAIVER FORM
City of Leominster**

I, Wayne Nickel, President of the City Council for the City of Leominster, hereby certify that on December 27, 2010, a public announcement was made at a regularly scheduled City Council meeting that the Commonwealth of Massachusetts, Department of Conservation and Recreation, is interested in acquiring a parcel of land located in the City of Leominster located off the southerly side of Parmenter Road, containing 8 acres, more or less, and shown on a locus map marked "Exhibit A", attached hereto, as assignee of the City's right of first refusal described in G. L. c. 61B, § 14.

Furthermore, pursuant to Massachusetts regulations at 301 CMR 51.08(1)(b) regarding the acquisition of land by the Commonwealth of Massachusetts for the conservation of natural resources, I further certify that said City Council has agreed to waive the 120 day notice period required by said Section 51.08, and approves the acquisition by the Massachusetts Department of Conservation and Recreation of the land shown on Exhibit A, as assignee of the City's right of first refusal described in G.L. c. 61B, within a shorter time period than provided in 301 CMR 51.08.

Date: December 27, 2010


Wayne Nickel, President
Leominster City Council

Upon recommendation of the LEGAL AFFAIRS COMMITTEE the following COMMUNICATION was GRANTED. Vt. 9/0

C-31 Dean J. Mazzarella, Mayor: Accept the Certificate of Announcement and the 120 Day Waiver Form for the property located on Parmenter Road as shown on Assessor's Map 530, Lot 10.

In regard to Petition 25-11, Councillor Rowlands read the following letter.

To: Mr. David Rowlands, Legal Affairs
Members, Leominster City Council

December 27, 2010

The Villa Del Rio Condominium Trust, 142 West Street, Leominster, Massachusetts 01453, its board of trustees and management agent, Salisbury Management, Inc., 120 Shrewsbury Street, Boylston, Massachusetts 01505, in response to a verbal request made by you at the City Council meeting of December 13, 2010, agrees to permit the Department of Public Works (DPW) access the premises of 142-144 West Street, Leominster, Massachusetts for purpose of inspection of a drainage catch basin whenever so desired. Also agreed to, is the condition that a regular maintenance schedule will be established (every 3 months and/or as needed) to comply with Order of Conditions issued by the Leominster Conservation Commission, and recorded in the Northern Worcester County Registry of Deeds on December 13, 2010 (copy attached). Copy on file in the City Clerk's Office.

Maintenance of this project will be under the direction of the management agent (Salisbury Management, Inc) and reports to or from the agent may be obtained when needed by writing to the above address, or calling the agent's office at (508)869-0764.

On behalf of the owners and trustees of Villa Del Rio Condominium Trust, I would like to thank you for your time and consideration in this matter.

Sincerely,


Bruce C. Williams, President
Villa Del Rio Condominium Trust

REGULAR MEETING OF THE CITY COUNCIL, DECEMBER 27, 2010, continued

Upon recommendation of the LEGAL AFFAIRS COMMITTEE the following PETITION was GRANTED WITH CONDITIONS. Vt. 9 “yeas”.

25-11 Bruce Williams, President of Villa Del Rio Condominium Trust: Grant a Special Permit for work within a flood plain to replace an existing catch basin with an outlet to Rockwell Pond and install a sub-drain system to alleviate ongoing flooding issues of the existing site and building located at 144 West Street.

The conditions are as follows:

1. There shall be no sedimentation into wetlands or water bodies from the discharge pipes or surface runoff leaving the site.
2. Catch Basin maintenance as follows:
 - a. At least four times a year, catch basins are to be inspected for overall performance. The catch basin grate should be cleaned of all debris that may have been deposited. The catch basin sump, which is the volume contained below the inlet/outlet inverts, is to be evaluated. Any accumulated matter should be removed if more than 50% of the total sump volume has been filled. A written copy of said inspection will be delivered in a timely manner to the Leominster Department of Public Works and the Leominster Conservation agent.
 - b. If any contaminants or pollutants as defined by MGL Chapter 21E, including oil and gasoline, are found to be suspended within the collected water or sediment, further measures must be taken as far as collection and depositing at an approved hazardous waste facility. The Leominster Health Department and Leominster Department of Public Works shall be immediately notified when said contaminants or pollutants have been found. Upon the cleaning of the catch basin, structural integrity and proper operation of the hood/trap should be evaluated. Replacement of deteriorated bricks, repair of cracks in basin wall, or other required work shall be completed as necessary.
3. Rain Gardens now situated along the edge of the parking lot in the area of the proposed outfall shall be maintained as defined in the Rain Garden Agreement between Villa Del Rio and the DPW.
4. The City of Leominster shall have access to the property for purpose of inspections as needed.

Upon request of the LEGAL AFFAIRS COMMITTEE the following PETITION was given FURTHER TIME. Vt. 9/0

28-11 Detective Scott Wolferseder, Leominster Police Department: Amend Chapter 11 of the Revised Ordinance entitled “Junk and Second Hand Dealers” by adding a new Section 11-12 “Buyers of Gold & Other Precious Metals”.

Upon recommendation of the WAYS & MEANS COMMITTEE the following COMMUNICATION was RATIFIED. Vt. 9 “yeas”

C-32 Relative to the appropriation of \$8,500.00 to the C.D.B.G. Mayor’s Office Energy Assistance Expense Account; same to be transferred from the C.D.B.G. Housing Construction Account. (Granted with an Emergency Preamble on December 13, 2010; another vote is required.)

Upon recommendation of the WAYS & MEANS COMMITTEE the following APPOINTMENTS were CONFIRMED. Vt. 9 “yeas”

Emergency Management – Auxiliary Police Unit – Oscar Myles, Edward Coffin

Under Old Business, a motion was made by Councillor Rowlands and seconded by Councillor Marchand to request the status regarding the September Drinking Water Report. It was mentioned that illegal dumping was taking place in Shay Brook. A conductivity test was done which showed high levels of minerals. .

Councillor Marchand said he had some reports of dirty water at the senior complex on George Street. He would like to have the Water Department look into it.

Councillor Cormier said he is looking for an update of the Lancaster Street building from the Mayor, or whoever he wants to send down, speak to the Council regarding what is going on. He said he has noticed, and people have brought to his attention, a lot of street lights being out. He asked if there is a maintenance agreement with National Grid to maintain the street lights or do they have to be reported individually.

Councillor Nickel said as far as he knows they need to be reported individually.

Councillor Rowlands said there is an online reporting mechanism that he used that worked out well. He said he tried the phone which was less successful. He said Ms. Irvine in the Mayor’s office has been extremely helpful pushing them through.

Councillor Nickel said it is important to have the pole number and the street.

Councillor Cormier asked if the Chairman of Finance can report the revenue streams for Doyle Field by the next meeting. He is looking for an update since they put in the synthetic turf. He said it was very active this fall with the leagues.

REGULAR MEETING OF THE CITY COUNCIL, DECEMBER 27, 2010, continued

Councillor Salvatelli said it is 60% higher than it has ever been and the lighting allocation to the high school has almost triple because of the use of the fields at night. He said he will get that information.

Councillor Chalifoux Zephir said she would like to know where the receipts go for Doyle Field. Do they go to the Doyle Field Commission?

Councillor Salvatelli said the general fund.

Councillor Freda said she talked a while ago about getting information regarding a system to communicate with the public. She said she has been looking into a couple of things and she understands there might be something through Emergency Management and would like to arrange to have Charlie Coggins come in before a meeting.

Councillor Salvatelli said during the change from Waste Management to Fiore Trucking we asked the Mayor if two times a year additional rubbish could be put out. He said Christmas was one of them. He said we are allowed two additional plastic rubbish bags outside the bins twice a year, is that correct?

Councillor Rowlands said that must be confirmed with Chris Knuth from the Health Department.

City of Leominster

In the year two thousand and ten

AN 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 rescinding Section 14-19, "Feeding or Baiting of Waterfowl Prohibited," and inserting in its place the following amended section:

Sec. 14-19 Feeding or Baiting of Waterfowl Prohibited

No person, except the Director of the Massachusetts Division of Fisheries and Wildlife or the Commissioner of the Department of Conservation and Recreation, or their agents or designees, as authorized pursuant to Chapter 131 of the General Laws, shall feed or bait any waterfowl of the family Anatidae, including, but not restricted to ducks, gees, and swans, or any bird of the family Laridae, including but not restricted to any gull, 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 of 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.

Notwithstanding the above, the Director of the Massachusetts Division of Fisheries and Wildlife or the Commissioner of the Department of Conservation and Recreation, or their agents or designees, may, with prior permission of the Mayor, be permitted to feed or bait any waterfowl or birds within the City for the purpose of capturing such waterfowl or birds for research purposes. Said agencies shall provide copies of any written reports or data generated from such research to the Mayor and to the Conservation Commission.

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 the City Police Officers, the Board of Health and its agents, or the Conservation Commission and its agents.

REGULAR MEETING OF THE CITY COUNCIL, DECEMBER 27, 2010, continued

The following ORDINANCE was read once, ADOPTED as presented and ordered published. A hearing was set for January 10, 2011 at 7:00 P.M. Vt. 9 "yeas"

1st Reading Ordinance – Amend Chapter 16, Section 16-2 of the Leominster City Ordinances entitled "Salary-City Council" to suspend any percentage increases in the City Council Salaries for calendar year 2012.

Under New Business, Councillor Lanciani said he compliments the public safety officials, the DPW, the Police and Fire and Emergency Management for an excellent job done during the storm.

A Legal Affairs committee meeting was scheduled for January 5, 2011 at 7:00 P.M. Detective Scott Wolferseder will be invited.

Councillor Freda said a lot of people were scared with the break-in and said it is commendable the amount of coordination there was between the Sterling Police, State Police and Leominster Police was well done.

The Clerk presented Council President Nickel a plaque for his services as President.

MEETING ADJOURNED AT 8:52 P.M.

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