

HEARING BEFORE THE CITY COUNCIL, OCTOBER 27, 2014

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

All members were present except Councillor Freda.

The following ORDINANCE was the subject of the hearing:

Relative to amending Chapter 4 of the Revised Ordinances entitled "Buildings" by inserting a new Article V relative to the Registration and Maintenance of Foreclosed Properties.

No one in the audience spoke in favor or in opposition to this ordinance.

Councillor Nickel thanked Councillor Dombrowski for his time working on this ordinance.

HEARING ADJOURNED AT 7:03 P.M.

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

HEARING BEFORE THE CITY COUNCIL, OCTOBER 27, 2014

Hearing opened at 7:10 P.M. with Councillor Nickel, Chair of the PUBLIC SERVICE COMMITTEE, presiding.

All members were present except Councillor Freda.

The following PETITION was the subject of the hearing:

14-15 National Grid and Verizon New England, Inc. Merriam Avenue – Install one jointly owned pole beginning at a point approximately 50 feet north of the centerline of the intersection of Coolidge Street.

Ken Dobie of National Grid said they propose to set a mid span pole to alleviate the long and low service going from across Merriam Avenue to the customer which will benefit the public way and service to the house.

Councillor Nickel asked what a mid span pole was.

Mr. Dobie said it's a pole either between two spans or across from an existing pole. What we have now, and proposing, is a long span service with the pole is on the opposite side of the street. The service is low across the street and low to the house, so to get rid of both the low service to the house and the wire across the street a mid span pole would be put in.. We want to put a pole right in between the pole and the home.

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

HEARING ADJOURNED AT 7:13 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, OCTOBER 27, 2014

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 Committee on Records reported that the records through October 14, 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 "yeas" Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas"

REGULAR MEETING OF THE CITY COUNCIL, OCTOBER 27, 2014, continued

C-15 Relative to the appropriation of \$94,500.00 to the Fire Department Capital Outlay Expense Account; same to be transferred from the Stabilization Fund.

ORDERED: - that the sum of Ninety Four Thousand Five Hundred Dollars (\$94,500.00) be appropriated to the Fire Department Capital Outlay Expense Account; same to be transferred from the Stabilization Fund.

RE: Local match for Federal Grant Award to enable purchasing contract to be signed.

Federal Grant award	\$850,000.00
Local Match	\$ 94,500.00
Total Available for Project	\$945,000.00

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

C-16 Relative to the appropriation of \$87,500.00 to the Cemetery Department Capital Outlay Expense Account; same to be transferred from the Cemetery Sale of Lots Trust Fund.

C-17 Relative to the appropriation of \$140,000.00 to the Landfill Capital Outlay Expense Account; same to be transferred from the Stabilization Fund.

C-18 Dean J. Mazarella, Mayor: Request that an Animal Control Officer Donation Account be established as authorized by Massachusetts General Law Chapter 44, Section 53A.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given LEAVE TO WITHDRAW WITHOUT PREJUDICE. Vt. 8/0

7-15 Wayne Nickel: Establish a city ordinance banning the sale of synthetic marijuana except for medical use.

8-15 Wayne Nickel: Establish a city ordinance banning the use of synthetic marijuana on city property.

Councillor Bodanza requested that a letter be sent to Kopelman & Paige requesting an opinion if we would have the jurisdiction by ordinance to suspend or revoke the license of a convenience store or other store that is caught selling synthetic marijuana in our City.

Councillor Dombrowski requested a copy, for each Councillor, of the conditions that the Board of Health imposes when they give the permits and licenses.

Upon recommendation of the PUBLIC SAFETY AND TRAFFIC COMMITTEE, the following PETITION was GRANTED. Vt. 8/0

11-15 David R. Cormier: Install a 'Not a Thru Way' sign at Queens Road and Elm Road to indicate that Elm Road is not a through way.

A recess was called at 7:50 P.M. to allow members of the audience to speak on petition #12-15

Meeting reconvened at 7:55 P.M.

Upon request of the PUBLIC SAFETY AND TRAFFIC COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0.

Councillor Lanciani requested that a letter be sent to the Mayor asking for insight on the poles and how much they will be leased to the city for so they can make a decision.

12-15 Michael Lovezzola for Barletta Engineering: Request 9 decorative light poles at completed lots and roads for the Castleland subdivision.

Upon recommendation of the PUBLIC SAFETY & TRAFFIC AND CITY PROPERTY & PROPERTY OVERSIGHT COMMITTEES, the following PETITION was GRANTED. Vt. 8/0.

13-15 Richard M. Marchand, Festival Facilitator: Request the closing of West Street from the intersection of Cottage Street to Main Street, the closing of Park Street at the intersection of Main Street, the closing of Church Street but maintain public safety access. Also allow the use of the City Hall parking lot, the parking lot adjacent to City Hall on West Street and the City portion of the parking lot between the First Church Unitarian and the First Baptist Church for handicap parking to host the 22nd Annual Johnny Appleseed Arts and Cultural Festival on September 26, 2015 with a rain date of October 3, 2015.

Upon recommendation of the CITY PROPERTY AND PROPERTY OVERSIGHT COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 8 "yeas"

C-11 Dean J. Mazarella, Mayor: Accept the transfer of the pump station to the City which is located on Kennedy Way.

REGULAR MEETING OF THE CITY COUNCIL, OCTOBER 27, 2014, continued

Upon recommendation of the PUBLIC SERVICE COMMITTEE, the following PETITION was GRANTED. Vt. 7/0, Councillor Cormier abstained due to a possible conflict of interest.

14-15 National Grid and Verizon New England, Inc. Merriam Avenue – Install one jointly owned pole beginning at a point approximately 50 feet north of the centerline of the intersection of Coolidge Street.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was RATIFIED. Vt. 8 “yeas”. Granted with an Emergency Preamble on October 14, 2014; another vote was required.

C-12 Relative to the appropriation of \$30,000.00 to the Emergency Management Agency Expense Account; same to be transferred from the Emergency Reserve Account.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 “yeas”

C-13 Relative to the appropriation of \$50,000.00 to the Gallagher Building Salary & Wages Account, same to be transferred from the Gallagher Building Revolving Fund.

ORDERED: - that the sum of Fifty Thousand Dollars (\$50,000.00) be appropriated to the Gallagher Building Salary & Wages Account; same to be transferred from the Gallagher Building Revolving Fund.

RE: Building Craftsman and Overtime

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 8 “yeas”

C-14 Dean J. Mazarella, Mayor: Request that a 100th City of Leominster Anniversary Celebration Downtown Account be established as authorized by Massachusetts General Law Chapter 44, Section 53A.

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

2014 – 2015 Election Workers – Emery Gaudet,
Louise Bourque, Donna Allard

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

CITY OF LEOMINSTER

In the year two thousand and fourteen

Registration and Maintenance of Foreclosed Properties

A. Purpose; Enforcement Authority

- (1) Unsecured and un-maintained foreclosed properties present a danger to the safety and health of the public, occupants, abutters, neighbors, and public safety officers. It is the purpose and intent of this ordinance to protect and preserve public safety, health, welfare and security, and the quiet enjoyment of occupants, abutters and neighbors, and to minimize hazards to the public safety personnel inspecting or entering such properties by:
 - a. Requiring all residential, commercial, and industrial property owners, including lenders, trustees and service companies, to register and maintain foreclosed properties with the City of Leominster; and by
 - b. Regulating the maintenance and security of foreclosed properties to help prevent blighted and unsecured properties.
- (2) The Director of the Health Department of the City of Leominster, the Fire Chief or their designee is empowered to enforce this ordinance.

B. Definitions

When used in this ordinance, the following terms shall have the following meanings, unless a contrary intention clearly appears:

- (1) “Vacant” means a residential, commercial or industrial building which has not been actively used or occupied within the preceding sixty days. This definition does not include buildings that are unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty, or to residential buildings that are temporarily vacant due to seasonal absences.
- (2) “City” means the City of Leominster.
- (3) “Director” means the Director of the Health Department of the City of Leominster, or the Fire Chief or their designee.
- (4) “Days” means consecutive calendar days.

REGULAR MEETING OF THE CITY COUNCIL, OCTOBER 27, 2014, continued

- (5) "Foreclosed" means a residential, commercial or industrial property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.
- (6) "Foreclosing" means the process by which a property, placed as security for a real estate loan, is being recovered by a mortgagee for default of said loan.
- (7) "Local" means within twenty miles of the property in question.
- (8) "Mortgagee" means the creditor, including but not limited to service companies, lenders in a mortgage agreement, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.
- (9) "Owner" means every person, entity, service company, property manager or real estate broker who alone or severally with others has legal or equitable title to any property or has care, charge or control of any property in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or mortgagee in possession of any such property; or is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he/she were the owner. However, this ordinance shall not apply to a condominium association created pursuant to M.G.L. c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association. "Owner" also means every person who operates a rooming house or is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.
- (10) "Property" means any residential, commercial or industrial property or portion thereof, located in the City of Leominster, including but not limited to buildings and structures situated on the property; excepted from this definition is any and all property owned by the City, the state, or the federal government.
- (11) "Residential Property" means any property that contains one or more units used, intended, or designed to be occupied for living purposes.

C. Registration

- (1) All owners of foreclosed properties shall register such properties with the Director on forms provided by the Director within seven days of the date of foreclosure. If the owner is an out-of-state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this ordinance.
 - a. Each registration must state the owner's or agent's name, telephone number and mailing address located within the Commonwealth of Massachusetts including name of owner, street number, street name, city or town, and zip code; the mailing address shall not be a post office.
 - b. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is vacant. Each registration must designate a property manager, who shall be a local individual or local property management company responsible for the maintenance and security of the property. This designation must state the individual or company's name, direct telephone number, and local mailing addresses shall not be a post office box. The property manager shall be available twenty-four hours per day, everyday, by telephone and/or electronic mail notification, and shall respond to all notifications from the Director to secure, maintain, inspect or repair the property within twenty-four hours.
- (2) All property registrations pursuant to this section are valid for one calendar year from the date when the registration is received by the Director. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty days after the date of the expiration of the previous registration.
- (3) Any owner that has registered a property under this section must report any change in information contained in the registration within ten days of the change.
- (4) Once the property is sold, the owner shall provide the Director with written proof of sale.

D. Maintenance and Security Requirements

- (1) Properties subject to this ordinance must be maintained in accordance with the State Building Code, State Sanitary Code, and City ordinances. The owner or property manager must inspect and maintain the property on at least a monthly basis for as long as the property is vacant.
- (2) The owner shall maintain properties subject to this section, including but not limited to maintaining and keeping in good repair any building(s), structure(s), and improvements, the removal of trash and debris, and the regular mowing of lawns, pruning and/or trimming of trees and shrubbery, and upkeep of other landscape features.
- (3) The owner shall repair or replace broken windows or doors within thirty days of breakage. Boarding up doors and windows is prohibited unless ordered by the City or a court except as a temporary measure for no longer than thirty days.
- (4) In accordance with the state law, including but not limited to Massachusetts General Laws Chapter 143 sections 6 through 10 and the State Building Code, property that is vacant must be safe and must be secured from exposure to the elements and so not to be accessible to unauthorized persons.

REGULAR MEETING OF THE CITY COUNCIL, OCTOBER 27, 2014, continued

- (5) Compliance with this section does not relieve the owner of any applicable obligations set forth in regulations, covenants, conditions, restrictions, and/or homeowner's association rules and regulations.

E. Inspections

The Director or his/her designee shall have the authority and the duty to inspect properties subject to this ordinance for compliance with this ordinance and to issue citations for any violations. The Director or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided such determination is reasonably calculated to ensure that this ordinance is enforced.

F. Penalties

- (1) In addition to any other means of enforcement available to the Director, the Director may enforce this ordinance by means of noncriminal enforcement pursuant to Massachusetts General Laws Chapter 40 section 21D. The following penalties are established for purposes of said noncriminal disposition;
- a. A failure to initially register with the Director pursuant to Section C: three hundred dollars (\$300.00).
 - b. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to Section C: three hundred dollars (\$300.00) for each violation, and a like penalty for each day's continuation of such violation.
 - c. A failure to maintain and/or to secure the property pursuant to section D: three hundred dollars (\$300.00) for each week during which the property is not maintained and/or not secured in compliance with Section D.
- (2) The penalties provided in this section shall not be construed to restrict the City from pursuing other legal remedies available to the City, including recovery of costs and reasonable attorney fees. Violation of this ordinance shall be subject to a fine not to exceed three hundred dollars for each violation; each day shall be considered a new violation.

G. Appeals

Any persons aggrieved by the requirements of this ordinance or by a decision issued hereunder may file an appeal for a hearing before the full Board of Health. The hearing shall take place within thirty (30) days of the filing of the appeal. Any person(s) aggrieved by the decision of the Board of Health may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

H. Applicability

If any provisions of this ordinance impose greater restriction or obligations than those imposed by any general law, special law, regulation, ordinance, order or policy, then the provisions of this ordinance shall control.

I. Severability

If any provision of this ordinance is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this ordinance's remaining provisions, which shall remain in full force and effect.

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

RESOLUTION – Support the Economic Development Incentive Program (EDIP) application and authorize the Tax Increment Finance (TIF) Agreement and Tax Increment Finance Plan (TIF) Plan with Easy Pak located at 24 Jytek Drive.

Council President Marchand reminded the audience that Election Day is November 4, 2014 and voting will take place from 7:00 A.M. to 8:00 P.M. He also reminded the audience that Veterans Day is November 11, 2014.

Council President Marchand asked the Council Rules and Code of Conduct Committee to review the rules and see if there are any that need to be changed to streamline them and then report to the Council on December 8, 2014.

MEETING ADJOURNED AT 8:32 P.M.

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