



Council President

Richard M. Marchand

Council Vice President

Gail P. Feckley

Councillors-at-Large

John Dombrowski

Claire M. Freda

Susan Chalifoux Zephir

Thomas F. Ardinger

Ward Councillors

Ward 1 – Gail P. Feckley

Ward 2 – Pauline M. Cormier

Ward 3 – David R. Cormier

Ward 4 – Mark C. Bodanza

Ward 5 – Richard M. Marchand

MINUTES
CITY OF LEOMINSTER

CITY COUNCIL

AUGUST 26, 2019

JOHN P. MAHAN CITY COUNCIL CHAMBERS

PUBLIC HEARING, 6:00 P.M.

- 2-20 National Grid and Verizon New England, Inc. to install 2 Jointly Owned poles on Willard Street at a point approximately 50 feet southwest of the centerline of the intersection of Willard St & New Lancaster Road and continuing approximately 150ft in a southwest direction. National Grid to install 2 new poles for Reliability and Solar farm. (*Public Service; Regular Course 8/12/2019; Public Hearing 8/26/2019 @ 6:00PM; Majority Vote*)

The public hearing opened at 6:00PM. Laurie DePaolo, spoke in favor of the pole on behalf of National Grid. Councillor Freda asked three times if anyone would like to speak in support or opposition for the petition. Councillor Marchand informed Council that he would not support any actions on behalf of National Grid due to an unresolved pole issue. The Public Service Committee recommended to leave the hearing open and give it further time.

PUBLIC HEARING, 6:01 P.M.

- 3-20 National Grid to construct a line of underground electric conduits, including the necessary sustaining and protecting fixtures, under and across the public way or ways hereinafter named (Portland Street, Leominster, MA). (*Public Service; Regular Course 8/12/2019; Public Hearing 8/26/2019 @ 6:01 P.M.; Majority Vote*)

The public hearing opened at 6:06 PM. Councillor Freda asked three times if anyone would like to speak in support or opposition for the petition. No one spoke. The public hearing closed at 6:07 PM closed.

PUBLIC HEARING, 6:05 P.M.

C-12 Dean J. Mazzearella, Mayor: Petition the Honorable City Council to consider acquiring, by eminent domain, permanent and temporary easements on certain properties located adjacent or near the City-owned Twin Cities Rail Trail in connection with the Twin Cities Rail Trail Construction Project. The properties affected by the taking are identified more particularly in Schedule A of the Order of Taking by which the City will acquire the easements, enclosed herewith, and shown on a plan entitled: "Easement Plan of Land Twin Cities Rail Trail Leominster & Fitchburg, MA Prepared for City of Leominster", dated August 12, 2019, prepared by SMC Surveying and Mapping Consultants. *(Legal Affairs; Regular Course 08/12/19; 1st Reading 8/12/2019; Public Hearing 08/26/2019 @ 6:05 P.M.; 2nd Reading 08/26/2019; Pending Referrals Mayor; Conservation; Environmental Director; Economic Developer; Police; Traffic; 2/3 Vote)*

Councillor Chalifoux Zephir abstained from this communication due to a possible conflict of interest and left the room during the discussion. Councillor Dombrowski read the entire order of taking for the first time. Councillor Dombrowski opened the floor to the public.

Dick O'Brien, 578 Merriam Ave, spoke his support to move this project forward. He asked that there would be no delay so that we do not lose funds.

Linda Jean Hall, 435 North Street, spoke in support of the project.

Crystal Gayette, 44 North Street, spoke in support of the trail.

Mary Jean, 40 Royal Oaks Way, spoke in opposition of the project. She felt that the project was not transparent and was not business friendly.

Peter Latches, 22 DiMassa Drive, indicated that he was concerned about the traffic with the project. He cited people who disregard the law.

Councillor Freda explained her concern occurred when the encroachments came up. It had said CSX would take care of the encroachments but is not clear whom will take care of them. She asked what fell apart with that agreement. Felt like the Councillors should be told if something changed even if a negotiation broke down. She asked if they dealt with the encroachments, and if not, the purchase and sale agreement changed. Nikki Peters explained that in the past she was not here to do so but going forward she would ensure to communicate better with the Council. She also explained that CSX sent a demand letter to remove the encroachments that some people did remove them some did not, and the city chose to follow up.

Larry Cassaca, explained that a survey took place for the land for both cities and at the time the encroachments were identified. Association felt it was CSX's responsibility to notify abutters via certified letters as part of purchase and sale agreement. The letters were indeed sent. They did let owners know but practically

speaking it would be months to years for CSX to take all legal actions to remove encroachments.

Councillor Freda asked how much it would cost to remove these easements in the end.

Councillor Pauline Cormier asked the Police Chief about the Police Departments involvement. Chief Goldman explained that the Police Department currently has little involvement. He explained there are some concerns but nothing outstanding. He explained that it would be easier for the police to patrol the area of the rail trail.

Coucillor David Cormier expressed concern about manual operation of signaling trail users and its effect on traffic. Chief Goldman explained that a lot of crossings that have needed upgrades for years would now get that treatment, there may be some increased issues like wait time for traffic, but not overly concerned.

John Henderson, Stantec Engineers, MASSDOT has guidelines that must be met, and safety is the number one component that is strived for. As far as delays, there will be delays on North Main street that vary. There is one manual signal.

Arthur Frost, MASSDOT, spoke in general regarding rail trail opposition. He said there is concern when the trail is first going in, but once trail is in place there is generally much more public support. Safety is the biggest part of the design.

Council President Marchand explained there is a redesign of the Water Tower Intersection, and wants to ensure once this occurs, there is no negative impact on the rail trail. Mr. Frost explained that they would like the construction of these projects to overlap, but there are contingency plans.

Councillor Marchand asked the Police Chief about safety on the trail itself. He asked if he would recommend cameras or call boxes for the trail. The Police Chief explained he is a big fan of both camera and call boxes for the rail trail.

Mr. Henderson explained that most of the trails are self-policing. They also explained that the homeless usually move away from the trails once use is underway.

Mr. Frost explained that they would continue with discussion with the police department for any critical concerns and could add them into phase two.

The public hearing closed at 6:55 PM.

PUBLIC HEARING, 6:10 P.M.

C-13 Dean J. Mazzarella, Mayor: Petition the Honorable City Council to adopt an Order of Taking, taking by eminent domain permanent and temporary easements in, on and under the parcels of land shown on a plan entitled: "Easement Plan of Land Twin Cities Rail

Trail Leominster & Fitchburg, MA Prepared for City of Leominster”, dated August 12, 2019, prepared by SMC Surveying and Mapping Consultants, and award damages for said taking to the landowners affected thereby in the amounts set forth in Schedule B, enclosed herewith. (*Legal Affairs; Regular Course 08/12/19; 1st Reading 8/12/2019; Public Hearing 08/26/2019; 2nd Reading; 08/26/2019 @ 6:10 P.M.; Pending Referrals Mayor; Conservation; Environmental Director; Economic Developer; Police; Traffic 2/3 Vote*)

Councillor Chalifoux Zephir abstained from the communication due to a conflict of interest. She removed herself from Council Chambers.

The public hearing opened at 6:55 PM. Councillor Dombrowski read the communication in full.

Peter Latches, 22 DiMassa Dr, expressed concern that a significant amount of money would be spent on dealing with the encroachments. He explained there would be more issues in phase two as well.

Mary Jean, 40 Royal Oaks Way, explained that section I was what Mr. Latches was referencing.

Linda Jean Hall, 435 North Street, reiterated her support for the project.

Councillor Bodanza asked the total cost for the project. Mr. Frost explained that phase one would cost \$8 Million Dollars and the acquisition of the property was \$2.8 million dollars, the easements, legal guidance, engineering, with a rough total of \$11-\$12 million dollars. The design costs were paid for by EOEA. The City contribution so far was about \$464,000.

The public hearing closed at 7:01 PM.

PUBLIC FORUM, 6:45 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.

Crystal Gayette, 44 Fourth Street, expressed concern about the speeding vehicles in the area with the new rail trail, and also asked to make an advocacy group.

Dick O'Brien, 578 Merriam Ave, explained the rail trail project would be \$12 million dollars and the city is on the hook for \$500,000. Explained by the vast funding from the State and Federal government is a positive. He spoke in support of the project and felt it would be a great asset to the community.

Andrea Freeman, 431 Pleasant St, spoke in support of the rail trail and the safety it would bring to the city and its pedestrians and bikers.

I. REGULAR MEETING OF THE CITY COUNCIL, 7:00 P.

M.

Councillor Cormier made a motion to recess at 7:02 PM. Councillor Feckley seconded the motion. The motion carried unanimously.

The regular meeting reconvened at 7:08 PM.

II. ROLL CALL OF COUNCILLORS IN ATTENDANCE

Council President Marchand, Council Vice President Feckley, Councillor Chalifoux Zephir, Councillor Dombrowski, Councillor Freda, Councillor David Cormier, Councillor Pauline Cormier, Councillor Ardinger, Councillor Bodanza were present.

Others Present: Katelyn Huffman, City Clerk, Titi Siriphan, Assistant City Clerk.

III. APPROVAL OF RECORDS PRESENTED BY THE VICE PRESIDENT

- **July 22, 2019 Meeting Minutes. – Approved and asked to be placed on file.**
- **August 12, 2019 Meeting Minutes. - Approved and asked to be placed on file.**
- **August 15, 2019 Special Meeting Minutes. - Approved and asked to be placed on file.**

IV. COMMUNICATIONS FROM THE MAYOR

APPOINTMENTS

A measure confirming the Mayor's Appointment of **Joanne C. D'Onfro to Library Board of Trustees; term to expire 4/15/2022. (*Ways & Means; Majority Vote*)**

This communication as given regular course with an interview for the next meeting, including a resume.

COMMUNICATIONS

C-17 Dean J. Mazzearella, Mayor: Request that Diana Richard be exempt from the provisions of M.G.L. Chapter 268A §20(b) Conflict of Interest. (*Ways & Means; Majority Vote*)

This communication as given regular course.

COMMUNICATIONS, continued

C-18 Dean J. Mazzearella, Mayor: Request that Cheryl Canedo be exempt from the provisions of M.G.L. Chapter 268A §20(b) Conflict of Interest. (*Ways & Means; Majority Vote*)

This communication as given regular course

ORDERS

C-19 Dean J. Mazzearella, Mayor: Request that an appropriation of \$64,131.00 be made to the School Transportation Expense Account; the same amount to be transferred from the Stabilization Fund. (*Finance; 2/3 Vote*)

This communication as given regular course.

C-20 Dean J. Mazzearella, Mayor: Request that an appropriation of \$60,105.12 be made to the School Department Expense Account; same amount to be transferred from the Stabilization Fund. (*Finance; 2/3 Vote*)

This communication as given regular course.

C-21 Dean J. Mazzearella, Mayor: Request that an appropriation of \$30,000.00 be made to the School Department Expense Account; same amount to be transferred from the Stabilization Fund. (*Finance; 2/3 Vote*)

This communication as given regular course.

C-22 Dean J. Mazzearella, Mayor: Request that an appropriation of \$230,700.00 be made to the Sidewalk Expense Account; same amount to be transferred from the Stabilization Fund. (*Finance; 2/3 Vote*)

This communication as given regular course.

V. MATTERS BEFORE THE CITY COUNCIL

VI. CITY OF LEOMINSTER – FINANCIAL REPORT

a. The balance of the stabilization fund was \$17,984,814.00

VII. FINANCE

- C-15 Dean J. Mazzearella, Mayor: Request that an appropriation of \$570,964.00 be made to the School Department Expense Account; the same amount to be raised by Fiscal Year 2020 Revenue. (*Finance; Regular Course 08/12/19; Majority Vote*)

RE: FY 2020 State Budget Adoption.

The Finance Committee recommended that the communication be granted. Vote: 9-0 the communication was granted.

ORDERED: Vote: 9-0 the communication was ADOPTED.

- C-16 Dean J. Mazzearella, Mayor: Request that an appropriation of \$100,000.00 be made to the Gallagher Building Expense Account; the same amount to be transferred from the Gallagher Building Revolving Fund. (*Finance; Regular Course 08/12/19; Majority Vote*)

RE: Operational Expenses for FY 2020.

The Finance Committee recommended that the communication be granted. Vote: 9-0 the communication was granted.

ORDERED: Vote: 9-0 the communication was ADOPTED.

VIII. LEGAL AFFAIRS

- C-10 Dean J. Mazzearella, Mayor: Request that the Cross-Connection Control Ordinance, Chapter 17, Section 17-18 be updated per the attached document. The adoption of this updated ordinance will help with the safety preservation of the water quality within the City of Leominster water distribution system, which is a continuous goal of the Department of Public Works. (*Legal Affairs; Regular Course 08/12/19; Pending Referrals DPW, Health; 2/3 Vote*)

The Legal Affairs Committee recommended that the communication be given further time. Vote: 9-0 the communication was given further time.

- C-12 Dean J. Mazzearella, Mayor: Petition the Honorable City Council to consider acquiring, by eminent domain, permanent and temporary easements on certain properties located adjacent or near the City-owned Twin Cities Rail Trail in connection with the Twin Cities Rail Trail

Construction Project. The properties affected by the taking are identified more particularly in Schedule A of the Order of Taking by which the City will acquire the easements, enclosed herewith, and shown on a plan entitled: "Easement Plan of Land Twin Cities Rail Trail Leominster & Fitchburg, MA Prepared for City of Leominster", dated August 12, 2019, prepared by SMC Surveying and Mapping Consultants. (*Legal Affairs; Regular Course 08/12/19; 1st Reading 8/12/2019; Public Hearing 08/26/2019 @ 6:05 P.M.; 2nd Reading 08/26/2019; Pending Referrals Mayor; Conservation; Environmental Director; Economic Developer; Police; Traffic; 2/3 Vote*)

Councillor Chalifoux Zephir abstained from the communication due to a conflict of interest. She removed herself from Council Chambers. The Legal Affairs Committee recommended that the communication be granted. Councillor Bodanza explained that this has been a very detailed and arduous project and that we have had very little amount of money invested from city funds in the project and that the project as a whole is beneficial for the city. Councillor Freda spoke her support of the project. She explained she was frustrated about the lack of transparency with some things. She felt we should be given more information in advance for projects. Councillor Ardinger expressed his support of the project. Councillor Marchand expressed his support of the role Nikki Peters, Economic Development Coordinator, as well as the State, the Rail Trail association, John Roseberry and all other parties who put their time and effort into the project. Councillor Bodanza echoed Councillor Marchand's sentiment. VOTE: 8-0 the communication was GRANTED.

- C-13 Dean J. Mazarella, Mayor: Petition the Honorable City Council to adopt an Order of Taking, taking by eminent domain permanent and temporary easements in, on and under the parcels of land shown on a plan entitled: "Easement Plan of Land Twin Cities Rail Trail Leominster & Fitchburg, MA Prepared for City of Leominster", dated August 12, 2019, prepared by SMC Surveying and Mapping Consultants, and award damages for said taking to the landowners affected thereby in the amounts set forth in Schedule B, enclosed herewith. (*Legal Affairs; Regular Course 08/12/19; 1st Reading 8/12/2019; Public Hearing 08/26/2019 ; 2nd Reading; 08/26/2019 @ 6:10 P.M.; Pending Referrals Mayor; Conservation; Environmental Director; Economic Developer; Police; Traffic 2/3 Vote*)

Councillor Chalifoux Zephir abstained from the communication due to a conflict of interest. She removed herself from Council Chambers. The Legal Affairs Committee recommended that the communication be granted. VOTE: 8-0 the communication was GRANTED.

IX. PUBLIC SERVICE

- 2-20 National Grid and Verizon New England, Inc. to install 2 Jointly Owned poles on Willard Street at a point approximately 50 feet southwest of the centerline of the intersection of Willard St & New Lancaster Road and continuing approximately 150ft in a southwest direction. National Grid to install 2 new poles for Reliability and Solar farm. *(Public Service; Regular Course 8/12/2019; Public Hearing 8/26/2019 @ 6:00PM; Majority Vote)*

The public service committee recommended that the petition be given further time. Councillor David Cormier abstained from the communication due to a possible conflict of interest. Vote: 8-0 the petition was given further time.

- 3-20 National Grid to construct a line of underground electric conduits, including the necessary sustaining and protecting fixtures, under and across the public way or ways hereinafter named (Portland Street, Leominster, MA). *(Public Service; Regular Course 8/12/2019; Public Hearing 8/26/2019 @ 6:01 P.M.; Majority Vote)*

The public service committee recommended that the petition be given further time. Vote: 9-0 the petition was given further time.

X. WAYS & MEANS

SUSPENSION OF THE RULES/Emergency Preamble

- C-09 Dean J. Mazarrella, Mayor: Authorize the City of Leominster to pursue \$25,190.00 through the United States Department of Justice – Justice Assistance Grant Program. *(At the City Council Meeting 8/12/2019; To be Ratified 8/26/2019; Majority Vote)*

The Ways and Means Committee recommended that the communication be ratified. Vote: 9-0 the communication was ratified.

- C-11 Dean J. Mazarrella, Mayor: Request that the list of Election Officers for 2019-2020 be appointed. *(Ways & Means; Regular Course 08/12/19; Majority Vote)*

The Ways and Means Committee recommended that the communication be granted. Vote: 9-0 the appointments were CONFIRMED.

XI. NEW BUSINESS

- **Councillor Freda asked that the Chief come down to speak more about the homeless population and the authority of Constables in the City.**

XII. OLD BUSINESS

2nd Reading Ordinance

61-19 Raymond Racine, DPW Director: Request that the City Council amend the City Ordinances to reclassify the position of “Water Specialist” into the position “Code Enforcer” and change the salary grade from an S-5 to an S-7. (*Legal Affairs; Regular Course 5/28/2019; Further Time: 06/10/19;06/24/19; Public Hearing 07/08/2019 @ 6:35 PM;1st Reading 8/12/2019; 2nd Reading 8/26/2019; 2/3 Vote*)

Councillor Dombrowski read the ordinance for the second time. The Legal Affairs committee recommended that the second reading of the ordinance be ADOPTED. Councillor Freda commended DPW Director for this action. Vote: 9-0 the second reading of the ordinance was ADOPTED.

2nd Reading Ordinance

64-19 Mark C. Bodanza, Esquire: Relative to Amend Section 13-34 of the Revised Ordinance for the City of Leominster eliminate 1 of 2 existing no parking zones that run southerly on Union Street from intersection of Central and Union Street. (*Legal Affairs; Regular Course 06/10/19; Further Time: 06/24/19; Public Hearing July 8, 2019 @ 6:30PM; 1st Reading 8/12/2019; 2nd Reading 8/26/2019; 2/3 Vote*)

Councillor Dombrowski read the ordinance for the second time. The Legal Affairs committee recommended that the second reading of the ordinance be ADOPTED.

Councillor Chalifoux asked for an update from the Mayor regarding the athletic complex behind the High School.

XIII. COMMUNITY CALENDAR

- **Johnny Appleseed Festival in 26 days. Looking for sponsors, vendors, and more.**

XIV. ADJOURNMENT

The meeting adjourned at 7:37 PM.

Katelyn Huffman, City Clerk