

Council President

Mark C. Bodanza

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 – Peter A. Angelini

**MINUTES
CITY OF LEOMINSTER**

CITY COUNCIL

MAY 26, 2020

JOHN P. MAHAN CITY COUNCIL CHAMBERS

The City Council meeting on May 26, 2020 will be held virtually, by a conference telephone call only. All City Councilors, and members of the public interested in participating in the public forum, or a scheduled public hearing, are requested to call the following number : +1 (571) 317-3122 and enter the following code : 434-441-741 (Please note: the call in number and code are different than the call in number and code from the last meeting conducted on May 11, 2020). The meeting will begin promptly at 6:28 PM on Tuesday, May 26, 2020. The conference phone call will be moderated by the City Council President and all discussion will be strictly limited to matters on the agenda. It is expected that the audio phone call will be broadcast on Leominster Access Television.

PUBLIC HEARING, 6:28 P.M.

38-20 Elizabeth Wood, Planning Director: Petition to Amend Section 22-34.2.1 accordingly:

~~34.2.1 The FP District includes those areas designated as a floodway on the Leominster, Massachusetts Flood Boundary and Floodway Map (the "FBFM"), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, and all special flood hazard areas designated as either Zone A or Zone A-I through A-30 on the Leominster, Massachusetts Flood Insurance Rate Map (the "FIRM") Community Panel Numbers 250314-0001-0010, effective September 16, 1982 and Community Panel Number 250314-0003, amended April 3, 1989.~~

The Leominster Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the City of Leominster Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated September 16, 1982 as Zone A, AE, AH, AO, A1-30 and A99, and the FEMA Flood Boundary & Floodway Map dated September 16, 1982, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations

shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated April 3, 1989. The FIRM, Flood Boundary & Floodway Map, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Official, and Planning and Development Department.

Amend Section 34.2.3.3.2 accordingly: NFIP State Coordinator, MA Department of Conservation and Recreation, 251 Causeway St., ~~Suite 500-700~~, 8th floor, Boston, MA 02114-2104; and (*Legal Affairs; Regular Course 02/10/2020; Further Time 2/24/2020, 3/9/2020; 3/23/2020; 4/13/2020; 4/27/2020 Pending Referral, ZBA.,; Public Hearing 3/9/2020 @ 6:45 P.M.; Public Hearing Continued 3/9/2020; 5/26/2020 @ 6:28 P.M.; 2/3 Vote*)

The public hearing opened at 6:28PM. Councillor Dombrowski read a memo from the Planning Director requesting that the petition be given Leave to Withdraw Without Prejudice.

PUBLIC HEARING, 6:30 P.M.

37-20 The Botanist: Grant a Special Permit to operate a Medical Marijuana Facility located at 1775 Lock Drive. (*Legal Affairs; Regular Course 02/10/2020; Further Time 2/24/2020, 3/9/2020, 3/23/2020; 4/13/2020; 4/27/2020; 5/11/2020; Pending Referrals Mayor, Health Director, ZBA; Public Hearing April 27, 2020 at 6:30 PM CANCELLED; Public Hearing rescheduled 5/26/2020 at 6:30 PM; Majority Vote*)

The Public Hearing opened at 6:30PM.

Attorney Valerio Romano, of Vincente Sederberg, LLP gave an overview of the application for the Special Permit. He explained that the facility was formally known as Prime Wellness, LLC, and has since changed ownership to The Botanist, LLC. He informed the council that a new Special Permit was required because the original Special Permit was nontransferable. He also explained that all relevant documentation that is necessary for the Special Permit had been submitted to the Council.

Councillor Chalifoux Zephir asked Attorney Romano if the Planning Board had rendered an opinion on the Special Permit.

Attorney Romano confirmed that the Planning Board had made a unanimous recommendation to the City Council to grant the Special Permit.

Councillor Freda asked if a new list of officers had been submitted with the application.

Attorney Romano confirmed that a new list of officers had been submitted as Exhibit E in the Special Permit Application.

Council President Bodanza asked if Attorney Romano and The Botanist had reviewed the original seven conditions provided to Prime Wellness and whether they had any difficulty

applying those conditions to this permit, and whether they had any comments regarding these conditions.

Attorney Romano indicated that he and his client, The Botanist, had no objection with the conditions as proposed.

Councillor David Cormier asked if the Security Plan from 2017 is being submitted as is or if changes have been made to the plan.

Attorney Romano explained that the Security Plan is largely the same. They consider it a living document and will adapt it to stay updated with all federal, state, and local regulations. He cited that the Police Chief had asked for an additional camera to be placed in the break room of the facility, and that this was addressed and reflected in the new plan. He also informed the Council that the same Security Manager is on staff and continuing to oversee the Security Plan.

Councillor Freda inquired whether the Mayor had sent a letter to the City Council in response to the referral of the petition. The City Clerk indicated that no letter has been received from the Mayor.

Councillor Dombrowski noted the Mayor has signed a Host agreement for the petitioner and that was sufficient to indicate the Mayor's position regarding the petition.

Councillor Freda asked if there were currently any plans to convert the facility to a recreational facility.

Attorney Romano indicated that they are currently only pursuing Medical Marijuana through the Special Permit.

Councillor Chalifoux Zephir asked if the community host agreement had been renegotiated.

Attorney Romano indicated that the host agreement had been negotiated and was included in the Special Permit Application (Exhibit B).

Councillor Dombrowski asked three times whether anyone from the public would like to speak for or against the petition. No one spoke. He asked if any Councillors had any additional comments or questions. No one spoke.

Hearing adjourned 7:00 P.M.

Since the above described premises are going to be used as a Medical Marijuana Facility a Special Permit in accordance with Chapter 22, Article XVIII, Section 22-105.0 a two-thirds vote of the City Council is required.

It has been further found that the applicant has 1.) Designed the facility to minimize adverse visual and economic impact on abutters and other parties in interest, 2.) Met the licensing requirements of the Commonwealth of Massachusetts and 3.) Met the requirements of Chapter 22-105.5 and 105.6 and 4.) Met the requirements contained in Leominster Zoning Ordinance Section 22-13.2.

Based on the above information, the City Council, at the regular meeting held on May 26, 2020, nine members present, eight members voting with one abstention, determined that the applicant has complied with all procedural requirements of the appropriate sections of the Zoning Ordinance of the City of Leominster and of the Massachusetts Zoning Act. (M.G.L.) Chapter 40A and the City Council voted seven “yeas” and one “nay” to grant the Special Permit with conditions subject to the applicant’s compliance with any and all other applicable state or federal requirements.

- Conditions are:**
- 1. That the Special Permit is not transferrable either to a third party or by a transfer of the majority stock of the company, except as a result of a death of a shareholder.**
 - 2. That the permittee observes all licensing requirements of the Commonwealth of Massachusetts.**
 - 3. That permittee be in full compliance with its Host Agreement with the City of Leominster.**
 - 4. That all taxes and fees generated by the permittee’s operation, including real estate and personal property taxes be fully paid to the City of Leominster.**
 - 5. That the permittee be in full compliance with the regulations of the City of Leominster’s zoning and other ordinances.**
 - 6. That the required bond be given to the City of Leominster pursuant to 105.6.8**
 - 7. That the permittee gives the City Council for the City of Leominster its annual report of operations and compliance by January 31st each year beginning January 31, 2021.**

No person at the Public Hearing requested that notice of the decision be sent to them.

Notice of this Special Permit shall be sent to the petitioner.

PUBLIC FORUM, 6:55 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.

The public forum opened at 7:04PM. Council President Bodanza asked three times whether anyone from the public would like to speak for or against any matter on the agenda. No one spoke. The Public Forum closed at 7:06PM.

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

The regular meeting of the City Council opened at 7:00PM. Councillor David Cormier made a motion to recess. Councillor Dombrowski seconded the motion. The motion carried unanimously. Roll Call Vote: 9-0. The meeting went into recess at 7:01PM and the regular meeting began again at 7:06PM.

II. ROLL CALL OF COUNCILLORS IN ATTENDANCE

Council President Bodanza, Council Vice President Feckley, Councillor Freda, Councillor Dombrowski, Councillor Chalifoux-Zephir, Councillor Angelini, Councillor Ardinger, Councillor Pauline Cormier and Councillor David Cormier present.

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

III. APPROVAL OF RECORDS PRESENTED BY THE VICE PRESIDENT

- May 11, 2020 – **The meeting minutes were placed on the next agenda for review.**

IV. COMMUNICATIONS FROM THE MAYOR

COMMUNICATIONS

C-64 Dean J. Mazarella, Mayor: request that an appropriation of \$345,000.00 be made to the Fire Department Capital Outlay Expense Account; the same amount to be transferred from the Stabilization Fund. (*Finance; Regular Course 05/26/2020; 2/3 Vote*)

This communication was given regular course.

COMMUNICATIONS FROM THE MAYOR, CONTINUED

C-65 Dean J. Mazarella, Mayor: request that an appropriation of \$70,000.00 be made to the Fire Department Capital Outlay Expense Account; the same amount to be transferred from the Stabilization Fund. (*Finance; Regular Course 05/26/2020; 2/3 Vote*)

RE: COVID-19 Upgrades to Facilities.

This communication was given regular course.

- C-66 Dean J. Mazzearella, Mayor: request that an appropriation of \$50,000.00 be made to the City Solicitor Expense Account; the same amount to be transferred from the Stabilization Fund. (*Finance; Regular Course 05/26/2020; 2/3 Vote*)

RE: Higher amount of activity during Fiscal Year 2020.

This communication was given regular course and it was asked that the City Clerk obtain updated bills from KP Law to send to the City Council.

V. PETITIONS FIRST TIME ON THE AGENDA

- 65-20 Comcast of Massachusetts III, Inc.: Requests permission to install a new underground conduit system on Tanzio Road starting at Utility Pole No. 14 excavating to place (1) 4" PVC Conduit 170' +/- to Utility Pole No. 13. (*Public Service; Regular Course 5/26/2020; Public Hearing TBD; Majority Vote*)

This petition was given regular course and a public hearing was set for June 8, 2020 at 6:54 PM. Roll Call Vote: 9-0 the petition was given regular course and a public hearing was established.

VI. MATTERS BEFORE CITY COUNCIL

VII. CITY OF LEOMINSTER – FINANCIAL REPORT

The balance of the stabilization account was \$14,522,721.80. It was also noted that Free Cash had not yet been certified.

VIII. FINANCE

- C-63 Dean J. Mazzearella, Mayor: Relative to the appropriation of \$250,000.00 be made to the Pension Expense Account; the same amount to be transferred from the Principal-Debt Service Expense Account. (*Finance; Regular Course 5/11/2020; Majority Vote*)

The Finance Committee Recommended that the City Council GRANT the communication. Councillor Freda asked whether the money would be replaced after July 1. She also asked how it was possible that

the City can take money out of this year and pay it back next year. She also asked if the money was being taken away from the balance allotted for the track.

Councillor David Cormier explained that the money will be paid back and there would not be a shortage or permit borrowing from the money allotted from the track.

Roll Call Vote: 8-1(Councillor Freda Nay). The communication was GRANTED.

ORDERED: Roll Call Vote: 8-1(Councillor Freda Nay). The order was ADOPTED.

IX. LEGAL AFFAIRS

37-20 The Botanist: Grant a Special Permit to operate a Medical Marijuana Facility located at 1775 Lock Drive. *(Legal Affairs; Regular Course 02/10/2020; Further Time 2/24/2020, 3/9/2020, 3/23/2020; 4/13/2020; 4/27/2020; 5/11/2020; Pending Referrals Mayor, Health Director, ZBA; Public Hearing April 27, 2020 at 6:30 PM CANCELLED; Public Hearing rescheduled 5/26/2020 at 6:30 PM; Majority Vote)*

The Legal Affairs Committee recommended that the Special Permit be GRANTED with conditions.

- Conditions are:**
- 1. That the Special Permit is not transferrable either to a third party or by a transfer of the majority stock of the company, except as a result of a death of a shareholder.**
 - 2. That the permittee observes all licensing requirements of the Commonwealth of Massachusetts.**
 - 3. That permittee be in full compliance with its Host Agreement with the City of Leominster.**
 - 4. That all taxes and fees generated by the permittee's operation, including real estate and personal property taxes be fully paid to the City of Leominster.**
 - 5. That the permittee be in full compliance with the regulations of the City of Leominster's zoning and other ordinances.**
 - 6. That the required bond be given to the City of Leominster pursuant to 105.6.8**
 - 7. That the permittee gives the City Council for the City of Leominster its annual report of operations and compliance by January 31st each year beginning January 31, 2021.**

Roll Call Vote: 7-1-1(Councillor Freda Nay and Councillor Angelini abstained) the Special Permit was GRANTED.

LEGAL AFFAIRS, CONTINUED

38-20 Elizabeth Wood, Planning Director: Petition to Amend Section 22-34.2.1 accordingly:

~~34.2.1 The FP District includes those areas designated as a floodway on the Leominster, Massachusetts Flood Boundary and Floodway Map (the "FBFM"), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, and all special flood hazard areas designated as either Zone A or Zone A-I through A-30 on the Leominster, Massachusetts Flood Insurance Rate Map (the "FIRM") Community Panel Numbers~~

~~250314-0001-0010, effective September 16, 1982 and Community Panel Number 250314-0003, amended April 3, 1989.~~

The Leominster Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the City of Leominster Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated September 16, 1982 as Zone A, AE, AH, AO, A1-30 and A99, and the FEMA Flood Boundary & Floodway Map dated September 16, 1982, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated April 3, 1989. The FIRM, Flood Boundary & Floodway Map, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Official, and Planning and Development Department.

Amend Section 34.2.3.3.2 accordingly: NFIP State Coordinator, MA Department of Conservation and Recreation, 251 Causeway St., ~~Suite 500-700~~, 8th floor, Boston, MA 02114-2104; and (*Legal Affairs; Regular Course 02/10/2020; Further Time 2/24/2020, 3/9/2020; 3/23/2020; 4/13/2020; 4/27/2020 Pending Referral, ZBA.,; Public Hearing 3/9/2020 @ 6:45 P.M.; Public Hearing Continued 3/9/2020; 5/26/2020; 2/3 Vote*)

The Legal Affairs Committee recommended that the petition be given LEAVE TO WITHDRAW WITHOUT PREJUDICE. Roll Call Vote: 9-0 the petition was given Leave to Withdraw Without Prejudice.

X. WAYS AND MEANS

62-20 Best Buy Stores LP: Renew the Second Hand Dealers License for Best Buy Stores LP #1433, located at 33 Orchard Hill Park Drive. (*Ways & Means; Regular Course 5/11/2020; Majority Vote*)

The Ways and Means Committee recommended that the Second Hand Dealers License be GRANTED. Roll Call Vote: 9-0 the license was GRANTED.

63-20 GameStop Inc.: Renew the Second Hand Dealers License for GameStop Store #3594 located at 26 Orchard Hill Park Drive. (*Ways & Means; Regular Course 5/11/2020; Majority Vote*)

The Ways and Means Committee recommended that the Second Hand Dealers License be GRANTED. Roll Call Vote: 9-0 the license was GRANTED.

64-20 GameStop Inc.: Renew the Second Hand Dealers License for GameStop Store #1485 located at 100 Commercial Road. (*Ways & Means; Regular Course 5/11/2020; Majority Vote*)

The Ways and Means Committee recommended that the Second Hand Dealers License be GRANTED. Roll Call Vote: 9-0 the license was GRANTED.

XI. NEW BUSINESS

There was no New Business.

XII. OLD BUSINESS

2nd Reading of an Ordinance

55-20 Officer Julio Ramos: Requests to amend Chapter 13 of the Revised Ordinances entitled “Motor Vehicles and Traffic.” Be it ordained by the City Council of the City of Leominster, as follows: Chapter 13, Section 13-34 of the Revised Ordinances entitled “No Parking on Certain Streets” is hereby Amended by inserting the following text: No parking on Research Drive, (both sides) from a point beginning 1163 feet easterly from the intersection with Central Street, **around** the cul-de-sac, and back westerly to the 1163 feet starting point. (*Legal Affairs; Regular Course 3/23/2020; Public Hearing April 27, 2020 at 6:53 PM; Granted 04/27/2020; First Reading 05/11/2020; Second Reading 5/26/2020; 2/3 Vote*)

The Legal Affairs Committee recommended that the second reading of the ordinance be ADOPTED. Roll Call Vote: 9-0 the second reading of the ordinance was ADOPTED.

XIII. COMMUNITY CALENDAR

There were no items for the community calendar.

XIV. ADJOURNMENT

The meeting adjourned at 7:33PM.

- Katelyn Huffman, City Clerk