

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2012

Hearing opened at 7:06 P.M. with Councillor Chalifoux Zephir, Chair of the PUBLIC SERVICE COMMITTEE, presiding.

All members were present.

Present at the hearing was Ken Dobie of National Grid.

The following PETITION was the subject of the hearing:

30-12 National Grid and Verizon New England: Whitney Street - Relocate 2 jointly owned poles on Whitney Street beginning at a point approximately 350 feet south of the intersection of Water Street and continuing approximately 20 feet in a northerly direction.

Mr. Dobie said the proposal is to relocate the pole for the convenience of the developer. The plan is to move pole #15 four feet east towards the construction trailer and pole #14 twenty feet north towards Water Street. They are just moving poles and not adding anything.

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

No Councilors spoke.

HEARING ADJOURNED AT 7:08 P.M.

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

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2012

Hearing opened at 7:08 P.M. with Councillor Rowlands, Chair of the LEGAL AFFAIRS COMMITTEE, presiding.

All members were present.

The following PETITION was the subject of the hearing:

31-12 Manoel Loka Leite: Grant a Special Permit to construct a single family dwelling on Elm Street as shown on Assessor's Map 535 as Lot 1B, located within the water supply protection district.

Councillor Rowlands said due to advertising, the hearing will be continued until February 27, 2012 at 6:45 P.M.

No one in the audience spoke in favor or in opposition

No Councillors spoke.

HEARING ADJOURNED AT 7:09 P.M. AND CONTINUED TO FEBRUARY 27, 2012 AT 6:45 P.M.

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

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2012

Hearing opened at 7:00 P.M. with Councillor Rowlands, Chair of the LEGAL AFFAIRS COMMITTEE, presiding.

All members were present.

Present at the hearing was Stephen Mullaney, President of S. J. Mullaney Engineering, Inc. and Paul DiGeronimo, Manager of Johnny Appleseed Realty, LLC.

The following PETITION was the subject of the hearing:

28-12 Paul A. DiGeronimo, Johnny Appleseed Realty, LLC: Amend Chapter 22 of the Revised Ordinances entitled "Zoning" by changing a portion of the property on Sawtelle Road, Montrose Street and Woodbury Road identified as Assessor's Map 523, Lot 14 from Commercial District to Residence B District.

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2012, continued

Councillor Rowlands read the recommendations from the Health Inspector and the Building Inspector. A recommendation has not yet been received from the Planning Board.

Mr. Mullaney said the property is split zoned. The applicant wishes to put the entire property in the Residence B district. He said in general they do not disagree with the recommendations from the Health Inspector or the Building Inspector that putting a residential use surrounded by commercial uses doesn't buy problems. In this particular circumstance the existing Commercial district that surrounds the property does not consist of all commercial uses. He said in the Commercial district there is a single family home owned by John and Carmella Albert, a vacant lot owned by Mr. DiGeronimo, a commercial building owned by Gregg Lisciotti and on the opposite side of the street there is a single family home that fronts on Grant Street and a two family home. In the Residence B district there are existing duplex buildings, an existing family house opposite Montrose Street and existing single family house on Montrose Street, off Grant Street, including a split zoned property owned by Michelle Marchetti which is part Residence A and part Commercial.

Mr. Mullaney said in selecting this property for the petition, Mr. DiGeronimo was looking to find a use for this property that would be compatible with the existing residential uses that surround it. This property is very close to his Johnny Appleseed Plaza Shopping Center and to his South End Woods Condominium project. He said several years ago when the South End Woods project was proposed Mr. DiGeronimo prepared a Master Plan of the entirety of his property. He considered putting individual self service storage units on this parcel which is an allowed use but Mr. DiGeronimo believes putting a commercial use on this property would actually be more detrimental to the existing residences surrounding it. His hope is that the Council will consider the rezoning which will allow him to put a moderate density residential use which would be very consistent with the neighborhood.

Councillor Rowlands said a similar petition came before us earlier. What is the difference between the two?

Mr. Mullaney said the previous plan included this parcel but it also included the vacant parcel that Mr. DiGeronimo owns on the opposite side of Sawtelle Road. That parcel is being excluded from the petition at this time. He said that parcel was a concern to Mr. Albert next door.

Councillor Rowlands said the lines are pretty straight through these properties. How does this not qualify as spot zoning?

Mr. Mullaney said spot zoning would occur if the parcel being rezoned were isolated from the zoning district into which you were proposing to put it. Here, part of the property is already in the zoning district. We are just extending the line out to include the entirety of the property, so it is part of the zone.

Councillor Rowlands said it is a weird configuration.

Mr. Mullaney said he agrees that it is an irregular shape but it is not really that different than some of the other zoning that occurs elsewhere in the City, including changes that have been made in the recent years. He said about 5-6 years ago the Brooks Pond project, on the opposite side of Central Street, had a similar jagged appearance in their rezoning petition.

Councillor Chalifoux Zephir asked if they had any feedback from the abutters about this plan.

Mr. DiGeronimo said he has not talked to the abutters about this. He said he has had a conversation with Mr. Albert and is meeting with him tomorrow at 10:00 A.M. He said he spoke to Gregg Lisciotti who indicated he doesn't have any issues.

Mr. Mullaney said when this was proposed about a year ago it also included the property across the street. The Planning Board held a number of public hearings and some of the abutters came out for that process. He said Mr. Lisciotti and Ms. Marchetti had no concern about the rezoning of the property. He said Mr. Tibert was unaware that the property was zoned Commercial in the first place and he said he probably wouldn't have bought his house there had he known that.

Councillor Lanciani asked if they were opening up Montrose Street or any other streets to make it a throughway.

Mr. Mullaney said no.

Councillor Chalifoux Zephir asked if the prior plan had the same configuration of duplex buildings?

Mr. Mullaney said this is just a concept just showing in general and not an exact final plan. If this were to be rezoned to Residence B this is the maximum density that could be positioned on the property. As a Residence B property it could also have single family homes instead.

Councillor Chalifoux Zephir asked if this is the same plan that was presented at the Planning Board public hearings, that the neighbors did not object to?

Mr. Mullaney said yes.

Councillor Freda asked if Mr. DiGeronimo has spoken to Mr. Albert yet.

Mr. DiGeronimo said he spoke to him on the phone last Thursday and has a meeting scheduled with him on Tuesday.

Councillor Freda said Mr. Albert does have some concerns. She said the comment "Even though it is Commercial they are not commercial uses", doesn't matter. It is what it can be used for in the future if zoned Commercial that matters. She said that was a skewed comment. It needs to be clearly stated it is what it is zoned not what it is used for.

HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2012, continued

Councillor Marchand asked if an assessment was done on how many multi-family units or single family homes could go in there.

Mr. Mullaney said the most that could go in there would be a total of 6 multi family, 3 duplex buildings, or 3 single family homes or a mix of 2 single family and a duplex or 4 duplexes and one single family.

Councillor Marchand asked if an assessment was done on traffic onto Route 12.

Mr. Mullaney said there was a comprehensive traffic study done all of South End Woods and all of Mr. DiGeronimo's property when he was doing his Master Plan. Based on their review the substitution of these residential units would be comparable to a commercial use of the allowable intensity on the same parcel.

Councillor Freda asked who's review it was.

Mr. Mullaney said it was the petitioner's review.

Councillor Freda said you determined that it wouldn't make a lot of difference being multi family units opposed to commercial, it's the same?

Mr. Mullaney said they reviewed the Institute of Transportation Engineers Traffic Trip Generation numbers for residential uses vs. commercial uses that could potentially go on this property and found that the amount of traffic generated by these uses could be consistent with the maximum commercial uses that could occur at this property.

Councillor Freda said that is not a professional traffic engineer consciences, is it? It was done with another plan, right?

Mr. Mullaney said we are not talking about any particular engineering plan. At this point in time we are dealing with a petition for zoning change in which we analyzed what the possibilities are under the zoning ordinance and under the zoning ordinance the possibilities for residential use are at most 6 dwelling units. He said they compared that with what could potentially happen for commercial uses on the property and compared what the industry standard trip generation numbers are. In any circumstance the exact trips that would be generated would come down to a site specific use which is beyond the purview of this level of planning.

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

Mr. Mullaney said the Planning Board has scheduled a public hearing on March 6, 2012 and asked that the continuation of this hearing be after that date.

Councillor Rowlands said any Councillor that is interested in visiting the site can contact the petitioner for a private viewing.

HEARING ADJOURNED AT 7:28 P.M. AND CONTINUED TO MARCH 12, 2012 AT 7:00 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 13, 2012

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 February 1, 2012 were examined and found to be in order. The records were accepted.

A recess was called at 7:32 P.M. to hold the public forum.

Meeting reconvened at 7:34 P.M.

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

- C-47 Relative to the appropriation of \$150,000.00 to the Fire Department Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-48 Relative to the appropriation of \$11,000.00 to the Sanitation and Drainage Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-49 Relative to the appropriation of \$70,000.00 to the Wire Department Capital Outlay Expense Account: same to be transferred from the Excess and Deficiency Account.

REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 13, 2012, continued

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

- C-50 Dean J. Mazzarella, Mayor: Declare surplus a City owned parcel of land on Benham Street shown on Assessor's Map 410 as Lot 17.

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

- C-51 Dean J. Mazzarella, Mayor: Request that John Rooney be exempt from the provisions of M.G.L. Chapter 268A, (20B) Conflict of Interest. He is currently employed by the Leominster School Department and will be taking a position for the Leominster Recreation Department as a referee for the youth basketball program.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Zoning Board of Appeals, the Director of Inspections and the Planning Board.

- 32-12 Leominster City Council: Amend Chapter 22, Section 22-84 of the Leominster Zoning Ordinance entitled "Signs Permitted in Residence Districts" by adding a section for electronic message boards.

The following COMMUNICATIONS were received, referred to LEGAL AFFAIRS COMMITTEE and given REGULAR COURSE.

- 33-12 Roger Brooks: Amend Chapter 21, Section 21-11.1 of the Revised Ordinances entitled "Water User Rate Schedule" to increase the Base Charge and the Meter Water Charge rates effective April 1, 2012.
- 34-12 Roger Brooks: Amend Chapter 21, Section 21-22.3 of the Revised Ordinances entitled "Sewer User Rate Schedule" to increase the Base Charge and the Meter Sewer Charge rates effective April 1, 2012 and April 1, 2013.

In accordance with Section 3.6 of the Leominster City Charter a vote was taken to bring the members of the Water Department come down for a committee meeting or an informational meeting to discuss Petition 33-12 and 34-12. Vt. 9/0

The following PETITION was received, referred to the CITY PROPERTY AND PUBLIC SAFETY COMMITTEES, given REGULAR COURSE and referred to the Police and the Fire Departments.

- 35-12 Richard M. Marchand on behalf of the Johnny Appleseed Festival Committee: Close off West Street from Main Street to St. Mark's Church, and from Park Street to Main Street. Close off Church Street and School Street in their entirety and close off the City parking lot located in the vicinity of School Street and West Street intersection, the City Hall parking lot and the City parking lot between the First Baptist Church and the First Church Unitarian on Saturday September 22, 2012 between the hours of 5:30 A.M. and 6:30 P.M. to host the 19th Annual Johnny Appleseed Arts & Cultural Festival.

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

2012 Election Officers – Evelyn Vignola, Jane Kalfus-Maine,
Debra McNally, Deborah G. Hebert

Councillor Robert 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)	\$ 3,355,786.00
Stabilization Account	\$ 11,092,716.00
Emergency Reserved Account	\$ 354,034.00

Upon recommendation of the PUBLIC SERVICE COMMITTEE, the following PETITION was GRANTED. Vt. 8/0, Councillor Cormier abstained due to a possible conflict of interest.

- 30-12 National Grid and Verizon New England: Whitney Street - Relocate 2 jointly owned poles on Whitney Street beginning at a point approximately 350 feet south of the intersection of Water Street and continuing approximately 20 feet in a northerly direction.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 9 "yeas"

- C-43 Dean J. Mazzarella, Mayor: Request that Massachusetts General Law Chapter 32B, Section 20 be accepted as added by Chapter 479 of the Acts of 2008.

REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 13, 2012, continued

Upon request of the LEGAL AFFAIRS COMMITTEE, the following COMMUNICATION was TABLED until March 26, 2012. A letter will be sent from the Council President to the Mayor and to the Unions with a copy to Kopelman & Paige conveying that the petition has been tabled until March 26, 2012 and diligent effort should be taken to work together. At the March 26th meeting the Council will be asking for a status on the negotiations at that time. Vt. 9 “yeas”

C-44 Dean J. Mazzearella, Mayor: Request that Massachusetts General Law Chapter 32B, Sections 21, 22, and 23 be accepted as added by Chapter 69 of the Acts of 2011.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9 “yeas”. The hearing was continued to March 12, 2012 at 7:00 P.M.

28-12 Paul A. DiGeronimo, Johnny Appleseed Realty, LLC: Amend Chapter 22 of the Revised Ordinances entitled “Zoning” by changing a portion of the property on Sawtelle Road, Montrose Street and Woodbury Road identified as Assessor’s Map 523, Lot 14 from Commercial District to Residence B District.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9 “yeas” The hearing was continued to February 27, 2012 at 6:45 P.M.

31-12 Manoel Loka Leite: Grant a Special Permit to construct a single family dwelling on Elm Street as shown on Assessor’s Map 535 as Lot 1B, located within the water supply protection district.

Upon recommendation of the CITY PROPERTY COMMITTEE, the following COMMUNICATIONS were GRANTED. Vt. 9 “yeas”

C-45 Dean J. Mazzearella: Grant an easement to Massachusetts Electric Company for the construction of an Overhead System off West Street.

C-46 Dean J. Mazzearella: Grant an easement to Massachusetts Electric Company for the construction of an Overhead System and an Underground Electric Distribution system off Jungle Road.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITION was GRANTED. Vt. 9 “yeas”. A letter will be sent to the Energy Committee requesting that they set aside some of the grant funds for those whom these additional cost will create a hardship.

17-12 Joanne M. DiNardo, Chair-Energy Committee: Endorse the Green Communities application process including adoption of Criteria 4 “Purchase only Fuel Efficient Vehicles on non-exempt vehicles” and Criteria 5- “Adopt the Stretch Energy Code”, both criteria require City Council approval.

Under Old Business, Councillor Rowlands established a Legal Affairs Committee meeting for February 22, 2012 at 7:00 P.M.

Councillor Nickel requested that LATV be notified so the Legal Affairs Committee meeting can be televised.

Councillor Rowlands said there was a tour of the high school. He said he is impressed with the team, the project manager, the architect, the engineering firm and the construction firm with their detail and follow up.

Councillor Freda agreed with Councillor Rowlands. She said they toured it three weeks prior to this tour and there was so much that hadn’t been done and so much that had been accomplished in that short period of time. The team is incredible.

Councillor Freda said the Mayor emailed her to talk with the City Property Committee on February 21, 2012 at 3:00 P.M. The topics would be parking meters, surplus property and other items. She said she wasn’t sure if it was going to happen but would let the Council know when it is confirmed.

Councillor Marchand asked the two Councillors that are on the high school building project if it can be discussed about the feasibility of cutting in some kind of a track. It would be great to have it at the high school and requested them to get back to him.

Upon recommendation of the WAYS & MEANS COMMITTEE the following ELECTION ORDER was CONFIRMED. Vt. 9 “yeas”

**CITY OF LEOMINSTER
PRESIDENTIAL PRIMARY
ELECTION ORDER
MARCH 6, 2012**

ORDERED:-that the City Clerk be and she hereby is authorized and directed to notify and warn the voters of the City of Leominster to assemble in their respective polling places in the several wards and precincts of the City, designated by the City Council as follows:

REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 13, 2012, continued

WARD 1A	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 1B	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 1C	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 2A	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 2B	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 2C	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 3A	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 3B	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 3C	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 4A	SENIOR CITIZEN DROP-IN CENTER 5 POND STREET
WARD 4B	LEOMINSTER VETERANS' QUARTERS 100 WEST STREET
WARD 4C	LEOMINSTER VETERANS' QUARTERS 100 WEST STREET
WARD 5A	AUDITORIUM, CITY HALL 25 WEST STREET
WARD 5B	AUDITORIUM, CITY HALL 25 WEST STREET
WARD 5C	FIRST BAPTIST CHURCH OF LEOMINSTER 23 WEST STREET

On Tuesday, the sixth day of March 2012, then and there for the purpose of giving in their votes for the election of candidates for the following offices:

Presidential Preferences, State Committee Man, State Committee Woman, Ward Committee.

And it is further

ORDERED: - that the polls shall be opened at 7:00 A.M. and closed at 8:00 P.M. and that notice shall be given by publication of this order in a conspicuous place in the office of the City Clerk.

Per Order Leominster City Council
True Copy Attest:
Lynn A. Bouchard, City Clerk

Councillor Freda said she received an alert today regarding a State appropriation needed for unfunded State mandate on school transportation costs for homeless students which is on file in the City Clerk's office.

Councillor Chalifoux Zephir said the Library is offering a program called "The Big Read Sunday Events." The kick off was this Sunday with approximately 80 people. The book they are reading is To Kill A Mockingbird. The Library purchased goodies and pastries from Appleseed's Restaurant at the high school.

MEETING ADJOURNED AT 8:53 P.M.

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