

HEARING BEFORE THE CITY COUNCIL, SEPTEMBER 24, 2012

Hearing opened at 6:45 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 13, Section 77 of the Revised Ordinances entitled "Stop Signs" by inserting "Dewey Avenue against northbound drivers at Leland Avenue and Dewey Avenue against northbound drivers at Penn Street." (Legal Affairs - Petition 4-13)

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

No Councillors spoke.

HEARING ADJOURNED AT 6:47 P.M.

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

HEARING BEFORE THE CITY COUNCIL, SEPTEMBER 24, 2012

Hearing opened at 6:53 P.M. with Councillor Chalifoux Zephir, Chair of the PUBLIC SERVICE COMMITTEE, presiding.

Present at the hearing was Iris Price, representing National Grid.

All members were present.

The following PETITION was the subject of the hearing:

8-13 National Grid and Verizon New England: West Street: Install a jointly owned pole and relocate pole 35, beginning at a point approximately 60 feet northwest of the centerline of the intersection of Hall Street and continuing approximately 22 feet in a northwesterly direction.

Ron Cormier, 41 Summer Street said there was a meeting with Ms. Price and all the glitches were resolved and everything has been straightened out.

Ms. Price said she met with some of the Councillors and the homeowners and adjustments were made to satisfy everyone.

No Councillors spoke.

HEARING ADJOURNED AT 6:55 P.M.

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

HEARING BEFORE THE CITY COUNCIL, SEPTEMBER 24, 2012

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

Present at the hearing was Richard Healey, owner of Foster Healey Real Estate and Patrick Slattery an architect.

All members were present.

The following PETITION was the subject of the hearing:

14-13 James J. Carnivale, Trustee Carnivale Realty Trust: Rezone Parcel 240-4 and 240-3 located at 404 Main Street from Residence B to Commercial.

Councillor Rowland read positive recommendations from the Director of Inspections, the Planning Board, the Health Director and the Department of Public Works.

Patrick LaPointe of the Department of Public Works pointed out in his recommendation that this will leave a gap in the Commercial zone. Parcel 238-2 will still be in Residence B while it is all Commercial on the north side of Route 2.

Joanne DiNardo of the Conservation Commission said they did not have a recommendation with regard to zoning matters however they recommended that all that all federal, state and local laws should be followed. Parcel 240-3 has extensive wetlands and portions of 240-4 does fall within the buffer zone of the adjacent wetland. Any further development on these properties that involve excavation or soil disturbance would fall under the jurisdiction of the Wetlands Protection Act and may require filing with the Conservation Commission. They encourage low impact development on any property improvements.

HEARING BEFORE THE CITY COUNCIL, SEPTEMBER 24, 2012, continued

Councillor Rowlands said what the Department of Public Works noted was a tiny section you can barely see on the map that is on the right side of this property. It is only a very small sliver of 238-2 and is suggesting to include it as well.

A letter was read dated September 18, 2012 as follows:

To Whom it May Concern,

As an abutting property owner to 404 Main Street, Leominster we are in support of Leominster City Council Petition #14-13 to rezone parcel 240-4 and parcel 240-3 from Residence B Zoning to Commercial Zoning.

Sincerely,

Jeffrey T. Duval

Mr. Healey said he and Mr. Slattery represent a client that is interested in this property. The client is a high end retail client with low volume. He said Residence B does not allow retail use and it is their opinion that the highest and best use of this property as it is not residential. The property abuts a commercial zone, across the street is Residence B and should not create spot zoning. He said they have the support of the abutting property owner.

Mr. Healey said they will be creating 14 or 15 parking spaces so they will be subject to Site Plan approval which will address any traffic impacts. They have had studies done as far as conservation is concerned. He said they believe they can live within the requirements of the Conservation Commission and they do not believe the changes will be detrimental to the neighborhood. They think it is in the best interest of the site and hope they will agree with the Planning Board and other departments.

Mr. Slattery showed a conceptual representation of what could be developed on the site. The building shown was approximately 3,100 square feet.

Councillor Rowlands said this is a possibility what you have shown but no guarantee on our vote or action. He said the trigger for Site plan would be ten or more parking spaces. We are just talking rezoning, not any specific project.

Councillor Chalifoux Zephir asked where the Duval's property was and who owned 238-2.

Mr. Healey said it is zoned Commercial and owned by the Commonwealth of Massachusetts and is wetlands.

Councillor Rowlands asked how wide the sliver of land was that was mentioned by Mr. LaPointe.

Mr. Healey said he didn't know.

Councillor Rowlands said when looking at the map the yellow is what we are working with, to the right is the little strip that is Residence B, the whole big area in the back, the wetland, is Commercial and everything below and to the left is Residence B.

Councillor Rowlands passed around a colored map.

Councillor Salvatelli said you are coming to Leominster, Dunkin Donut and the rest home is Commercial. He asked if the real estate office was zoned Commercial.

Mr. Healey said no, when you come across Route 2 it is zoned Residence B.

Councillor Salvatelli said you have a legitimate business that wants to come into Leominster and you, as the agents, are looking to provide them with the necessary land.

Mr. Healey said we have a buyer for this property.

Councillor Salvatelli asked if the residents across the street on the left side have been notified of what is going on.

Mr. Healey said they have not talked with them.

Councillor Rowlands said abutters are not notified on rezoning. He said in his view, abutters should be notified about rezoning. He confirmed with the Clerk that abutters are not notified.

Mr. Healey said they spoke to the abutter they thought would have an impact.

Councillor Salvatelli said if he was in that position to live across the street he would be uneasy about it. He said it's bad enough that street has 25,000 cars go by in a day and to have a business across there and not know about it.

Councillor Chalifoux Zephir said everything to the north of Route 2 is pretty much commercially developed and on the other side is not. Once you cross the bridge it's not commercial. She asked how that could be now spot zoning?

Councillor Rowlands said there is so much Commercial a short distance away that it is in tune with the use.

Councillor Freda asked for examples of high end retail.

Mr. Healey said jewelry store, boutique clothing store.

Councillor Freda asked if they had a signed Purchase and Sale Agreement subject to the zoning change.

HEARING BEFORE THE CITY COUNCIL, SEPTEMBER 24, 2012, continued

Mr. Healey said yes.

Councillor Freda said her concern is if there is any type of a zoning change that changes to Commercial and that deal falls through, something else can go in there that is low end retail. She said you are dealing with a number of variables.

Councillor Dombrowski asked Councillor Rowlands if he knew how the proposed zoning might be treating this parcel.

Councillor Rowlands said we haven't looked at the map because it is so outdated and a new map is being made. It's not a discussion point under the current rework of the current zoning. Given the size and scope of this property he doesn't think there should be reliance that being discussed. It hasn't been talked about in four to five years that we have been working on zoning and never has come up in my conversation in terms of the zoning rework.

Councillor Marchand said one night he attended a meeting and he did bring it up. He said the last time it was before us it didn't meet the test to rezone it so there was some consideration to tuck it in because there was nothing else. He said he talked to Mr. Healey and asked him to talk to the neighbors. He said they may all sign on and be in favor of it but it is not just about one or two families, it's about that entire neighborhood. He said doing something commercial there is a good thing for the property but he is concerned on how encroaches up to the Duval property and whether there will be another petitioner for the next phase and the next thing you know we are abutting the Allen Street neighborhood with commercial. He said spot zoning is a concern. He agrees it is not clear and has to be investigated. He said the only niche he has tonight is the neighborhood and that is who he has to represent. He said he is glad the Duval's signed onto it and wants to make sure the residents across the street are okay with it as well.

Mr. Healey apologized for not remembering the discussion.

Councillor Marchand said he has been on the Council since 1989 and never received a complaint from anyone on that property for its existing use. He is concerned about the permitted uses under commercial.

Councillor Marchand asked Mr. Healey where he got his answer regarding spot zoning.

Mr. Healey said from his daughter who is a real estate attorney.

Mr. Sullivan said we also brought in a local planning engineer who has reviewed the layout, the wetlands and the potential for another building. The engineer's opinion was that it was not spot zoning.

Councillor Salvatelli said he is glad it is after the lights. He said he definitely wants to hear from the neighbors.

Councillor Rowlands said we can have this conversation as part of the President's Zoning Committee group.

Councillor Marchand asked Mr. Healey if this was time sensitive.

Mr. Healey said it is time sensitive and we will work to satisfy you. He said they have to meet the date of the Purchase and Sales Agreement.

Councillor Nickel asked if the conceptual building shown earlier was the maximum build out they could do. He said 3,100 square feet is not a large commercial building.

Mr. Slattery said he showed a one story building with 14 parking spaces. If someone wanted to build a second story the parking would have to be doubled, which could not be done. This is a comfortable size. There is no room on the sides to expand the building larger.

Councillor Rowlands said he has some concerns. He said the Conservation Commission is requesting low impact use. Commercial development allows for low impact and high impact and done by right. There is no guarantee if we rezone it; it is going to be low impact. He said the other concern is traffic crossing over and backups. It is a high contention area for traffic. He said he noticed the driveway leaning towards the Route 2 side. He said it's best to distance it from Route 2; it would be the desirable thing to do.

Councillor Rowlands said we can ask for a recommendation from the Police Department regarding traffic.

Councillor Lanciani asked if they could get a better quantification of the spot zoning from the Planning Department.

Councillor Freda said we should get a legal opinion ahead of time regarding the spot zoning from Kopelman & Paige.

Councillor Rowlands said he is going to ask for the size of the strip that is between Route 2 and this lot. He said he would like to see the neighborhood have a meeting.

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

HEARING ADJOURNED AT 6:40 P.M. AND CONTINUED ON OCTOBER 22, 2012 AT 6:45 P.M.

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

## REGULAR MEETING OF THE CITY COUNCIL, SEPTEMBER 24, 2012

Meeting was called to order at 7:33 P.M.

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

The Committee on Records reported that the records through September 10, 2012 were examined and found to be in order. The records were accepted.

A recess was called at 7:34 P.M. to continue the public hearing and to hold a public forum.

Meeting reconvened at 7:50 P.M.

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

C-15 Dean J. Mazzearella, Mayor: Request the City Council set a hearing for the classification of the tax rate on November 26, 2012, the purpose of which is to set the FY2013 tax rate.

The following COMMUNICATION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Assessor, the Conservation Commission, the Department of Public Works and the Treasurer.

C-16 Dean J. Mazzearella, Mayor: Accept a donation of land located on Valley Street as shown on Assessors' Map 299 as Lot 113 from Benedetto R. Marchetti.

The following COMMUNICATION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Comptroller, the Mayor and the Treasurer.

C-17 Claire Freda: Accept M.G.L. Chapter 59, Section 8A relative to the Veteran's Work Off Program. The Valor Act adds a new 5N to M.G.L. Chapter 59 which allows cities and towns to create Work Off Abatement Programs for Veterans.

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

C-18 Dean J. Mazzearella, Mayor: Request that Michael Carey be exempt from M.G.L. Chapter 268A, Section 20B (Conflict of Interest), as he is a teacher for the Leominster School Department and will be a referee for the Recreation Department's youth basketball program.

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE, given REGULAR COURSE and referred to the Wire Inspector and the Department of Public Works. A hearing was set for October 9, 2012 at 7:10 P.M. Vt. 9/0

15-13 National Grid: Old Willard Road: Install a singly owned pole beginning at a point approximately 495 feet west of the centerline of the intersection of Lancaster Street.

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

16-13 New England Farm Worker's Council: Request permission to use the City Council Chambers to take fuel assistance applications on the following dates: October 22<sup>nd</sup>, November 2<sup>nd</sup> and 16<sup>th</sup>, December 14<sup>th</sup> and 28<sup>th</sup>, 2012; January 11<sup>th</sup>, and 25<sup>th</sup>, February 8<sup>th</sup> and 22<sup>nd</sup>, March 8<sup>th</sup> and 22<sup>nd</sup>, and April 5<sup>th</sup> and 19<sup>th</sup>, 2013.

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

Leominster Police Department – effective July 31, 2012- Sergeant - James A. Marois, Jr.

Election Workers – terms to expire August 31, 2013 - Dennis Grammont, Phyllis Grammont, Paulette Robichaud and Francis J. Giangrande

Councillor Robert Salvatelli, Chairman of the Finance Committee, read the Financial Report for the City into the record. Account balances are as follows:

Stabilization Account	\$12,514,407.93
Emergency Reserved Account	\$ 77,000.00

## REGULAR MEETING OF THE CITY COUNCIL, SEPTEMBER 24, 2012, continued

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

- C-14 Dean J. Mazarella, Mayor: Relative to the appropriation of Eighty-Five Thousand Dollars (\$85,000.00) for the purpose of paying schematic design and project management costs related to replacement of the boiler at the Fall Brook Elementary School, located at 25 DeCicco Drive, and replacing the roof and boiler at the Southeast Elementary School, located at 95 Viscoloid Avenue, including the payment of all costs incidental or related thereto, which proposed repair projects would materially extend the useful lives of the schools and preserve assets that otherwise are capable of supporting the required educational program, and for which the City of Leominster has applied for a grant from the Massachusetts School Building Authority (MSBA), said amount to be expended under the direction of the Leominster Public Schools. To meet this appropriation the Leominster City Council appropriates \$62,000.00 of said amount from available school choice funds and \$23,000.00 from the emergency reserve account. The City of Leominster acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and that if the MSBA’s Board of Directors votes to invite the City to collaborate with the MSBA on the proposed repair projects, any costs the City incurs in excess of any grant that may be approved by and received from the MSBA shall be the sole responsibility of the City of Leominster; and that, if invited to collaborate with the MSBA on the proposed repair projects, the appropriation made by this Order shall be offset by any grant amount set forth in the Project Funding Agreement that may be executed between the City of Leominster and the MSBA with respect to these projects.

ORDERED: That the City of Leominster appropriates Eighty-Five Thousand Dollars (\$85,000.00) for the purpose of paying schematic design and project management costs related to replacement of the boiler at the Fall Brook Elementary School, located at 25 DeCicco Drive, and replacing the roof and boiler at the Southeast Elementary School, located at 95 Viscoloid Avenue, including the payment of all costs incidental or related thereto, which proposed repair projects would materially extend the useful lives of the schools and preserve assets that otherwise are capable of supporting the required educational program, and for which the City of Leominster has applied for a grant from the Massachusetts School Building Authority (MSBA), said amount to be expended under the direction of the Leominster Public Schools. To meet this appropriation the Leominster City Council appropriates \$62,000.00 of said amount from available school choice funds and \$23,000.00 from the emergency reserve account. The City of Leominster acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and that if the MSBA’s Board of Directors votes to invite the City to collaborate with the MSBA on the proposed repair projects, any costs the City incurs in excess of any grant that may be approved by and received from the MSBA shall be the sole responsibility of the City of Leominster; and that, if invited to collaborate with the MSBA on the proposed repair projects, the appropriation made by this Order shall be offset by any grant amount set forth in the Project Funding Agreement that may be executed between the City of Leominster and the MSBA with respect to these projects.

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

- 8-13 National Grid and Verizon New England: West Street: Install a jointly owned pole and relocate pole 35, beginning at a point approximately 60 feet northwest of the centerline of the intersection of Hall Street and continuing approximately 22 feet in a northwesterly direction.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given FURTHER TIME. Vt. 9/0

- 3-13 David Rowlands: Amend Article VI, Section 2-25, Article VII Section 2-28, Article VIII, Section 2-28 and all similar sections in the city ordinances relative to Mayoral Appointments to add “Said term may be extended indefinitely by the mayor at his/her discretion without vote of the City Council”
- 9-13 John Scribner, Lisciotti Development: Accept the deed from Massapoag Development, LLC which grants to the City of Leominster land titled “Open Space Parcel D” containing approximately 4.96 acres as per condition 12 of the Planning Board Subdivision Approval.

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

- 13-13 Wayne Nickel: Place a stop sign at the eastern end of Lido Avenue at the juncture with Seventh Street.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0  
The hearing was continued to October 22, 2012 at 6:45 P.M.

- 14-13 James J. Carnivale, Trustee Carnivale Realty Trust: Rezone Parcel 240-4 and 240-3 located at 404 Main Street from Residence B to Commercial.

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

Reserve Firefighters – Nicholas Alexander Caponi, William Leonard Schofield,  
Adam Lane Studham

REGULAR MEETING OF THE CITY COUNCIL, SEPTEMBER 24, 2012, continued

The following Ordinance was read a second time, ADOPTED as presented and passed to be ordained. Vt. 9 “yeas”

The City of Leominster  
In the year two thousand and eight

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 13-77 of the Revised Ordinances entitled “Stop Signs” is hereby amended by inserting “Dewey Avenue, against northbound drivers at Leland Avenue”; and said section is further amended by inserting “Dewey Avenue, against northbound drivers at Penn Street.”

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Under Old Business, Councillor Marchand said the Johnny Appleseed Festival is underway and is scheduled for September 29, 2012.

Councillor Lanciani said at the last Council meeting there was a request to Charlie Coggins at Emergency Management for some information and hopes everyone received the information. He said there is a student volunteer program that they started and is working well. More information will be coming.

Councillor Rowlands said the Council President asked approximately 15 specific questions to the Mayor regarding the water quality and contracts/appointments. He asked what the status was for the answers.

Councillor Dombrowski said we received a letter from the Department of Public Works and he believes the Mayor hoped it would answer the questions.

Councillor Rowlands asked if the Mayor was coming down to answer the questions.

Councillor Dombrowski said we can ask him down to the next meeting. He said another vote is not required since we already voted to have him down the first meeting of every month.

Under New Business, Councillor Chalifoux Zephir said the Leominster School Committee is receiving the All State School Committee Award for 2012 from the Massachusetts Association of School Committees. The Leominster School Committee members are being recognized for their contributions to the children of Leominster through many years of services.

MEETING ADJOURNED AT 9:00 P.M.

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