

HEARING BEFORE THE CITY COUNCIL, JANUARY 13, 2014

Hearing opened at 6:30 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding.

All members were present except Councillor Nickel.

The following ORDINANCE was the subject of the hearing:

Relative to amending Chapter 8, Section 8-19 of the Revised Ordinances entitled "Fees for Ambulance Services" by inserting (d) The chief of the fire department or his designee shall annually perform a review and analysis of ambulance service fees established in subsection (a) and may petition the City Council to make any adjustments to such fees as necessary to ensure that the fees are competitive.

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

No Councillors spoke.

HEARING ADJOURNED AT 6:32 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JANUARY 13, 2014

Hearing opened at 6:40 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding.

All members were present except Councillor Nickel.

The following ORDINANCE was the subject of the hearing:

Relative to amending Chapter 13 Section 13-33 of the Revised Ordinances entitled "Schedule of parking fines" by inserting into the Group D schedule "#20. Within a fire lane." And further renumber the current numbers 20 (Blocking wheelchair ramp) and 21 (Handicapped parking zone) as numbers #21 and #22.

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

No councilors spoke.

HEARING ADJOURNED AT 6:42 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JANUARY 13, 2014

Hearing opened at 6:45 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding.

All members were present except Councillor Nickel.

Present at the hearing was Daniel McCarty of McCarty Associates, 42 Jungle Road, Leominster. Mr. McCarty is representing the applicant.

This hearing was continued from December 9, 2013.

The following PETITION was the subject of the hearing:

31-14 Daniel Garceau: Modify the City of Leominster Zoning Map by deleting Parcel 582-27 located at 220 Litchfield Street from the RB zone and adding it to the abutting Industrial I zone.

Mr. McCarty distributed a reduced copy of the zoning map which is on file in the City Clerk's office.

Mr. McCarty said the location of the parcel is on Litchfield Street across the street from Fraticelli Oil and was originally constructed as a telephone garage in 1974. Prior to that, it was vacant land. He said it has been solely used as a garage since it was built. When the zoning map was completed the zoning line was drawn through the center line of the street and did not take

HEARING BEFORE THE CITY COUNCIL, JANUARY 13, 2014, continued

into effect the actual use of this parcel. All of the developments that are around this parcel on the same side of the street occurred after the construction of the garage. The residential apartments that are on Central Street, on the opposite side to their back or to the abutting Fallbrook Condominiums, were constructed initially by Mr. Scola and then by the Jim Adams Company in the 1980's. Mr. McCarty said the Planning Board recommended approval of this petition.

Councillor Dombrowski read the recommendations from the Building Inspector and the Zoning Board of Appeals, who were in opposition. A positive recommendation from the Planning Board was read into the record.

Councillor Dombrowski asked Mr. McCarty to address the Building Inspector's letter that states there is non-conforming protection and to expand it would be detrimental to the residential neighbors in the area.

Mr. McCarty said if you put a large industrial use in that area, he agrees with his position. He said the size of the parcel and the size of the building which is under 5,000 square feet limits the use and the type and construction of the building. It has ceilings that are garage height; ceilings which are not industrial type uses of the building. The uses that are abutting have been in harmony with the existing use since the 1970's when the residential structures were put up. When they had the hearings on the residential uses of the property there was no opposition. He said he was representing the Adams Company at that time.

Councillor Dombrowski asked if he was at liberty to say what his client's future intentions are with the building.

Mr. McCarty said he would be looking to grow the business or do other things. He said the property is suitable for garage use, repairs, automotive, subcontractors building, something like that. He said he doesn't see it as a large industrial use. It just happens to be that's the abutting zone and that is all you are allowed. Keep it in the zone that it is in or put the parcel in an abutting zone. It's not possible to put it into the Commercial zone because then it would be spot zoning. He said he believes that is the reasoning behind the Planning Board's recommendation that they didn't consider this spot zoning because it is being merged with a zone that is directly across the street. It is his opinion that the property is not suited for an industrial use. It's just too small. There are too many other pieces of property that are vacant and are ready for industrial development. So, the answer to your question, it would be a use comparable to what is there and in keeping with the geometry and shape of the building for what it allows you. He said you wouldn't raise the building to have 28 feet because there is not enough square footage to justify such an expenditure of dollars.

Councillor Freda said when they moved to Litchfield Street I supported the move because they ran a decent and reputable business. She said she is not aware of any complaints or issues that have arisen with their location. She asked if there were any residential objections.

Mr. McCarty said no one has come out and spoken. He has been a good neighbor to the people.

Councillor Lanciani is in support. He said it is not large enough for a large industrial building.

Councillor Bodanza said you made a case that the gentleman has been there for a long time and operated that business in a residential zone. If the Council looks favorably on this petition to rezone it to Industrial it would still be a prior non-conforming use because the operation that is there now will not be permitted in the industrial zone. He asked if there was a particular advantage to Mr. Garceau to have a prior non-conforming use in the Industrial zone vs. a prior non-conforming use in the Residence B zone? He said either way he will have to seek zoning relief.

Mr. McCarty said if the automotive use is not allowed in Industrial zone you would make the same kind of arguments if there are other uses that allowed in the Industrial zone that could be used for the property that would be the benefit to Mr. Garceau.

Councillor Bodanza asked if there was a road or a private way that connects that property to Central Street.

Mr. McCarty said no, the driveway that is there runs through the residential property that is in back of the garage and is sandwiched between the garage and Cornerstones which is on the other side.

Councillor Dombrowski said the people driving through would be on a potential industrial sight.

Mr. McCarty said no, they are not driving through, they would be on their own property which is on the side not going through this parcel. It is their access driveway.

Councillor Salvatelli asked Mr. McCarty if he went to the Zoning Board of Appeals meeting and why they would go into executive session.

Mr. McCarty said no he did not go and he has no idea why they went into executive session.

Councillor Salvatelli said before he voted on it he would like to know why they went into executive session.

Councillor Cormier asked if the owner came down during the rezoning and had conversation about this property.

Mr. McCarty said doesn't believe he did.

Councillor Cormier said he shares the concerns of the Director of Inspections.

Mr. McCarty said he understands the Building Inspector's concerns but does not share the concerns with him.

Councillor Cormier said he hasn't had any complaints and agrees that what he does is in harmony with the neighborhood but property can be sold.

Councillor Feckley asked if when the building was built was Mr. Garceau the owner.

HEARING BEFORE THE CITY COUNCIL, JANUARY 13, 2014, continued

Mr. McCarty said it was built in 1974 and was originally constructed by the telephone company.

Councillor Feckley asked when Mr. Garceau purchased the property.

Mr. McCarty said Mr. Garceau has been in the building since 1991. He was a tenant and then bought the building.

Councillor Feckley asked if Mr. Garceau has had the same business since 1991.

Mr. McCarty said yes.

Councillor Dombrowski said there are a couple of unanswered questions that need to be answered.

HEARING ADJOURNED AT 7:13 P.M. AND CONTINUED TO FEBRUARY 10, 2014 AT 7:00 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 13, 2014

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

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

The Committee on Records reported that the records through January 6, 2014 were examined and found to be in order. The records were accepted.

The following COMMUNICATION was received with an EMERGENCY PREAMBLE and referred to the FINANCE COMMITTEE. Vt. 8/0. Upon recommendation of the FINANCE COMMITTEE the following COMMUNICATION was GRANTED and ORDERED. Vt. 7 "yeas"; Councillor Cormier abstained due to a possible conflict of interest.

C-19 Relative to the appropriation of \$100,000.00 to the Fire Department Overtime Account; same to be transferred from the Emergency Reserve Account.

ORDERED: - that the sum of \$100,000.00 be appropriation to the Fire Department Overtime Account; same to be transferred from the Emergency Reserve Account.

The following COMMUNICATION was received with an EMERGENCY PREAMBLE and referred to the FINANCE COMMITTEE. Vt. 8/0 Upon recommendation of the FINANCE COMMITTEE the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas"

C-20 Relative to the appropriation of \$100,000.00 to the Police Department Overtime Account; same to be transferred from the Police Department Salary & Wages Account.

ORDERED: - that the sum of \$100,000.00 be appropriated to the Police Department Overtime Account; same to be transferred from the Police Department Salary & Wages Account.

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

C-21 Relative to the appropriation of \$2,000.00 to the Cemetery Expense Account; same to be transferred from the Cemetery Perpetual Care Income Account.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to Director of Inspections, the Zoning Board of Appeals, and the Mayor. It was also referred back to the Planning Board for further clarification.

34-14 Leominster Planning Board: Change the zoning ordinance to correct Section 22-25 Commercial District as follows:

1. Remove the text for "Adult Entertainment" and replace it with the "Commercial District" text from the old zoning ordinance (Section 22-23) with one exception: \*\* Change 23.2.3 to read: Mobile Home Parks and Trailer Parks require a Special Permit and Site Plan approval from the Planning Board.
2. Add the entire "Adult Entertainment Ordinance" as written in Section 22-25 of the old zoning ordinance back into the new zoning ordinance as Article XVII
3. Add Adult Entertainment to the Table of Contents.

## REGULAR MEETING OF THE CITY COUNCIL, JANUARY 13, 2014, continued

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE, given REGULAR COURSE and referred to the Wire Inspector. A hearing was set for January 27, 2014 at 7:10 P.M. Vt. 7/0, Councillor Cormier abstained due to a possible conflict of interest.

- 35-14 National Grid and Verizon New England, Inc.: Mount Pleasant Avenue – Install one jointly owned pole beginning at a point of the intersection of Mechanic Street and continuing approximately 220 feet in a southerly direction.

The following APPOINTMENT was received, referred to the WAYS & MEANS AND VETERANS AFFAIRS COMMITTEE and given REGULAR COURSE.

William B. Mitchell – Chief Assessor – three year term effective February 10, 2014

A vote was taken to appoint Stephen Maddaus of Merrick O’Connell as the City Council’s Legal Counsel for 2014. Vt. 8/0

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

- C-17 Dean J. Mazzarella, Mayor: Adopt an ordinance for securing and maintaining vacant properties and foreclosing properties.

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

- 13-14 Stephen J. Mullaney and Ten Registered Voters: Amend Chapter 22 of the Revised Ordinances entitled “Zoning” by adding to “Health Care Overlay District (HCO) Definitions” in Section 22-4 a definition for Medical Marijuana Treatment Center and Medical Marijuana Dispensary Center and by adding the following entry to “Institutional Uses” in Section 22-18 Overlay Districts Table of Uses.

<b>Institution Uses</b>	<b>RR</b>	<b>RA</b>	<b>RB</b>	<b>RC</b>	<b>BA</b>	<b>BB</b>	<b>C</b>	<b>I</b>	<b>MU1</b>	<b>MU2</b>	<b>V</b>
Medical Marijuana Dispensary Center	N	N	N	N	N	N	SPCC	N	SPCC	N	N
Medical Marijuana Treatment Center	N	N	N	N	N	N	N	SPCC	SPCC	N	N

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0  
Hearing continued to February 10, 2014 at 7:00 P.M.

- 31-14 Daniel Garceau: Modify the City of Leominster Zoning Map by deleting Parcel 582-27 located at 220 Litchfield Street from the RB zone and adding it to the abutting Industrial I zone.

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

- 32-14 David R. Cormier: Amend Chapter 13, Section 13-4 of the Revised Ordinances entitled “Temporary prohibition of parking.” by adding a subsection entitled “Temporary lifting of a parking prohibition.”

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was RATIFIED. Vt. 8 “yeas” (Granted with an Emergency Preamble on December 9, 2013; another vote is required.)

- C-18 Relative to the appropriation of \$252,832.00 to the Debt Service – Principle Expense Account; same to be raised by Fiscal Year 2014 Revenue.

The following ORDINANCE was read a second time and adopted as presented and passed to be ordained. Vt. 8 “yeas”

## CITY OF LEOMINSTER

In the year two thousand fourteen

## AN ORDINANCE

Amending Chapter 8 of the Revised Ordinances entitled “Fire Protection.”

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

Section 8-19 of the Revised Ordinances entitled “Fees for Ambulance Services” is hereby amended by inserting the following:

(d) The chief of the fire department or his designee shall annually perform a review and analysis of ambulance service fees established in subsection (a) and make any adjustments to such fees as necessary to ensure that the fees are competitive.

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 13, 2014, continued

The following ORDINANCE was read a second time and ADOPTED as presented and passed to be ordained. Vt. 8 “yeas”

CITY OF LEOMINSTER

In the year two thousand fourteen

AN ORDINANCE

Amending Chapter 13 of the Revised Ordinances entitled “Motor Vehicles and Traffic.”

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

Section 13-33 of the Revised Ordinances entitled “Schedule of Parking Fines” is hereby amended by inserting into the Group D schedules:

20. Within a fire lane

And further by renumbering the current numbers 20 (Blocking wheelchair ramp) and 21 (Handicapped parking zone) as numbers 21 and 22 respectively.

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A Legal Affairs Committee meeting was established on January 22, 2014 at 7 P.M.

The following ORDINANCE was read once, ADOPTED as presented and ordered published. Vt. 7 “yeas” and 1 “nay”, Councillor Freda opposed. A hearing was set for January 27, 2014 at 7:00 P.M.

1<sup>st</sup> Reading Ordinance – Amend Chapter 13 Section 13-34 of the Revised Ordinances entitled “No Parking on Certain streets” by inserting “DeCicco Drive (east side), beginning from the southern end of the ball field to the intersection of DeCicco Drive and Union Street.”

A request was made by Councillor Salvatelli to invite the Fire Chief to come down February 10, 2014 at 6:15 P.M. to update the Council on the income from the ambulance and overtime issues.

A request was made by Councillor Cormier to invite the Police Chief to come down February 24, 2014 at 6:15 regarding the dispatchers and 210 Lancaster Street.

Councillor Freda said in following the Charter we should be meeting with the different boards and commissions in the City. She suggested we set aside 5-10 minutes before every meeting starting February 24, 2014 to meet with the smaller committees.

Councillor Marchand said it will be a joint meeting run by the Ways & Means Committee but it will be a committee as a whole. He asked Councillor Freda to set it up with the Clerk.

Councillor Feckley reminded everyone of the Winter Carnival at Skyview Middle School on January 25, 2014 from 10 A.M. to 4 P.M.

MEETING ADJOURNED AT 8:17 P.M.

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