

**LEWISTON CITY COUNCIL AGENDA  
CITY COUNCIL CHAMBERS  
NOVEMBER 1, 2011**

**6:00 p.m. Executive Session** - To discuss a personnel matter.

**6:30 p.m. Executive Session** - To discuss labor union negotiations regarding the city's employee unions.

**7:00 p.m. Regular Meeting**

Pledge of Allegiance to the Flag.

Moment of Silence.

Acceptance of the minutes of the meetings of May 17, June 7, Sept. 6, Sept. 20, Oct. 18 and Oct. 25, 2011.  
Update from the Lewiston Youth Advisory Council

Public Comment period - Any member of the public may make comments regarding issues pertaining to Lewiston City Government (maximum time limit is 15 minutes for all comments)

ALL ROLL CALL VOTES FOR THIS MEETING WILL BEGIN WITH THE COUNCILOR OF WARD 7.

CONSENT AGENDA: All items with an asterisk (\*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- \* 1. Order authorizing the City Administrator to implement updated Water and Sewer Terms and Conditions.
- \* 2. Amendment to the Traffic Schedule regarding parking regulations on a portion of Adams Avenue.

REGULAR BUSINESS:

- 3. Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance to allow the sale and limited use of consumer fireworks within the City of Lewiston.
- 4. Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance to prohibit the sale and use of consumer fireworks within the City of Lewiston.
- 5. Public Hearing and First Passage regarding an amendment to the Library Ordinance.
- 6. Public Hearing and First Passage regarding an amendment to the Administrative Ordinance regarding the salary amount for the Mayor.
- 7. Public Hearing and First Passage regarding an amendment to the Administrative Ordinance regarding the salary amount for City Councilors.
- 8. Public Hearing and First Passage regarding an amendment to the Administrative Ordinance regarding the salary amount for School Committee members.
- 9. Order authorizing the City Administrator to execute an Agreement for Development Assistance and Tax Increment Financing Amendment with the Lofts at Bates Mill, LP which will extend the time frame within which the developer must close on the acquisition of the real estate.
- 10. Resolve making an appropriation from the Library Endowment Fund.
- 11. Resolve establishing a Kennedy Park Bandstand Restoration Committee.
- 12. Reports and Updates.
- 13. Any other City Business Councilors or others may have relating to Lewiston City Government.

**LEWISTON CITY COUNCIL**  
**MEETING OF NOVEMBER 1, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6:00pm**

**SUBJECT:**

Executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

Entering into executive session is permitted and defined under Maine State Statutes.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To enter into an executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

**LEWISTON CITY COUNCIL**  
**MEETING OF NOVEMBER 1, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6:30pm**

**SUBJECT:**

Executive Session to discuss labor union negotiations regarding the city's employee unions.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EABK/mm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (D) to discuss Labor Negotiations regarding the city's employee unions - International Association of Firefighters, Local 785; Maine State Employees Association, Local 1989; Maine Association of Police; Lewiston Police Supervisory Command Unit; and Lewiston Professional Technical Unit, Local 3855.

# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Order Authorizing the City Administrator to implement updated Water and Sewer Terms and Conditions.

**INFORMATION:**

During the October 18 City Council meeting, the Council adopted the updated Water and Sewer Business Office Terms and Conditions. Since that meeting, the Public Utilities Commission has requested three changes to the document. The changes are housekeeping in nature that do not involve charges to the customer or to the Lewiston Water Division. Please see the memorandum from Finance Director Heather Hunter for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EATSKMM*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order authorizing the City Administrator to implement updated Water and Sewer Terms and Conditions.



# City of Lewiston Maine

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November 1, 2011

**ORDER,** Authorizing the City Administrator to implement updated Water and Sewer Terms and Conditions.

Whereas, the City is seeking to update its business office terms and conditions to come into compliance with Maine Public Utilities (PUC) chapter 660 rules; and

Whereas, the adoption of the new Terms and Conditions needs approval by the Maine PUC before they come into effect; and

Whereas, the City is seeking to implement the new Terms and Conditions as soon after January 1, 2012 as feasible; and

Whereas, the City Council adopted updated terms and conditions at its meeting of October 18, 2011; and

Whereas, since then, the PUC has requested three changes to the template previously employed to develop the City's terms and conditions; and

Whereas, one error involving the charge for meter testing has also been identified;

**Now, therefore, be it Ordered By the City Council of the City of Lewiston that**

The City Administrator is authorized to implement the attached revised updated Water and Sewer Terms and Conditions.



## Department of Finance

Heather Hunter  
Finance Director/Treasurer



TO: Ed Barrett, City Administrator  
Mayor Laurent F. Gilbert  
And Members of the City Council

FR: Heather Hunter, Finance Director/Treasurer

DT: October 24, 2011

RE: City Council Action to Update of Water & Sewer Terms and Conditions

At the October 18<sup>th</sup> City Council meeting, the City Council approved the revised Water Terms and Conditions. Upon putting the revised Terms and Conditions packet together to submit to the PUC, an error was discovered in the Meter Testing area of the document, which is located on page 9, item #28G. The charge for a meter test requested by the customer more frequently than 18 month period is **\$67.00** (not \$72.00) per hour for labor, transportation, and the use of the meter bench.

Our consultant assisting with this process received news that the PUC has begun reviewing Terms and Conditions filings submitted to them by other municipalities. The PUC found (3) three items in those templates that they want changed. Although these items had been previously approved in almost everyone's Terms and Conditions, they are now requiring all new submissions to incorporate these changes in their Terms and Conditions prior to submitting them for review and approval.

The changes are housekeeping items that do not involve charges to the customer or to Lewiston Water Division. The changes are in the following areas: two are in relation to Joint Water/Sewer law (#15.6 and #15.10 on pages 4 and 5), and the third change is in the Access to Premises section (#18 on page 6).

I have attached a complete set of the revised Terms and Conditions.

**TERMS AND CONDITIONS**

**City of Lewiston Water Division**

**Page 1  
First Revision**

The following Terms and Conditions made by the City of Lewiston Water Division and filed with the Maine Public Utilities Commission constitutes a contract between the Customer and the Utility. The Customer agrees to adhere to these Terms and Conditions and to take water only for purposes stated in the application and at the established rates.

**DEFINITIONS**

The word "Commission" refers to the Maine Public Utilities Commission.

The word "Utility" refers to the City of Lewiston Water Division.

The word "Customer" means any person, firm, corporation or governmental division who has applied for and is granted service or who is responsible for payment of the service.

The word "Main" means a water pipe, owned, operated and maintained by the Utility, which is used to transmit or distribute water but is not a water Service Line.

The term "Service Line" means the pipe running from the Main to the premises of the Customer.

**1. UTILITY SERVICE AREA.** The Utility is permitted by 1873 Private & Special Laws, Chapter 386 approved February 27, 1873; and 1899 Private & Special Laws, Chapter 153 approved March 15, 1899 to provide water from various sources to the City of Lewiston and its inhabitants.

**2. APPLICATION FOR SERVICE.** Pursuant to Chapter 620 of the Commission's Rules and Regulations, the owner or the owner's agent, or the occupant of the establishment to be served may apply for service on forms provided by the Utility. If seasonal rental property, only the property owner may be an applicant for service. Any tenant may become a Customer if the tenant assumes responsibility for future service under the conditions set forth in Title 35-A MRSA §706(2), Chapter 660, Sec. 10(I)(2) of the Commission's Rules and Regulations, and under Section 12 below. If a new service connection or other work on the establishment is required, the owner must authorize the Utility to enter the premises to do the necessary work.

**3. SEASONAL CUSTOMER.** A seasonal Customer regularly takes service for only a portion of the year from either a summer or year-round main. A seasonal Customer will be subject to the rules and charges of metered rates in effect.

**4. BILLING PROCEDURES.** Minimum meter charges and water used in excess of the minimum for all metered service shall be billed quarterly in arrears at the end of the billing quarter. The Utility reserves the right to render bills monthly if it so desires.

Public and private fire protection charges will be billed on a quarterly basis at the end of the quarter.

**PROPOSED EFFECTIVE:** 1/1/2012

**EFFECTIVE:** \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

**DOCKET NUMBER:** \_\_\_\_\_

**TERMS AND CONDITIONS**

City of Lewiston Water Division

Page 2  
First Revision

**4. BILLING PROCEDURES (continued).** Bills may be paid by any Utility-approved payment method, including but not limited to by mail or in person, and must be received at the offices of the Utility or at any designated collection station. Failure of the Customer to receive his/her bill does not relieve him/her of the obligation of its payment nor for the consequences of non-payment.

**5. CREDIT AND COLLECTION PROCEDURES.** All credit and collection procedures for both residential and nonresidential Customers will be based upon Chapter 660 and Chapter 870 of the Commission's Rules and Regulations. The Utility may demand a deposit from a Customer as permitted by Chapter 660. Pursuant to Chapter 870, the interest rate on Customer deposits shall be the rate set from time to time by the Commission.

**6. TERMS OF PAYMENT.** Customers are legally obligated to pay for the services they receive. Bills are payable upon being issued. Failure of the Customer to receive his/her bill does not relieve him/her of the obligation of payment for services received nor for the consequences of non-payment. The due date for payment, in order to avoid the incurrence of late fees or the initiation of collection action, will be 30 days after the bill is mailed or hand delivered. A late payment charge will be made on any unpaid balance outstanding after 45 days. The late payment charge will be no more than the maximum amount allowed under Chapter 870 of the Commission's Rules and Regulations, to be determined annually.

**7. ELECTRONIC PAYMENTS.** The Utility accepts credit card payments through a third party vendor as an optional payment choice for its Customers. Information is available on the City of Lewiston website or at the Utility office. The vendor applies a 2.5% surcharge for this service, with a minimum of \$1.00, which is directly assessed to the Customer during the payment.

**8. CHARGE FOR RETURNED CHECKS.** As provided in Chapter 870 of the Commission's Rules and Regulations, the Utility may charge the greater of \$5.00 per account to which the check is applied or the amount the bank charges the Utility, not to exceed \$15.00 for each check returned for nonpayment by a bank. If the Utility charges more than \$5.00, the Utility shall furnish the customer with proof of the bank charge.

**9. COLLECTION TRIP FEE.** If Utility personnel visit the Customer's premises to disconnect service for non-payment and in lieu of actual disconnection the Customer pays or makes a payment arrangement for the entire past due balance, the Utility will charge a collection fee of \$30.00, as permitted in Chapter 660 of the Commission's Rules and Regulations.

**10. CHARGES FOR ESTABLISHMENT OF SERVICE.** The Utility may charge \$13.00 to establish water service if it is not necessary for the Utility to visit the premises to connect the service. If it is necessary for the Utility to visit the premises to connect the service, the Utility will charge \$47.00 during the normal business hours of 7:00 a.m. to 3:00 p.m., Monday through Friday. During holidays and other than normal business hours, the charge will be \$115.00.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

DOCKET NUMBER: \_\_\_\_\_

TERMS AND CONDITIONS

City of Lewiston Water Division

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First Revision

**11. CHARGES FOR RESTORATION/RECONNECTION OF SERVICE.** The Utility will charge a Customer a reconnection fee for restoration of service at the Customer’s premises, if service was disconnected for any reason allowable under Chapter 660 of the Commission’s Rules and Regulations and/or under these Terms and Conditions, including but not limited to at the Customer’s request. The charge will be **\$47.00** during the normal business hours of **7:00 a.m. to 3:00 p.m.**, Monday through Friday. During holidays and other than normal business hours, the charge will be **\$115.00**.

**12. DISCONNECTION OF LEASED OR RENTED PROPERTY.** Before disconnecting a leased or rented residential property, the Utility shall comply with the notice requirements contained in Chapter 660 of the Commission’s Rules and Regulations, and must offer the tenant the right to take responsibility for future payments.

**Leased or Rented Single-meter, Multi-unit Residential Property:** Pursuant to Chapter 660, in addition to the above, before disconnecting a leased or rented single-meter, multi-unit residential property, the Utility shall:

- a. Apply any existing deposit to the current account balance, and
- b. Assess, against the landlord, a collection fee of **\$105.00** in addition to any applicable reconnection fee set forth in Section 11 of these Terms and Conditions.

In addition, at its discretion, the Utility may separately meter or cause to be separately metered, at the landlord’s expense, each dwelling unit within the property.

**13. CHARGES FOR REMOVAL OF SNOW, ICE, OR OTHER OBSTACLES DURING DISCONNECTIONS REQUESTED BY THE CUSTOMER.** The Customer will be responsible for clearing snow, ice, or any obstacles to the shut-off valve and/or meter when requesting a disconnection. If the Customer does not fulfill this responsibility and the Utility must clear the area to perform the requested disconnection, the Utility reserves the right to charge the Customer at the following labor rates: **\$47.00** per man-hour during the normal business hours of **7:00 a.m. to 3:00 p.m.**, Monday through Friday. During holidays and outside normal business hours, there will be a two hour minimum, charged at **\$115.00** per man, with each additional hour to be billed at the rate of **\$58.00** per man. In all cases, the Customer will be charged for the cost of equipment rental, as necessary. If the disconnection request relates to a trip for the repair or replacement of a damaged meter, the equipment fees and total labor hours from this section will be combined with the totals in Section 28F and calculated together.

**14. ABATEMENT POLICY.** Customer metered water used for Utility purposes will be abated at 100% of the difference between the abated bill and the Customer’s average water bill for the twelve months prior to the current billing period.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

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David A. Jones, P. E.  
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**TERMS AND CONDITIONS**

**City of Lewiston Water Division**

**Page 4  
First Revision**

**15. DISCONNECTION PROCESS FOR OVERDUE COMBINED WATER AND SEWER BALANCES.** Pursuant to Title 35-A MRSA §6111-C and Chapter 660 of the Commission’s Rules and Regulations (Chapter 660), the Utility may disconnect water service to Customers receiving sewer service for non-payment of an undisputed balance, if the Total Amount Overdue is more than \$100.00 or over ninety days old, or if the Utility bills 4 times a year or less, unless the limitation in Section 15.5 is applicable.

**15.1 Definitions.**

**Total Account Balance** means the total water and sewer amount owed by a Customer who has been properly billed.

**Total Amount Overdue** means the total water and sewer amount billed to a Customer that has not been paid by the due date of the bill or by a date otherwise agreed upon by the Utility and the Customer. Disputed amounts and fees and charges for estimated sewer service usage will not be included in the Total Amount Overdue.

**15.2 Billing.** Bills for the Utility shall be issued in accordance with Chapter 660 and with Section 4 of these Terms and Conditions.

**15.3 Disconnection and Reconnection.** A 14 day disconnection notice shall be issued when a Customer does not pay or make a payment arrangement on an undisputed balance, and the Total Amount Overdue is consistent with the requirement in Chapter 660.

**15.4 Collection Action.** Subsequent collection actions, including disconnection and reconnection, shall be in accordance with Chapter 660 and with these Terms and Conditions.

**15.5 Limitation for Multiunit Rental Facilities of Greater than Two Units.** Pursuant to 35-A MRSA §6111-C, the Utility may not disconnect water service for non-payment of sewer service to a multiunit rental facility greater than two units, unless the owner of the facility occupies a unit that would be subject to the disconnection, or unless the Utility has a Charter provision enacted prior to August 1, 2010, establishing the authority for such disconnection.

**15.6 Payment Allocation.** Pursuant to Chapter 660, when a Utility receives payment that is insufficient to pay the full account balance, the Utility must apply payment to the oldest basic service balance due, no matter if water or sewer, unless instructions from the Customer, a disputed bill, or a payment arrangement requires otherwise.

**15.7 Payment Arrangement.** The Utility shall continue to serve a Customer who cannot pay the Total Account Balance, provided satisfactory payment arrangements are made in accordance with Chapter 660 and with these Terms and Conditions.

**15.8 Dispute Resolution.** The Utility shall resolve disputes, if applicable, in accordance with Chapter 660.

**PROPOSED EFFECTIVE:**           1/1/2012          

**EFFECTIVE:** \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

**DOCKET NUMBER:** \_\_\_\_\_

TERMS AND CONDITIONS

15. DISCONNECTION PROCESS FOR OVERDUE COMBINED WATER AND SEWER BALANCES (continued).

15.9 Annual Filings. The Utility shall annually file a disconnection report with the Commission as specified in Title 35-A MRSA §6111-C and in Chapter 660.

15.10 Assistance Programs. Pursuant to Title 35-A MRSA §6111-C and to Chapter 660, the Utility shall provide financial assistance information to Customers who are in imminent threat of disconnection, including but not limited to 2-1-1, The Department of Health and Human Services, the Community Action Agencies, and local City Government.

16. UNAUTHORIZED USE OF WATER. No Customer shall supply water to another nor use it for any purposes not mentioned in his/her application without Utility approval. No Customer or his agent shall obtain water from any hydrant or other fixture of the Utility without the previous consent of the Utility. No Customer or his agent shall bypass any meter, nor restore service without Utility authorization, nor unreasonably interfere with Utility service nor otherwise take action to prevent the proper metering of water consumed by the Customer. In the event of the discovery of such unauthorized use of water, the Customer shall be immediately disconnected, pursuant to Chapter 660. In addition, the Utility shall be entitled to bill and recover from the Customer or responsible person the cost of the estimated amount of water consumed, based on the Utility's approved rates, plus interest at an annual rate of 5%. Where the unauthorized use of water has occurred, the Utility may also assess the Customer or responsible person a fee of **\$47.00 per hour**, with a minimum of one hour, for each service visit to the Customer's premises necessary to investigate and address the unauthorized use of water, including removing the meter bypass, taking measures to prevent further diversion of water, and verifying that corrective measures have been taken and maintained. For service visits that occur during other than normal business hours, there will be a two hour minimum, charged at **\$100.00**. In no case shall the total of such hourly fees exceed **\$100.00**. In addition, pursuant to Title 35-A MRSA §2706 as amended or replaced, the Customer or person responsible for the unauthorized use may be liable in a civil action to the Utility for all other reasonable costs to the Utility, including attorney's fees, costs of undertaking and completing the investigation resulting in the determination of liability, and for a civil penalty not to exceed twenty five hundred dollars (\$2,500.00), due and payable to the Utility for each violation.

17. NO TAMPERING WITH UTILITY PROPERTY. No person may tamper with Utility property. No valve, valve sealing mechanism, meter, shutoff, hydrant or standpipe that is the property of the Utility shall be opened or closed or otherwise operated, modified, or removed by other than persons authorized by the Utility. Tampering will subject a Customer or other responsible party to the same charges and actions outlined in Section 16, entitled *Unauthorized Use of Water*. In addition, in the event of such tampering, the responsible party may be subject to a civil action, pursuant to Title 35-A MRSA §2707, as amended or replaced.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

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David A. Jones, P. E.  
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**TERMS AND CONDITIONS**

**18. ACCESS TO PREMISES.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, as a condition of service, Customers shall provide access to Utility employees having proper identification, to all premises supplied with water, at all reasonable hours, to permit the inspection of plumbing and fixtures; to set, remove or read meters; to ascertain the amount of water used and manner of use; and to enforce these Terms and Conditions.

**19. MAINTENANCE OF PLUMBING.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, a Customer must maintain the plumbing and fixtures within his/her own premises in good repair and protect them from freezing or from heat damage. If damage does occur, the Customer is liable for any expenses incurred. If the Utility is requested by a Customer to thaw a frozen service and it cannot be determined whether it was frozen on the Utility’s portion of the Service Pipe or on the Customer’s portion, one half of the cost of thawing the pipe shall be borne by the Utility.

**20. LIABILITY.** The Utility will only be liable for any damages arising from claims to the extent liability is expressly provided in the Maine Tort Claims Act, as set forth in Title 14 MRSA, Chapter 741. The Utility will not be responsible for damages caused by discolored water, and makes no representations or warranties, expressed or implied, about the suitability of any water provided by the Utility for any particular purpose.

**21. CROSS CONNECTIONS.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, no cross connection between the public water supply system and any other supply will be allowed unless properly protected, based upon the Maine Cross Connection Control Rules and the Maine Internal Plumbing Code. No new cross connection may be installed without the express, written approval of the Utility. In addition, no connection will be permitted capable of causing back flow, including back siphonage or back pressure, between the public water supply system and any plumbing fixture, device or appliance, or between any waste outlet or pipe having direct connection to waste drains. If the owner of such a connection fails or refuses to break or properly protect the connection within a time limit specified by the Utility, the Utility may disconnect the service according to Chapter 660 of the Commission’s Rules and Regulations. The Utility’s Cross Connection Control Program is on file at the Utility office.

**22. BACKFLOW PREVENTION DEVICE TESTING.** The Utility will test backflow prevention devices for the City of Lewiston owned buildings at no charge to the City. Other Customers with testable backflow devices will be responsible for completing backflow prevention device testing at their own expense according to the Utility provided schedule. The Customer must select a certified professional to comply with this requirement, and will pay the charges for the testing and for any necessary repairs directly to the contractor. Upon completion, the Customer must send the Utility a copy of each signed certified test by December 31<sup>st</sup> of each year. Customers who do not comply with testing requirements and/or do not make recommended repairs to their devices will be disconnected as a dangerous condition, pursuant to the Utility’s Cross Connection Control Program.

**PROPOSED EFFECTIVE:**           1/1/2012          

**EFFECTIVE:** \_\_\_\_\_

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David A. Jones, P. E.  
Director, Department of Public Works

**DOCKET NUMBER:** \_\_\_\_\_

TERMS AND CONDITIONS

23. **STOP VALVE.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, every service must be provided with a minimum of one operable stop valve located inside the building near the service entrance, easily accessible, and protected from freezing. All plumbing must be installed to comply with applicable plumbing codes, to prevent back-siphonage and to permit draining whenever necessary.

24. **FLUCTUATION OF PRESSURES BY CUSTOMER’S APPARATUS.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, Customers may not install or use any device that will affect the Utility’s pressure or water quality without prior Utility permission.

25. **SAFEGUARDING DIRECT PRESSURE WATER DEVICES AND SYSTEMS SUPPLIED BY AUTOMATIC FEED VALVES.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, Customers must install vacuum, temperature and pressure relief valves or cutouts to prevent damage to a direct pressure water device or secondary system supplied by an automatic feed valve.

26. **JOINT USE OF SERVICE PIPE TRENCH.** Pursuant to Chapter 620 of the Commission’s Rules and Regulations, normally, water Service Pipes will not be placed in the same trench with other Utility facilities. Where possible, a horizontal separation of ten feet will be provided. Where extenuating, unusual or special circumstances are encountered, a lesser separation of joint use of trench may be allowed if all parties agree, provided that the installation complies with all applicable laws, rules and regulations.

27. **UTILITY JOBBING.** A Customer must complete a written application before a Utility will provide unregulated Utility service. As permitted in Chapter 620 of the Commission’s Rules and Regulations, a Customer must pay a deposit equal to the Utility’s written estimate. Unless the work is done on a flat rate basis, the Utility will return any excess deposit upon completion. If the final cost exceeds the deposit, the Customer must pay the additional amount upon completion.

28. **METERING, NEW SERVICE PIPE, AND MAIN EXTENSION POLICIES.**

A. **Separate Metering of Buildings.** No Customer shall supply water to another, nor use it for purposes not mentioned in his/her application without prior written Utility approval. At its discretion, the Utility reserves the right to require separate piping and a separate meter and shut-off for each building or trailer as a condition of service.

B. **Metering of Multi-Unit Premises.** Except as provided in Chapter 660 of the Commission’s Rules and Regulations, where there is more than one occupant of a building supplied with water, the Utility may require the owner to arrange the plumbing to permit separate connections with shutoffs and meters in locations acceptable to the Utility for each place of business or abode. In the case of a condominium, each unit owner may be required to have a separate meter and shutoff in locations acceptable to the Utility.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

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David A. Jones, P. E.  
Director, Department of Public Works

DOCKET NUMBER: \_\_\_\_\_

**TERMS AND CONDITIONS**

**28. METERING (continued).**

**C. Submetering.** Additional or auxiliary meters for showing subdivision of water use must be furnished, installed, read and maintained at the Customer’s own expense.

**D. Meter Setting.** All meters shall be set as close as possible to the point of entrance of the Service Pipe to the building, and must be provided a clean, warm, dry and accessible location. The cost of the meter and installation shall be borne by the Customer. The location of the meter once set, may be changed at the request of the Customer, but the change of the meter may be made only by an agent of the Utility. For new installations of meters one and one-half inches in diameter or larger in nominal size, the piping arrangement shall be in accordance with the requirements of the Utility.

**E. Meter Pits.** As permitted in Chapter 620 of the Commission’s Rules and Regulations, the Utility reserves the right to require a meter pit at the Customer’s expense under the following circumstances:

- The Customer does not provide a clean, warm, dry and accessible location for the meter and its appurtenances; or
- The length of the service is over 200 feet; or
- The service location makes discovery of a leak unlikely; or
- The Customer’s portion of the Service Pipe has been constructed of materials that make it leaks or catastrophic failure likely; or
- The service passes over land belonging to another party. In this case, the Utility will require a deeded right of way.

As an alternative to a meter pit, the Utility may instead require a Customer to box in and insulate the meter in an appropriate area with an access door. Prior to installation, the design must be submitted to the Utility for approval. Written approval or rejection of the design shall be provided by the utility within ten business days. Should the Utility not meet this timeframe, the design shall be considered approved by default.

A Customer may select the contractor of its choice for the installation. If the Utility is selected, the work will be done as jobbing, as detailed in Section 27 of these Terms and Conditions. All work and materials must comply with the Utility’s approved standards and specifications, available in the Utility office. The Utility reserves the right to inspect all materials and work during normal business hours at a charge of **\$47.00**, and to require work to be redone if the standards and specifications are not met. If a follow-up inspection is required due to inadequate preparation by the Customer or the contractor or lack of adherence to the specifications, the Customer will be responsible for the cost of the extra visit(s).

**PROPOSED EFFECTIVE:** 1/1/2012

**EFFECTIVE:** \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

**DOCKET NUMBER:** \_\_\_\_\_

TERMS AND CONDITIONS

28. METERING (continued).

F. Charges for Repair or Replacement of Damaged Water Meters and Other Utility Equipment. As permitted by Chapter 620 of the Commission’s Rules and Regulations, the charges to a Customer for the repair or replacement of meter(s) or other Utility equipment damaged due to improper care or negligence by the Customer are as follows: During the normal business hours of **7:00 a.m. to 3:00 p.m.**, Monday through Friday, the labor charge will be **\$47.00** per man-hour with a minimum charge of one hour. During holidays and outside normal business hours, there will be a two hour minimum, charged at **\$115.00** per man, with each additional hour to be billed at the rate of **\$58.00** per man-hour. In all cases, the Customer will be charged for the cost of the shop materials and necessary replacement parts, including the meter or meter plate. As specified in Section 12 of these Terms and Conditions, if obstacles must be removed from the area in order to complete the repair, the equipment rental fees and total labor hours from Section 12 will be added to the totals from this section and calculated together.

G. Meter Testing. The Utility will test its water meters according to the schedule and standards in Chapter 620 of the Commission’s Rules and Regulations. Upon Customer request, the Utility will test the Customer’s water meter at no charge in the presence of the Customer or representative, unless the Customer requests more than one test in an 18-month period. If the Customer requests a test more frequently, the Utility may require the Customer to pay a deposit to cover the cost of the test, as follows: **\$67.00** per hour for labor, transportation, and the use of the meter bench. If a meter tested at the Customer’s request does not conform to standards, the Customer’s deposit will be refunded and the Utility will adjust the Customer’s bill according to the provisions of Chapter 620. If the meter conforms to standards, the Utility may keep the Customer’s deposit and continue to use the meter at the Customer’s premises.

H. Winter Construction. No new service or extension of Mains will be installed for the convenience of a Customer during winter conditions that increases the cost of the work for the Utility unless the Customer assumes all extra expense over ordinary construction costs.

I. New Service Lines and Meters. As permitted in 35-A MRSA §6106, each applicant for a new water service will be responsible for the costs of the entire Service Line, including opening the pavement or boring across the road, if applicable, equipment rental, labor and materials and necessary appurtenances for installation, including the meter. Ownership and maintenance of the Service Line and meter after installation will be governed by Chapter 620 of the Commission’s Rules and Regulations.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

DOCKET NUMBER: \_\_\_\_\_

TERMS AND CONDITIONS

28. METERING.

**I. New Service Lines and Meters (continued).** The Customer will be responsible for obtaining the Utility's written approval for the work and for contracting with a Utility-approved professional for the excavation and installation from the curb-stop into the building. The Customer may also have the option of using his/her contractor to excavate the portion of the installation from the Main to the curb-stop if the Utility approves the request. All contractor charges will be paid by the Customer directly to the contractor.

The Service Line location will be set or reviewed by the Utility prior to excavation and must be installed to applicable plumbing codes and to Utility work standards and material specifications, available at the Utility office. The Utility reserves the right to inspect the materials and installation and must be notified before they are buried or enclosed. If a site visit has been scheduled, and the Utility must later return to the premises due to inadequate preparation by the Customer or the Contractor or lack of adherence to the specifications, the Customer will be responsible for the cost of the extra visit(s).

The Utility will be responsible for the excavation and pipe laying from the Main to the curb-stop, including contracting the piping across the road if required, unless the Customer has received approval for contractor excavation, as specified in the paragraph above. The Utility will also install the curb-stop, install the meter and other appurtenances, and tap the Main. Work will be available during the regular business hours of **7:00 a.m. to 3:00 p.m.**, Monday through Friday. At its discretion, the Utility may subcontract out any part of this work. The costs to the Customer for the Utility portion of the installation are:

- A charge of **\$38.00** per man-hour for excavation and pipe-laying from the Main to the curb-stop; for installing the meter, curb-stop, and necessary appurtenances; and for tapping the Main.
- A charge of **\$47.00** per man- hour for the inspection and approval of contracted work.
- Costs of the necessary materials, parts, and equipment and truck rental, as applicable, including the cost of the meter at required size.
- Contractor services charged as required by the situation, including piping across the road, whether boring or opening and closing the road as required by Maine DOT or Town policy; plus additional costs, including but not limited to digging, permits, flagging, and closing the road as required by Maine DOT or Town policy.

A written estimate will be given to the Customer for the costs of the Utility-provided labor, materials, equipment rental and subcontractors, and a deposit equal to the estimate will be collected prior to the initiation of the work. A reconciliation of the job costs will be done upon completion, and if applicable, the Utility will return any excess deposit at that time. If the actual costs exceed the deposit, the Customer must pay the additional amount as per the written agreement between the Utility and the Customer, as a condition of service.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

DOCKET NUMBER: \_\_\_\_\_

**TERMS AND CONDITIONS**

**28. METERING (continued).**

**J. Extensions of Mains.** All water Main extensions shall be installed at the applicant’s expense, as permitted in 35-A MRSA §6106. Procedures related to the installation of the Main extension, and ownership and maintenance after the installation, shall be governed by Chapter 650 of the Commission’s Rules and Regulations.

The applicant must complete a written application for the work and a financial agreement to be responsible for all costs of the installation. The Utility reserves the right to preapprove the plan. The applicant must contract with a Utility-approved professional for the entire Main extension, and all costs shall be paid directly to the contractor. The work must be completed to applicable plumbing codes and to Utility work standards and material specifications, which will be available at the Utility office. The contractor will be required to purchase all materials directly from the Utility.

In order to manage and inspect the process, a Utility representative will be present intermittently during the installation, including but not limited to during the tapping of the Main, the pressure testing, and the sanitation. The cost to the applicant’s contractor for this inspection and management will be **\$47.00** per hour. The Utility reserves the right to subcontract these services to its own contractor; under these circumstances, the applicant will be billed for the subcontractor’s charge. If at any time during the installation, the Utility representative discovers work irregularities or a lack of adherence to the preapproved plan or the standards and specifications, the Utility may stop the installation at the applicant’s expense.

A written estimate will be given to the Customer for the Utility-provided services and materials, and a deposit equal to the estimate will be collected prior to the initiation of any work. A reconciliation of the job costs will be done upon completion, and if applicable, the Utility will return any excess deposit at that time. If the actual costs exceed the deposit, the Customer must pay the additional amount as per the written agreement between the Utility and the Customer.

**29. SERVICE INTERRUPTION.** As specified in Chapter 660 of the Commission’s Rules and Regulations, the Utility will provide reasonable notice of any planned shut-off to affected Customers. If the interruption is expected to last more than 5 hours or to affect more than 10 Customers or a single commercial Customer on a dedicated line, notice will be given at least twenty-four hours in advance of the interruption of service. The Utility will notify the Customers when practicable of the cause and duration of any unplanned shut-off. Pursuant to Chapter 620, if a Customer requests, the Utility will make a pro rata reduction in the Customer’s minimum bill if service is interrupted for longer than forty-eight hours and the interruption is not due to negligence or improper care of equipment by the Customer.

**PROPOSED EFFECTIVE:**           1/1/2012          

**EFFECTIVE:** \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

**DOCKET NUMBER:** \_\_\_\_\_

**TERMS AND CONDITIONS**

**30. CONSERVATION.** Customers should attempt to minimize waste of water. Pursuant to Chapter 620 of the Commission’s Rules and Regulations, when necessary to conserve the water supply or in the event of an emergency, the Utility may restrict or prohibit waste or improper usage, including but not limited to, the use of hoses and lawn sprinklers. Under these circumstances, the Utility will decide what constitutes waste and improper usage in order to preserve the safety of the water system.

**31. FIRE HYDRANTS.** Fire hydrants may not be used for any purpose other than to extinguish fires unless prior permission is given by the Utility. In the event of fire extinguishment, the fire department will notify the Utility of hydrant use within a reasonable time of declaring the fire under control. Fire hydrants must not be opened by any person other than an agent of the Utility or a duly authorized representative of the municipality or the owner.

The Utility provides all flow testing and maintenance for City of Lewiston hydrants, including annual flushing at no charge to the City. Owners of private hydrants will contract with a certified professional to conduct testing and perform maintenance at their own expense.

**32. PRIVATE FIRE PROTECTION.** Customers requiring private fire protection must contact the Utility to determine the availability of fire service at their location. If available, the fire service line will be installed at the Customer’s expense within the bounds of the public way or right of way; after installation, the line will be owned and maintained in the public way or right of way by the Utility, as specified in Chapter 640 of the Commission’s Rules and Regulations. The Utility does not guarantee any quantity of water or pressure available through a fire protection service.

Pursuant to Chapter 640 of the Commission’s Rules and Regulations, the Utility may require, as a term of service, a showing by the Customer on a periodic basis that certain maintenance, testing, or inspection procedures have been conducted in order that the installation be consistent with the health or safety standards of the Utility. The Utility reserves the right to require timely notice of all testing, so a Utility representative can be present to observe the process.

PROPOSED EFFECTIVE: 1/1/2012

EFFECTIVE: \_\_\_\_\_

\_\_\_\_\_  
David A. Jones, P. E.  
Director, Department of Public Works

DOCKET NUMBER: \_\_\_\_\_

# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Amendment to the Traffic Schedule regarding parking regulations on a portion of Adams Avenue.

**INFORMATION:**

The Police Department is recommending that parking be prohibited on a portion of Adams Avenue. Public Works supervisors have noted an increase in traffic parking on the street curbside in the area directly opposite the main entrance/exit of the Public Works facility and this occasionally restricts the ability of some of the larger vehicles and vehicles with trailers to safely maneuver onto the street.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

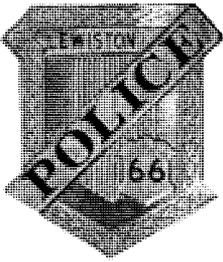
The City Administrator recommends approval of the requested action.

*ERB/kmm*

**REQUESTED ACTION:**

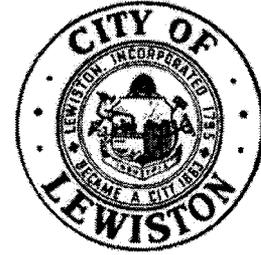
1	2	3	4	5	6	7	M
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To adopt the proposed amendment to the Traffic Schedule to regulate parking on a portion of Adams Avenue, as outlined on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police




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**DATE:**        October 6, 2011

**TO:**            Traffic Schedule Review

**FROM:**        Sgt. David Chick, Inspector of Police

**Subject:**      Traffic Schedule Amendment – Chapter 70 Section 150  
**Parking Prohibited – No Parking Anytime –  
Hazardous or Congested Places**

Per request coming from Public Works supervisor; there has been an increase in traffic parking on the street curbside in the area directly opposite the main entrance/exit of the Public Works yard, and this restricts the ability of some of the larger and trailer vehicles safely maneuvering..

**Accordingly the following amendment to the Traffic Schedule is forwarded for review to be offered to the Council for consideration.**

**Section 44 – Parking Prohibited; Hazardous or Congested Places**

**ADAMS AVENUE                    Even numbered side, north side, beginning at a point 267’ from the northwesterly corner of Adams Avenue & Bartlett Street and extending westerly on Adams Ave a distance of 207’.**

NOTE: (Additions are underlined; deletions are ~~struck-out~~).

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended “No Parking” area.

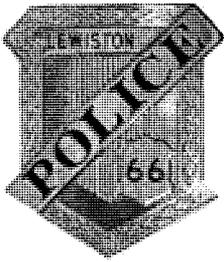


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# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police



*David K. Chick*

**David Chick**  
Inspector of Police

cc: **Michael Bussiere**  
**Ed Barrett – City Hall; Phil Nadeau – City Hall; Lincoln Jeffers – City Hall;**  
**Kathy Montejo – City Clerk; Steve Murch – Public Works; Paul Ouellette – Fire**



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# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 3**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance to allow the sale and limited use of consumer fireworks within the City of Lewiston.

**INFORMATION:**

At the September 27 City Council workshop, the Council reviewed and discussed with the Fire Chief the issue of the sale and use of consumer fireworks within the City of Lewiston, and the related options under the new state law. At the October 4 Council meeting, the Council voted down a proposed ordinance which would allow limited use and sale of fireworks and instead indicated their support for an outright ban on fireworks within the City limits. At the October 18 Council meeting, the vote to approve an ordinance to ban the sale and use of consumer fireworks within the city received a 3-2 vote. Since the City Charter requires all motions to receive a minimum of four affirmative votes in order to pass, the motion did not pass.

Staff was asked to place the ordinance for a ban of fireworks on the agenda along with a version of Option Three (this agenda item) of the draft ordinance, to allow the Council the opportunity to consider both proposed ordinances. This agenda item is for first reading of an ordinance to allow the limited use of fireworks in Lewiston. They shall be limited to use in the firearms discharge zone 2 and only on July 4, December 31 and January 1.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

This is a policy decision of the City Council.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 50 "Offenses and Miscellaneous Provisions", Article VIII. "Sale and Use of Consumer Fireworks", Sections 50-226 through 50-231, to create a new article allowing limited use of fireworks within the city limits, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting.

**AN ORDINANCE PERTAINING TO FIREWORKS**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Chapter 50 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**CHAPTER 50**

**OFFENSES AND MISCELLANEOUS**

Secs. 50-212—50-225 Reserved.

**ARTICLE VIII. SALE AND USE OF CONSUMER FIREWORKS**

**Sec. 50-226. Definitions.**

The following definitions shall apply in this section:

- (1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United States Code, Chapter 47. “Consumer fireworks” does not include the following products:
  - a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition, and that may produce a burst of color or sound at or near the height of flight.
- (2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

**Sec. 50-227. Fireworks Restricted Use.**

The use, discharge or ignition of fireworks within the City of Lewiston’s restricted fire arms zone, Zone 2 as defined in Chapter 50, Section 107 of this Code, is permitted on and only on the dates of December 31, January 1, and July 4 provided, however, that:

- (1) The use, discharge, or ignition of fireworks is prohibited on all public property, including all public parks, public rights of way, and School Department property;
- (2) The use, discharge, or ignition of fireworks is prohibited on any day specified by the Fire Chief as presenting a high fire danger as identified by posting such designation on the City website;
- (3) The use, discharge, or ignition of fireworks shall not be permitted in close proximity to any building in the City of Lewiston by maintaining a distance of no less than 75' from said building;
- (4) No fireworks will be permitted before 10 a.m. and after 10 p.m. on July 4<sup>th</sup>;
- (5) No fireworks will be permitted before 10 a.m. on December 31<sup>st</sup>; and
- (6) No fireworks will be permitted between the hours of 1 a.m. and 10 a.m. or after 10 p.m. on January 1<sup>st</sup>.

**Sec. 50-228. Exception.**

This section does not apply to a person issued a fireworks display permit by the City of Lewiston and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

**Sec. 50-229. Violations.**

- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Lewiston in violation of this ordinance shall receive a citation.
- (2) The civil penalty set in accordance with the city's policy manual as approved by the city council shall be imposed for the issuance of citations. The civil penalties imposed are cumulative.

**Sec. 50-230. Sale of fireworks.**

The sale of fireworks in the City of Lewiston shall be prohibited within the City of Lewiston.

**Sec. 50-231. Seizure and disposal of fireworks.**

The City may seize consumer fireworks that the City has probable cause to believe are used, possessed, or sold in violation of this section and shall forfeit seized consumer fireworks to the State for disposal.

Note: Additions are underlined; deletions are ~~struck-out~~.

**LEGAL AD**

**PUBLIC HEARING NOTICE  
CITY OF LEWISTON  
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, City Building, on **Tuesday, November 1, 2011, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

**OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE**

There will be two proposed versions of the ordinance. One amendment would ban the sale and use of consumer fireworks within the City of Lewiston. The other would permit the use of consumer fireworks in the Restricted Firearms Zone Two on July 4, December 31 and January 1.

**ADMINISTRATIVE ORDINANCE**

These amendments would increase by \$300 the annual stipend paid to the Mayor, City Councilors and School Committee members.

**LIBRARY ORDINANCE**

This amendment would establish guidelines for the Library Board of Trustees and their work soliciting donations and funds for use of the Library.

The City of Lewiston is an EOE. For more information, please visit our website at [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy.

Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Oct, 27, 2011**

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise  
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 4**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance to prohibit the sale and use of consumer fireworks within the City of Lewiston.

**INFORMATION:**

At the September 27 City Council workshop, the Council reviewed and discussed with the Fire Chief the issue of the sale and use of consumer fireworks within the City of Lewiston, and the related options under the new state law. At the October 4 Council meeting, the Council voted down a proposed ordinance which would allow limited use and sale of fireworks and instead indicated their support for an outright ban on fireworks within the City limits. At the October 18 Council meeting, the vote to approve an ordinance to ban the sale and use of consumer fireworks within the city received a 3-2 vote. Since the City Charter requires all motions to receive a minimum of four affirmative votes in order to pass, the motion did not pass. Staff was asked to bring this item back on the agenda along with a version of Option Three (see agenda item 3) of the draft ordinance, to allow the Council to opportunity to consider both proposed ordinances.

This agenda item is for first reading of an ordinance to ban fireworks in Lewiston.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

This is a policy decision of the City Council.

*EAB/kmm*

**REQUESTED ACTION:**

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That the proposed amendment to the City Code of Ordinances, Chapter 50 "Offenses and Miscellaneous Provisions", Article VIII. "Sale and Use of Consumer Fireworks Prohibited", Sections 50-226 through 50-230, to create a new article banning fireworks within the city limits, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting.

**AN ORDINANCE PERTAINING TO FIREWORKS**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Chapter 50 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**CHAPTER 50**

**OFFENSES AND MISCELLANEOUS**

**Secs. 50-212—50-225 Reserved.**

**ARTICLE VIII. SALE AND USE OF CONSUMER FIREWORKS PROHIBITED**

**Sec. 50-226. Definitions.**

The following definitions shall apply in this section:

- (1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United States Code, Chapter 47. “Consumer fireworks” does not include the following products:
  - a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition, and that may produce a burst of color or sound at or near the height of flight.
- (2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

**Sec. 50-227. Prohibition.**

No person shall use, possess with the intent to use, sell, possess with the intent to sell or offer for sale consumer fireworks in the City of Lewiston.

**Sec. 50-228. Exception.**

This section does not apply to a person issued a fireworks display permit by the City of Lewiston and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

**Sec. 50-229. Violations.**

- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Lewiston in violation of this ordinance shall receive a citation.
- (2) The civil penalty set in accordance with the city's policy manual as approved by the city council shall be imposed for the issuance of citations. The civil penalties imposed are cumulative.

**Sec. 50-230. Seizure and disposal of fireworks.**

The City may seize consumer fireworks that the City has probable cause to believe are used, possessed, or sold in violation of this section and shall forfeit seized consumer fireworks to the State for disposal.

Note: Additions are underlined; deletions are ~~struck out~~.

**LEGAL AD**

**PUBLIC HEARING NOTICE  
CITY OF LEWISTON  
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, City Building, on **Tuesday, November 1, 2011, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

**OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE**

There will be two proposed versions of the ordinance. One amendment would ban the sale and use of consumer fireworks within the City of Lewiston. The other would permit the use of consumer fireworks in the Restricted Firearms Zone Two on July 4, December 31 and January 1.

**ADMINISTRATIVE ORDINANCE**

These amendments would increase by \$300 the annual stipend paid to the Mayor, City Councilors and School Committee members.

**LIBRARY ORDINANCE**

This amendment would establish guidelines for the Library Board of Trustees and their work soliciting donations and funds for use of the Library.

The City of Lewiston is an EOE. For more information, please visit our website at [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy.

Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Oct, 27, 2011**

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise  
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 5**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Library ordinance.

**INFORMATION:**

This amendment outlines the responsibilities of the Library Board of Trustees, specially regarding the solicitation and receipt of cash donations to the Library. The amendment also clarifies the use of the donated funds and notes they must be used within city policy guidelines. Please see the City Administrator's memorandum for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

**REQUESTED ACTION:**

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That the proposed amendment to the City Code of Ordinances, Chapter 48 "Library", Article II "Board of Trustees", Sections 48-21 and 48-22, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting.

**AN ORDINANCE PERTAINING TO LIBRARY BOARD OF TRUSTEES**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Chapter 48 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**CHAPTER 48**

**LIBRARY**

**ARTICLE II. BOARD OF TRUSTEES\***

**Sec. 48-21. Membership, vacancies on board of trustees.**

(a) In accordance with the provisions of the act mentioned in section 48-1, the board of trustees shall consist of ten members of whom the mayor, ex officio, shall be one, and the remaining nine members shall be such other suitable persons as the mayor may select; provided, however, that all members shall be residents of the city. All non ex-officio members shall serve a term of three years. Members of the board of trustees shall not be eligible to serve for more than three full successive terms. The terms of office of members of the board of trustees appointed following the adoption of the amendment of this Code shall be established by the mayor who shall appoint one member to serve a one-year term; one member to serve a two-year term; and one member to serve a three-year term. Thereafter, all members shall be appointed for three-year terms.

(b) After the first election, the vacancies occurring annually in the board of trustees under the provisions of the act shall be filled by the mayor in January of each year, and in case of a vacancy during the year, the mayor shall select a successor for the residue of the term. In case a member of the board of trustees is elected to and accepts the office of mayor, his office as trustee shall be vacated and such vacancy shall be filled as above provided.

**Sec. 48-22. Responsibilities.**

(a) The board trustees shall act in an advisory capacity for the purpose of providing assistance to other municipal officials charged with the responsibility of furnishing quality public library service, except that the trustees shall have the authority to decide policy as to the following:

- (1) Identification and promotion of general library objectives;
- (2) Establishing the character and quality of books and other materials to be contained in the library collection;
- (3) Promoting cooperation with other libraries;
- (4) Providing effective programs and services to schools and other specialized groups in need of library service; and
- (5) Establishing and supporting cultural programs sponsored by the library.

(b) The ~~board trustees~~ may receive such ~~monies~~, property or other valuables as may be left to the library and shall advise the library director about their retention, ~~investment~~, sale or disposition. The retention, ~~investment~~, sale or disposition of any ~~monies~~, property or valuables shall be subject to the approval of the city administrator and the City Council, with regard to expenditures, in accordance with existing city policies.

(c) The trustees may solicit and receive cash donations made to the library to be used for library purposes. They shall advise the library director as to the investment and use of such funds, such use to be in accordance with any conditions imposed by the donor. They may also solicit and accept donations to the library's permanent endowment fund and advise the library director as to the investment and use of the endowment in accordance with existing city policies. The expenditure of any donated funds shall be subject to the approval of the city administrator and/or designee, and the City Council where appropriate, who shall insure that applicable policies are adhered to.

(d) The trustees may authorize the library director to apply for and accept grants to the extent that such grants do not require a cash match from the City. Where such match is required, the trustees may request that the City Council authorize and accept such grants.

(~~e~~) Whenever a vacancy occurs in the position of library director, the trustees shall act in an advisory capacity and assist the city administrator in the selection of a new director.

NOTE: Additions are underlined; and deletions are ~~struck-out~~.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



---

October 25, 2011

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: Library Board of Trustees

These proposed amendments update the section of the City Code establishing the Library Board and brings it into line with accepted practices.

The most notable changes involve the section outlining the responsibilities of the board. The board will be specifically authorized to solicit and receive cash donations to the library and requires that such donations be used in accordance with any conditions imposed by the donor. The amendment also clarifies that the use of donated funds must be in accordance with established city policies and, where appropriate, with City Council approval.

This later change is in line with efforts that have been undertaken over the last several years to regularize how the City handles certain accounts such as drug forfeiture funds and recreation activity fees. It is intended to ensure that the use of such funds is authorized by the City Council and handled in accordance with normal municipal accounting procedures.

Based on this, I anticipate that, beginning with the next budget year, language will be included in the City's appropriation resolve authorizing the Library Board to approve expenditures from the Library endowment subject to adopted policy and approval by the City Administrator. This procedure will ensure that these funds are appropriated by the City Council while providing assurances to donors that the use of donated funds has been endorsed by a body independent of the City Council and which has as its main priority the provision of quality library services.

Language is also included that will grant the board the authority to authorize the library director to apply for and accept grants to the extent that such grants do not require a cash match from the city. Where a match is required, Council approval will remain necessary.

Also attached is the current City policy governing the Library's endowment and its investment.

## **ENDOWMENT AND INVESTMENT POLICY**

### **Introduction**

Occasionally the Lewiston Public Library is designated as the recipient of funds specified for endowment. The Lewiston Public Library therefore establishes this endowment and investment policy to ensure that the Library invests the endowment fund in a manner which preserves the public and donors' trust, and which provides: (1) safety of principal, (2) a market rate of return considered reasonable under generally accepted market principles, and (3) sufficient liquidity to meet the Library's needs. The Library's investment strategies will be formulated and conducted in conformance with this policy, and with applicable Maine statutes governing the investment of endowment funds. This policy applies to all endowment assets of the Lewiston Public Library (as defined below), and governs the LPL Board of Trustees in setting investment objectives, recommending investment management selection, and negotiating, entering and terminating contracts to fulfill the objectives once set.

### **Definition of Terms**

All amounts contributed to the endowment of the Lewiston Public Library shall be managed and invested in accordance with the "Uniform Management of Institutional Funds Act" 13 M.R.S.A. §4100 et. seq. (hereafter called the "Act"). To further this objective, all gifts received by the City of Lewiston designated for the endowment of the Lewiston Public Library shall constitute additions to the principal of the endowment when received. The historic dollar value of all previous gifts to the endowment also shall be deemed to be principal. Appreciation, both realized and unrealized, shall also be deemed principal, except for that portion, if any, which has been appropriated by the Board of Trustees in the manner provided below. On the other hand, interest, dividends, rents, issues or profits earned by the Endowment annually shall be deemed income, and shall be available for expenditure by the Board; provided, however, that income not used in the year it is generated may be added to principal or accumulated for expenditure in the following year as the Board of Trustees may determine.

Terms used in this policy shall have the same meaning as they are given in the Act. For example, "historic dollar value" is the actual dollar amount contributed to the endowment. "Appreciation" is the fair market value of the assets in the endowment, less historic dollar value, and less annual income.

The Board shall comply with the standards of the Act in deciding whether to appropriate appreciation on restricted assets and thereby convert such appreciation to an unrestricted asset. However, the Board's authority to appropriate appreciation is limited by the terms of the gift instrument in those cases where the donor has placed limitations on the use of appreciation. The Board's authority is further limited by the requirements of the Act, which state that the Board must "exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision." In so doing, the Board must consider the "long term and short term needs of the library in carrying out its educational. ... or other charitable purposes; its present and anticipated financial requirements; expected total return on its investments; price-level trends; and general economic conditions."

## **Objectives**

The goal of Library endowment fund management will be to attain a market rate of return considered reasonable under generally accepted market principles, thus ensuring prudent use of endowment funds and preservation of the public's and donors' trust. The primary objectives, in priority order, of the Library's investment activities are:

**Safety.** Safety of principal is the primary objective of the investment program.

Investments of the Library must be undertaken in a manner that seeks to ensure preservation of capital in the overall endowment.

**Return on Investment.** The Library's endowment fund will be managed with the objective of attaining a market rate of return considered reasonable under generally accepted market principles throughout budgetary and economic cycles, taking into account the Library's risk constraints.

**Liquidity.** The Library's endowment fund will remain sufficiently liquid to enable the Library to meet cash requirements that can reasonably be anticipated and to reposition endowment assets as investment strategies and market conditions warrant.

## **Authority**

The Board of Trustees of the Lewiston Public Library shall, when required by state law, local ordinance or this policy, recommend to the City Administrator for engagement or retention qualified investment managers and consultants to manage the endowment. Recommendations shall be made in accordance with Sec. 48-22(b) of the Lewiston City Charter. Further, in accordance with Sec. 48-22 and 30-A M.R.S.A. §5706(4), the City of Lewiston authorizes the LPL Board of Trustees and/or its designated Investment Committee to negotiate, enter into and terminate contracts to fulfill the above management objectives.

## **Prudence**

Investments must be made according to the standard of prudence established in 18-A M.R.S.A. §7-302 (*i.e.*, “with the judgment and care that persons of prudence, discretion and intelligence, under circumstances then prevailing, exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived”).

The standard of prudence to be used by the LPL Board of Trustees must at all times be the “prudent investor” standard as set forth above and must be applied in the context of managing an overall endowment fund. LPL Trustees and municipal officers acting in accordance with this investment policy shall not be personally liable for losses attributable to an individual security's credit risk or market price changes, provided these Trustees have acted in accordance with the prudent investor standard set forth in 18-A M.R.S.A. §7-302.

## **Monitoring**

The Board of Trustees of the Lewiston Public Library will monitor the performance of the investment manager(s) and consultant(s) and will report quarterly to the Finance Director on the

status of the endowment fund.

### **Ethics and Conflict of Interest**

No member of the LPL Board of Trustees or municipal officer or employee involved in the investment process shall engage in personal business activity that could conflict with proper execution of the investment program, or which could impair his/her ability to make impartial investment decisions. Employees and investment officials shall disclose to the LPL's Board of Trustees and/or its designated Investment Committee, in consultation with the Library Director, any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any personal financial/investment positions that could be related to the performance of the Library's endowment fund. Similarly, LPL Trustees shall disclose to the designated Investment Committee, in consultation with the Library Director, any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any personal financial/investment positions that could be related to the performance of the Library's endowment fund.

A Library employee, municipal official or Board member may not invest endowment funds in any instrument or institution from which s/he accepts any gift, free service or payment of any kind for performing their duties under this policy. Any personal investment by a Library employee, official or Trustee in U.S. Government Securities or other publicly traded securities on organized exchanges or routine depository/loan relationships in a financial institution shall not be deemed a direct or indirect financial interest for purposes of this article.

**LEGAL AD**

**PUBLIC HEARING NOTICE  
CITY OF LEWISTON  
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, City Building, on **Tuesday, November 1, 2011, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

**OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE**

There will be two proposed versions of the ordinance. One amendment would ban the sale and use of consumer fireworks within the City of Lewiston. The other would permit the use of consumer fireworks in the Restricted Firearms Zone Two on July 4, December 31 and January 1.

**ADMINISTRATIVE ORDINANCE**

These amendments would increase by \$300 the annual stipend paid to the Mayor, City Councilors and School Committee members.

**LIBRARY ORDINANCE**

This amendment would establish guidelines for the Library Board of Trustees and their work soliciting donations and funds for use of the Library.

The City of Lewiston is an EOE. For more information, please visit our website at [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy.

Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Oct, 27, 2011**

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise  
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

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# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Administrative ordinance regarding the salary amount for the Mayor.

**INFORMATION:**

At the October 25 City Council meeting, Councilor Morgan recommended the City Council consider an increase to the salary amounts for the offices of Mayor, City Council and School Committee. He is recommending to increase each amount by \$300. The salaries have not been adjusted since January 1, 1990.

Currently the Mayor's salary amount is \$4,200 and this amendment would increase the amount to \$4,500.

Please see the City Administrator's memorandum for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.



**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 2 "Administration", Article II "Officers and Employees", Section 2-76, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting.

**AN ORDINANCE PERTAINING TO ELECTED AND APPOINTED OFFICIALS**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Chapter 2 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**CHAPTER 2**

**ADMINISTRATION**

**ARTICLE III. OFFICERS AND EMPLOYEES**

**DIVISION 1. GENERALLY**

**Sec. 2-76. Salaries of elected and appointed officials.**

Elected and appointed officials shall receive the following annual salaries, payable monthly:

(1) *Mayor*. The mayor shall receive an annual salary of ~~\$4,200.00~~ 4,500.00, payable monthly.

NOTE: Additions are underlined; and deletions are ~~struck-out~~.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



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October 26, 2011

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: Elected Official Compensation

Council President Steve Morgan recently requested that the level of compensation for various elected and appointed positions be reviewed. In response, we surveyed the ten largest communities in Maine in order to compare the compensation that they provided to certain elected and appointed offices. The results of that survey are attached.

Based on this information, Councilor Morgan has proposed that the compensation of the Mayor be increased from \$4,200 to \$4,500 per year; that of Councilors from \$2,700 to \$3,000 per year; and School Committee members from \$1,200 to \$1,500, an increase of \$300 for each elected official.

In accordance with the City Charter, any increase in elected official compensation must be accomplished through ordinance and the increase is not effective until after the next regular city election. This provision is intended to ensure that a sitting Council cannot take action to increase compensation effective during its term in office.

Three separate ordinances are presented. The first addresses compensation for the Mayor and eliminates a section of the ordinance dealing with compensation for the personnel committee since that committee no longer exists. The second is for members of the City Council. The third is for the School Committee.

The last increase in compensation for elected officials took effect in January 1990.

COMPENSATION SURVEY

	Portland	Lewiston	Bangor	So. Portland	Auburn	Biddeford	Sanford	Brunswick	Augusta	Scarborough
Mayor/Council Chair	\$ 65,402	\$ 4,200	\$ 2,500	\$ 3,000	\$ 4,000		\$ 5,000	\$ 2,500	\$ 3,000	\$ 1,750
Councilors	\$ 5,813	\$ 2,700	\$ 2,000	\$ 3,000	\$ 1,800		\$ 4,000	\$ 2,000	\$ 2,400	\$ 1,500
School Committee Chair	\$ 7,195	\$ 1,200	\$ 250	\$ 1,000	\$ 600		\$ 2,000	\$ 1,500	\$ 3,000	\$ 1,750
School Committee	\$ 5,689	\$ 1,200	\$ 250	\$ 1,000	\$ 600		\$ 2,000	\$ 1,500	\$ 2,400	\$ 1,500
Planning Board	\$ -	\$ 600	\$ -	\$ -	\$ -		\$ -	\$ -	\$ 600	\$ -
Board of Appeals	\$ -	\$ 600	\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ -
Finance Committee	\$ -	\$ 480	\$ -	N/A	\$ -		\$ -	N/A	N/A	\$ -

**LEGAL AD**

**PUBLIC HEARING NOTICE  
CITY OF LEWISTON  
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, City Building, on **Tuesday, November 1, 2011, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

**OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE**

There will be two proposed versions of the ordinance. One amendment would ban the sale and use of consumer fireworks within the City of Lewiston. The other would permit the use of consumer fireworks in the Restricted Firearms Zone Two on July 4, December 31 and January 1.

**ADMINISTRATIVE ORDINANCE**

These amendments would increase by \$300 the annual stipend paid to the Mayor, City Councilors and School Committee members.

**LIBRARY ORDINANCE**

This amendment would establish guidelines for the Library Board of Trustees and their work soliciting donations and funds for use of the Library.

The City of Lewiston is an EOE. For more information, please visit our website at [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy.

Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Oct, 27, 2011**

TO:           LSJ Advertising Dept.           784-3062 fax   Attn: Venise  
FROM:       Lewiston City Clerk's Office   784-2959 fax

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Please bill the City Clerk's Dept account.

# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 7**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Administrative ordinance regarding the salary amount for City Councilors.

**INFORMATION:**

At the October 25 City Council meeting, Councilor Morgan recommended the City Council consider an increase to the salary amounts for the offices of Mayor, City Council and School Committee. He is recommending to increase each amount by \$300. The salaries have not been adjusted since January 1, 1990.

Currently the salary amount for a City Councilor is \$2,700 and this amendment would increase the amount to \$3,000.

Please see the City Administrator's memorandum for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EATB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 2 "Administration", Article II "Officers and Employees", Section 2-76, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting.

**AN ORDINANCE PERTAINING TO ELECTED AND APPOINTED OFFICIALS**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Chapter 2 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**CHAPTER 2**

**ADMINISTRATION**

**ARTICLE III. OFFICERS AND EMPLOYEES**

**DIVISION 1. GENERALLY**

**Sec. 2-76. Salaries of elected and appointed officials.**

Elected and appointed officials shall receive the following annual salaries, payable monthly:

(2) *City council.* Each of the councilors shall receive an annual salary of ~~\$2,700.00~~ 3,000.00, payable monthly.

NOTE: Additions are underlined; and deletions are ~~struck-out~~.

**LEGAL AD**

**PUBLIC HEARING NOTICE  
CITY OF LEWISTON  
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, City Building, on **Tuesday, November 1, 2011, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

**OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE**

There will be two proposed versions of the ordinance. One amendment would ban the sale and use of consumer fireworks within the City of Lewiston. The other would permit the use of consumer fireworks in the Restricted Firearms Zone Two on July 4, December 31 and January 1.

**ADMINISTRATIVE ORDINANCE**

These amendments would increase by \$300 the annual stipend paid to the Mayor, City Councilors and School Committee members.

**LIBRARY ORDINANCE**

This amendment would establish guidelines for the Library Board of Trustees and their work soliciting donations and funds for use of the Library.

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Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Oct, 27, 2011**

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FROM: Lewiston City Clerk's Office 784-2959 fax

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# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 8**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Administrative ordinance regarding the salary amount for School Committee members.

**INFORMATION:**

At the October 25 City Council meeting, Councilor Morgan recommended the City Council consider an increase to the salary amounts for the offices of Mayor, City Council and School Committee. He is recommending to increase each amount by \$300. The salaries have not been adjusted since January 1, 1990.

Currently the salary amount for a member of the School Committee is \$1,200 and this amendment would increase the amount to \$1,500.

Please see the City Administrator's memorandum for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 2 "Administration", Article II "Officers and Employees", Section 2-76, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting.

**AN ORDINANCE PERTAINING TO ELECTED AND APPOINTED OFFICIALS**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Chapter 2 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**CHAPTER 2**

**ADMINISTRATION**

**ARTICLE III. OFFICERS AND EMPLOYEES**

**DIVISION 1. GENERALLY**

**Sec. 2-76. Salaries of elected and appointed officials.**

Elected and appointed officials shall receive the following annual salaries, payable monthly:

(3) *School committee.* Each member of the school committee shall receive a salary at the rate of ~~\$1,200.00~~ 1,500.00 per year, payable monthly.

~~(6) *Personnel board.* Each member of the personnel board shall receive a salary at the rate of \$600.00 per year, payable monthly.~~

NOTE: Additions are underlined; and deletions are ~~struck-out~~.

**LEGAL AD**

**PUBLIC HEARING NOTICE  
CITY OF LEWISTON  
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, City Building, on **Tuesday, November 1, 2011, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

**OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE**

There will be two proposed versions of the ordinance. One amendment would ban the sale and use of consumer fireworks within the City of Lewiston. The other would permit the use of consumer fireworks in the Restricted Firearms Zone Two on July 4, December 31 and January 1.

**ADMINISTRATIVE ORDINANCE**

These amendments would increase by \$300 the annual stipend paid to the Mayor, City Councilors and School Committee members.

**LIBRARY ORDINANCE**

This amendment would establish guidelines for the Library Board of Trustees and their work soliciting donations and funds for use of the Library.

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Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Oct, 27, 2011**

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# LEWISTON CITY COUNCIL

## MEETING OF NOVEMBER 1, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 9**

**SUBJECT:**

Order Authorizing the City Administrator to execute an Agreement for Development Assistance and Tax Increment Financing Amendment with the Lofts at Bates Mill, LP which will extend the time frame within which the developer must close on the acquisition of the real estate.

**INFORMATION:**

In October 2010, the City entered into a Joint Development Agreement with The Lofts at Bates Mill, LP for the development of residential housing units at the Bates Mill property. The developer has been making great strides in the project and has secured low income housing tax credits, has received pre-construction approvals from various state and federal agencies, has secured financing for the project, has completed architectural and engineering design for the project and has put the construction out to bid and awarded the contract. Legal issues have delayed the closing date on the acquisition and the Council is asked to approve an extension until January 31, 2012.

Please refer to the background material for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/KMK*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order Authorizing the City Administrator to execute an Agreement for Development Assistance and Tax Increment Financing Amendment with the Lofts at Bates Mill, LP which will extend the time frame within which the developer must close on the acquisition of the real estate.



**City of Lewiston Maine  
City Council Order  
November 1, 2011**

**Order,** Authorizing the City Administrator to Execute an Agreement for Development Assistance and Tax Increment Financing Amendment with the Lofts at Bates Mill, LP which will extend the time frame within which the developer must close on the acquisition of the real estate.

WHEREAS: The Lofts at Bates Mill, LP and the City entered into an Agreement for Development Assistance and Tax Increment Financing on October 26, 2010; and

WHEREAS: the City and State of Maine have approved an Affordable Tax Increment Financing District for the Project; and

WHEREAS: the City has committed significant staff time and up to a total of six hundred and nine thousand dollars (\$609,000) in Lead, HOME and other funding sources to the project; and

WHEREAS: the Lofts at Bates Mill, LP has secured low income housing tax credits from the Maine State Housing Authority, has nominated and had the Bates Mill Complex placed on the National Register of Historic Places, has received pre-construction approvals from the U.S. Department of the Interior and from the Maine Historic Preservation Commission that the Project qualifies for historic tax credits, has secured the financing to acquire the Property and construct the Project, has completed architectural and engineering design for the Project, and has put the construction of the Project out to bid and awarded the construction contract; and

WHEREAS: legal issues have delayed the closing date on the acquisition of that portion of Bates Mill #2 in which the Lofts at Bates Mill will be built beyond the date of September 30, 2011 which was stated in the October 26, 2010 Agreement;

**Now, Therefore, be It Ordered by the City Council of the City of Lewiston**

That the City Administrator is hereby authorized to execute the *Agreement for Development Assistance and Tax Increment Financing Amendment* that will extend the date of closing on the real estate until January 31, 2012; and furthermore, authorize the City Administrator to extend the closing date a further if closing does not occur by January 31, 2012 for reasons beyond The Lofts at Bates Mill, LP's reasonable control.



**Executive Department**  
Lincoln Jeffers  
Assistant to the Administrator



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE:** Amendment to The Lofts at Bates Mill Agreement  
**Date:** October 26, 2011

**Background**

On September 7, 2010, the City Council approved a Development Assistance Agreement and the creation of a tax increment financing district for The Lofts at Bates Mill. It is a \$9 million, 48 unit mixed income housing project that will be built in a portion of Bates Mill #2. Thirty three of the units will be income capped as affordable housing and the other 15 will be market rate.

Since the council approved the project, Nathan Szanton and his company, Maine Work Force Housing, has been actively and diligently completing the financing and design work necessary to build a project of this magnitude. They successfully competed for an affordable housing tax credit allocation from the Maine State Housing Authority. They paid for the consulting and documentation needed to get the Bates Mill complex on the National Register of Historic Places, which was necessary to make it eligible for state and federal historic preservation tax credits which are a key component of the financing. They have completed all of the architectural and engineering design work for the project, put it out to bid, and awarded the construction contract. The financing has been secured.

**The Issue**

The portion of Bates Mill #2 in which the project is being built is being legally separated from the remainder of the mill as a condominium. Other portions of the Bates Mill complex have also been subdivided as condominiums. The multiple layers of ownership and creation of separate condominium units added significant legal complexity to the project. For the last several months, Nathan Szanton has been working with MaineHousing and his other partners to resolve the issues of concern. This has taken time and has delayed the closing for the acquisition of the project real estate beyond the September 30, 2011 date initially envisioned. The language in Section II C 6 of the October 2010 *Agreement for Development Assistance and Tax Increment Financing* states that, "If The Lofts at Bates Mill is unable to close on any of such acquisitions for reasons *beyond its reasonable control* [emphasis mine] by September 30, 2011, either party may terminate this Agreement."

The developer has worked very hard and done everything asked of him to bring this project to fruition. I believe the legal issues raised are beyond his reasonable control, and they are well along the path to resolution.

**Requested Action**

The language in Section II C 6 does not require termination. By my reading and given the circumstances, the agreement is still in force. However, the developer's attorney has asked the city to take a formal action to extend the closing date on the real estate to January 30, 2012, a date by which all parties believe the closing should occur. In addition, the amendment would authorize the City Administrator to further extend this date as necessary. Finally, the description of the number and types of units in the project will be updated to reflect final approved plans. This proactive step will minimize last hour complications that could arise at closing.

We request your approval of the attached Order authorizing this amendment to the existing *Agreement for Development Assistance and Tax Increment Financing* that will extend the closing date on the real estate to January 30, 2012.

**AGREEMENT FOR DEVELOPMENT ASSISTANCE AND TAX INCREMENT FINANCING  
AMENDMENT**

The LOFTS AT BATES MILL, LP (hereinafter referred to as “LBM”) and the CITY OF LEWISTON, MAINE (hereinafter referred to as "City") entered into an Agreement for Development Assistant and Tax Increment Financing on October 26, 2010 (hereinafter referred to as “ADA” and attached as Exhibit A), in which LBM and the City stated the commitments and obligations of each party regarding the redevelopment of approximately 61,500 square feet of space (hereinafter referred to as the “Property”), to be condominiumized and located in a portion of Bates Mill #2, located at 35 Canal Street, Lewiston Maine, into a 48 unit mixed income housing project to be known as the Lofts at Bates Mill (hereinafter referred to as the “Project”). This document will correct an error in the description of the number of housing units in the ADA and amend the ADA provision regarding the date by which LBM is to acquire the Property. All definitions, conditions, terms and other provisions of the ADA will remain in force and effect unless expressly amended by this Agreement.

RECITALS

WHEREAS, LBM and the City entered into an Agreement for Development Assistance and Tax Increment Financing on October 26, 2010; and

WHEREAS, the City and State of Maine have approved an Affordable Tax Increment Financing District for the Project; and

WHEREAS, the City has committed up to a total of six hundred and nine thousand dollars (\$609,000) in Lead, HOME and other funding sources to the project; and

WHEREAS, LBM has been successful in securing low income housing tax credits from the Maine State Housing Authority, has nominated and had the Bates Mill Complex placed on

the National Register of Historic Places, has received pre-construction approvals from the U.S. Department of the Interior and from the Maine Historic Preservation Commission that the Project qualifies for historic tax credits, has secured the financing to acquire the Property and construct the Project, has completed architectural design for the Project, and has put the construction of the Project out to bid and awarded the construction contract; and

WHEREAS, legal issues have delayed the closing date for acquisition of the Property beyond the ADA expected date of September 30, 2011; and

NOW, THEREFORE, the parties to the Agreement have determined that it is mutually advantageous and desirable to amend the ADA as follows:

1. *Section I B* WHEREAS, so that the project is described as “containing thirty-three (33) units of independent and decent, affordable one, two and three bedroom housing units for income qualified individuals and families (the “Assisted housing”) as well as fifteen (15) market rate one bedroom housing units”

2. *Section II C 6* Purchase of the Property, so that the date related to LBM’s purchase of the Property shall be changed from September 30, 2011 to January 31, 2012, subject to further extension in the discretion of the City Administrator.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of November \_\_\_\_, 2011.

THE LOFTS AT BATES MILL, LP

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
By: Nathan Szanton  
Its: Managing Member

CITY OF LEWISTON, MAINE

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WITNESS

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By: Edward A. Barrett  
Its: City Administrator

# **Exhibit A**

## **Agreement for Development Assistance and Tax Increment Financing**

THIS AGREEMENT made as of this 26th day of October, 2010 by and between **THE CITY OF LEWISTON**, a body politic and corporate situated in Androscoggin County, Maine (hereinafter sometimes referred to as “City,” which expression shall include its successors and assigns), and **THE LOFTS AT BATES MILL, LP**, a Maine limited partnership, with a place of business in Portland, Maine (hereinafter sometimes referred to as “LBM,” which expression shall include its successors and assigns).

I. WHEREAS,

A. LBM is in the business of providing affordable housing to low-income residents of Maine, including the City of Lewiston;

B. The City and LBM have identified a need for the rehabilitation of the Property consisting of approximately 61,500 square feet of condominium property within the building known as “Bates Mill #2” located at 35 Canal Street, Lewiston Maine to be known as The Lofts at Bates Mill as a project containing thirty-four (33) units of independent and decent, affordable one, two and three bedroom housing units and related community space for income qualified individuals and families (the “Assisted Housing”) as well as eighteen (15) market rate one bedroom housing units, within the City of Lewiston, collectively referred to as the “Housing”;

C. Construction of the Housing will improve the well-being of City residents and better the health, safety and welfare of City residents;

D. LBM has requested the City’s assistance in connection with the development of the Housing consisting of the City’s providing HOME funds received by the City through the Federal Department of Housing and Urban Development, and providing grant funds received by the City through the Federal Department of Housing and Urban Development’s Lead Hazard Reduction Grant Demonstration Program (the “Lead Grant”) for the purposes of remediating lead hazards in the Property relating to such of the Assisted Housing as consists of multi-bedroom units and associated common areas. The City’s total funds from these sources shall not exceed Six Hundred Nine Thousand Dollars (\$609,000) toward the projected Nine Million Dollar (\$9,000,000) cost of developing the Housing, and not more than Five Hundred Thirty Eight Thousand Dollars (\$538,000) of the City’s total funds from these sources shall consist of HOME funds. Finally, LBM has requested that the City establish a Municipal Affordable

Housing Development District and provide assistance with operating costs utilizing Tax Increment Financing, as permitted by 30-A M.R.S.A. § 5245;

E. At least 25% of the area within the proposed Municipal Affordable Housing District is suitable for residential use and is in need of redevelopment;

F. The provision of such assistance by the City has been determined to be consistent with the Development Plan, pursuant to authority granted by 30-A M.R.S.A. § 5245 *et. seq.*, including without limitation, providing affordable and livable housing and a suitable living environment, and improving the health and safety of City residents through affordable housing opportunities as outlined in the City's community development program.

II. In consideration of the foregoing, the City and LBM agree as follows:

A. Definitions. The terms defined in this Section II (A) shall, for all purposes of this Agreement, have the meanings herein specified.

1. Agreement - shall mean this Agreement for Development Assistance and Tax Increment Financing between the City and LBM.

2. Assisted Housing - shall have the meaning stated in Section I (B).

3. Captured Assessed Value - shall mean the percentage of the Increased Assessed Value, as certified by the Tax Assessor, which is utilized from year to year to finance the Project Costs. This percentage shall be 50% annually.

4. Captured Tax Increment - means the Tax Increment Revenues paid on the Captured Assessed Value which shall be paid into the Development Program Fund for distribution as described herein.

5. City - shall mean the City of Lewiston, Maine, with a mailing address of 27 Pine Street, Lewiston, Maine 04240 Attention: Director of Finance. Copies of notices required under this Agreement shall be sent to Martin I. Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O. Box 3070, Lewiston, Maine 04243-3070.

6. City Council - shall mean the legislative body of the City.

7. Claims - shall have the meaning stated in Section II (G).

8. Current Assessed Value - shall have the meaning set forth in 30-A M.R.S.A. Section 5222(4), and for the purposes of this Agreement shall mean the

assessed value of all real property in the District each year beginning as of April 1<sup>st</sup>, 2010 and continuing up to April 1, 2026

9. Development Costs - shall mean capital expenditures made in order to complete the Housing, using the City's commitment of its HOME funds and Lead Grant funds.

10. Development District or District - shall mean the Municipal Affordable Housing Development District to be established by resolution of the City Council and pursuant to 30-A M.R.S.A. Section 5245, *et seq.*, as set forth in Exhibit A consisting of approximately 66,000 square feet on condominium space in Bates Mill #2.

11. Development Program - shall mean the Development Program adopted by the City Council for the District pursuant to 30-A M.R.S.A. § 5248

12. Development Program Fund - shall mean the fund established by the City for the District pursuant to 30-A M.R.S.A. § 5250-A (3) which shall be pledged to and charged with the payment of the Project Costs outlined in the Development Program provided by LBM to the City and approved by the City.

13. Eligible Lead Costs. – Such of the Development Costs as (1) consist of a proportion of the total lead hazard remediation costs of the Property equal to the proportion of the square footage of the Housing committed to multi-bedroom units and associated common areas to the total square footage of the Property and (2) are eligible for reimbursement under the terms of the Lead Grant.

14. Event of Default - shall have the meaning stated in Section II (F).

15. Housing – shall mean the 48 units of housing described in Section I (B) be constructed on the Property.

16. Increased Assessed Value - shall mean the amount by which the Current Assessed Value exceeds the Original Assessed Value of the Development District for each of the 15 Tax Years beginning in Tax Year 2013 and concluding at the end of Tax Year 2027.

17. LBM - shall mean The Lofts at Bates Mill, LP, a Maine Limited Partnership, with a mailing address of c/o The Szanton Company, One City Center, 4th Floor, Portland, Maine 04101. Copies of notices required under this Agreement shall also

be sent to John S. Kaminski, Drummond Woodsum & MacMahon, 84 Marginal Way, Suite 600, Portland, ME 04101.

18. Optimal Assessed Value - shall mean (a) prior to April 1, 2013 an amount equal to the actual Current Assessed Value and (b) from and after the beginning of April 1, 2013, an assessed Value in the amount of Two Million Sixty-Five Thousand Six Hundred Fifty Dollars (\$2,065,650), which amount shall be reduced to reflect any reduction in value from any fire, earthquake, or other casualty or act of God until any damage resulting therefrom is restored and the term of payment obligations of the parties under this Agreement shall be extended by the same period of time the value of the property is reduced until the damage is restored.

19. Original Assessed Value – shall mean the assessed value of all real property in the District as of April 1, 2009.

20. Project Costs - shall mean any costs that are eligible for reimbursement pursuant to 30-A M.R.S.A § 5245 et seq. or in regulations promulgated thereunder and set forth in the Development Program submitted by LBM and approved by the City, specifically including operating expenses.

21. Property – shall mean approximately 61,500 square feet of condominium space within Bates Mill No. 2, located 35 Canal Street, Lewiston, Maine, as more fully described in Exhibit A, attached hereto.

22. Tax Increment Revenues - shall mean those real property tax revenues attributable to Increased Assessed Value in each Tax Year, during the fifteen (15) year period beginning in Tax Year 2013 and continuing through the end of Tax Year 2027.

23. Tax Year - shall mean the municipal tax year which begins on July 1<sup>st</sup> after the preceding April 1<sup>st</sup> assessment date in that same calendar year, and which ends on the following June 30<sup>th</sup>. By way of illustration, Tax Year 2011 began on July 1, 2010.

B. City's Obligations.

1. Establishment of Development District. The City shall use commercially reasonable efforts to establish and cause the Maine State Housing Authority to approve the Development District as an Affordable Housing Tax Increment Financing District pursuant to 30-A M.R.S.A. § 5245 *et seq.*, for the purpose of facilitating the provision of the financial assistance contemplated hereunder.

2. Disbursement of HOME and Lead Grant funds. The City shall provide Federal HOME funds received by the City through the Federal Department of Housing and Urban Development towards HOME funds eligible Development Costs, and Lead Grant funds received by the City through the Federal Department of Housing and Urban Development towards Eligible Lead Costs in an amount not to exceed Six Hundred Nine Thousand Dollars (\$609,000). Not more than Five Hundred Thirty Eight Thousand Dollars (\$538,000) of the City total funds from these sources shall consist of HOME funds. These funds shall be provided by City to LBM pursuant to a 30 year nonrecourse subordinate non-interest bearing mortgage loan to LBM provided that upon the agreement of the City and LBM, a portion of these funds may be provided as grants.

3. Disbursement of TIF funds to LBM. The City will disburse the Captured Tax Increment for application toward or reimbursement of Project Costs to LBM twice annually in thirty (30) disbursements beginning in Tax Year 2013 and continuing through Tax Year 2027, as described in Section II(D)(3), which obligation to disburse is subject to: (1) completion of construction of the Housing by LBM; and (2) designation of the Development District and approval of the Development Program and this Agreement by the director of the Maine State Housing Authority.

C. LBM's Obligations.

1. LBM's Obligation to Construct. LBM agrees to construct the Housing on the Property, and agrees that the Assisted Housing will be leased or otherwise occupied by households with incomes at or below fifty percent (50%) of area median income, adjusted for household size, LBM's total investment in the Property, including the City's assistance, shall not be less than approximately Nine Million Dollars (\$9,000,000), but in any event sufficient to complete construction of the Housing. Construction of the Housing shall commence within eighteen (18) months of the date first set forth above, and LBM shall use commercially

reasonable efforts to cause the same to be completed on or before June 30, 2012. In the event that the Housing and/or any other portion of the Property is damaged or destroyed by any fire, earthquake, or other casualty or act of God prior to the end of Tax Year 2027, LBM shall use such commercially reasonable efforts as are necessary to restore the Housing and/or other portion of the Property to the same condition that existed prior to the damage or destruction.

2. Reimbursement of City's Fees and Expenses. LBM shall pay or reimburse the City for all reasonable fees, expenses and other charges of the City and its consultants, including the City's attorneys, in connection with the negotiation, execution and carrying out of this Agreement and the negotiation, approval and carrying out of the Development Program.

3. State Reporting Requirements. To the extent required by statute and regulations, LBM shall comply with all reporting requirements relating to this tax increment financing project.

4. LBM Obligation to Achieve and Maintain Optimal Assessed Value. On or before March 31, 2013, LBM agrees that the Optimal Assessed Value shall be achieved, and that as of April 1<sup>st</sup> of each succeeding year thereafter, during the term of this Agreement, Current Assessed Value shall be maintained at no less than the Optimal Assessed Value. The provisions of this paragraph shall apply notwithstanding that Section II.C.1 does not require completion of the Housing until June 30, 2012.

5. LBM Contingencies. If any of the following conditions are not satisfied, LBM shall have the sole and exclusive right to terminate this Agreement by delivering written notice of such termination to the City, and in the event of such termination the parties shall have no further obligations hereunder:

a. On or before December 31, 2010, LBM is awarded low income housing tax credits by the Maine State Housing Authority in an amount when combined with the other sources of financing is sufficient in the sole discretion of LBM to finance construction of the Housing

b. On or before July 1, 2011, LBM receives all pre-construction approvals from the U.S. Department of Interior necessary for LBM to qualify for historic tax credits in an amount when combined with the other sources of financing is sufficient in the sole discretion of LBM to finance construction of the Housing.

c. On or before July 1, 2011, LBM receives all certifications of the Property by the Maine State Housing Authority and Maine Historic Preservation Commission as may be required under 36 M.R.S.A. §5219-BB as is necessary to claim the state historic tax credit thereunder in an amount when combined with the other sources of financing is sufficient in the sole discretion of LBM to finance construction of the Housing.

d. On or before July 1, 2011, LBM obtains other financing commitments in an amount when combined with the other sources of financing is sufficient in the sole discretion of LBM to finance construction of the Housing.

e. City obtains approval of the District from Maine State Housing Authority as contemplated by Section II.A.1 by January 1, 2011.

LBM shall have twenty-one (21) days from the dates specified in the foregoing subsections to deliver such termination notices to the City.

6. Purchase of the Property. LBM agrees to purchase those condominium parcels that comprise the Property. If LBM is unable to close on any of such acquisitions for reasons beyond its reasonable control by September 30, 2011, either party may terminate this Agreement.

D. Administrative Provisions.

1. Taxable Status of District Property: Tax Base Conservation Payment. The parties agree that, other than public ways, water pipes or conduits, industrial inventories or stock in trade, there is no real property located within the boundaries of the Development District which is entitled to exemption from municipal taxation by reason of the status or other qualification of its owner, or the use to which it is put, and that in the event that any part of such real property now or hereafter located, constructed or delivered into the Development District should be determined to be entitled to such exemption from municipal taxation, the owner of such real property shall annually be liable to City in an amount equal to the amount of tax which, but for the exemption, would be due to the City with respect to such real property (hereinafter the "Tax Base Conservation Payment"). Payment of the Tax Base Conservation Payment shall be made on or before September 30th of each year in which it is due. LBM shall

promptly pay the Tax Base Conservation Payment. This Agreement shall be recorded in the Androscoggin County Registry of Deeds and shall be binding upon the parties and upon all Lessees and/or successors-in-title to LBM with respect to property located within the District, for so long as this Agreement shall remain in effect. The Agreement to make Tax Base Conservation Payments with respect to property which is subject to tax exemptions (i) shall be a covenant running with the land, made in consideration of the assistance by the City of Lewiston's Development Costs; (ii) is a voluntary contractual arrangement; and (iii) is not and shall not be construed to create a service charge.

2. Deposits into Development Program Fund. The term of the Development District and this Agreement, subject to the provisions of Section II (H) (6), shall be 17 years. During the term of the Development District, the City shall annually deposit into the Development Program Fund, or other fund established pursuant to 30-A MRSA § 5250-A(3)(A), that portion of each property tax payment by LBM or its successors or assigns during the term of this Agreement constituting Tax Increment Revenues from within the Development District. The City shall make such deposit promptly upon receipt of Tax Increment Revenues. The first payment into the Development Program Fund shall be made from revenues arising out of the Tax Year 2013 municipal tax bill and shall continue until the last such deposit shall be made from revenues arising out of the Tax Year 2027 municipal tax bill.

3. LBM Payment. LBM shall pay to the City when due the taxes on the Optimal Assessed Value or Current Assessed Value, whichever is higher. The City shall withhold from any payment to be made by the City pursuant to this Agreement any amount due from LBM that is due and unpaid.

4. Payments from the Development Program Fund for Project Costs. Beginning with the 2013 tax year and continuing through the end of Tax Year 2027 within fifteen (15) days after the last payment by LBM of taxes for the Tax Year, and provided that LBM has made full payment of taxes on the Optimal Assessed Value or Current Assessed Value, whichever is higher, the City shall pay LBM the Captured Tax Increment for that Tax Year, as identified in Section II (A) (4). LBM agrees that all payments made to it will be used and applied to Project Costs. The remaining proceeds of

the Development Program Fund shall be remitted to the City's General Fund, consistent with 30-A M.R.S.A. §§ 5250-A (3) (D).

E. LBM Guaranty of Optimal Assessed Value to the City.

1. Undertaking to Guaranty and Determination of Amounts Guaranteed. In order to induce the City to enter into this Agreement, LBM covenants, notwithstanding Section II.C.1, that by March 31, 2013, the Optimal Assessed Value shall be achieved. To give effect to that covenant, LBM agrees that in the event that as of March 31, 2013 or as of April 1<sup>st</sup> of each subsequent year while this Agreement remains in effect, the Current Assessed Value is less than the Optimal Assessed Value, LBM promises to pay to the City a sum equal to the difference between the actual tax revenues (being those computed upon the basis of the then Current Assessed Value of the Housing and land) and the tax revenues which would have been realized had the Optimal Assessed Value been achieved, as adjusted as necessary for the portion thereof that would have been paid to pursuant to the provisions of this Agreement.

2. Due Date of Payment, Etc., of Guaranteed Payments. Such payments shall be made on the due date(s) of tax payments to the City following the April 1 assessment date to which the guaranteed payments correspond) and shall, in the event that they are not timely paid, be subject to the same rate of interest as that assessed upon late taxes. These Guaranty obligations shall remain in effect during the term of this Agreement.

3. Waiver. In connection with any of the obligations described in this Subsection E, LBM hereby grants to the City full power, in its commercially reasonable discretion and with notice to LBM, to deal in any manner with LBM's liabilities under this Agreement, including, but without limiting the generality of the foregoing, the following powers: (i) to grant any extension or renewal thereof and any other indulgence with respect thereto, and to effect any release, compromise, or settlement with respect thereto; and (ii) to enter into any agreement of forbearance with respect to all or any part of the liabilities and to change the terms of any such agreement. The obligations of LBM hereunder shall not be released, discharged or in any way affected, nor shall LBM have any rights of recourse against City, by reason of any action City may take or omit to take under the foregoing powers.

F. Default and Remedies.

1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

a. Failure to Pay. Failure of either party to timely make payments to the other party due and payable under this Agreement within fifteen (15) days after the receipt of written notice of such payment failure.

b. Abandonment of Project. LBM shall abandon the project.

c. Failure to Pay Taxes. LBM shall fail to make any payment of municipal taxes assessed upon real or personal property of LBM's within the District within Forty-Five (45) days after the due date of such taxes and within Fifteen (15) days after the City shall have provided LBM with written notice of such failure.;

d. Other Failures to Perform. Any other failure by a party, other than a payment failure, to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the party to be observed or performed;

e. Events of Insolvency. If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises for the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of a party's affairs shall have been entered against the party or the party shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the party or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the party or the failure by the party to have a petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the party.

2. Remedies on Default. Whenever any Event of Default referred to in Section II (F) (1) other than a payment failure under Section II (F) (1) (a) shall have occurred and be continuing for a period of thirty (30) days after a party's receipt from the other party of written notice of such Event of Default by the party or, in the case of a payment failure, be continuing beyond any applicable grace period pursuant to Section

II(F)(1)(a), if any, the other party may, in its discretion, (a) specifically enforce the performance or observance of any obligations, agreements or covenants of the defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder; (b) suspend its performance under this Agreement for so long as the Event of Default continues or remains uncured; and/or (c) declare an Event of Default to exist, terminate this Agreement and its obligations under this Agreement. A defaulting party agrees to pay the other party's expenses, including reasonable attorneys' fees, incurred in connection with enforcing this Agreement or as a result of an Event of Default by the defaulting party.

3. Remedies Cumulative. No remedy herein conferred upon or reserved to a party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to the remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default, to insist upon the strict performance of any covenant or agreement herein set forth or to exercise any right or remedy upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the party with all of the covenants and conditions hereof, or of the rights to exercise any such right or remedy, if such Events of Default be continued or repeated.

G. Indemnification.

LBM agrees that it will at all times indemnify and hold harmless the City and each officer or employee of the City against any and all losses, costs, damages, expenses and liabilities of whatever nature, including, but not limited to, reasonable attorney's fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments, directly or indirectly resulting from, arising out of, or related to one or more

Claims (hereinafter defined), but excluding any Claims to the extent arising from the City's negligent acts or omissions. The term "Claims" as used herein shall mean all claims, lawsuits, causes of action and other legal actions and proceedings of whatever nature against the City relating in any manner to the actions or omissions of LBM in connection with the development of the Housing and LBM's performance under this Agreement, including but not limited to claims, lawsuits, causes of action and other legal actions and proceedings, involving bodily or personal injury or death of any person or damage to any property (including but not limited to persons employed by the City or any other person and all property owned or claimed by the City, LBM, any affiliate of LBM or any other person). The obligations of LBM under this Section shall apply to Claims that arise out of, or are related to any event, occurrence, condition or relationship prior to termination of this Agreement, whether or not such Claims are asserted prior to termination of this Agreement or thereafter. The obligations of LBM under this Section shall not be affected by an assignment or other transfer by the City or LBM of its right, title or interest under this Agreement, and will continue to inure to the benefit of the City and its officers and employees both prior to and after any such assignment or transfer. Notwithstanding any other provision of this Agreement, this section shall survive any termination of this Agreement.

H. Miscellaneous.

1. Representations and Warranties. Each party represents and warrants that (a) it is duly organized, validly existing and in good standing under the laws of the State of Maine (b) it has the necessary power and authority to enter into and perform its obligations under this Agreement; (c) it has duly authorized the persons(s) signing this Agreement to execute this Agreement on its behalf; (d) upon execution, this Agreement will be a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (e) the execution and delivery of this Agreement and its performance by such party will not violate, result in a breach of or conflict with any law, rule, regulation, order or decree applicable to such party, its organizational documents or the terms of any other agreement binding on such party, except that to the extent that any obligations of the City hereunder require approvals by

municipal zoning officials or bodies, including without limitation, the Planning Board and Zoning Board of Appeals, or require approvals of State agencies, or judgments of state courts, such as in the case of eminent domain proceedings, such obligations are contingent upon obtaining the necessary approvals.

2. Invalidity. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

3. Integration. Except as otherwise expressly provided herein, this Agreement contains the entire agreement between the parties hereto, and no modification, amendments, change or discharge of any term or provision of this Agreement shall be valid or binding unless the same is in writing, signed by all parties hereto. No waiver of any of the terms of this Agreement shall be valid unless signed by the party against who such waiver is asserted. The parties agree that they will not assert in any action arising under this Agreement that an amendment or waiver of this Agreement has occurred unless made in writing.

4. Notices. Any notice, demand, offer, or other written instrument required or permitted to be given, made, or sent hereunder shall be in writing, signed by the party giving or making the same, and shall be by hand delivery or sent by certified mail to the other at its respective address stated in Section II. Any party hereto shall have the right to change the place to which any such notice, offer, demand, or writing shall be sent to it by similar notice sent in like manner to the other party. The date of receipt or rejection of any offer, demand, notice, or instrument shall be deemed to be the date of such offer, demand, notice, or instrument and shall be effective from such date.

5. Choice of Law; Jurisdiction. It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and under and pursuant to the laws of the State of Maine and that, in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of Maine shall be applicable and shall

govern to the exclusion of law of any other forum. The parties agree to the jurisdiction of the courts of the State of Maine or of the United States of America located in the State of Maine, and agree that any action relating to this Agreement shall be brought in either such court.

6. Effective Date and Term. This Agreement shall remain in full force from the date of execution of this Agreement and shall expire upon the payment of all amounts due to LBM and the performance by the City and LBM of their respective obligations under this Agreement (not including amounts owing under the mortgage loan referenced in Section II (B) (2)) unless sooner terminated as provided in this Agreement. The obligations of the City to deposit Tax Increment Revenues into the Development Program Fund and to make payments from the Development Program Fund to LBM shall terminate after the conclusion of Tax Year 2027 unless this Agreement shall be terminated earlier. For Tax Years 2028 and thereafter, all property within the Development District shall be taxable by the City to the extent provided by law.

7. Waiver. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

8. Assignability. LBM shall not have the right to transfer or assign all or any portion of its rights in, to and under this Agreement, or the Development Program, at any time, unless the City, by its City Administrator consents to the same, which consent shall not be unreasonably withheld.

9. Parties in Interest. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person other than the City and LBM any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and LBM.

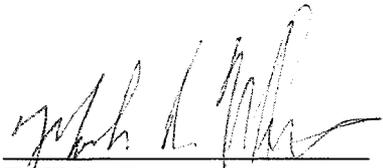
10. No Personal Liability of Officials of the City: Relationship of Parties. No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation, or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and no such person shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof. The parties understand and agree that no party is an agent, employee, contractor, vendor, representative or partner of any other party, that (except as expressly set forth in writing) no party shall owe a fiduciary duty to any other party, that no party shall hold itself out as such to third parties and that no party is capable of binding any other party to any obligation or liability without the prior written consent of the other party. Neither the execution and delivery of this Agreement, nor consummation of the transactions contemplated hereby, shall create or constituted a partnership, joint venture or any other form of business organization or arrangement between or among the parties.

11. Section Headings. The title to the Sections of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

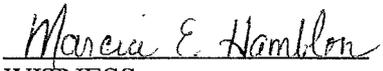
12. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

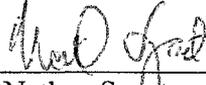
**(Remainder of page intentionally left blank)**

IN WITNESS WHEREOF, the said City of Lewiston and The Lofts at Bates Mill, LP have caused this Agreement to be executed on their behalf by their officials and officers, as set forth below, thereunto duly authorized, as of the day and year first above written.

  
WITNESS

CITY OF LEWISTON  
  
By: Edward A. Barrett  
Its: City Administrator

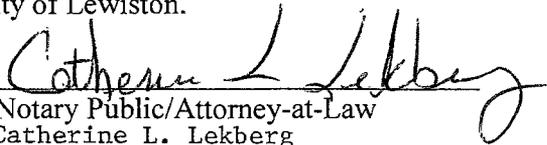
  
WITNESS

THE LOFTS AT BATES MILL, LP  
By: Mill Number Two, LLC  
Its General Partner  
  
By: Nathan Szanton  
Its Managing Member

STATE OF MAINE  
ANDROSCOGGIN, SS.

October 26, 2010

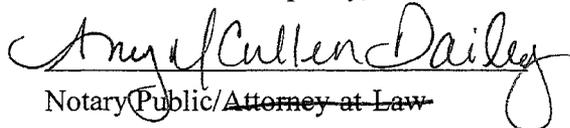
Personally appeared before me the above-named Edward A. Barrett, City Administrator of the City of Lewiston and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said City of Lewiston.

  
Notary Public/Attorney-at-Law  
Catherine L. Lekberg  
My Commission Expires: 2/5/2011

STATE OF MAINE  
CUMBERLAND, SS

October 26, 2010

Personally appeared before me the above-named Nathan Szanton, Managing Member of Mill Number Two, LLC, the General Partner of The Lofts at Bates Mill, LP, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said limited liability company

  
Notary Public/Attorney-at-Law

My Commission Expires  
October 14, 2015

**LEWISTON CITY COUNCIL**  
**MEETING OF NOVEMBER 1, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 10**

**SUBJECT:**

Resolve Making an Appropriation from the Library Endowment Fund.

**INFORMATION:**

On an annual basis, the Library Board of Trustees reviews the Library's endowment and develops a proposal for the use of income it has generated. Use of these funds is governed by a policy that limits the amount of endowment income that may be spent in any one year to 4% of the three year average value of the endowment. Only income may be used, not endowment principal. The Board recently recommended expenditures of \$45,400, and this resolve would appropriate these funds in accordance with the Board's recommendations. We anticipate including language in future appropriations resolves that will deal with endowment use in future years.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*E. H. B. K. M.*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve making an appropriation from the Library Endowment Fund.



City of Lewiston Maine  
City Council Resolve  
November 1, 2011



**Resolve,** Making an Appropriation from the Library Endowment.

Whereas, on an annual basis, the Library Board of Trustees reviews the Library's endowment and develops a proposal for the use of income generated by the endowment; and

Whereas, the use of these funds is governed by a policy which limits the amount of endowment income that may be spent in any one year to 4% of the three year average value of the endowment; and

Whereas, the Board has recommended that \$45,400 in endowment income be used during this fiscal year for a variety of purposes including the purchase of books and materials and programming costs;

**Now, therefore, be It Resolved by the City Council of the City of Lewiston** that the amount of \$45,400 is hereby appropriated from the Library endowment for the purposes shown on the attached expenditure budget.

# Lewiston Public Library Endowment Fund Budget FY2012

## Fund Balances:

6/30/2009	\$	1,005,628
6/30/2010	\$	1,099,173
6/30/2011	\$	1,300,351

Average \$ 1,135,051

FY11 Spending limit (4% of Avg.) \$ 45,402

Approved by Board on 9/8/2011; subject to 10% line item adjustment at director's discretion

## Expenditures Budget

Promotion	\$	-
Adult books & ebooks		12,300
French books		400
Children's books & ebooks		4,000
Adult audio-visual materials		5,200
Children's audio-visual materials		1,100
Staff conferences and CE		2,000
Hartley Center programming		3,000
Children's programming		3,200
Teen programming		1,200
Community collaboration		2,000
Capital outlay		2,600
Investment Advisor Fees		8,400
Total	\$	45,400

## **LEWISTON PUBLIC LIBRARY POLICY ENDOWMENT SPENDING**

The Endowment Fund of the Lewiston Public Library (LPL) is a pool of permanently endowed funds. The combining of individual funds for investment purposes creates greater flexibility in managing portfolios, enabling the LPL to develop a diversified investment approach to control risk and protect the assets of the Fund. The endowments are accounted for separately, sharing in the investment earnings and current value of the Endowment Fund based on their respective percentages of the Fund's value. Although the endowments are accounted for separately, gifts of securities entering the investment pool become part of the pool and no longer are associated with the endowment. Thus, gains and losses resulting from a gift of securities affect the investment pool as a whole, not the endowment from which the gift originated.

The objective in managing the Lewiston Public Library Endowment Fund is to balance the long-term needs of the endowment with the short-term needs of the Library. Thus, we aim to protect the purchasing power of the Endowment by providing a rate of growth to keep pace with inflation as a minimum (long-term need), and pay out an adequate amount of income to support the purposes of the Endowment (short-term need). The endowment's investment committee has an expected return for the Endowment of 6%. This 6% self-imposed benchmark, is what is projected feasible, given the investment restrictions the City of Lewiston faces as a municipality. To facilitate the achievement of these goals, the City of Lewiston will operate the Endowment using the total return basis.

The total return basis focuses on the overall return of the investment portfolio, including both investment income and net appreciation. Under the total return basis, an Endowment spending rate of the invested assets is established, versus spending only from interest and dividend income. The Endowment Fund's spending rate, as established by its Board of Trustees, is 4% of the average fair market value of the investment pool as of the past three years ended June 30.

The Library Director shall develop an Endowment Expenditure Budget and shall annually present it to the Library Board for adoption. All expenditures from the Endowment Fund must be made in accordance with the adopted Endowment Expenditure Budget unless otherwise specifically authorized by the Library Board.

Adopted 12/9/98  
Revised 9/10/2003  
Revised 9/9/2010

**LEWISTON CITY COUNCIL**  
**MEETING OF NOVEMBER 1, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 11**

**SUBJECT:**

Resolve Establishing a Kennedy Park Bandstand Restoration Committee.

**INFORMATION:**

The City Council recently held a workshop at which the future of the Kennedy Park Bandstand was discussed. Options reviewed included repair, restoration, or demolition. A number of citizens and representatives of the Historic Preservation Commission spoke in favor of efforts to save the structure and indicated their willingness to undertake a fund raising effort for this purpose. The Council indicated its willingness to allocate a portion of the Community Development Block Grant funds currently designated for Kennedy Park improvements for the project.

The attached resolve would establish the Kennedy Park Bandstand Restoration Committee, authorize it to undertake a fund raising effort, require it to report on progress on or before the end of July 2012, and establish a process for seeking and handling donations. It would also designate up to \$75,000 in CDBG funds as a city match toward private contributions.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

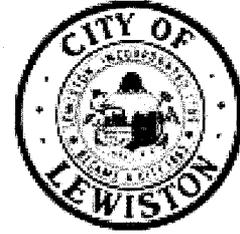
**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve establishing a Kennedy Park Bandstand Restoration Committee.



**City of Lewiston Maine  
City Council Resolve  
November 1, 2011**



**Resolve,** Establishing Kennedy Park Bandstand Restoration Committee

Whereas, the bandstand in Kennedy Park is a historic structure closely tied to the history of this community; and

Whereas, in addition to numerous community events and celebrations, the bandstand was the site of speeches by John F. Kennedy on the eve of his election as President and of President Lyndon B. Johnson; and

Whereas, in recent years, the bandstand has suffered from age and deferred maintenance resulting in its closure in 2010; and

Whereas, after considering various options and hearing from members of the public, the City Council has determined that renovation or restoration of the bandstand is both appropriate and desired by the community; and

Whereas, given current financial realities, it is clear that such a project will require the combined resources of the City and of private individuals and organizations;

**Now, therefore, be It Resolved by the City Council of the City of Lewiston that**

There is hereby established a Kennedy Park Bandstand Restoration Committee.

1. Purpose. The Committee is authorized to undertake fund raising efforts and to accept, on behalf of the City, donations toward the renovation/restoration of the Kennedy Park Bandstand. The Committee shall also make recommendations to the City Council on the scope of restoration/repair work to be undertaken and its estimated cost.
2. Composition. The Committee shall be appointed by the Mayor and shall be composed of representatives of the Historic Preservation Commission and others who have indicated support for this effort. The Mayor shall designate one of its members to serve as Chair.
3. Term. The Committee shall submit a report to the City Council on or before July 31, 2012 summarizing the status of its fund raising efforts and, if available, the

proposed scope of work and its estimated cost. The Committee shall be officially dissolved on September 30, 2012 unless its term is formally extended by the City Council after a finding that sufficient fund raising progress has been made to justify extending the Committee's term to allow it to complete the project.

4. Staff Support. The Planning and Code Enforcement Department shall provide logistical support to the Committee. Other members of the City Management Team shall cooperate with the Committee as required.
5. Fund Raising Protocol. All donations made for the purpose of renovating/restoring the Kennedy Park Bandstand shall be made to the City of Lewiston. The Finance Director or her designee shall establish the necessary and appropriate procedures and policies to govern the solicitation of funds and to provide assurance to donors that their contributions will be used for the stated purposes. In addition, the Finance Director shall take steps to put in place the necessary financial controls, including issuing receipts acknowledging all contributions, to ensure full accountability for donated funds accepted by the City for this purpose. In the event that sufficient funds are not raised to allow the project to be undertaken, contributed funds shall be returned to the donor. If funds are received from anonymous sources and cannot be refunded, these donations shall be used for other projects designed to repair or improve historic properties located in the City of Lewiston.
6. Meetings and Reports. The Committee shall meet as necessary at a time convenient to its members. Minutes of these meetings shall be kept and provided to the City Council.

**Be it Further Resolved,** that the City Council hereby designates up to \$75,000 in Community Development Block Grant Funds currently appropriated for Kennedy Park improvements to be used to match donations received by the City for this restoration project. The City will contribute \$1 for every \$2 received in cash or documented in-kind donations from private individuals and organizations.