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Gail P. Feckley

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Ward 2 – Pauline M. Cormier

Ward 3 – David R. Cormier

Ward 4 – Mark C. Bodanza

Ward 5 – Richard M. Marchand

CITY OF LEOMINSTER

CITY COUNCIL

OCTOBER 22, 2018

JOHN P. MAHAN CITY COUNCIL CHAMBERS

HEARING BEFORE THE CITY COUNCIL, 6:25 P.M.

14-19 National Grid: to install one (1) singular owned pole on West Street beginning at a point approximately 40 feet southeast of the centerline of the intersection of Hillery Road and continuing approximately 15 feet in a northeast direction. National Grid to install one (1) pole with an anchor and guy to service house #845. The current service goes over the roof of the home and is no longer in code. *(Regular Course 10/09/2018; Public Hearing 10/22/2018 @ 6:25 P.M.; Majority Vote) (Public Service)*

HEARING BEFORE THE CITY COUNCIL, 6:30 P.M.

39-18 Prime Wellness Centers: Grant a Special Permit to build a medical marijuana cultivation facility located at 1771 Lock Drive. *(Regular Course 03/12/2018; Amended to change address to 1771 Lock Drive 03/26/2018; 04/09/2018 - hearing continued to 5/14/2018; Further Time; 04/2/2018; 5/14/2018; 06/11/2018; Hearing continued to 6/11/2018; Tabled with hearing continued 06/11/2018; Removed from Table 09/24/2018; Public Hearing Continued 10/22/2018 @ 6:30 P.M.)(Legal Affairs)*

PUBLIC INFORMATION SESSION, 6:45 P.M.

National Grid Public Information Session in regards to compliance, communication, and safety concerns in the city. Question and Answer Session with City Council and City Department Representatives.

PUBLIC FORUM, 7:15 P.M

The public forum is an opportunity for any member of the audience to speak on a matter specifically listed on the Council Agenda. Speakers will be asked to come to the microphone and state their formal name and address along with identifying the specific item(s) they wish to address. Each speaker is respectfully asked to keep their comments within a two (2) minute timeframe. The Council will not be responding or answering any questions; however, at the discretion of the Council President, clarification may be given.

- I. REGULAR MEETING OF THE CITY COUNCIL, 7:30 P.M.**
- II. ROLL CALL OF COUNCILLORS IN ATTENDANCE**
- III. APPROVAL OF RECORDS PRESENTED BY THE VICE PRESIDENT**
- IV. COMMUNICATIONS FROM THE MAYOR**

APPOINTMENTS

A measure confirming the Mayor's Appointment of **Noelle Balutis** to the position of Disability Commission; term to expire April 15, 2021. (*Ways & Means; Majority Vote*)

COMMUNICATIONS

C-20 Dean J. Mazzarella, Mayor: Relative to Amending Chapter 13 of the Revised Ordinance entitled "Motor Vehicles and Traffic", as part of the Safety Improvement Project for the Intersection at the Leominster Connector and Nashua Street, the Federal Highway Administration is requiring that a Traffic Control Agreement exist between the City of Leominster and the Massachusetts Department of Transportation. (*Legal Affairs; Majority Vote*)

ORDERS

C-21 Dean J. Mazzarella, Mayor: Relative to the appropriation of \$40,000.00 to the Landfill Expense Account; same to be transferred from the Stabilization Fund. (*Finance; 2/3 Vote*)

RE: Additional Engineering Services and Contingency Funds for Landfill Improvement Project.

Communications from the Mayor, continued

C-22 Dean J. Mazarella, Mayor: Relative to Authorize the Treasurer, with the approval of the Mayor, to borrow \$810,000.00 for the purpose of funding the foregoing acquisition and costs incidental or related thereto in accordance with G.L. c.44, §7 and/or any other enabling authority and to issue bonds and notes therefor, and, in accordance with G.L. c.44, §20, any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of project costs approved hereunder, thereby reducing by a like amount the amount authorized to be borrowed to pay such costs. *(Legal Affairs/Finance) (Public Hearing 11/13/2018 @ 6:21 P.M.; 2/3 Vote).*

V. MATTERS BEFORE THE CITY COUNCIL

VI. CITY OF LEOMINSTER – FINANCIAL REPORT

VII. LEGAL AFFAIRS

39-18 39-18 Prime Wellness Centers: Grant a Special Permit to build a medical marijuana cultivation facility located at 1771 Lock Drive. *(Regular Course 03/12/2018; Amended to change address to 1771 Lock Drive 03/26/2018; 04/09/2018 - hearing continued to 5/14/2018; Further Time 04/2/2018; 5/14/2018; 06/11/2018; Hearing continued to 6/11/2018; Tabled with hearing continued 06/11/2018; Removed from Table 09/24/2018; Public Hearing Continued 10/22/2018 @ 6:30 P.M.)(Legal Affairs)*

41-18 Kristen Kelly, Planning Director: Amend XI, Section 22-60 of the Leominster Zoning Ordinance to add language requiring Deep Observation Hole Testing for storm water infiltration/detention areas. The Deep hole testing shall be performed by a Massachusetts Department of Environmental Protection Certified Soil Evaluator. *(Regular Course 3/12/2018; Further time 3/26/2018; 4/9/2018; 4/23/2018; 5/14/2018; 5/29/2018; 10/09/2018; Granted 6/11/2018. Public Hearing 11/13/2018 @ 7:00 P.M.).*

Legal Affairs, continued

- C-19 Dean J. Mazzarella, Mayor: Request that the City Council approve Petition C-19 and authorize the Mayor, on behalf of the City, to petition the Massachusetts General Court for special legislation, substantially in the form as set forth below, relating to the City making payment on a certain unpaid bill to Royal Steam Heater Co., in the amount of \$60,105.12; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Mayor approves amendments to the bill before enactment by the General Court, and provided further that the Mayor is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition. *(Regular Course 10/09/2018; Public Hearing 11/13/2018 @ 7:01 P.M.; Majority Vote)*
- 15-19 Horgan Construction, Inc.: to accept, layout and dedicate Nass Farm Road as a public way. *(Regular Course 10/09/2018; Majority Vote)*

VIII. PUBLIC SERVICE

- 14-19 National Grid: to install one (1) singular owned pole on West Street beginning at a point approximately 40 feet southeast of the centerline of the intersection of Hillery Road and continuing approximately 15 feet in a northeast direction. National Grid to install one (1) pole with an anchor and guy to service house #845. The current service goes over the roof of the home and is no longer in code. *(Regular Course 10/09/2018; Public Hearing 10/22/2018 @ 6:25 P.M.; Majority Vote)*

IX. CITY PROPERTY

- 13-19 Richard M. Marchand, Festival Facilitator: Request the closure of the following streets 6:00 A.M. to 7:00 P.M. for the Annual Johnny Appleseed Arts and Cultural Festival on Saturday, September 21, 2019, with a rain date of Saturday, September 28, 2019.
- West Street from School Street to Main Street.
 - Park Street from West Street intersection in the Church Street vicinity to Main Street.
 - The City Hall Parking Lot.
 - The City parking lot adjacent to the City Hall located off West Street.
 - The City parking lot (defined spaces) located between the First Baptist Church and the First Church Unitarian for handicap parking.
 - Church Street from Merriam Avenue to West Street.
- (The section of Church Street to be closed off is still available with an altered egress pattern for public safety vehicles and business). (Regular Course 10/09/2018; Majority Vote)*

X. OLD BUSINESS

2nd Reading Ordinance – AN ORDINANCE: Amending Chapter 13 of the Revised Ordinance entitled “Motor Vehicles and Traffic”. Be it ordained by the City Council of Leominster, as follows:

Section 13-88.4 of the Revised Ordinance entitled “Left Turn Restriction” is hereby amended by adding the following text:

No driver shall make a left hand turn from Day Street on to the rear driveway of Johnny Appleseed School during the hours of 7:00 A.M. to 9:00 A.M., Monday through Friday during the school year. (*Regular Course 06/25/18; Further Time 07/09/18; Granted 7/23/2018; 1st Reading Adopted 10/09/2018; Public Hearing 11/13/2018 @ 6:20 P.M.*)(*Petition 86-18*)

Old Business, continued

2nd Reading Ordinance – AN ORDINANCE: Amending Chapter 2, Article 3, Section 2-16 of the Revised Ordinance entitled “Regular Meetings”.

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

Sec. 2-16 Regular Meetings

Except as hereinafter stated, regular meetings of the city council shall be held on the second and fourth Monday evenings of each month at 7:00 P.M. Whenever a meeting falls on a legal holiday, it shall be held the following night at the same time. Whenever a meeting falls on the evening before New Year’s Day, it shall be held on the next night following the holiday at the same time. No meeting shall be held during the week of Christmas. (*Regular Course 8/27/2018; Further Time 9/10/2018; Public Hearing September 24, 2018 @ 6:15 P.M.; 1st Reading Adopted 10/09/2018; 2/3 Vote Required) (Petition 07-19)*

XI. NEW BUSINESS

1st Reading Ordinance – AN ORDINANCE

Amending Chapter 20 of the Revised Ordinance entitled “Streets and Sidewalks.”

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

Section 20-10 of the Revised Ordinance entitled “Parades, Processions and Assemblies” is hereby amended rescinding the current text in its entirety and by inserting in its place the following:

SECTION 20-10. PARADE/RACES

20-10a. Definitions

Chief of Police is the current Chief of the Leominster Police Department or their designee.

Downtown Area is the area bounded by the following intersections: Main Street at Columbia Street; Mechanic Street at Water Street; Lancaster Street at Central Street; Central Street at Union Street; Union Street at Adams Street; Pleasant Street at Pearl Street; West Street at School Street; Merriam Ave at School Street.

Parade is any parade, march, or procession in or upon any street except the sidewalks thereof.

Race is any organized competition of speed and endurance. It shall include, but not be limited to, bicycle races, foot races, marathons, and jogging events.

20-10b. Exceptions

This Chapter shall not apply to:

- (a) Funeral processions.
- (b) Governmental agency acting within the scope of its functions.

20-10c. Permit required

No person shall engage in, participate in, aid, form or start any parade or race, unless a parade/race permit therefor shall have been obtained from the Chief of Police.

20-10d. Application for permit

- (a) A person seeking issuance of a parade/race permit shall file an application with the Chief of Police on forms provided by such office. The application must be filled out in its entirety to be accepted.
- (b) The parade/race application fee shall be twenty-five (25) dollars, payable to The City of Leominster. This fee is non-refundable.
- (c) To ensure an orderly approval process, parade/race permit application should be filed as soon as possible in advance of the parade or race. In any case, permit applications must be filed not less than five (5) business days before the date on which the parade/race is proposed to take place. Failure to timely file may be grounds for denial of the permit.
- (d) The application will be examined by the Traffic Department. The Traffic Department will then make an approve/deny recommendation to the Chief of Police.
- (e) Once a decision is made by the Chief of Police, a meeting will be scheduled between the Traffic Department and the parade/race organizers. The purpose of this meeting will be to explain the requirements of the permit; including but not limited to required changes to the parade/race route, street closures, and if detail officers are required. If the parade/race organizers agree to the permit requirements the permit shall be issued.

20-10e. Content of application

The application for the parade/race permit shall set forth the following information:

- (a) If the parade/race is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and the of the authorized and responsible heads of such organization.

- (b) The name, address and telephone numbers, daytime and nighttime, of the person who will be the parade/race coordinator and who will be responsible for its conduct.
- (c) The date when the parade/race is to be conducted.
- (d) The details of the proposed route requested, the starting point and the termination point.
- (e) The approximate number of persons who, and animals and vehicles which, will constitute such parade/race; the type of animals, and description of the vehicles.
- (f) The hours when such desired parade/race will assemble, start and terminate.
- (g) A statement as to whether the parade/race would occupy all or only a portion of the width of the streets proposed to be traversed.
- (h) The desired location by streets of any assembly areas for such parade/race.
- (i) The time at which units of the parade/race will begin to assemble at any such assembly area or areas.
- (j) The maximum interval of space to be maintained between units of such parade/race.
- (k) If the parade/race is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the office of the Chief of Police a communication in writing from the person proposing to hold the parade/race, authorizing the applicant to apply for the permit on behalf of the person proposing to hold the parade/race.
- (l) Whether any alcoholic or beer beverages will be consumed in conjunction with the parade/race at the staging area prior to the parade/race or at the terminus of the parade/race; and if any alcoholic or beer beverages will be served, that all necessary permits have been obtained from the appropriate authorities.
- (m) The estimated number of participants in the most previous year.
- (n) A description of the type of non-permanent markings or signs which be used and removed upon completion of the parade/race. **Permanent markings of any type, including painted symbols on street pavement are strictly prohibited.**
- (o) Such other information as the Chief of Police shall find necessary to the enforcement of this chapter.

20-10f. Downtown area restrictions/requirements

- (a) Any parade/race that will take place in, or pass through, the downtown area will require a police detail. The amount of detail officers will be determined by the Chief of Police or their designee. The number of detail officers required will be determined by the need to insure the safety of the general public, parade/race participants, and required street closures.
- (b) The parade/race organizers shall notify all occupants and building managers of property abutting the parade/race route by leaflet at least forty-eight (48) hours, but not more than seven (7) days, before the parade/race.
- (c) The leaflet shall briefly describe the nature of the parade/race, shall identify the name and telephone number of the parade/race organizer and the date and

time of the parade/race; shall contain a map of the route, and shall describe all restrictions upon traffic and parking on or crossing the parade route.

- (d) The parade/race organizer shall be required to install any temporary “No Parking” signs that the Police Traffic Department determines are necessary for the duration of the parade/race.
- (e) The parade/race organizers will be required to contact the Montachusett Regional Transportation Agency (MART) to advise MART of any street closures that will disrupt bus routes. The parade/race organizer will need to designate alternate bus stop locations for the time of the parade/race.

20-10g. Permit issuance or denial

The Chief of Police shall issue a permit if the application conditions are met. However, the Chief of Police shall deny the application for such a permit if from a consideration of the Application and from such other information as may otherwise be obtained; the Chief of Police finds any of the following:

- (a) The conduct of the parade/race will substantially interrupt the safe and orderly movement of other traffic contiguous to its route or will interfere with street maintenance or other legally permitted events.
- (b) The concentration of persons, animals and vehicles at assembly points of the parade/race will unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.
- (c) The conduct of such parade/race will interfere with the movement of firefighting equipment or emergency vehicles en route to a fire or emergency.
- (d) The parade/race is not scheduled to move from its point of origin and to its point of termination expeditiously and without unreasonable delays.
- (e) The parade is to be held for the sole purpose of advertising any product or goods and is designed to be held purely for private profit.
- (f) The parade/race organizer has not paid the application fee.

20-10h. Time for action on application; Notice of denial and issuance; Notice of protest

(1) The Chief of Police shall grant or deny an application within the following time periods.

- (a) For all parade/race permit applications filed five (5) or more business days before the event: within five (5) business days, after the receipt of the application, but in any case not less than three (3) calendar days prior to the event.
- (b) For parade/race permit applications filed within five (5) business days of the event; at least twenty-four (24) hours prior to the event.

(2) Notice of decision to the applicant and judicial review.

- (a) The Chief of Police shall notify the applicant of the decision to grant or deny the application within the time for action specified in section 20-10h(1). If the Chief

of Police denies the application, the Chief of Police shall deliver to the applicant, within the time for action specified in section 20-10(1), a written notice of the action, stating the reasons for the denial of the permit. The decision of the Chief of Police shall be final.

10-10i. Notice of permit to officials

Immediately upon the issuance of a parade/race permit, the Chief of Police shall send a copy thereof to the Mayor, Fire Chief, and the Department of Public Works.

20-10k. Duties of permittee, parade or race coordinator

- (a) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade/race coordinator, permittee or other person designated as heading or leading such activity shall carry the parade/race permit upon his or her person during the conduct of the parade/race.
- (b) Within the two (2) hour period immediately following the end of the parade/race, the permittee, parade or race coordinator will clean up, remove and dispose of all litter or material of any kind which is placed or left on the street because of such parade/race. Should the permittee, parade or race coordinator fail to do so, the city will bill the permittee, parade or race coordinator for all costs related to the clean-up, removal and disposal of litter left on the street because of the parade/race. If the permittee, parade or the coordinator fails to satisfy this obligation within the time specified in the invoice, the city will commence all appropriate legal action to collect all debts owed the city. In addition, no future application will be considered until all obligations are satisfied.

20-10l. Public conduct during parades

- (a) *Interference.* No person shall unreasonably hamper, obstruct or impede, or interfere with any parade/race or parade/race assembly or with any person, vehicle or animal participating or used in a parade/race.
- (b) *Driving through parades/races.* No driver or vehicle, except police, fire, and ambulance vehicles, unless so directed by a police officer, shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade/race.
- (c) *Parking on parade/race route.* The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the route of a parade/race/. The parade/race organizer shall post signs to such effect, as directed by the Police Department, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. If the police department determines a vehicle on the parade/race route must be removed, the vehicle may be towed from the parade/race route at the owner's expense. No person shall be liable for parking in violation of this chapter on a street not so posted.

(d) *Penalty.* Any person convicted of violating any of the provisions of this chapter shall be punished by a fine not exceeding one-hundred (100) dollars for the second and subsequent offenses.

20-10m. Revocation of permit

Whenever any parade/race shall depart from or is conducted in a manner substantially different from that indicated in the application including the lack of adequate traffic control therefor, such parade/race shall be in violation of this chapter and any permit pursuant to which it is purportedly conducted shall be deemed to be automatically revoked and the parade/race shall be immediately terminated. This provision will be invoked when the permittee either violates the terms of the permit or refuses to conform to the terms of the permit after advised to do so by the police. (*Regular Course 7/23/18; Granted 8/13/2018; 1st Reading Adopted 10/09/2018; Further Time 10/09/2018; Majority Vote Required*) (**Petition 04-19**)

XII. COMMUNITY CALENDAR

XIII. ADJOURNMENT

Katelyn Huffman
City Clerk