

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016

Hearing opened at 6:22 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

Present at the hearing was Glen Canario, General Manager at Southwin Limited and Mr. Roman, Supervisor.

This hearing is continued from May 23, 2016.

The following PETITION was the subject of the hearing.

62-16 Glen Canario/Southwin Limited: Amend the license for 272 Nashua Street to allow the storage of 12 above ground storage tanks, with a total of 191,000 gallons and 250,000 one gallon bottles of Class IIIB combustible liquid.

Mr. Canario said he spoke to Mr. Knuth and Mr. Knuth said he thought he was installing new tanks instead of just updating the license. Mr. Canario told him that all their equipment is the same, the only amendment is to allow for the five rail cars that they store in the back of their property. Mr. Canario said Mr. Knuth said he was okay with that.

Councillor Marchand said he doesn't think that answers any of the questions that we had at the last meeting. It was about safety compliance, prevention compliance, implementation of a state of the art system if it didn't exist. He said he appreciates the friendly gesture made by the department head however his concerns are a lot bigger than his response.

Councillor Dombrowski asked Councillor Marchand if his concerns are contained in the Board of Health letter.

Councillor Marchand said pretty much so and the ones that we derived from the information we came up with after it was discussed on the floor. If we could address those issues it would be helpful.

Mr. Canario said what he understood was for the state of the art leak detection, which was a concern of Mr. Knuth, when he spoke to him he said if they were putting in new equipment we would need the state of the art. Our existing tanks are surrounded by containment walls so if any leaks happen it is all contained and won't get out of the building.

Councillor Marchand asked if he had some type of an engineering plan to share.

Mr. Canario said he doesn't have one but would work one up for him.

Councillor Bodanza asked how much of the 191,000 gallons is in the rail cars.

Mr. Canario said it is approximately 150,000 and that is if he had all 5 rail cars full.

Councillor Bodanza said am I correct to assume that some of it is stored in rail cars and some of it is stored in tanks on the property?

Mr. Canario said correct.

Councillor Bodanza asked how much of that 150,000 gallons is actually in rail cars.

Mr. Canario said that would be the capacity of the 5 rail cars we may have on the property.

Councillor Bodanza said so you are coming to do is to license something that hasn't been licensed in the past which is the rail cars themselves.

Mr. Canario said correct.

Councillor Bodanza said you have a license for the stuff in the building but you don't have a license for the stuff that is being stored in the rail cars.

Mr. Canario said right.

Councillor Bodanza asked how long has this type of gallonage been in rail cars?

Mr. Canario said it has been there since the plant has been there.

Councillor Bodanza asked if they owned the rail cars.

Mr. Canario said some of them we own and some are from suppliers.

Councillor Bodanza asked what kind of safety mitigation is connected to these rail cars.

Mr. Canario said we have a triple stop system where the hoses have end caps on them, there is a backflow preventer so the product cannot syphon out and we have locking ball valves with padlocks.

Councillor Bodanza asked if there was a plan if there was a release from that tank from a leak or rupture.

Mr. Canario said if we have a leak more than 100 pounds we have to contact DEP.

Councillor Bodanza said these rail cars are obviously outside on tracks, right?

Mr. Canario said yes.

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016, continued

Councillor Bodanza asked how many gallons are stored inside.

Mr. Canario said the methanol we store up to 12,000 gallons and we have 4 other tanks that are each 6,000 gallons which we store propylene glycol.

Councillor Bodanza said so the great majority of the product is stored in these rail cars outside.

Mr. Canario said right, but we don't always have the 5 rail cars.

Councillor Bodanza said it is kind of a rotating inventory. So the worst case scenario would be a 150,000 gallons in these rail cars.

Mr. Canario said right.

Councillor Bodanza asked the age of the rail cars and if he knew anything about them.

Mr. Canario said he knows they are inspected every couple of years and they have to pass those inspection prior to being in service.

Councillor Bodanza asked if there was any type of insurance coverage to cover an eventuality of a spill or rupture for these.

Mr. Canario said he didn't know.

Councillor Dombrowski asked Mr. Canario to give them a summary on how the business functions.

Mr. Canario said they make windshield wash and some of their customers are a lot of the major auto supply stores like NAPA, O'Reilly's, other customers are Home Depot, Walmart, DeMoulas, and Market Basket. He said they get the methanol by rail cars or tankers; they pump the rail car into a holding tank into the building and then blend with water and other ingredients. The finished goods are stored in the warehouse not for very long because we typically make to order due to a small warehouse.

Councillor Dombrowski asked what the process was for distributing from the warehouse.

Mr. Canario said they have a carrier that will deliver some, Walmart will pick up, and most customers pick up their own on trailer trucks.

Councillor Dombrowski said when they pick up their own what are they being transported in.

Mr. Canario said six gallon bottles in a case.

Councillor Dombrowski asked if it took place in the Warehouse.

Mr. Canario said right.

Councillor Bodanza said what is stored outside in the rail cars is methanol, so the risk is flammability?

Mr. Canario said right.

Councillor Bodanza said so nothing else is stored outside.

Mr. Canario said it's depending on the season we will store propylene glycol or a chemical that is used in pool and RV antifreeze.

Councillor Bodanza asked if they were in rail cars.

Mr. Canario said yes. He said this all came to light when the Fire Department was in, if we have a rail car and we can turn the product in two days we do not need a permit for it, so we just wanted to be safe and according to the Fire Department we have to assume all 5 were full.

Councillor Chalifoux Zephir said your raw material is stored outside and brought inside so you have manufacturing facility and produce these bottles and store them in your warehouse. So it is manufacturing with external storage.

Mr. Canario said right.

Councillor Feckley asked for more information on how the methanol gets from the tanker to the processing end. You must have certain restrictions that you have to do it a certain way.

Mr. Canario said if we were at the furthest rail car away it is the length of 5 rail cars and instead of pumping from the bottom of the rail car we pump from the top, put the hose in to prevent any spills from happening.

Councillor Feckley asked if the pump was made out of rubber or metal.

Mr. Canario said we use an air pump with is made from steel which is inside the building.

Council President Cormier said if this material is to leak what is the cleanup process. Doesn't most of it dissipate on its own?

Mr. Canario said that is correct, we will have to contact the Fire Department, the DEP and they will come out and do a soil sample.

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016, continued

Council President Cormier asked if he received anything in writing from Chris Knuth or was it verbal.

Mr. Canario said it was verbal then I sent him a letter and he said he was going to send something to the Council.

Councillor Nickel asked where the building was.

Mr. Canario said to the right of UPS at 272 Nashua Street.

Councillor Nickel said he remembered back in the 60's one of the trains jumped the tracks and the box car ended up on the roof of that building. There is quite a little drop from the railroad track to the level of the ground. How far away from the tracks is a siding going to be? He said he is concerned about something happening like that again. He asked what the volatility is of the material.

Mr. Canario said it is methanol. He said everything has been there for years.

Councillor Nickel asked what the distance was between building and the tracks.

Mr. Canario said about 50 feet.

Councillor Nickel asked if there was any containment around the five railcars.

Mr. Canario said there is no fire suppression out there.

Councillor Chalifoux Zephir said on the license application it says number of tanks required above ground 12. Total capacity of above ground tanks in gallons is 191,000. Total capacity of underground in gallons is 250,000 in bottles.

Mr. Canario said that is not underground. The bottles are finished goods inventory.

Councillor Chalifoux Zephir said she is confused because the license says 12 and we are talking 5 rail cars.

Mr. Canario said the original license licensed the tanks in the building. He said he had the Fire Department in last year and the Fire Marshall informed me that if they have rail cars outside that sit there for more than 2 days they need to be considered a storage tank.

Councillor Bodanza said he has 5 outside the building and 4 inside.

Mr. Canario said there are 7 tanks inside and 5 outside equaling 12.

Councillor Chalifoux Zephir asked if the inside tanks had the same capacity as the outside rail cars.

Mr. Canario said no we have 1 tank that holds 10,000 gallons, 2 that hold up to 6,000 gallons of blended product and 4 tanks are used when we are batching or blending.

Councillor Chalifoux Zephir asked what the capacities of the rail cars are.

Mr. Canario said 29,000 or 30,000 gallons each.

Councillor Bodanza asked Mr. Canario how long they have been doing it this way with the outside rail cars being used for storage.

Mr. Canario said since 2002.

Councillor Bodanza said for 14 years, and the only reason you are down here is because the Fire Department said wait a minute, this system needs to be licensed in total with the rail cars being considered as part of your storage.

Mr. Canario said right.

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

Councillor Dombrowski said he would like to get a confirmation from Mr. Knuth which was scheduled to come in.

Councillor Marchand said he appreciates the presentation and it appears to be a housekeeping matter and being in compliance. He said he would feel more confident after we qualified some of their questions with Mr. Knuth. He asked Mr. Canario if this was going to impede his production.

Mr. Canario said no.

HEARING ADJOURNED AT 6:46 P.M. AND CONTINUED TO JULY 11, 2016 AT 7:00 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016

Hearing opened at 6:46 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

This hearing is continued from May 23, 2016

Present at the hearing was James Whitney, representing Southgate Business Park, and Nicole Whitney.

The following PETITION was the subject of the hearing.

50-16 James Whitney: Rezone parcels 503-3-1, 503-3-2, 503-3-3, 503-3-4, 503-3-5 at the entry-way of Southgate Business Park to mixed use (MUI) from Industrial.

Mr. Whitney said the park was approved back in 2005 and it is about 50 acres of land. The parcels are in the front section of the entry way of the Southgate Business Park. He showed the original subdivision plan which included commercial uses up front and as you got deeper into the park there would be heavier manufacturing and maybe some lighter uses coming back onto Willard Street. He said the zoning change that they are looking for is to allow some of the commercial uses towards the front that would service the people in the park and in the residential piece across the street in Sterling.

Councillor Dombrowski said he knows the City was a party for the grant and by changing the zoning is the City running afoul of the grant language?

Mr. Whitney said they already checked and said it has nothing to do with it. The piece has already been turned over to the City, the roadway which the grant was for and is now a public way.

Councillor Marchand asked where this piece was coming off.

Mr. Whitney said Central Street.

Councillor Marchand asked how it would affect the residential property abutter on Central Street.

Mr. Whitney said that is in Sterling and they are the abutter to the Sterling piece so they are between the road, the public way, and this land would be on the opposite side of the street.

Councillor Marchand asked if he could disclose some of the concepts you are thinking about.

Mr. Whitney said the uses they have shown up were coffee shops, drive thru coffee shops, banks, commercial tire retailer, service people that would service everyday people.

Councillor Marchand asked how big is the piece that you want to rezone.

Mr. Whitney said about 12 acres and the park is split up by the wetlands so it is pretty much the front piece.

Councillor Marchand said the road that was designed was basically for manufacturing, trucks and things like that.

Mr. Whitney said when they permitted the park and went through MEPA they had discussions about a light being put in at the intersection of Route 12 but they don't meet the warrant. So until you meet the warrant coming in and out they won't even talk to us about doing a light. After the residential piece is built in Sterling and some of the park is built then we can do a traffic study again and apply for a light.

Councillor Marchand asked if he has approached the abutter to see what their position was on going to this concept.

Mr. Whitney said we had discussions with LKQ and they have no issues with it.

Councillor Freda asked if a marijuana site will be going in.

Mr. Whitney said they have had discussions with people on it but they do not have any leases signed.

Councillor Freda asked if that would be further in the back.

Mr. Whitney said yes.

Councillor Dombrowski asked if Mr. Whitney if he had any success attracting industrial tenants.

Mr. Whitney said no, because of the economy no one is building new but over the last six months there is interest in doing something but more in line with offices than manufacturing.

Councillor Dombrowski asked how wide the road was.

Mr. Whitney said it's a sixty foot paved way with a center island.

Councillor Dombrowski asked if there were sidewalks on the road for the residential piece on Sterling.

Mr. Whitney said yes on both sides and they go all the way up.

Council President Cormier said there are 5 parcels of land that you want to rezone and are we talking about one of these business that you talked about per parcel.

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016, continued

Mr. Whitney said no. When we got it approved we have to break up the land in certain amount of parcels. We can further divide them up depending on what someone needs. It could be five pieces it could be ten pieces. He said the parking requirements are what is going to be driving how many lots it's going to be. He said he envisions putting on the first parcel on the right as you come in some sort of a strip mall type use where a coffee shop can go in or a cleaners or uses like that.

Councillor Dombrowski said they received a unanimous recommendation from the Planning Board. The Zoning Board of Appeals were strongly against the petition and considered it spot zoning.

Councillor Freda said she knows that a lot of areas in different parts of the state are allowing mixed use in a development like that but we do need to get a clarification regarding spot zoning.

Councillor Dombrowski said there is mixed use abutting it.

Mr. Whitney said this is not even in the realm of the discussions we are having here about this.

Councillor Bodanza said it clearly abuts the MU1 zone as described on the map. He said he didn't want to spend the money for a legal opinion.

Councillor Freda said we need to have clarification from the Zoning Board of Appeals or a legal opinion. We send a lot of things to the attorney that aren't even close to something important. Let's just cover ourselves and get an accurate opinion.

Councillor Bodanza said he thinks it's elementary, it abuts the MU1 zone.

Councillor Chalifoux Zephir said she remembers there were a certain number of jobs that were to be created. A question to Kopelman & Paige is to make sure we are not in violation of the grant.

Council President Cormier echoes Council Chalifoux Zephir's comments. He said he would rather spend the money on an opinion from Kopelman & Paige regarding the violation of the grant that spot zoning.

Councillor Feckley asked how much traffic goes down that road.

Mr. Whitney said he has no idea. There is nothing in there, so there is nothing now.

Councillor Feckley said if I am standing on Route 12 and I am looking down that road will I be able to see what you're building.

Mr. Whitney said sure. It is right there as you pull in. He said if you have any questions contact the State that I dealt with because over the years, they have the answers for you. He said if the Council is planning on continuing the hearing he would like to have the Zoning Board come down.

Councillor Chalifoux Zephir said we have had people come down to rezone parcels from some kind of residence to commercial and we have turned them down and have been very respectful of the way the zoning is done. She said she thinks that is where they were going. Zoning changes are not taken lightly and they're very tough decisions we have to make. They are not simple things to be done.

Mr. Whitney said I am sure. The reason we are down here asking for it is because we probably should have been put in the original zoning when it was changes. If you look at the parks that are around, take Jytek Park for instance, as soon as the economy goes down there is one type of use in there industrial then you have building after building that is not full and the place looks abandoned and they are not being kept up where if you have multiple uses one carries the other through different times. That is what we want to do.

Councillor Freda said there was a letter from the Building Inspector was in favor to better conform to the surrounding area. You have one body in the City saying that it is spot zoning, a Building Inspector who saying it will conform. She said she stick to her request to get a legal opinion.

Councillor Nickel said the Planning Board is permitted uses. He said he has seen several times with the Planning Board and the Zoning Board of Appeals didn't agree but at the same time it is a zoning issue. The Zoning Board carries a little more precedence that the Planning Board and he agrees with Councillor Freda. He said he agrees with the value of the project.

Councillor Feckley said we also referred this out to the Economic Development Coordinator and Ms. Marrone stating the City of Leominster is getting continual interest in Southgate Business Park for uses other than industrial. Developments throughout the State offer mixed use zoning because of the appeal and the flexibility of usage with market demands.

Mr. Whitney said Fort Devens is probably the biggest reason why there is not a project or anything in any park we have in this area. If you look at them as the huge success story they are and they are going to use that as the role model for the entire country on closing bases. Here is a perfect example of mixed uses in one park and what makes them work and come together.

Councillor Freda said you can easily fill up Devens when we don't have the permitting process that the State allows.

Mr. Whitney said we do have the permitting process and we got it approved and supposedly it is the same exact permitting process that Fort Devens has. The problem we have is we don't have the negotiating power that the State has to attract people into that park. He said we have made several deals and to have them walk away to Devens.

Councillor Dombrowski said we will get a letter from Kopelman & Paige on the issue of spot zoning and MORE Grant and PWED Grant. He said he would get the contact information from the State and report back.

Councillor Chalifoux Zephir said if Devens and Mass Development have a significant advantage over regular communities like Leominster, it's a big problem, and we need to talk about that.

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016, continued

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

HEARING ADJOURNED AT 7:15 P.M. AND CONTINUED TO JULY 11, 2016 AT 6:30 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016

Hearing opened at 7:16 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

Present at the hearing was Al Micale of Ayoub Engineering, Inc.

The following PETITION was the subject of the hearing.

66-16 Al Micale, Ayoub Engineering, Inc., Agent for Sunoco LLC: Amend the license for 468 Main Street to allow the storage of two 300 gallon above ground storage tanks for waste oil and heating oil, and two 20,000 gallon underground storage tanks for gasoline and diesel.

Mr. Micale said they are looking to remove the existing single wall tanks that have been in the ground for about 30 years and replace them with 2 larger underground storage tanks. One large one with regular gasoline and one with a split diesel and high grade gas and pull the 2 waste oil-fuel oil tanks out of the ground and put in a couple of above ground tanks behind the building. He said they originally had proposed to put one of the tanks on the side of the building but discussions with the neighbor, we decided to put them in back of the building away from the neighbor. He said the new tanks are state of the art with all the bells and whistles for monitoring tanks, piping and dispensers. It's time for them to come out of the ground.

Councillor Dombrowski read two positive recommendations from the Health Director and the Fire Department

Mr. Micale explained what a double-walled tank is.

Councillor Nickel asked what the above ground storage was for.

Mr. Micale said one is for fuel oil for heat for the building and the second one is a waste oil tank where customers can bring back waste oil.

HEARING ADJOURNED AT 7:22 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016

Hearing opened at 7:22 P.M. with Councillor Bodanza, Chair of the FINANCE COMMITTEE, presiding. All members were present.

The following COMMUNICATION was the subject of the hearing:

Relative to the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.) for the purpose of financing rehabilitation of the Pond St. and Wachusett Reservoir Pump Stations, including without limitation all costs thereof; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$1,500,000. To issue bonds or notes therefor under G.L. c44 or any other enabling legislation and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor or the Treasurer is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project and this vote.

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

HEARING ADJOURNED AT 7:24 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016

Hearing opened at 7:24 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

Present at the hearing were Attorney Jim Donovan of Bovenzi and Donovan for the applicant and Peter Reynolds of McKenzie Engineering.

The following PETITION was the subject of the hearing:

63-16 Peter E. Bovenzi, Trustee, Neighborhood Development Trust: Approve a zoning change to change maximum height for principal buildings in RC district as set forth in Subsection 22-40.3 on lots with at least five acres of area from 35 feet to 40 feet.

Attorney Donovan said this petition is to raise the height limitation from 35 feet to 40 feet. This essentially concerns Brooks Pond. He said there are 8 buildings in place and have been there for about a half a dozen years and were all built to code. There is a plan to build 3 more buildings identical in dimension that are there but the measurement from grade level to the mid point of the roof is actually more than 35 feet and we need to increase it from 35 feet to 40 feet to allow the proposed buildings to comply with zoning.

Mr. Reynolds said Peter wants to build 6 more buildings but he wants to build the same building that is there right now. He is not making the building any taller than it was previously. It is just to build the exact same building.

Councillor Dombrowski read a favorable recommendation from the Planning Board.

Councillor Freda said she had asked Attorney Bovenzi, when he was here, about the entire funding of the project because there was a question of the sewage on Debbie Drive. There are four properties that aren't finished yet. When she spoke to Mr. Bovenzi not too long ago, he said it would be completed. Councillor Freda said she thinks it is part of the whole plan and issue and she thinks it needs to be done before there are any amendments made to it. She said the equipment is there the promise is there and it's been almost 10 years. She said she supports this but has an issue with granting any changes until the original agreement is met.

Attorney Donovan said he is not following her. He said he wasn't aware of the issue.

Mr. Reynolds asked Councillor Freda if she knew what the work is that isn't finished.

Councillor Freda said yes, just putting a sewer line in to continue the line.

Mr. Reynolds said those 3 are on septic and they want to be tied into City sewer?

Councillor Freda said yes.

Mr. Reynolds said he would guess when they get financing it will be done.

Councillor Cormier said he attended the Planning Board meeting he heard it was a type o when the zoning was redone. It should have been 40 feet in the beginning and was put in at 35 feet.

Councillor Dombrowski said they received a favorable recommendation from the Director of Inspections. The recommendation from the Zoning Board of Appeals stating they did not feel they had enough information to make a recommendation.

Councillor Feckley asked Mr. Reynolds how tall the buildings are now.

Mr. Reynolds said the bottom of the roof is 29 feet and the top of the roof is 46 feet. The average height of the roof is where the building code comes in. The fines for the average grade to the average height of the roof are just under 40 feet, like 38-39 feet.

Councillor Dombrowski said there are two letters from the Fire Department and both are favorable.

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

Councillor Freda said she has an issue with promises that have been made and doesn't know if she supports granting/amending the projects without fulfilling what has been told. There is very little work to be done, it's just a matter of doing it.

Mr. Reynolds asked if they could stipulate that no occupancy permits for any additional work be granted until all work at Debbie Drive is finished. That way it won't hold up any construction financing and they will have the money to do Debbie Drive. But they won't get any occupancy permits so he will have to do it.

Councillor Dombrowski said he appreciates his thought and understands what the Councillor is trying to do but doesn't know how it comes into play with a request for a zoning change.

HEARING ADJOURNED AT 7:40 P.M.

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

HEARING BEFORE THE CITY COUNCIL, JUNE 13, 2016

Hearing opened at 7:41 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

Present at the hearing were Attorney Jim Donovan of Bovenzi and Donovan for the applicant and Peter Reynolds of McKenzie Engineering.

The following PETITION was the subject of the hearing:

64-16 Peter E. Bovenzi, Trustee, Neighborhood Development Trust: Approve a zoning change from Commercial District to Residence C District for a 21,840 square foot parcel as shown on Assessor's Map 317. Parcel 7A. Attorney Donovan said the 21,840 square feet of property is immediately behind the existing bocce courts off of Central Street and Brooks Pond Road.

Attorney Donovan said this petition involved a 21,840 square foot piece of property that is immediately behind the existing bocce courts off of Central Street and Brooks Pond Road. At one point there was a thought of doing a commercial use that would front onto Brooks Pond Road and initially the zoning line was 300 feet back from Central Street or Route 12. At some point it became another 60-70 feet deep. Now that the idea of doing a commercial use has been abandoned we want to revert back to C residence.

Mr. Reynolds said they just want to return the zoning line back to where it was before he changed it to commercial.

Positive recommendations were received from the Planning Board and the Director of Inspections. A letter from the Zoning Board of Appeals was received stating they do not have enough information to make a recommendation.

Councillor Freda said she has the same position on this petition as the prior.

Councillor Cormier said he agrees with Councillor Freda's position on this petition but doesn't know about the other one. They are two totally different things. One is a generalized ordinance and the other is geared towards the property.

Councillor Cormier said you are talking about the land behind the bocce court, so he intends on keeping that land and he is not selling it.

Attorney Donovan said right now it is still part of the same legal description but it is just where the zoning line exists will revert back to where it did exist where it is 20 feet off the back of the bocce courts. Right now the line is about 70 feet from the back of the bocce courts.

Councillor Cormier said Mr. Bovenzi is going to be an abutter to the bocce courts. He said he has concerns because that is a well used facility and is concerned about noise at such a close proximity to people living there, but it will be his own problem.

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

HEARING ADJOURNED AT 7:46 P.M.

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

REGULAR MEETING OF THE CITY COUNCIL, JUNE 13, 2016

Meeting was called to order at 7:32 P.M.

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

The Committee on Records reported that the records through May 23, 2016 were examined and found to be in order. The records were accepted.

A recess was called at 7:50 P.M. to continue the hearing, hold a public forum and have an interview with the Emergency Management Appointee.

Meeting reconvened at 8:08 P.M.

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

C-101 Dean J. Mazarella, Mayor: Exempt Erin VanTuyl from a Conflict of Interest as provided for M.G.L. Chapter 268A, Section 20B as she is a biology teacher for the Leominster School Department and will be working as an enrichment instructor for the Recreation Department.

REGULAR MEETING OF THE CITY COUNCIL, JUNE 13, 2016, continued

- C-102 Dean J. Mazzearella, Mayor: Exempt Jeffrey Soulliere from a Conflict of Interest as provided for M.G.L. Chapter 268A, Section 20B as he is a physical education teacher for the Leominster School Department and will be working as a Sportsmania program director for the Recreation Department.

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

- C-103 Dean J. Mazzearella, Mayor: Consider acquiring, by eminent domain, permanent and temporary easements on certain properties located on or near the Monoosnoc Brook in connection with Phase II of the Monoosnoc Brook River Walk. The properties affected by the taking are set forth more particularly in Schedule A and shown on a plan entitled "Monoosnoc Brook, Leominster, MA" prepared by Brown, Richardson and Rowe, Inc.

The following COMMUNICATIONS were received, referred to the FINANCE COMMITTEE and given REGULAR COURSE. A hearing was set for June 27, 2016 at 7:00 P.M.

- C-104 Relative to the appropriation of \$116,275,000.00 to the Fiscal Year 2017 General Fund Budget Accounts as listed; same to be raised/offset by Fiscal Year 2017 Revenue.
- C-105 Relative to the appropriation of \$5,678,005.00 to the Fiscal Year 2017 Water Department Budget Accounts as listed; same to be raised/offset by the Fiscal Year 2017 Water Rates to be collected as authorized by Massachusetts General Law Chapter 44, Section 53E.
- C-106 Relative to the appropriation of \$5,453,705.00 to the Fiscal Year 2017 Sewer Department Budget Accounts as listed; same to be raised/offset by the Fiscal Year 2017 Sewer Rates to be collected as authorized by Massachusetts General Law Chapter 44, Section 53E.

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

- C-107 Relative to the appropriation of \$75,000.00 to the Fire Department Overtime Account; same to be transferred from the Fire Department Salary & Wages Account.
- C-108 Relative to the appropriation of \$1,023.00 to the Veteran Services Salary & Wages Account; same to be transferred from the Veterans Department Expense Account.
- C-109 Relative to the appropriation of \$15,000.00 to the Collector Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-110 Relative to the appropriation of \$11,400.00 to the Building Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-111 Relative to the appropriation of \$600,000.00 to the Fire Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-112 Relative to the appropriation of \$4,000.00 to the Health Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-113 Relative to the appropriation of \$310,000.00 to the Highway Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-114 Relative to the appropriation of \$284,236.00 to the Insurance Expense Account; same to be transferred from the Worker's Compensation Loss Fund Accounts as listed:
- | | |
|--|--------------|
| FY2015 Worker's Compensation Loss Fund | \$170,000.00 |
| FY2014 Worker's Compensation Loss Fund | \$ 52,835.77 |
| FY2013 Worker's Compensation Loss Fund | \$ 35,000.00 |
| FY2012 Worker's Compensation Loss Fund | \$ 21,000.00 |
| FY2010 Worker's Compensation Loss Fund | \$ 2,000.00 |
| FY2009 Worker's Compensation Loss Fund | \$ 3,400.23 |

RE: 2017 Worker's Compensation Loss Fund

- C-115 Relative to the appropriation of \$26,500.00 to the Insurance Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-116 Relative to the appropriation of \$30,000.00 to the I.T.T.F. Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-117 Relative to the appropriation of \$308,000.00 to the Police Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-118 Relative to the appropriation of \$250,000.00 to the School Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-119 Relative to the appropriation of \$350,000.00 to the Stabilization Fund; same to be transferred from the Excess and Deficiency Account.

REGULAR MEETING OF THE CITY COUNCIL, JUNE 13, 2016, continued

The following PETITION was received, referred to the WAYS & MEANS COMMITTEE, given REGULAR COURSE and referred to the Treasurers, the Police Department and the License Commission.

67-16 Robert A. Cornetta: Renew the license for two pool tables at Miranda's Pub located at 488 Lancaster Street.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Treasurers, the Mayor, the Economic Development Coordinator and the Comptroller.

68-16 Claire Freda: Amend the City of Leominster's local room occupancy excise tax under M.G.L. Chapter 64G, Section 3A to the rate of 6%.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 9/0

C-93 Dean J. Mazzarella, Mayor: Authorize the City of Leominster to pursue \$23,927.00 through the United State Department of Justice – Justice Assistance Grant Program (JAG).

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

49-16 Best Buy Stores, LP #1433: Renew the Second Hand Dealer License for the location at 33 Orchard Hill Park Drive.

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

52-16 Mackie Barch, for DO Health Massachusetts, Inc.: Consider and issue a Letter of Municipal Support or Non-Opposition relative to the siting of a Medical Marijuana Facility at 30 Patriots Circle.

53-16 Peter Campobasso, Esquire for Alternative Therapies Group Inc.: Request a local letter of non-opposition to locate a Registered Marijuana Dispensary in the City of Leominster.

54-16 Edward J. Bartlett, Jr., CFO for Middlesex Integrative Medicine: Request a letter of support or non-opposition to operate a registered marijuana dispensary at 25 Mohawk Drive.

Upon request of the WAYS & MEANS and LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given LEAVE TO WITHDRAW. Vt. 9/0

55-16 Marc Rosenfeld, CEO for CommCan Inc.: Request a letter of non-opposition to operate a Registered Marijuana Dispensary at Southgate Business Park.

56-16 Robert C. Carr, Jr. President & CEO for Nature's Remedy of Massachusetts: Request a letter of support or non-opposition to operate a Registered Marijuana Dispensary at Southgate Business Park.

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

65-16 Pat Scorzelli-Agent for Prime Wellness Centers, Inc.: Request a local letter of municipal support and non-opposition for the siting and establishment of a Registered Medical Marijuana Dispensary in the City of Leominster on Locke Drive.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following COMMUNICATION was given LEAVE TO WITHDRAW. Vt. 9/0

C-33 Dean J. Mazzarella, Mayor: Request that the City Council submit a request, pursuant to Article II, Section 8, Paragraph 1, Clause (1) of the Amendments of the Constitution, as amended by Article LXXXIX, that State Senator Jennifer L. Flanagan and State Representative Dennis A. Rosa file special legislation with the General Court, on behalf of the City, seeking to exempt the positions of Police Chief and Police Captain from the Civil Service Law, G. L. c 31, as follows:

AN ACT EXEMPTING THE POSITIONS OF POLICE CHIEF AND POLICE
CAPTAIN IN THE CITY OF LEOMINSTER FROM THE CIVIL SERVICE LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The positions of police chief and police captain in the city of Leominster shall be exempt from Chapter 31 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

REGULAR MEETING OF THE CITY COUNCIL, JUNE 13, 2016, continued

A letter from the Mayor was received on May 26, 2016 as reads as follows:

Members of the City Council,

Don December 8, 2015, In submitted a petition relative to exempting the positions of Police Chief and Police Captain in the City of Leominster from the Civil Service Law.

The purpose of the submitting the communication of the City Council was to have a meaningful dialogue about removing the Chief and Captain positions from Civil Service and the benefits of that process. On February 22, a representative from Civil Service was invited to the City Council meeting.

On June 1, the City Council is organizing a forum with the following including myself;

- Leominster Police Chief
- Leominster Fire Chief
- A representative from the MA Chief's of Police
- A representative from the Patrolmen's Union
- A representative from the Superior Officer's Union
-

June 2 will be One Hundred and Seventy-Six (176) days since I filed the communication and we have yet to examine the opinion of any of the cities and towns that have been operating without a Civil Service chief. With less than one year left and no decision on the resolution I believe that in the best interest of those wishing to take the test, who now will have less than a year to study for the test, to move along in the process. Because of these reasons I have moved the process along and will not be supporting this effort any longer.

Sincerely,

/s/ Dean J. Mazzarella, Mayor

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0 (Hearing continued to July 11, 2016 at 6:30 P.M.)

50-16 James Whitney: Rezone parcels 503-3-1, 503-3-2, 503-3-3, 503-3-4, 503-3-5 at the entry-way of Southgate Business Park to mixed use (MUI) from Industrial.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0 (Hearing continued to July 11, 2016 at 7:00 P.M.)

62-16 Glen Canario/Southwin Limited: Amend the license for 272 Nashua Street to allow the storage of 12 above ground storage tanks, with a total of 191,000 gallons and 250,000 one gallon bottles of Class IIIB combustible liquid.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given FURTHER TIME. Vt. 8/0, Councillor Marchand abstained.

63-16 Peter E. Bovenzi, Trustee, Neighborhood Development Trust: Approve a zoning change to change maximum height for principal buildings in RC district as set forth in Subsection 22-40.3 on lots with at least five acres of area from 35 feet to 40 feet.

64-16 Peter E. Bovenzi, Trustee, Neighborhood Development Trust: Approve a zoning change from Commercial District to Residence C District for a 21,840 square foot parcel as shown on Assessor's Map 317, Parcel 7A.

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

66-16 Al Micale, Ayoub Engineering, Inc., Agent for Sunoco LLC: Amend the license for 468 Main Street to allow the storage of two 300 gallon above ground storage tanks for waste oil and heating oil, and two 20,000 gallon underground storage tanks for gasoline and diesel.

Councillor Bodanza, Chair of the FINANCE COMMITTEE, read the Financial Report for the City into the record. Account balances are as follows:

Stabilization Account	\$13,613,546.00
Free Cash	\$ 174,074.00
Emergency Reserve	\$ 100,000.00

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas", Councillor Feckley abstained due to a possible conflict of interest.

REGULAR MEETING OF THE CITY COUNCIL, JUNE 13, 2016, continued

C-94 Relative to the appropriation of \$2,893.00 to the Disability Commission Fines Reserved for Appropriation Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Two Thousand Eight Hundred Ninety Three Dollars (\$2,892.00) be appropriated to the Disability Commission Fines Reserved for Appropriation Account; same to be transferred from the Excess and Deficiency Account.

RE: Handicap Parking Fines collected in FY2015

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

C-95 Relative to the appropriation of \$7,000.00 to the Historical Commission Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Seven Thousand Dollars (\$7,000.00) be appropriated to the Historical Commission expense Account; same to be transferred from the Excess and Deficiency Account.

C-96 Relative to the appropriation of \$150,000.00 to the Municipal Buildings Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) be appropriated to the Municipal Buildings Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Demolition of City owned buildings

C-97 Relative to the appropriation of \$22,000.00 to the Library Department Expense Account; same to be transferred from the Library Salary & Wages Account.

ORDERED: - that the sum of Twenty Two Thousand Dollars (\$22,000.00) be appropriated to the Library Department Expense Account; same to be transferred from the Library Salary & Wages Account.

RE: Purchase of Computer Equipment

C-98 Relative to the appropriation of \$50,000.00 to the Police Department Overtime Account; same to be transferred from the Police Department Salary & Wages Account.

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

C-99 Relative to the appropriation of \$50,000.00 to the Police Department Capital Outlay Expense Account; same to be transferred from the Police Department Salary & Wages Account.

ORDERED: - that the sum of Fifty Thousand Dollars (\$50,000.00) be appropriated to the Police Department Capital Outlay Expense Account; same to be transferred from the Police Department Salary & Wages Account.

RE: Purchase of X26P Tasers, holsters and necessary relevant training, maintenance and tracking equipment.

C-100 Dean J. Mazzarella, Mayor: Relative to the appropriation of One Million Five Hundred Thousand Dollars (\$1,500,000.) for the purpose of financing rehabilitation of the Pond St. and Wachusett Reservoir Pump Stations, including without limitation all costs thereof; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$1,500,000. to issue bonds or notes therefor under G.L. c44 or any other enabling legislation and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor or the Treasurer is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project and this vote.

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

Emergency Management – Administrative Unit – Carrie Noseworthy

REGULAR MEETING OF THE CITY COUNCIL, JUNE 13, 2016, continued

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

CITY OF LEOMINSTER
IN THE CITY COUNCIL

1st Reading Loan Order: May 23, 2016

2nd Reading Loan Order: June 13, 2016

ORDERED: - that the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.) for the purpose of financing rehabilitation of the Pond St. and Wachusett Reservoir Pump Stations, including without limitation all costs thereof; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$1,500,000. to issue bonds or notes therefor under G.L. c44 or any other enabling legislation and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor or the Treasurer is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project and this vote.

Approved: Mayor

1st Reading: /s/Dean J. Mazzearella, Mayor Date: May 25, 2016

2nd Reading: /s/ Dean J. Mazzearella, Mayor Date: June 14, 2016

At the regular meeting of the City Council, May 23, 2016, Loan Order passed by a vote of eight “yeas”; nine members of the Council, eight members present, eight members voting “yea.”

At the regular meeting of the City Council, June 13, 2016, Loan Order read a second time and passed by a vote of nine “yeas”; nine members of the Council, nine members present, nine members voting “yea”.

A joint committee meeting was established for the Ways & Means and Legal Affairs Committees on June 29, 2016 at 5:30 P.M.

MEETING ADJOURNED AT 9:25 P.M.

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