

HEARING BEFORE THE CITY COUNCIL, JANUARY 14, 2013

Hearing opened at 6:25 P.M. with Councillor Freda, Chair of the PUBLIC SERVICE COMMITTEE, presiding.

All members were present except Councillor Rowlands.

The following PETITION was the subject of the hearing:

30-13 National Grid: West Street – Install a singly owned pole beginning at a point approximately 120 feet northwest of the centerline of the intersection of Orchard Street.

Councillor Freda said a favorable recommendation from the Department of Public Works was received requesting that the pole be placed at the back edge of the sidewalk which will allow the sidewalk tractors to move more easily to plow the sidewalk when necessary. A favorable recommendation was received from the Wire Inspector.

Ken Dobie representing National Grid said they were requested by the Veterans Center to take a tree guy off the tree they were going to remove. This pole is for support the line across the street.

Councillor Freda asked Mr. Dobie if he had an issue with the Department of Public Works request.

Mr. Dobie said it shouldn't be a problem, it's just a guy wire.

HEARING ADJOURNED AT 6:29 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JANUARY 14, 2013

Hearing opened at 6:30 P.M. with Councillor Lanciani, Vice Chair of the LEGAL AFFAIRS AND PRESIDENT'S ZONING COMMITTEES, presiding.

All members were present. Councillor Rowlands arrived late.

This hearing is continued from December 10, 2012.

The following COMMUNICATION was the subject of the hearing:

C-68 (2011) Dean J. Mazarella, Mayor: Adopt the proposed changes to the Leominster Zoning Ordinance.

Councillor Lanciani said the President's Zoning Committee just completed their final meeting. He said they went through all the zoning changes that have come before the committee. He said Mr. Mullaney has been working with Mr. Bodanza to help them get to a finalization. It has taken some time and effort. This zoning ordinance will be more user friendly than any other we have ever had in the City of Leominster.

Mr. Mullaney said since the last session of the hearing on December 10, 2012 the committee has appeared twice before the Planning Board and the President's Zoning Committee and has had two meetings over that period. Significant amount of public input was received throughout that process. As a result some final changes were made to the document which were completed the other day and circulated. He said there were simple basic changes. There were 21 terms that appeared as definitions but the words didn't appear anywhere else in the ordinance so they were deleted. There was one additional definition that was added and ten definitions that were modified. He said there were a few changes in the zoning districts. There were a few changes made in terms of uses. An accessory use for private guest houses has been eliminated. He said mobile homes and trailer parks have been returned to the ordinance. He said they have allowed for rock and stone to be removed incidental to construction for which a permit has been issued such as a Building Permit. Big box retail has been changed from a Special Permit to allowed by right in MU2 and Commercial. Building supplies and equipment rental has been changed from being prohibited in MU1 and MU2 to being allowed by right in those districts. He said one change has been made in the MU2 district (Orchard Hill area) the building setback has been increased from twenty five feet to one hundred feet. Changes to parking regarding office use has been changed. He said we do not have the high intense office use we might have had years ago. In certain districts like Merriam/West and Franklin/Pleasant Street area the parking requirement has been reduced by 2/3 in that district and elsewhere in the City the parking has been reduced by 1/2. Restaurant use has had their parking increased by 50-100% depending on the type of restaurant. Parking space dimension required length of the space will now be 18 feet instead of 19 feet. The Planning Board has been given additional Special Permit authority with respect to parking. 1) will allow Planning Board to waive any reserve parking areas that might otherwise be required and 2) will allow the Planning Board to modify buffer requirements in the urban corridor area. One of the changes to Site Plan Approval is that they moved the trigger back in terms of the number of parking spaces that trigger a Site Plan Review which is back to ten. Change of Use classification on a lot has been added as a trigger for Site Plan Approval. The Planning Board has been given the authority to waive Site Plan Approval or waive certain submittal requirements because there may be simple circumstances. Walkway and lighting provisions have been clarified under the Site Plan Approval requirements.

HEARING BEFORE THE CITY COUNCIL, JANUARY 14, 2013, continued

Councillor Rowlands said they received a recommendation from the Planning Board approving the final draft of the Leominster Zoning Ordinance dated October 29, 2012 that includes changes made by the President's Zoning Committee that are referenced in Stephen Mullaney's document entitled Planning Board Comments on Leominster Zoning Ordinance dated 12/4/12. In

addition, the Planning Board recommended changing the definition of family to match the definition from Amherst, MA and requiring one parking space per 100 square feet. per restaurant space.

Councillor Marchand submitted the names of some residents in the Merriam Avenue/Orchard Street area that are in support of the cutoff that the committee is suggesting and they are opposed to the extension moving up Merriam Avenue.

Councillor Freda asked if there was going to be any type of meetings to present the document to the Wards for comment?

Councillor Rowlands said this has been a five year process with 20-25 meetings that were advertised for open hearings for people to participate. We had a complete open process where citizens came down and presented ideas, so at this point there is no intent to go out to the different Wards to do that.

Councillor Freda said she has had people ask her if that was a possibility. She said they thought it was mentioned once or twice early on. She thinks it would be a nice gesture.

Councillor Chalifoux Zephir said at the last presentation Mr. Mullaney talked about the new zoning map and the interactivity that it would be part of that map. She asked if the map was finished.

Mr. Mullaney said the map is finished and is available on the City's website on the homepage. There is a hard copy of the map in the Clerk's office with all the changes.

Councillor Rowlands thanked Mr. Mullaney and Mr. Bodanza for their efforts and said this couldn't have happened without both of you.

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

HEARING ADJOURNED AT 6:48 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2013

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 6, 2012 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-48 Relative to the appropriation of \$454,527.00 to the Wastewater Support Services Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-49 Relative to the appropriation of \$750,000.00 to the Wastewater Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-50 Relative to the appropriation of \$40,000.00 to the Unemployment Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-51 Relative to the appropriation of \$20,000.00 to the Other Finance Offices and Accounts; same to be transferred from the Excess and Deficiency Account.
- C-52 Relative to the appropriation of \$20,000.00 to the Debt Service Interest Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-53 Relative to the appropriation of \$50,000.00 to the Building Demolition Expense Account; same to be transferred from the Excess and Deficiency Account.

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2013, continued

- C-54 Relation to the appropriation of \$8,843.00 to the Sewer Department Salary & Wages Account; same to be transferred from the Sewer Department Support Services Expense Account.
- C-55 Relative to the appropriation of \$11,053.00 to the Water Department Salary & Wages Account; same to be transferred from the Water Department Support Services Expense Account.
- C-56 Relative to the appropriation of \$155,219.00 to the Various General Fund Salary & Wages Accounts as listed; same to be transferred from the Collective Bargaining Expense Account.
- C-57 Relative to the appropriation of \$67,078.00 to the Various General Fund Salary & Wages Accounts as listed; same to be transferred from the Excess and Deficiency Account.
- C-58 Relative to the appropriation of \$60,000.00 to the Collective Bargaining Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-60 Relative to the appropriation of \$2,910.00 to the Conservation Commission Expense Account; same to be transferred from the Wetland Fee's Reserved for Appropriation Account.
- C-61 Relative to the appropriation of \$40,000.00 to the Other Finance Offices and Accounts Expense Account; same to be transferred from the Debt Service – Principal Expense Account.
- C-62 Dean J. Mazzarella, Mayor: Request that the Snow and Ice Expense Account be authorized to incur liability and make expenditures in Fiscal Year 2013 in excess of the available appropriation in the amount of \$250,000.00 as authorized by Massachusetts General Law, Chapter 44, Section 31D.

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

- C-59 Relative to the appropriation of \$3,599.00 to the CDBG Administration Salary & Wages Account; same to be transferred from the CDBG Administration Salary & Wages Account.

The following PETITION was received, referred to the PUBLIC SAFETY COMMITTEE, given REGULAR COURSE and referred to the Traffic Department.

- 31-13 Patrick LaPointe and Thomas Bissonnette: Install a stop sign on the curve on Main Street just before Wilder Avenue against east bound traffic on Main Street.

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

- 32-13 John Dombrowski: Add to the City Council's Rules of Procedure RULE 34-EMAILS – All emails that are sent or received by City Councillors relating to City matters shall be sent through the City Clerk's Office who will then forward them to all Councillors and the appropriate departments.

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

Cultural Commission – Bruce Lambert – term to expire April 15, 2015

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)	\$ 3,587,986.00
Stabilization Account	\$ 12,527,648.33
Emergency Reserved Account	\$ -0-

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were RATIFIED. Vt. 9 "yeas"

- C-25 Relative to the appropriation of \$40,000.00 to the Highway Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account. (Granted with an Emergency Preamble on December 10, 2012.)
- C-26 Relative to the appropriation of \$130,000.00 to the Fiscal Year 2013 Revenue; same to be transferred from the Excess and Deficiency Account. (Granted with an Emergency Preamble on December 10, 2012.)
- C-27 Relative to the appropriation of \$575,000.00 to the Debt Service Principal Expense Account; same to be raised by Fiscal Year 2013 Revenue. (Granted with an Emergency Preamble on December 10, 2012.)

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2013, continued

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 9 "yeas"

C-29 Relative to the appropriation of \$500,000.00 to the Water Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Five Hundred Thousand Dollars (\$500,000.00) be appropriated to the Water Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account..

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 7 "yeas", Councillors Nickel and Cormier abstained due to a possible conflict of interest.

C-33 Relative to the appropriation of \$75,000.00 to the Fire Department Overtime Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Seventy Five Thousand Dollars (\$75,000.00) be appropriated to the Fire Department Overtime Account; same to be transferred from the Excess and Deficiency Account.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 9 "yeas"

C-34 Relative to the appropriation of \$10,949.00 to the Police Department Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Ten Thousand Nine Hundred Forty Nine Dollars (\$10,949.00) be appropriated to the Police Department Expense Account; same to be transferred from the Excess and Deficiency Account.

C-37 Relative to the appropriation of \$75,000.00 to the Police Department Overtime Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Seventy Five Thousand Dollars (\$75,000.00) be appropriated to the Police Department Overtime Account; same to be transferred from the Excess and Deficiency Account.

C-38 Relative to the appropriation of \$24,800.00 to the Highway Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Twenty Four Thousand Eight Hundred Dollars (\$24,800.00) be appropriated to the Highway Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

C-41 Relative to the appropriation of \$12,000.00 to the Sidewalk & Curbing Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Twelve Thousand Dollars (\$12,000.00) be appropriated to the Sidewalk & Curbing Expense Account; same to be transferred from the Excess and Deficiency Account.

C-42 Relative to the appropriation of \$62,000.00 to the Sanitation and Drainage Expense Account; same to be transferred from the Emergency Reserve Account.

ORDERED: - that the sum of Sixty Two Thousand Dollars (\$62,000.00) be appropriated to the Sanitation & Drainage Expense Account; same to be transferred from the Emergency Reserve Account.

C-43 Relative to the appropriation of \$4,000.00 to the Forestry Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Four Thousand Dollars (\$4,000.00) be appropriated to the Forestry Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Stump grinding private contractor	\$2,000.00
Rentals of specialty brush machine	\$2,000.00

C-44 Relative to the appropriation of \$5,000.00 to the Emergency Management Agency Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Five Thousand Dollars (\$5,000.00) be appropriated to the Emergency Management Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Mobile radios for EMA use

C-45 Relative to the appropriation of \$464,644.00 to the School Transportation Expense Account; same to be transferred from the Excess and Deficiency Account.

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2013, continued

ORDERED: - that the sum of Four Hundred Sixty Four Thousand, Six Hundred Forty Four Dollars (\$464,644.00) be appropriated to the School Transportation Expense Account; same to be transferred from the Excess and Deficiency Account.

Upon recommendation of the PUBLIC SERVICE COMMITTEE, the following PETITION was GRANTED. Vt. 9/0

30-13 National Grid: West Street – Install a singly owned pole beginning at a point approximately 120 feet northwest of the centerline of the intersection of Orchard Street.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following COMMUNICATIONS were GRANTED.
9 “yeas”

C-46 Dean J. Mazzearella, Mayor: Amend Section 16-30 of Revised Ordinances entitled “Compensation Grades” by deleting Schedule “W” in its entirety and inserting in its place a new Schedule “W” (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7) by 0% effective 7/1/2009, 0% effective 7/1/2010, 2% effective 7/1/2011, 2% effective 7/1/2012, 1% effective 1/1/2013, 3% effective 7/1/2013, 3% effective 7/1/2014.

C-47 Dean J. Mazzearella, Mayor: Amend Section 16-30 of the Revised Ordinances entitled “Compensation Grades” by adding Schedule (d) Pay For Dispatchers with effective dates of July 1, 2009, July 1, 2010, July 1, 2011, July 1, 2012, July 1, 2013 and July 1, 2014.

Upon unanimous recommendation of the LEGAL AFFAIRS and THE PRESIDENT’S ZONING COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 8 “yeas” and 1 “nay”, Councillor Freda opposed.

C-68 (2011) Dean J. Mazzearella, Mayor: Adopt the proposed changes to the Leominster Zoning Ordinance.

Upon request of the WAYS & MEANS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0

27-13 David Rowlands: Request the City Council utilize the powers vested in them per Section 5.1 of the Leominster Home Rule Charter to reorganize the Personnel and Labor Services.

Councillor Dombrowski requested that the City Solicitor be asked what the steps would be to change the appointment process of the Personnel Director from the Mayor’s appointing authority to the City Council’s appointing authority.

Under Old Business, Councillor Rowlands said regarding the issuance of Special Permit #2 of 2012 to Manoel Loka Leite for the property located at 909 Elm Street, we have not heard a single word on this issue. We do have a ruling from Kopelman and Paige that points to the facts that it gets a little cloudy with the passing of the ordinance for the zoning in terms of jurisdiction because the special permitting granting authority would change under the new zoning ordinance to the Planning Department and so we are in a limbo state. He said according to the ruling we are going forward as if under normal circumstances. He said according to the applicant’s attorney at the Planning Board meeting we would be getting information and we haven’t heard anything. We clearly know now based on the reports from our boards that the Special Permit is not in compliance. Councillor Rowlands recommends to bring him down for an update.

Councillor Marchand said we shouldn’t be dealing with this at all. When this was granted we were the Special Permit authoritative body and from that point forward it becomes an enforcement issue which is solely on the Building Inspector. If there are violations regarding conservation or health those departments would kick in. As far as bringing someone back down here after we granted the Special Permit, what can we do? We cannot revoke the permit. We can share our displeasure with the process. I do not think that the City Council has the authority to do any more than they have already done. Let the departments do their job. I don’t think bringing him down will do any good in the process, we can’t change things or amend things at this point.

Councillor Rowlands said as the Special Permit granting authority we are the ones that can issue an amendment to that Special Permit. No one else has the authority except the Special Permit granting authority. They need to come down to us and ask for an amendment to the Special Permit to be modified. He said we don’t have to grant the modification.

A vote was taken to send a letter to the permit holder to come down before the Council on February 11, 2012 and let the Council know what their intentions are to comply with the Special Permit that was issued. Vt. 6 “yeas” Councillor Marchand abstained due to the fact he was not present at all the hearings of the Special Permit and Councillor Freda and Dombrowski recused themselves from the conversation due to possible conflict of interest. Councillor Salvatelli said he was not at all the hearings but according to the new rule, after reviewing the entire hearing including the missed hearing, he can vote.

Councillor Nickel said we voted to have the Director of the Recreation Department down giving an update on City fields. We need to set up the meeting soon.

If we have it on an off night we should not only ask the Recreation Director to come down but the Recreation Commission.

Councillor Cormier said he would set that meeting up.

This item will be placed on the next agenda along with the ruling from Mirick O’Connell regarding Leominster’s Home Rule Charter - Appointments and Holdovers.

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2013, continued

Councillor Chalifoux Zephir said there was a Water and Sewer Oversight Committee meeting scheduled for January 21, 2013 which is a holiday. It will need to be rescheduled. This now falls under Public Service as there is no longer a Water and Sewer Oversight Committee

Upon recommendation of the WAYS & MEANS COMMITTEE, the following MUNICIPAL ELECTION was ADOPTED. VT. 9 'yeas'

MUNICIPAL ELECTION CALENDARLEOMINSTER, MASSACHUSETTS2013

Tuesday, August 6, 2013	Last day to file Nomination Papers with the Board of Registrars – 5:00 P.M.
Tuesday, August 20, 2013	Last day to file Nomination Papers with the City Clerk – 5:00 P.M.
Thursday, August 22, 2013	Last day to withdraw as a candidate in the preliminary election -5:00 P.M.
Friday, August 23, 2013	Draw for ballot position
Wednesday, September 4, 2013	Last day to register to vote in the Preliminary Election – 8:30 A.M – 8:00 P.M.
Tuesday, September 24, 2013	PRELIMINARY ELECTION 7:00 A.M. - 8:00 P.M.
Monday, September 30, 2013	Last day to withdraw as a candidate in the Municipal election 5:00 P.M.
Tuesday, October 1, 2013	Draw for ballot position
Wednesday, October 16, 2013	Last day to register to vote in the Municipal Election – 8:30 A.M. – 8:00 P.M.
Tuesday, November 5, 2013	MUNICIPAL ELECTION 7:00 A.M. - 8:00 P.M.

Lynn A. Bouchard
City Clerk

The following ORDINANCE was read once, ADOPTED as presented and ordered published. Vt. 9 "yeas". A hearing was set for January 28, 2013 at 6:35 P.M.

1st Reading Ordinance – Amending Section 16-30 of the Revised Ordinances entitled "Compensation Grades" by deleting Schedule "W" in its entirety and inserting in its place a new Schedule "W" (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7) by 0% effective 7/1/2009, 0% effective 7/1/2010, 2% effective 7/1/2011, 2% effective 7/1/2012, 1% effective 1/1/2013, 3% effective 7/1/2013, 3% effective 7/1/2014. (Legal Affairs – Communication C-46)

The following ORDINANCE was read once, ADOPTED as presented and ordered published. Vt. 9 "yeas". A hearing was set for January 28, 2013 at 6:45 P.M.

1st Reading Ordinance – Amending Section 16-30, of the Revised Ordinances entitled "Compensation Grades" by adding Schedule (d) Pay For Dispatchers with effective dates of July 1, 2009, through July 1, 2014. (Legal Affairs – Communication C-47)

REGULAR MEETING OF THE CITY COUNCIL, JANUARY 14, 2013, continued

The following ORDINANCE was read once, ADOPTED as presented and ordered published. Vt. 9 “yeas”. A hearing was set for January 28, 2013 at 6:55 P.M.

1st Reading Ordinance – Amending Chapter 2 of the Revised Ordinances entitled “Administration” by inserting new language requiring Mayoral re-appointment at the end of a three year term or if the position is considered vacant it must be filled by temporary appointment as defined by Section 2.5 of the Leominster Home Rule Charter. (Legal Affairs Petition 25-13)

The following ORDINANCE was read once, ADOPTED as presented and ordered published. Vt. 9 “yeas”. A hearing was set for January 28, 2013 at 7:05 P.M.

1st Reading Ordinance – Amending Chapter 21, Article II, Section 21-13 of the Revised Ordinances entitled “Regulations for Use of Water” by inserting a section relative to abatement of water charges for above ground or in ground swimming pools. (Legal Affairs Petition 29-13)

Under New Business, Councillor Marchand said Section 13-26 on all night parking became law on August 12, 1996. The law states it shall be unlawful for any driver or any vehicle other than one acting in an emergency to park such vehicle on any street for a period of time longer than one hour between the hours of 12:00 A.M. and 6:00 A. M. on any day during the winter parking ban. The winter parking ban commences on December 1st or the date of the first snow storm with an accumulation of at least three inches whichever comes first and terminates April 1st. He said we are pretty blessed right now with the weather and it might not last forever. He said he would like the Council to send a letter to the Police Chief asking the Chief and his staff investigate the feasibility of amending Section 13-26 to make it easier on the residents in the City of Leominster and to make sure the common sense component is built into the legislation.

Councillor Rowlands said why don't you just write a petition.

Councillor Marchand said he has confidence that the Police Department actually has the knowledge how to do it properly. He said he investigated it on the internet and found several communities, including out of state, have bans with little tricks of the trade. Some have blinking blue lights on telephone poles in neighborhoods so when the light goes off you are off the street for the night. They are the experts.

At a vote of 9/0 a letter to the Police Chief asking they investigate the feasibility of amending Section 13-26 relative to winter parking bans.

Councillor Marchand said he has a meeting scheduled with the Mayor for the Ways & Means Committee on January 16, 2013 at 4:00 P.M. Some of the concerns that have been raised have been people retiring or left their position recently and he wants to get a handle on what is happening with that. It is part of the new intent to meet with him on a regular basis.

Councillor Marchand said on January 2nd Margaret “Midge” Bovenzi passed away. She was married to Frank Bovenzi and was a member of the Class of 1950 Leominster High School and one of the founding members of the original Leominster Italian American Club. Her spirit of community will be remembered.

The following Committee meetings were established:

January 23, 2013 Finance 6:30 P.M.

January 24, 2013 Ways & Means 7:10 P.M.

MEETING ADJOURNED AT 9:26 P.M.

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