

**LEWISTON CITY COUNCIL AGENDA  
CITY COUNCIL CHAMBERS  
DECEMBER 20, 2011**

**6:00 p.m. Executive Session to discuss disposition of property.**

**6:30 p.m. Executive Session to discuss acquisition of property.**

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

Pledge of Allegiance to the Flag.

Moment of Silence.

Update from the Lewiston Youth Advisory Council.

Acceptance of meeting minutes from the meetings of June 21, July 19, August 16, November 1, 15, December 6 and 12, 2011.

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 3.

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. Amendment to the Traffic Schedule regarding parking regulations on a portion of Ash Street.
- \* 2. Adoption of City Council meeting schedule for January 2012.
- \* 3. Resolve - Adopting Revised Water Division Terms and Conditions.

**REGULAR BUSINESS:**

- 4. Public Hearing on a new liquor license application and special amusement permit for Club Paris, 18 Park Street.
- 5. Public Hearing on a new liquor license application for Oriental Super Buffet, Inc., 40 East Avenue.
- 6. Public Hearing on a renewal application for a Special Amusement permit for live entertainment for Pub @ 33, 33 Sabattus Street.
- 7. Public Hearing and Final Passage regarding an amendment to the City Code to lower the percentage allowed for the amount of debt to be authorized by the City Council for bond issue authorization.
- 8. Public Hearing and Final Passage for Land Use Code Amendments concerning the shoreland boundary of the Garcelon Bog.
- 9. Public Hearing and Final Passage for Land Use Code Amendments regarding clarification that a permit shall be required for all activities regulated by the Zoning and Land Use Code.

10. Public Hearing for the Establishment of a Tax Increment Financing (TIF) district and approval of a Development Program for the creation of the Riverfront Island Hotel project.
11. Order authorizing the City Administrator to Execute a Non-Exclusive Option Agreement with Great Falls Recreation for the Bates Mill Five Property.
12. Order Authorizing the City Administrator to Execute a New Collective Bargaining Agreement with the Maine State Employees Union (MSEA) on behalf of the Lewiston Unit.
13. Order Authorizing the City Administrator to execute a New Collective Bargaining Agreement between the City of Lewiston and the American Federation of State, County and Municipal Employees, AFSCME Council #93 on behalf of the Lewiston Professional Technical Unit.
14. Resolve Authorizing certain actions intended to restore the Libby Mill Cupola in memory of former City Councilor James Carigan.
15. Receipt of recommendation from the Finance Committee regarding the location of utility poles on Lincoln Street.
16. Reports and Updates.
17. Any other City Business Councilors or others may have relating to Lewiston City Government.
18. Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**LEWISTON CITY COUNCIL**  
**MEETING OF DECEMBER 20, 2011**

**AGENDA INFORMATION SHEET:**

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

**SUBJECT:**

Executive Session to discuss Disposition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**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.

*EAB/kmm*

**REQUESTED ACTION:**

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To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Disposition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

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

**SUBJECT:**

Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**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.

*EATB/kmm*

**REQUESTED ACTION:**

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To enter into Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Amendment to the Traffic Schedule regarding parking regulations on a portion of Ash Street.

**INFORMATION:**

The Police Department is recommending that parking be prohibited on a portion of Ash Street. A portion of the street was changed to a single, one-way travel lane in order to enhance parking options and to improve visibility at some intersections. The turning lane at the Ash Street and Bates Street intersection requires a set-back for the traffic pattern and therefore the Police Department and Public Works Department are requesting this amendment. Passage is recommended.

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

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

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To adopt the proposed amendment to the Traffic Schedule to prohibit parking on a portion of Ash Street, as outlined on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police




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**DATE:** November 22, 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 through Public Works; where Ash St was reconfigured to a single one-way travel lane in order to enhance parking and improve intersection line-of-sight and maneuverability; a turning lane was configured at Ash/Bates which requires for a set-back of the permitted parking of vehicles to facilitate that traffic pattern movement...

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**

**ASH STREET**                      **Odd numbered side, northerly side, beginning at the northeasterly corner of Ash Street & Bates Street and extending easterly on Ash St a distance of 125’.**

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

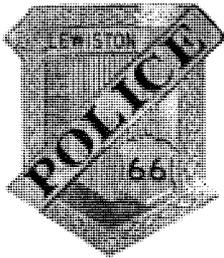
If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended “No Parking” area (and removal or further set-back of the “2-hour Parking” signposting).



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171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007  
www.lewistonpd.org





**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



*David 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 DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Adoption of City Council meeting schedule for January 2012.

**INFORMATION:**

Since there are five Tuesdays in January 2012, the City Administrator is recommending that the City Council meet on the second and fourth Tuesday of January. The Inaugural Ceremony will occur on Tuesday, January 3, 2012 by City Charter. By meeting on the second and fourth Tuesday, the meeting schedule will be in sync with the first February meeting and with the pattern of meeting every other week.

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

The City Administrator recommends approval of the requested action.

*EAB/1/10/11*

**REQUESTED ACTION:**

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To suspend Section 1,(a) of the Rules Governing the City Council and to hold the regular Council meetings for January 2012 on Tuesday, January 10 and Tuesday, January 24.

**LEWISTON CITY COUNCIL**  
**MEETING OF DECEMBER 20, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 3**

**SUBJECT:**

Resolve - Adopting Revised Water Division Terms and Conditions.

**INFORMATION:**

Earlier this fall, the Council approved the Water Division Terms and Conditions as required by the Maine Public Utilities Commission (PUC). The Terms and Conditions statement was prepared by the Lewiston Water Division and filed with the Maine Public Utilities Commission as a contract between the customer and the utility. The PUC is asking for some slight revisions to the document, which have been incorporated by the Water Division. Council is asked to adopt the revised document.

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

The City Administrator recommends approval of the requested action.

*EAB/KMM*

**REQUESTED ACTION:**

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To adopt the Resolve Adopting Revised Water Division Terms and Conditions.



**City of Lewiston Maine  
City Council Resolve  
December 20, 2011**



**Resolve, Adopting Revised Water Division Terms and Conditions**

Whereas, earlier this year, the Council adopted revised Water Division Terms and Conditions as required by the Maine Public Utilities Commission (PUC); and

Whereas, these Terms and Conditions were submitted to the PUC for review and approval; and

Whereas, the PUC has requested some revisions to the Terms and Conditions as submitted; and

Whereas, the attached Terms and Conditions reflect these changes;

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

The attached Water Division Terms and Conditions are hereby adopted and will become effective upon approval by the Maine Public Utilities Commission.



# Department of Public Works

David A. Jones, P.E.  
Director



TO: Ed Barrett, City Administrator

FR: Pamela Labelle, Business Manager

DT: December 12, 2011

RE: Revision of Terms and Conditions – Changes Required for PUC to Approve

The PUC recently reviewed our Terms and Conditions that we filed for approval. They found four (4) items in our Terms and Conditions that they want changed.

One of the revisions is on page 6, section 22 and the other three revisions are on page 11, section 28J.

## Section 22, page 6

They are requiring us to remove the first sentence of this section that says **“The Utility will test backflow prevention devices for the City of Lewiston owned buildings at no charge to the City.”** They feel it is discriminatory toward our other customers.

## Section 28J, page 11

Change the 2<sup>nd</sup> sentence in the 2<sup>nd</sup> paragraph that says **“the utility reserves the right to preapprove the plan”** to “the Utility will either provide the plan or preapprove the applicant’s plan, as specified in Chapter 650.”

Change the last sentence in the 2<sup>nd</sup> paragraph that says **“the contractor will be required to purchase all materials directly from the utility”** to “the contractor may be required to purchase materials from the Utility if no alternative, reliable source is available that ensures compatibility with the Utility’s pipe and equipment.”

Remove the second part of the 3<sup>rd</sup> sentence in the 3<sup>rd</sup> paragraph (after the semi-colon) that says: **“...; under these circumstances, the applicant will be billed for the subcontractor’s charge.”** The attorney for PUC says we can put the subcontractor’s charge into an estimate if we need to use a subcontractor to do these tasks on a specific job. But, he says we cannot include our charges and the contractor charge in the same term, for doing the same thing. We cannot omit our charges unless we NEVER do inspection or management, since our hourly rates need to be included.

A representative from PUC indicated that once these changes are made they will pass our revised Terms and Conditions.

C: David Jones, Director

**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(1)(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**

**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**

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

\_\_\_\_\_  
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.** 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:** \_\_\_\_\_

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

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

**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.** 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:** \_\_\_\_\_

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

\_\_\_\_\_  
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 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 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 will either provide the plan or preapprove the applicant’s plan, as specified in Chapter 650. 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 may be required to purchase materials from the Utility if no alternative, reliable source is available that ensures compatibility with the Utility’s pipe and equipment.

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. 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 DECEMBER 20, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 4**

**SUBJECT:**

Public Hearing on a new liquor license application and special amusement permit for Club Paris, 18 Park Street.

**INFORMATION:**

The City Council held a public hearing on this issue at their last meeting and voted to continue the hearing to this meeting for further review and discussion.

We have received a new liquor license application and special amusement permit for Club Paris, 18 Park Street. The liquor license application is for malt, spirituous and vinous.

The Police Department has reviewed and approved the application.

The business owner has been notified of the public hearing and requested to attend.

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

The City Administrator recommends support of the requested action.

*EAB/KMM*

**REQUESTED ACTION:**

|   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | M |
|---|---|---|---|---|---|---|---|

To authorize the City Clerk's Office to approve a new liquor license application and special amusement permit for Club Paris, 18 Park Street.

**Department of Public Safety  
Liquor Licensing & Inspection  
Division**



| <u>BUREAU USE ONLY</u> |  |
|------------------------|--|
| License No. Assigned:  |  |
| Class:                 |  |
| Deposit Date:          |  |
| Amt. Deposited:        |  |

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

PRESENT LICENSE EXPIRES \_\_\_\_\_

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

INDICATE TYPE OF LICENSE:

- |  |   |
|--|---|
| <input type="checkbox"/> RESTAURANT (Class I,II,III,IV)      | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)       |
| <input type="checkbox"/> HOTEL-OPTINONAL FOOD (Class I-A)    | <input type="checkbox"/> HOTEL (Class I,II,III,IV)          |
| <input checked="" type="checkbox"/> CLASS A LOUNGE (Class X) | <input type="checkbox"/> CLUB-ON PREMISE CATERING (Class I) |
| <input type="checkbox"/> CLUB (Class V)                      | <input type="checkbox"/> GOLF CLUB (Class I,II,III,IV)      |
| <input type="checkbox"/> TAVERN (Class IV)                   | <input type="checkbox"/> OTHER: _____                       |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

|  |  |                                      |  |
|--|--|--------------------------------------|--|
| 1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) |  | 2. Business Name (D/B/A)             |  |
| BRANDI NICKERSON DOB: 11/21/83   |  | CLUB PARIS                           |  |
| DOB:   |  | Location (Street Address)            |  |
| DOB:   |  | 18 PARK ST                           |  |
| Address  |  | City/Town State Zip Code             |  |
| 101 Sport Hill Rd  |  | LEWISTON ME 04240                    |  |
| Mailing Address  |  | City/Town State Zip Code             |  |
| Prospect ME 04981  |  | 101 Sport Hill Rd Prospect ME 04981  |  |
| Telephone Number Fax Number  |  | Business Telephone Number Fax Number |  |
| (207) 610-3969   |  | (207) 610-3969                       |  |
| Federal I.D. # (Pending)   |  | Seller Certificate # (Pending)       |  |

3. If premises is a hotel, indicate number of rooms available for transient guests: \_\_\_\_\_

4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_

5. Is applicant a corporation, limited liability company or limited partnership? YES  NO

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES  NO

7. If manager is to be employed, give name: \_\_\_\_\_

8. If business is NEW or under new ownership, indicate starting date: on or about Dec. 9th 2011

Requested inspection date: ASAP- Business hours: 8PM - 1AM WED - SAT.

9. Business records are located at: 18 park st - Lewiston ME 04240

10. Is/are applicants(s) citizens of the United States? YES  NO

11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

| Name in Full (Print Clearly) | DOB     | Place of Birth   |
|------------------------------|---------|------------------|
| BRANDI P. NICKERSON          | 11/8/83 | Anchorage Alaska |
|                              |         |                  |

Residence address on all of the above for previous 5 years (Limit answer to city & state)

BELFAST MAINE; SWANVILLE ME; PROSPECT ME  
AUBURN MAINE -

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: Brandi Nickerson Date of Conviction: Sept. 2010

Offense: OVI Location: Kennebec County -

Disposition: 90 HR. Alternate Sentencing

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: DENNIS ANDERSON  
address: 8930 SW 49 COURT; COOPER CITY FLA., 33328

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Dance Club/Night Club

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES  NO  Applied for: Amusement permit, Liquor License & inspection, Food License

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? approx. 500 ft. Which of the above is nearest? Church -

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO

If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: LEWISTON MAINE on 11/22/11, 20 11  
Town/City, State Date

Brandi Nickerson Please sign in blue ink  
Signature of Applicant or Corporate Officer(s)

\_\_\_\_\_  
Signature of Applicant or Corporate Officer(s)

\_\_\_\_\_  
Print Name

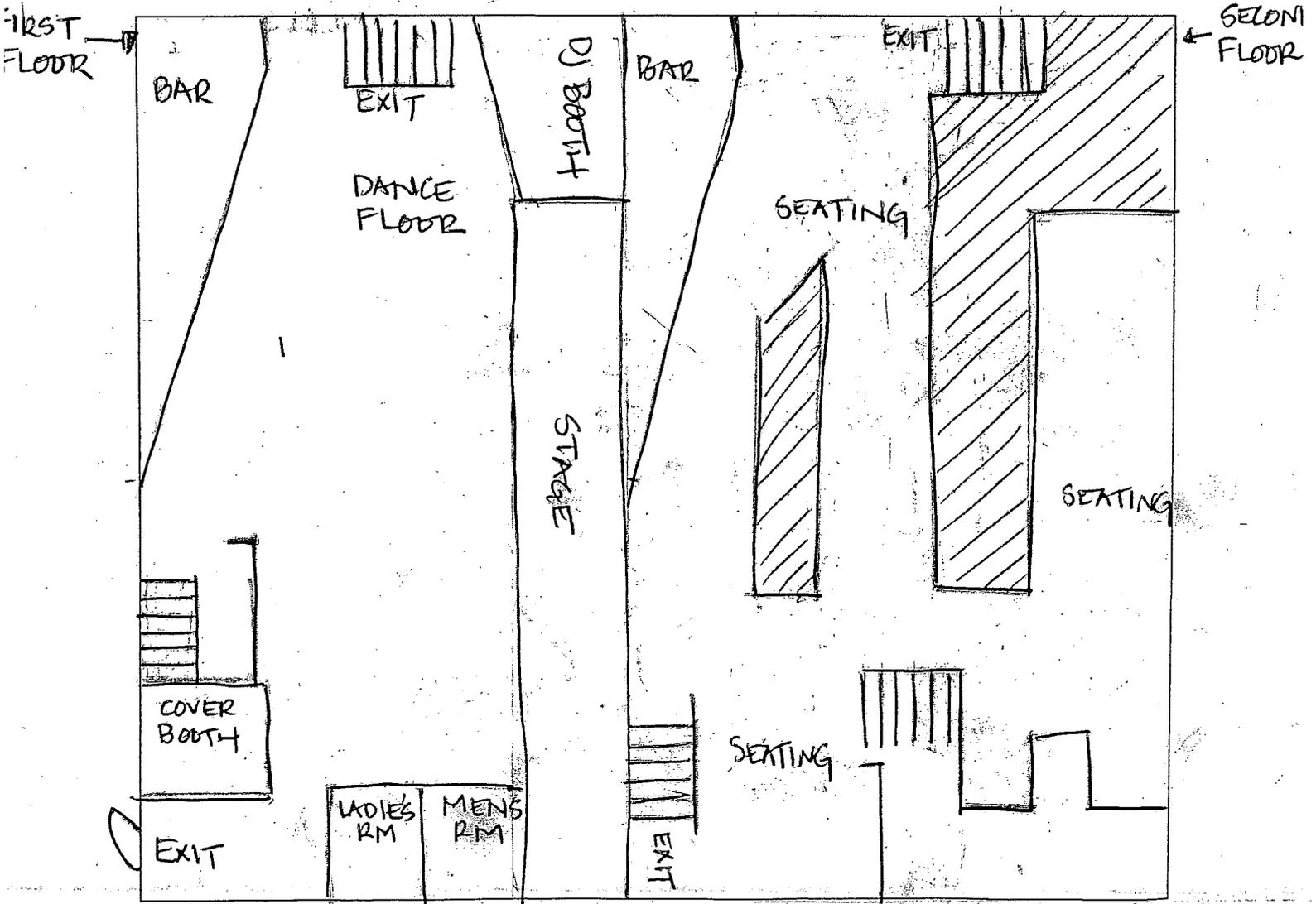
\_\_\_\_\_  
Print Name



### SUPPLEMENTAL APPLICATION FORM ON-PREMISE DIAGRAM

In an effort to clearly define your license premise and the areas that consumption and storage of liquor is allowed, The Liquor Licensing & Inspection Division is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Department for liquor consumption.



CITY OF LEWISTON  
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 11/22/11 Expiration Date: \_\_\_\_\_ License fee: \$116.00

- Class A - restaurants with entertainment, which does not have dancing
- Class B - lounges/bars with entertainment, which does not have dancing
- Class C - either restaurants or lounges/bars with entertainment, including dancing
- Class D - function halls with entertainment, including dancing
- Class E - dance hall or nightclub that admits persons under the age of 21
- Class F - "chem-free" dance hall or nightclub for patrons aged 18 years and older, with no liquor service

Renewal Applicants: Has any or all ownership changed in the 12 months? \_\_\_\_\_ Yes \_\_\_\_\_ No

\*\*\*\*PLEASE PRINT\*\*\*\*

Business Name: CLUB PARIS Business Phone: (temp) (207) 610-3969

Location Address: 18 PARK ST; LEWISTON MAINE, 04240

(If new business, what was formerly in this location: DA BLOCK NIGHTCLUB)

Mailing Address: 101 Spout Hill Rd; Prospect ME, 04981

Contact Person: Brandi P. Nickerson Home Phone: (207) 610-3969

Owner of Business: Brandi Nickerson Date of Birth: 11/8/83

Address of Owner: 101 Spout Hill Rd; Prospect ME, 04981

Manager of Establishment: u Date of Birth: 11/8/83

Owner of Premises (landlord): DENNIS ANDERSON

Address of Premises Owner: 8930 S.W. 49 COURT, COOPER CITY FLA. 33328

Does the issuance of this license directly or indirectly benefit any City employee(s)? \_\_\_\_\_ Yes  No  
If yes, list the name(s) of employee(s) and department(s): \_\_\_\_\_

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? \_\_\_\_\_ Yes  No If yes, please list business name(s) and location(s): \_\_\_\_\_

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law?  Yes  No If yes, please explain: SELF: 2010, Sept. - OVI

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: \_\_\_\_\_

Corporation Mailing Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Do you permit dancing on premises?  Yes \_\_\_ No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? \_\_\_ Yes  No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? approx. 100 ft.

Please describe the type of proposed entertainment:

- dancing
- stand up comedian
- piano player
- music by DJ
- karaoke
- other, please list \_\_\_\_\_
- live band/singers
- magician
- other, please list \_\_\_\_\_

If new applicant, what is your opening date?: A.S.A.P. (on or about Dec. 9th, 2011)

\*\*\*\*\*

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: Brandi Nickerson Title: OWNER Date 11/22/11

Printed Name: Brandi P. Nickerson

\*\*\*\*\*

Sent to Code Enforcement: \_\_\_\_\_ Need reply by: \_\_\_\_\_ Approved: \_\_\_\_\_

Sent to Police & Fire: \_\_\_\_\_

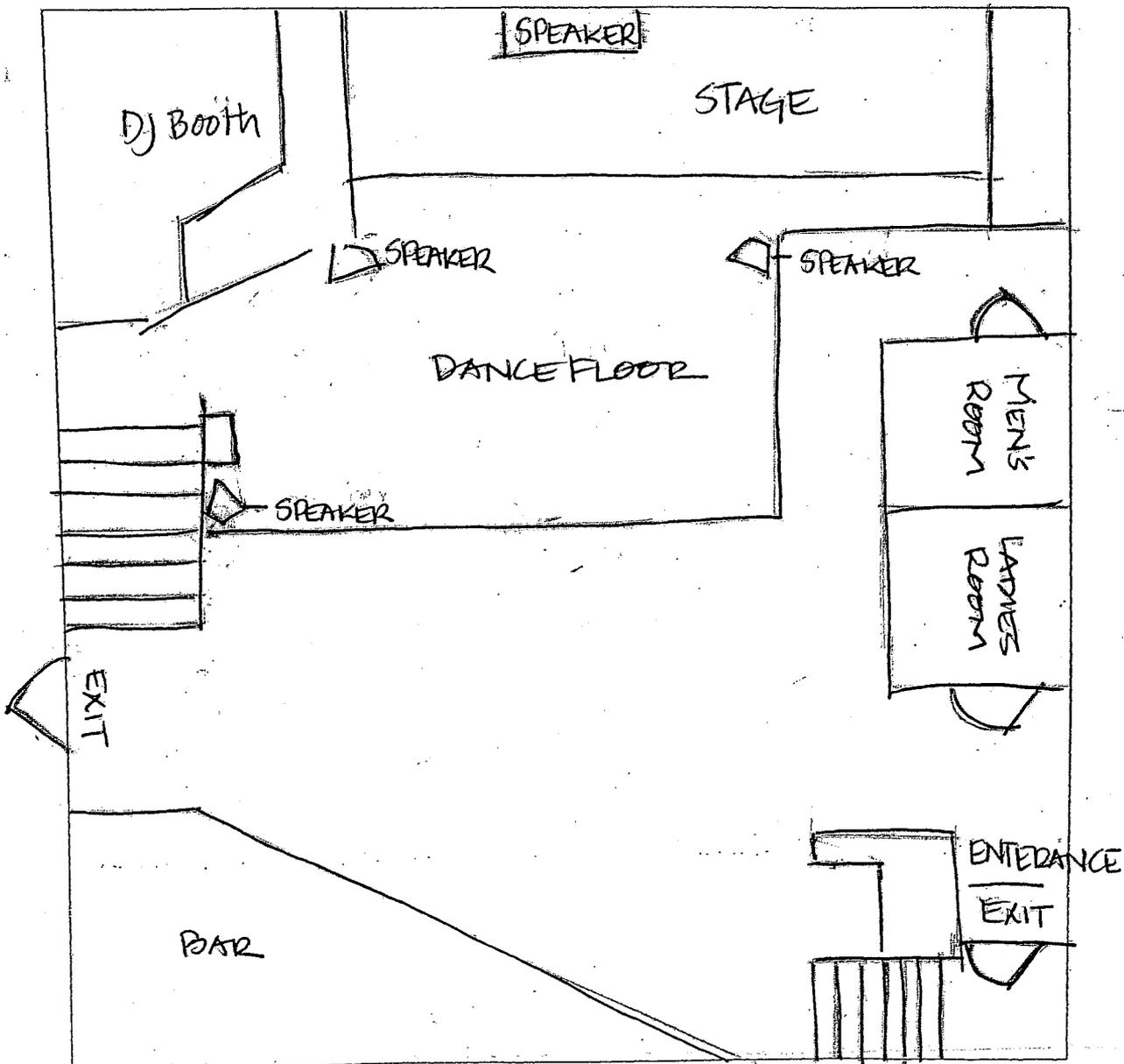
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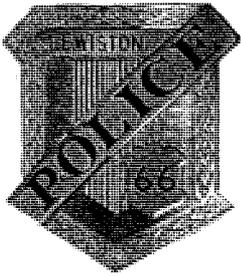
Hearing Date: \_\_\_\_\_ Approved by Council: \_\_\_\_\_ Vote No: \_\_\_\_\_

SPECIAL AMUSEMENT PERMIT  
SUPPLEMENTAL APPLICATION FORM  
ON-PREMISE DIAGRAM

In an effort to clearly define your licensed premise and areas that the entertainment is allowed, the City of Lewiston is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram showing where in the facility the entertainment will be, the direction of any speakers and where the dance floor, if any will be located.





**POLICE DEPARTMENT**

Michael J. Bussiere  
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Mark S. Cornelio, Support Services

DT: November 29, 2011

RE: Liquor License/Special Amusement Permit – **Club Paris**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

**Club Paris**  
**18 Park Street**



**CITY OF LEWISTON**  
**PUBLIC NOTICE**

A hearing on the following liquor license application will be held by the Lewiston City Council in the Council Chambers, City Hall on ***Tuesday, December 6, 2011, at 7:00 p.m.***, or as soon thereafter as they may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said application.

Club Paris  
18 Park Street  
Brandi Nickerson, owner

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

Kathleen Montejo, MMC  
City Clerk  
Lewiston, Maine

***PUBLISH ON: November 30, December 1 & 2, 2011***

Please bill the City Clerk's Dept. account. Thank you.

**LEWISTON CITY COUNCIL**  
**MEETING OF DECEMBER 20, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 5**

**SUBJECT:**

Public Hearing on a new liquor license application for Oriental Super Buffet, Inc., 40 East Avenue.

**INFORMATION:**

We have received a new liquor license application from Oriental Super Buffet, Inc., 40 East Avenue. The liquor license application is for malt and vinous.

The Police Department has reviewed and approved the application.

The business owner has been notified of the public hearing and requested to attend.

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

The City Administrator recommends support of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

|   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | M |
|---|---|---|---|---|---|---|---|

To authorize the City Clerk's Office to approve a new liquor license application for Oriental Super Buffet, Inc., 40 East Avenue.

**Department of Public Safety  
Liquor Licensing & Inspection  
Division**



**BUREAU USE ONLY**

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

**PRESENT LICENSE EXPIRES** \_\_\_\_\_

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

**INDICATE TYPE OF LICENSE:**

- RESTAURANT (Class I,II,III,IV)
- HOTEL-OPTINONAL FOOD (Class I-A)
- CLASS A LOUNGE (Class X)
- CLUB (Class V)
- TAVERN (Class IV)
- RESTAURANT/LOUNGE (Class XI)
- HOTEL (Class I,II,III,IV)
- CLUB-ON PREMISE CATERING (Class I)
- GOLF CLUB (Class I,II,III,IV)
- OTHER: \_\_\_\_\_

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

|   |            |  |                         |
|---|------------|--|-------------------------|
| 1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.) |            | 2. Business Name (D/B/A)               |                         |
| DE YONG, YOU  |            | ORIENTAL SUPER BUFFET INC              |                         |
| DOB: 10/22/1967   |            | DOB:                                   |                         |
| DOB:  |            | Location (Street Address)              |                         |
| DOB:  |            | 40 EAST AVE                            |                         |
| Address 36 PINELAND ST.   |            | City/Town LEWISTON                     | State ME Zip Code 04240 |
|   |            | Mailing Address                        |                         |
|   |            | 40 EAST AVE                            |                         |
| City/Town LEWISTON  | State ME   | Zip Code 04240                         | City/Town LEWISTON      |
|   |            |  | State ME                |
|   |            |  | Zip Code 04240          |
| Telephone Number 207 753 6868   | Fax Number | Business Telephone Number 207 753 6868 | Fax Number 207 753 6868 |
| Federal I.D. # 45-3862020   |            | Seller Certificate #                   |                         |

3. If premises is a hotel, indicate number of rooms available for transient guests: \_\_\_\_\_
4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO
- If YES, complete Supplementary Questionnaire
6. Do you permit dancing or entertainment on the licensed premises? YES  NO
7. If manager is to be employed, give name: DAVID CHENG
8. If business is NEW or under new ownership, indicate starting date: 12/1/11  
Requested inspection date: 12/11 Business hours: 10am to 9pm
9. Business records are located at: \_\_\_\_\_
10. Is/are applicants(s) citizens of the United States? YES  NO
11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

| Name in Full (Print Clearly) | DOB        | Place of Birth |
|------------------------------|------------|----------------|
| DE YONG YOU                  | 10/22/1967 | CHINA          |
|                              |            |                |

Residence address on all of the above for previous 5 years (Limit answer to city & state)

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) \_\_\_\_\_

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES  NO  Applied for: \_\_\_\_\_

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? \_\_\_\_\_ Which of the above is nearest? \_\_\_\_\_

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO

If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

**NOTE:** "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: LEWISTON ME on 11/23/, 2011  
Town/City, State Date

DE YONG YOU

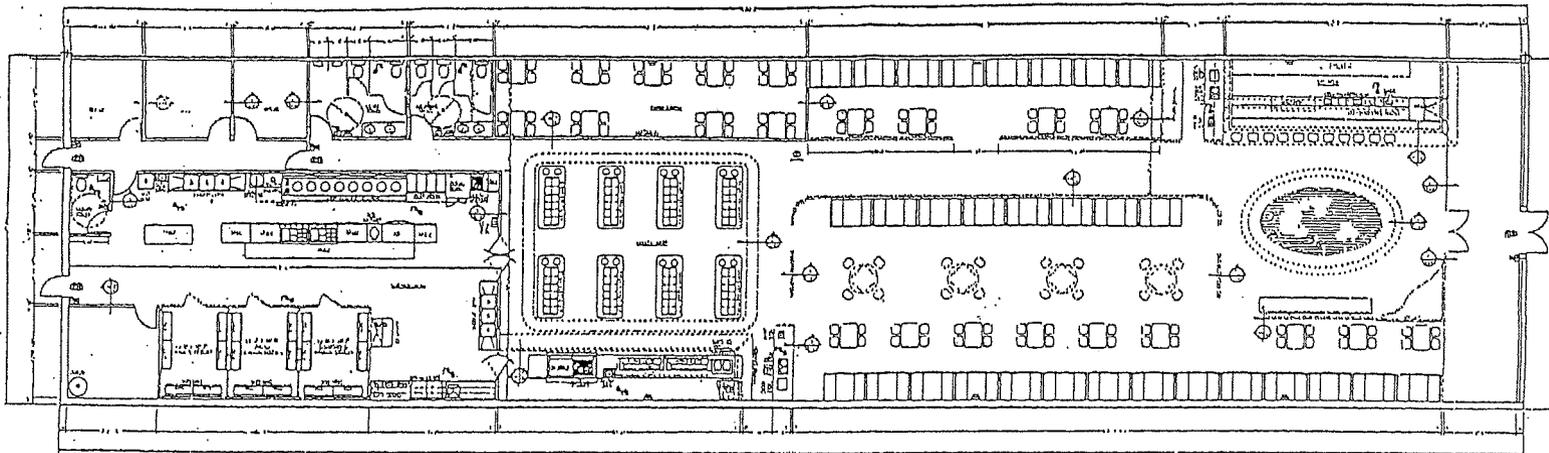
Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

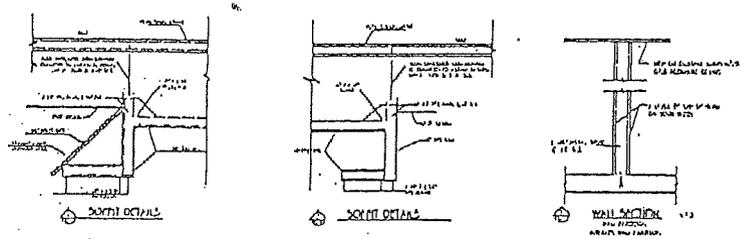
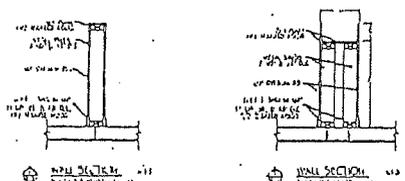
Signature of Applicant or Corporate Officer(s)

DE YONG YOU  
 Print Name

Print Name



FLOOR PLAN 1/8" = 1'-0"



LEGEND

-  DOOR
-  PLASTER WALL  
1" VELL STUO BY 1/2" LAYER  
1/2" DYP 30 LASH BOL
-  MASONRY WALL BY  
CONCRETE MANUFACTURE
-  CONCRETE  
NEW 1" MAX LON WALL
-  NEW MASONRY WALL
-  EQUIPMENT / LIGHTING UNIT  
1-100W LAMP, 20 CFS  
CONCRETE IS SHALL OR PROP  
VTE ELLING RECESSOR
-  INSULATION UNDEVELOPED  
IS A RECOMMEND
-  ALUMINUM CHANNEL 2" X  
1" VELL 10 PROP 200 BAA CAP
-  DOOR OPENING  
FOR 12 VELL BUCKLEUP
-  DOOR OPENING  
FOR 12 VELL BUCKLEUP
-  DOOR OPENING  
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-  DOOR OPENING  
FOR 12 VELL BUCKLEUP



CITY OF LEWISTON, MAINE  
Department of City Clerk

Supplementary Information

CERTIFICATE OF APPLICANT AND WAIVER OF CONFIDENTIALITY

\*\*\*READ CAREFULLY BEFORE SIGNING\*\*\*

I hereby authorize the release of any criminal history record information to the City Clerk's Office or Licensing Authority. I understand that this information shall become public record, and I hereby waive any rights of privacy with respect hereto.

De Yong You,

11 / 23 / 2011

Signature of Officer/Director

Date

**CITY OF LEWISTON**  
**PUBLIC NOTICE**

A hearing on the following liquor license application will be held by the Lewiston City Council in the Council Chambers, City Hall on ***Tuesday, December 20, 2011, at 7:00 p.m.***, or as soon thereafter as they may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said application.

Oriental Super Buffet  
40 East Avenue  
De Yong You, owners

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

Kathleen Montejo, MMC  
City Clerk  
Lewiston, Maine

***PUBLISH ON: December 14, 15 & 16, 2011***

Please bill the City Clerk's Dept. account. Thank you.



## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



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TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Mark S. Cornelio, Support Services

A handwritten signature in black ink, appearing to be 'M. S. Cornelio'.

DT: November 30, 2011

RE: Liquor License – **Oriental Super Buffet Inc.**

We have reviewed Liquor License Application and have no objections to the following establishment;

**Oriental Super Buffet Inc.**  
**40 East Ave.**



# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6**

**SUBJECT:**

Public Hearing on the renewal application for a Special Amusement permit for live entertainment for Pub @ 33, 33 Sabattus Street.

**INFORMATION:**

We have received a renewal application for a special amusement permit for dancing and entertainment from Pub @ 33, 33 Sabattus Street.

The Police Department has reviewed and approved the application. A copy of the Police Department log for this establishment, for the past year, is attached.

There was no reference to the business or property address in the Council Constituent Concern log, as maintained by the City Administrator's Office.

The business owner has been notified of the public hearing and requested to attend.

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

The City Administrator recommends support of the requested action.

*EABI kmm*

**REQUESTED ACTION:**

|   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | M |
|---|---|---|---|---|---|---|---|

To grant a Special Amusement permit for dancing and entertainment to Pub @ 33, 33 Sabattus Street.

**CITY OF LEWISTON  
APPLICATION FOR SPECIAL AMUSEMENT PERMIT**

Date of Application: 12/1/11 Expiration Date: 12/28 License fee: \$116.00

- Class A - restaurants with entertainment, which does not have dancing
- Class B - lounges/bars with entertainment, which does not have dancing
- Class C - either restaurants or lounges/bars with entertainment, including dancing
- Class D - function halls with entertainment, including dancing
- Class E - dance hall or nightclub that admits persons under the age of 21
- Class F - "chem-free" dance hall or nightclub for patrons aged 18 years and older, with no liquor service

Renewal Applicants: Has any or all ownership changed in the 12 months?  Yes  No

\*\*\*\*PLEASE PRINT\*\*\*\*

Business Name: CDDL ASSOCIATES P6037 Business Phone: 756-9808

Location Address: 33 S26th St Lewiston Me 04240

(If new business, what was formerly in this location: N/A)

Mailing Address: Same

Contact Person: Bruce Berglund Clerk Home Phone: 2904800

Owner of Business: Diane Bosse Date of Birth: \_\_\_\_\_

Address of Owner: 173 East Handsworth Rd Auburn

Manager of Establishment: Diane Bosse Date of Birth: \_\_\_\_\_

Owner of Premises (landlord): \_\_\_\_\_

Address of Premises Owner: \_\_\_\_\_

Does the issuance of this license directly or indirectly benefit any City employee(s)?  Yes  No  
If yes, list the name(s) of employee(s) and department(s): \_\_\_\_\_

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston?  Yes  No If yes, please list business name(s) and location(s): \_\_\_\_\_

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law?  Yes  No If yes, please explain: \_\_\_\_\_

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: Daniel R Bosse LLC / Daniel Bosse

Corporation Mailing Address: 173 Elmwood St. 02666 Paw.

Contact Person: Dan Bosse Phone: 781 980 5

Do you permit dancing on premises?  Yes  No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM?  Yes  No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 10'

Please describe the type of proposed entertainment:

- dancing
- stand up comedian
- piano player
- music by DJ
- karaoke
- other, please list \_\_\_\_\_
- live band/singers
- magician
- other, please list \_\_\_\_\_

If new applicant, what is your opening date?: N/A

\*\*\*\*\*

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: [Signature] Title: Clerk Date: 12/11

Printed Name: Beverly E. Boydell

\*\*\*\*\*

Sent to Code Enforcement: \_\_\_\_\_ Need reply by: \_\_\_\_\_ Approved: \_\_\_\_\_

Sent to Police & Fire: \_\_\_\_\_

\*\*\*\*\*

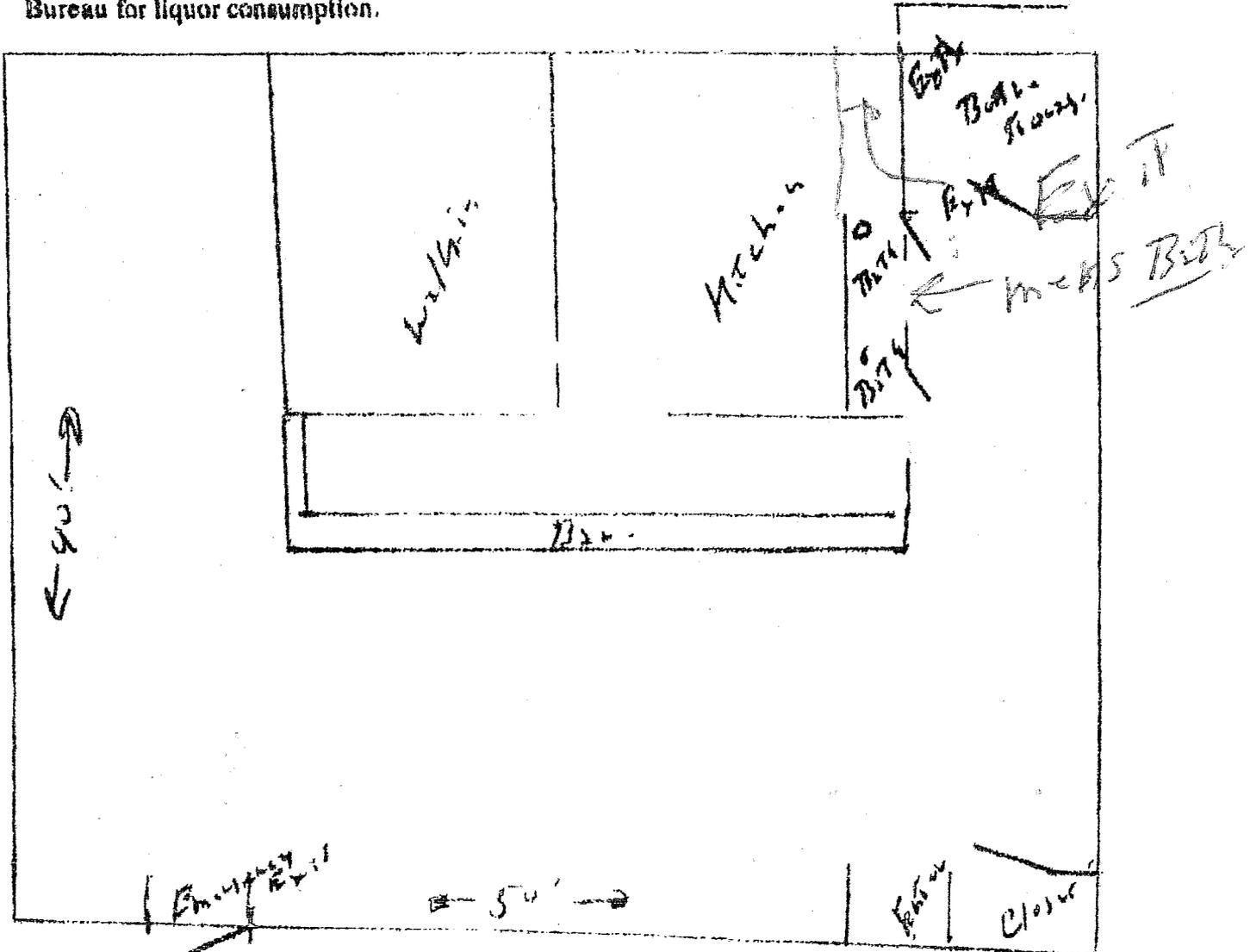
Hearing Date: \_\_\_\_\_ Approved by Council: \_\_\_\_\_ Vote No: \_\_\_\_\_



**SUPPLEMENTAL APPLICATION FORM  
 ON PREMISE DIAGRAM**

In an effort to clearly define your licensed premise and the areas that consumption and storage of liquor is allowed, The Bureau of Liquor Enforcement is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Bureau for liquor consumption.



CITY OF LEWISTON, MAINE  
Department of City Clerk

Supplementary Questionnaire for Corporate Applicants

- 1. Exact corporate name: CDDL ASSOCIATES, P.C. 033
- 2. Date of incorporation: 1993
- 3. State in which you are incorporated: Me
- 4. If not a Maine corporation, date corporation was authorized to transact business within the State of Maine: N/A
- 5. List the names, addresses previous 5 years, birth dates, title of all officers, directors, and % of stock owned:

| NAME                 | ADDRESS<br>PREVIOUS 5 YEARS | BIRTH<br>DATE      | % OF<br>STOCK | TITLE            |
|----------------------|-----------------------------|--------------------|---------------|------------------|
| <u>Diane R. Biss</u> | <u>173 Handscrub Rd</u>     | <u>August 1964</u> | <u>100%</u>   | <u>President</u> |
|                      |                             |                    |               |                  |
|                      |                             |                    |               |                  |
|                      |                             |                    |               |                  |
|                      |                             |                    |               |                  |
|                      |                             |                    |               |                  |
|                      |                             |                    |               |                  |

- 6. What is the amount of authorized stock? 100 Outstanding stock? 100
- 7. Is any principal officer of the corporation a law enforcement official?  
No

Dated at \_\_\_\_\_ on \_\_\_\_\_  
City or Town Date

\_\_\_\_\_  
SIGNATURE OF DULY AUTHORIZED OFFICER



## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



---

TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Mark S. Cornelio, Support Services

*MSC*

DT: October 12, 2011

RE: Liquor License/Special Amusement Permit – **Pub 33**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

**Pub 33**  
**33 Sabattus Street**



# Pub 33, 33 Sabattus Street

| Apt # | Year MM DD Time | Reason                       | Action            | Call #     | Vicinity   |
|-------|-----------------|------------------------------|-------------------|------------|------------|
|       | 2011 10 11 2311 | POL-Criminal Trespass        | Cleared           | 11-88277   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 10 08 2358 | POL-Liquor Laws              | Cleared           | 11-87461   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 09 30 2158 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-85080   | N          |
|       | 2011 09 21 0041 | POL-Assault                  | Restored to Peace | 11-81956   | N          |
|       | 2011 09 14 0056 | POL-DISTURBANCE - DISORDERLY | Restored to Peace | 11-79778   | N          |
|       | 2011 09 09 0021 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-78225   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 07 24 0036 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-63107   | N          |
|       | 2011 07 23 2152 | POL-FIGHT-DISTURBANCE        | Report Taken      | 11-63042   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 07 13 0022 | POL-FIGHT-DISTURBANCE        | Restored to Peace | 11-59318   | N          |
|       | 2011 07 12 2302 | POL-FIGHT-DISTURBANCE        | Arrest(s) Made    | 11-59292   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 06 29 0027 | POL-DISTURBANCE - DISORDERLY | Cleared           | 11-54678   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 06 14 2243 | POL-Liquor Laws              | Gone On Arrival   | 11-50233   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 06 03 2333 | POL-DISTURBANCE - DISORDERLY | Gone On Arrival   | 11-46662   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 05 29 0054 | POL - BAR / LIQUOR CHECK     | Arrest(s) Made    | 11-44739   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |

# Pub 33, 33 Sabattus Street

| Apt # | Year MM DD Time | Reason                       | Action            | Call #     | Vicinity   |
|-------|-----------------|------------------------------|-------------------|------------|------------|
|       | 2011 05 25 2302 | POL-Liquor Laws              | Gone On Arrival   | 11-43582   | N          |
|       | 2011 05 19 0044 | POL-DISTURBANCE - DISORDERLY | Cleared           | 11-41301   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 05 07 2311 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-37679   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 04 30 2155 | POL-Liquor Laws              | Cleared           | 11-35643   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | Verbal Warning    | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 04 19 2317 | POL-Weapons, Gun, Knife      | Arrest(s) Made    | 11-32426   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 04 15 0129 | POL-DISTURBANCE - DISORDERLY | Verbal Warning    | 11-31004   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 04 01 0015 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-26593   | N          |
|       | 2011 03 27 2354 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-25335   | N          |
|       | 2011 03 23 0106 | POL-FIGHT-DISTURBANCE        | Restored to Peace | 11-23888   | N          |
|       | 2011 03 22 0007 | POL - BAR / LIQUOR CHECK     | Cleared           | 11-23529   | N          |
|       | 2011 03 09 0020 | POL-DISTURBANCE - DISORDERLY | Cleared           | 11-19280   | N          |
|       | 2011 03 04 0017 | POL-DISTURBANCE - DISORDERLY | Restored to Peace | 11-17528   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2011 02 01 2349 | POL-FIGHT-DISTURBANCE        | Restored to Peace | 11-8917    | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2010 12 29 0025 | POL-DISTURBANCE - DISORDERLY | Cleared           | 10-101662  | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2010 11 17 0045 | POL - BAR / LIQUOR CHECK     | Cleared           | 10-90260   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | 2010 10 23 2245 | POL-DISTURBANCE - DISORDERLY | Arrest(s) Made    | 10-83207   | N          |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |
|       | [REDACTED]      | [REDACTED]                   | [REDACTED]        | [REDACTED] | [REDACTED] |

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 7**

**SUBJECT:**

Public Hearing and Final Passage regarding an amendment to the City Code to lower the percentage allowed for the amount of debt to be authorized by the City Council for bond issue authorization.

**INFORMATION:**

In October, the City Council held a workshop regarding the City's debt service. The current Code states the amount of debt to be authorized for issuance in any fiscal year shall not exceed 97% of the average amount of annual debt being retired over the 3 previous fiscal years unless the debt is financed through sources other than general property taxes, such as Tax Increment Financing, State or Federal subsidy or enterprise funds. The recommendation from staff and the Finance Committee is to lower this number to 80%.

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

The City Administrator recommends approval of the requested action.

*ETAB/Kmm*

**REQUESTED ACTION:**

|   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | M |
|---|---|---|---|---|---|---|---|

That the proposed amendments to the City Code of Ordinances, Chapter 2 "Administration", Sections 2-34 "Council action on bond issue authorization", receive final passage by a roll call vote.

**AN ORDINANCE PERTAINING TO BOND ISSUE AUTHORIZATION**

**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 II. CITY COUNCIL**

**DIVISION 1. GENERALLY**

**Sec. 2-34. Council action on bond issue authorization.**

The amount of debt to be authorized for issuance, in any fiscal year, shall not exceed ~~97%~~ 80% of the average amount of annual debt being retired over the 3 previous fiscal years unless the debt is financed through sources other than general property taxes, such as Tax Increment Financing, State or Federal subsidy opportunities or enterprise funds which are paid from user fees.

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



## Finance Department

Heather Hunter  
Director of Finance/Treasurer  
hhunter@ci.lewiston.me.us



**TO:** Mayor Laurent F. Gilbert and Members of the City Council  
**FROM:** Heather Hunter, Finance Director  
**SUBJECT:** **Bond Issue Limitation Ordinance**  
**DATE:** November 8, 2011

In October 2009, the City Council adopted a bond issue limitation ordinance (Article II. Sec. 2-34) that limits the amount of debt to be authorized for issuance. The limit is capped to 97% of the average amount of annual debt being retired over the three previous fiscal years unless the debt is financed through sources other than general property taxes. Since that ordinance was adopted, the Finance Committee, City Council members, and staff have expressed concern about the level of debt the City of Lewiston carries and the burden it places on the municipal operating budget.

At the October 4<sup>th</sup> Council meeting, a debt presentation was made on the City's historical and current capacity, current debt service percentage as a total of the operating budget, and annual future debt service requirements. Additionally, the Council was presented with an analysis of the impact of adjusting the debt limitation cap from its current 97%. Scenarios were provided for reduced levels of 90%, 85% and 80%.

Since this ordinance was initiated by the Finance Committee, as a courtesy I provided the same debt presentation to that committee at their October 17<sup>th</sup> meeting and discussed lowering the debt limitation percentage with them. At their November 7<sup>th</sup> meeting, the Finance Committee voted in favor (3-0, Members Mendros & Jean were absent) of reducing the debt limitation percentage to 80%.

I agree with the Finance Committee's endorsement of the reduced rate to 80%. This further bond limitation further emphasizes the need for the City to reduce its debt burden in future years, especially when utilized in concert with debt refundings and increased capital and infrastructure acquisition appropriations through the operation budget. At the same time, if there is a legitimate need to exceed the 80% limitation, the City Council still has the means to waive the provision with a 5 vote affirmation.

**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, December 6, 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.

**ADMINISTRATIVE ORDINANCE**

This amendment would lower the percentage allowed for the amount of debt to be authorized by the Council for bond issue authorization.

**ZONING & LAND USE CODE**

One amendment would further define the boundary definitions of the Garcelon Bog wetland area. The other amendment would clarify that a building or use permit shall be required for all activities regulated by the City's Zoning & Land Use Code.

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

Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Dec. 1, 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 DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 8**

**SUBJECT:**

Public Hearing and Final Passage for Land Use Code Amendments concerning the shoreland boundary of the Garcelon Bog.

**INFORMATION:**

The Planning Board voted unanimously to send a favorable recommendation to the City Council to amend the Land Use Code regarding the Shoreland Area Standards to update the zoning district of Garcelon Bog. Garcelon Bog is a wetland of at least 10 acres and this amendment will better clarify the definitions of boundary area of the Garcelon Bog area.

Please see the attached memorandum from City Planner David Hediger for additional information.

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

The City Administrator recommends approval of the requested action.

*ERB/kmm*

**REQUESTED ACTION:**

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That the proposed amendments to Appendix A, Zoning and Land Use Code, Article II, "Definitions" and Article XII "Performance Standards", Section 2 "Shoreland area standards", of the City Zoning and Land Use Code, receive final passage by a roll call vote.

**AN ORDINANCE PERTAINING TO THE SHORELAND ZONING BOUNDARY OF  
GARCELON BOG**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**APPENDIX A**

**ZONING AND LAND USE CODE**

**ARTICLE II. DEFINITIONS**

**Sec. 2. Definitions.**

Upland edge of a wetland means the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20)foot) tall or taller.

**ARTICLE XII. PERFORMANCE STANDARDS**

**Sec. 2. Shoreland area standards.**

- (b) *Applicability.* Unless otherwise specified, the standards of this section shall apply to:
- (1) All land areas within 250 feet, horizontal distance, of the normal high watermark of the Androscoggin River, No Name Pond, and to all areas included within the Resource Conservation District, as shown on the "Official Zoning Map of the City of Lewiston, Maine"; all land areas within 75 feet, horizontal distance, of the normal high-water line of No Name Brook, No Name Brook Tributary B, Stetson Brook and Salmon Brook (beginning at the confluence of Moody and Salmon Brook to the Androscoggin River).
  - (2) All land areas within 250 feet, horizontal distance, of the defined upland edge of all ten acre or greater wetlands, located in the City of Lewiston, including Garcelon Bog, and those as shown on the City of Lewiston Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989, and identified by the following wetland identification numbers: 567 through 62.
  - (3) Any structure, existing or proposed, built on, over, or abutting a dock, wharf, or pier, or other structures extending beyond the normal high-water line of a water body or within a wetland.
  - (4) All land areas within 25 feet, horizontal distance, of the normal high-water line of Salmon Brook, Moody Brook, No Name Brook Tributary A, Hart Brook and Jepson Brook.
  - (5) The perimeters of the above referenced shoreland areas shall be superimposed over the underlying zoning districts. The provisions of the underlying zoning district shall be adhered to subject to compliance with the provisions of the shoreland area. Where

uncertainty exists as to the exact location of shoreland area boundary lines, the Board of Appeals shall be the final authority as to location.

### **Reasons for proposed amendment**

Since 1974, the Mandatory Shoreland Zoning Act (MSZA) has required all municipalities to establish zoning and land use controls in areas located within 250 feet of the normal high water line of any great pond, river or saltwater body. In 1989, that requirement was expanded to also include areas within 250 feet of the upland edge of freshwater wetlands of 10 or more acres, and within 75 feet of the normal high water line of streams. City of Lewiston has regulated said wetlands by referencing those areas as identified on the Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989.

Garcelon Bog is a wetland of at least 10 acres. Over the years, the accuracy of the map has been questioned by staff and property owners with obvious discrepancies between open emergent wetland areas, scrub-shrub wetland vegetation, forested wetland and the location of the “upland edge of a wetland”. Specifically, areas that are forested wetland are not subject to shoreland zoning regulations (however, they may be subject to other DEP natural resource protections regulations).

The City has been provided updated wetland delineation from Jones Associates with respect to the specific shoreland boundary of Garcelon Bog. This delineation was arrived at by walking the boundary of the resource, resulting in more accurate data for purposes of mapping. The City has taken that data and has drafted an updated the shoreland zoning map for Garcelon Bog. The more accurate data has resulted in over 70 properties being removed from areas previously subject to shoreland zoning requirements and no new properties have been added to the shoreland zoning area.

Amending the shoreland zoning district will not result in changes to underlying zoning districts. The underlying districts, Resource Conservations, Neighborhood Conservation “A”, and Suburban Residential will remain in place. However, those properties that were inaccurately mapped in the shoreland zone would now have greater ability to make improvements to their lots.

### **Conformance with the comprehensive plan**

1. Continue to protect the City’s natural resources from inappropriate land use activities (Long Range Planning, Policy 6, p. 135).
2. Continue strict administration of shoreland area performance standards through strict administration of existing City ordinances... (Long Range Planning, Policy 6, Strategies A, p. 135).
3. Continue to protect the City’s wetlands (Natural Resources, Policy 4, p. 78).



## CITY OF LEWISTON

### Department of Planning & Code Enforcement



**TO: City Council  
Mayor**  
**FROM: David Hediger, City Planner**  
**DATE: November 29, 2011**  
**RE: Proposed amendment to the shoreland zoning district of Garcelon Bog**

Since 1974, the Mandatory Shoreland Zoning Act (MSZA) has required all municipalities to establish zoning and land use controls in areas located within 250 feet of the normal high water line of any great pond, river or saltwater body. In 1989, that requirement was expanded to also include areas within 250 feet of the upland edge of freshwater wetlands of 10 or more acres, and within 75 feet of the normal high water line of streams. City of Lewiston has regulated said wetlands by referencing those areas as identified on the Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989.

Garcelon Bog is a wetland of at least 10 acres. Over the years, the accuracy of the map has been questioned by staff and property owners with obvious discrepancies between open emergent wetland areas, scrub-shrub wetland vegetation, forested wetland and the location of the "upland edge of a wetland". Specifically, areas that are forested wetland are not subject to shoreland zoning regulations (however, they may be subject to other DEP natural resource protections regulations).

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Amending the shoreland zoning district will not result in changes to underlying zoning districts. The underlying districts, Resource Conservations, Neighborhood Conservation "A", and Suburban Residential will remain in place. However, those properties that were inaccurately mapped in the shoreland zone would now have greater ability to make improvements to their lots.

On November 14, 2011 the Planning Board voted unanimously (7-0) to send a favorable recommendation to the City Council to amend Article II, Section 2, Definitions and Article XII,

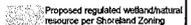
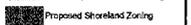
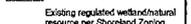
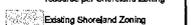
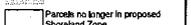
Section 2(b) Shoreland Area Standards of the Zoning and Land Use Code of the City of Lewiston to update the regulated shoreland zoning district of Garcelon Bog.

Planning and Code Enforcement staff recommends adoption of the proposed amendment.



THE DEPICTION OF THE BOUNDARIES OF THE ZONES ON THIS OFFICIAL SHORELAND ZONING MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. FOR PURPOSES OF ADMINISTRATION AND ENFORCEMENT OF THE SHORELAND ZONING ORDINANCE, THE EXACT BOUNDARIES OF THE ZONE SHALL BE DETERMINED BY ON-SITE INSPECTION AND MEASUREMENT FROM THE NORMAL HIGH WATER LINE OR UPLAND EDGE OF A WETLAND.

**Legend**

-  Proposed regulated wetland/natural resource per Shoreland Zoning
-  Proposed Shoreland Zoning
-  Existing regulated wetland/natural resource per Shoreland Zoning
-  Existing Shoreland Zoning
-  Parcel no longer in proposed Shoreland Zone

**Garcelon Bog**

Existing/Proposed Shoreland Zoning Map

October 2011

Scale: 1" = 250'





## CITY OF LEWISTON

### Department of Planning & Code Enforcement



**TO: City Council  
Mayor**

**FROM: David Hediger, City Planner**

**DATE: November 29, 2011**

**RE: Proposed Zoning & Land Use Amendment: Update Regulated Shoreland  
Zoning District of Garcelon Bog**

The Planning Board took the following action at their public meeting held on November 14, 2011 regarding a proposal to amend Article II, Section 2, Definitions and Article XII, Section 2(b) Shoreland Area Standards of the Zoning and Land Use Code:

The following motion was made:

**MOTION:** by **Bruce Damon** pursuant to Article VII, Section 4(c) and Article XVII, Section 5(b)(1)(c) of the Zoning and Land Use Code of the City of Lewiston to send a favorable recommendation to the City Council to amend Article II, Section 2, Definitions and Article XII, Section 2(b) Shoreland Area Standards of the Zoning and Land Use Code of the City of Lewiston to update the regulated shoreland zoning district of Garcelon Bog. Second by **Paul Robinson**.

**VOTED: 7-0**

c: Ed Barrett, City Administrator  
Planning Board Members

**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, December 6, 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.

**ADMINISTRATIVE ORDINANCE**

This amendment would lower the percentage allowed for the amount of debt to be authorized for issuance in any fiscal year from 97% to 80%.

**ZONING & LAND USE CODE**

One amendment would further define the boundary definitions of the Garcelon Bog wetland area. The other amendment would clarify that a building or use permit shall be required for all activities regulated by the City's Zoning & Land Use Code.

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Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Dec. 1, 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 DECEMBER 20, 2011**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 9**

**SUBJECT:**

Public Hearing and Final Passage for Land Use Code Amendments regarding clarification that a permit shall be required for all activities regulated by the Zoning and Land Use Code.

**INFORMATION:**

The Planning Board voted unanimously to send a favorable recommendation to the City Council to amend the Land Use Code to better clarify when a building/use permit shall be required for all activities regulated by the Zoning and Land Use Code.

Please see the attached memorandum from City Planner David Hediger for additional information.

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

The City Administrator recommends approval of the requested action.

*EAB/Kmm*

**REQUESTED ACTION:**

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That the proposed amendments to Appendix A, Zoning and Land Use Code, Article V, "Administration and Enforcement", Sections 5 and 6, of the City Zoning and Land Use Code, receive final passage by a roll call vote.

**AN ORDINANCE PERTAINING TO ZONING AND LAND USE PERMITTING**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**APPENDIX A**

**ZONING AND LAND USE CODE**

**Article V. Administration and Enforcement**

**Sec. 5 Administrative procedures**

- (a) A building/ use permit shall be required for all activities regulated by this code including, but not limited to the following:
- 1.) The construction, alteration, relocation, demolition, placement, or removal of or the addition to any structure or building or part thereof;
  - 2.) The construction/ installation of a wall or fence 3.5 feet or greater in height in accordance with Article XII, Sec. 7;
  - 3.) The erection/ installation of a sign or the replacement of a sign face regulated in accordance with Article XII, Section 16 of this code;
  - 4.) The construction/ installation of a swimming pool regulated in accordance with Article XII, Section 6 of this code;
  - 5.) The construction of a driveway or parking lot;
  - 6.) The change of use or occupancy of a building, structure, or lot of land
  - 7.) Campgrounds

No permit shall be issued for the construction, addition, alteration, removal, demolition or change of use of any building, structure, or part thereof, or for the use of any premises unless the plans and intended use indicate that the building, structure, or premises is to conform in all respects to this Code and the land use laws of the State of Maine.

**Sec. 6 Fees.**

- (a) Payment of fees. A permit shall not be valid until the fees prescribed by the Policy Manual of the City of Lewiston have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
- (b) Belated fees. Any person who commences any work prior to obtaining a permit required by this code shall be subject to a double permit fee.

(c) Refunds. Upon request by the applicant and approval of the director of code enforcement, a permit fee may be refunded within 90 days of issuance of the permit.

**Sec. 6 7 Certificate of Occupancy.**

**Sec. 7 8 Violations.**

**Sec. 8 9 Violation abatement.**

**Sec. 9-10 Penalty.**

**Reason for proposed amendment**

The proposed amendment provides clarification a permit shall be required for all activities regulated by the Zoning and Land Use Code. It also clarifies the fee's established by the City Council are applicable to said permitting. This language is consistent with permitting and fee related language found throughout Lewiston's Code of Ordinances, such as the Building and Plumbing Code and Business Licensing.

**Conformance with the comprehensive plan**

- Review permitting and licensing policies and protocols to see where they can be streamlined in order to better service the development community, (Economy, Policy 1, Strategy C).



## CITY OF LEWISTON

### Department of Planning & Code Enforcement



**TO: Planning Board**  
**FROM: David Hediger, City Planner**  
**DATE: November 29, 2011**  
**RE: Proposed amendment to Article V of the Zoning and Land Use Code of the City of Lewiston to clarify when a building/use permit shall be required.**

It has come to staff's attention that the language in the Zoning and Land Use Code should be more specific with respect to the types of permits and fees required. The City currently requires permits for activities regulated through the Zoning and Land Use Code such as fences, driveways, changes of use, etc. In addition, there are sections of the Code specific to permitting requirements:

- Article XIII references no permits or certificates of occupancy shall be issued until final development review approval is obtained and that fees may be charged for the review.
- Article XIV requires a flood hazard permit be obtained before any activity occurs in a 100-year flood zone.
- Article V requires that no permit shall be issued for the construction, addition, alteration, removal, demolition or change of use of any building, structure, or part thereof, or for the use of any premises unless the plans and intended use indicate that the building, structure, or premises is to conform in all respects to this Code and the land use laws of the State of Maine.

However, there is no specific language in the Code that references the overall requirement for a permit and associated fee with respect activities regulated by the Zoning and Land Use Code.

The proposed amendment clarifies that a permit shall be required for all activities regulated by this Code. It also clarifies the fees established by the City Council are applicable to said permitting. This language is consistent with existing permitting and fee related language found throughout Lewiston's Code of Ordinances.

On November 14, 2011, the Planning Board voted unanimously (7-0) to send a favorable recommendation to the City Council to amend Article V, Administration and Enforcement, Sections 5 and 6 of the Zoning and Land Use Code of the City of Lewiston to clarify when a building/use permit shall be required for all activities regulated by the aforementioned code.

Planning and Code Enforcement staff recommends adoption of the proposed amendment.



## CITY OF LEWISTON

### Department of Planning & Code Enforcement



**TO: City Council  
Mayor**

**FROM: David Hediger, City Planner**

**DATE: November 29, 2011**

**RE: Proposed Zoning and Land Use Code Amendment to clarify when a building/use permit shall be required for all activities regulated by the aforementioned code**

The Planning Board took the following action at their public meeting held on November 14, 2011 regarding a proposal to amend Article V, Administration and Enforcement, Sections 5 and 6 of the Zoning and Land Use Code of the City of Lewiston:

The following motion was made:

**MOTION:** by **Denis Fortier** pursuant to Article VII, Section 4(c) and Article XVII, Section 5(b)(1)(c) of the Zoning and Land Use Code of the City of Lewiston to send a favorable recommendation to the City Council to amend Article V, Administration and Enforcement, Sections 5 and 6 of the Zoning and Land Use Code of the City of Lewiston to clarify when a building/use permit shall be required for all activities regulated by the aforementioned code. Second by **Paul Robinson**.

**VOTED: 7-0**

c: Ed Barrett, City Administrator  
Planning Board Members

**LEGAL AD**

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

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**ADMINISTRATIVE ORDINANCE**

This amendment would lower the percentage allowed for the amount of debt to be authorized for issuance in any fiscal year from 97% to 80%.

**ZONING & LAND USE CODE**

One amendment would further define the boundary definitions of the Garcelon Bog wetland area. The other amendment would clarify that a building or use permit shall be required for all activities regulated by the City's Zoning & Land Use Code.

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Kathleen M. Montejo, MMC  
City Clerk

**LEGAL AD - SUN JOURNAL - Thursday, Dec. 1, 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 DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 10**

**SUBJECT:**

Public Hearing for the Establishment of a Tax Increment Financing (TIF) district and approval of a Development Program for the creation of the Riverfront Island Hotel project.

**INFORMATION:**

The Council is asked to approve the establishment of a TIF district and approval of a development assistance agreement for the Riverfront Island Hotel project.

Please refer to the enclosed memorandum from Lincoln Jeffers, Assistant to the City Administrator, for an overview of this project.

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

The City Administrator recommends approval of the requested action.

*EATB/kmm*

**REQUESTED ACTION:**

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To approve the Order authorizing the City Administrator to execute a Joint Development Agreement with Parallax Partners, Inc. and Approving the Creation of the Riverfront Island Hotel Tax Increment Financing District and Development Program.



**City of Lewiston Maine  
City Council Order  
December 20, 2011**



**Order,** Authorizing the City Administrator to Execute a Joint Development Agreement with Parallax Partners, Inc. and Approving the Creation of the Riverfront Island Hotel Tax Increment Financing District and Development Program.

Whereas, the City's Comprehensive Plan, Downtown Master Plan and similar documents clearly establish the City's policy of stimulating the rehabilitation of property and development of economic opportunities in its downtown, particularly in the vicinity of 15 Lincoln Street through 29 Lincoln Street; and

Whereas, significant blight and depressed economic conditions currently exist in this area, and the City has concluded that rehabilitation and revitalization of the area will not occur without a Tax Increment Financing District to promote public health, safety, and general welfare and to develop economic opportunities in the downtown; and

Whereas, the City intends to designate the Riverfront Island Hotel Tax Increment Financing District and to adopt a development program for the TIF District; and

Whereas, in connection with the Development Program, the City and the Developer have agreed on a Joint Development Agreement outlining their mutual obligations to invest in and improve property in the TIF District; and

Whereas, as part of this agreement, the City will agree to transfer to Parallax the properties located at 15 and 29 Lincoln Street, both of which are located in the proposed TIF District and 100% of which is suitable for commercial development; and

Whereas, Parallax intends to construct a 90 bed hotel in the TIF District at an anticipated total investment of \$9,900,000; and

Whereas, this investment will result in significant economic benefit to the City, including the rehabilitation of property and the creation of jobs within the TIF District; and

Whereas, the City's financial assistance for this project is consistent with the City's plans for economic development and its community development plan, including clearing blighting conditions; providing and impetus for industrial and commercial development; increasing employment; and providing facilities outlined the City's community development program; and

Whereas, the proposed Riverfront Island Hotel Tax Increment Financing District and Development Program are consistent with the requirements of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended; and

Whereas, Upon submission of an application to the Maine Department of Economic and Community Development, the City expects the Department to review and approve the Riverfront Island Hotel Tax Increment Financing District and the Development Program;

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

the City Administrator is hereby authorized to execute a Joint Development Agreement with Parallax Partners, Inc. and the creation of the Riverfront Island Hotel Tax Increment Financing District and Development Program is hereby approved, both in the form substantially as attached hereto.

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



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE:** Riverfront Island Hotel Joint Development Agreement, TIF District and Development Program  
**Date:** December 16, 2011

**Background**

The City has been working with Parallax Partners to develop a public/private partnership agreement that will make development of a 90 room hotel at 15 Lincoln Street possible. The City entered into an Option Agreement with Parallax on October 6, 2011 in which the City agreed to sell 15 and 29 Lincoln Street to the developer for \$500,000 for development of a hotel on the site. The city also agreed to negotiate a Joint Development Agreement in which the City would provide reduced rate parking in the Lincoln Street Parking Garage, and to invest in surface parking and parkland improvements on top of the Water Street CSO Mitigation project at a cost not to exceed \$500,000. The JDA would also include a TIF for up to 5 years, the details of which would be determined by a market feasibility study. Since approval of the Option Agreement Parallax has been fully engaged in conducting the feasibility study and other due diligence.

City staff has been negotiating with Parallax to provide municipal support that will make development of a 90-room focused served branded hotel that will include a fitness room, indoor pool, breakfast room, and meeting space for up to 70 people financially feasible. Total development costs are estimated at \$9.9 million.

Following is an outline of the structure of the public/private partnership. More detail is provided in the attached TIF Development Program and Joint Development Agreement

**Deal Structure**

Parallax has commissioned a hotel feasibility study to analyze the market place. Based on the results of that feasibility study and to make the project financially feasible they have requested that a TIF District be created that includes 15 and 29 Lincoln Street. The TIF District will return on average, \$100,000 per year of the new taxes generated from development of the hotel to the developer for 10 years. The TIF payments to the developer will be used to assist with financing.

The reimbursement payments are higher in the early years of the TIF Program as shown on the attached spreadsheet. The higher reimbursement payments are needed to make the project work financially during the ramp up phase of the hotel, which is projected to reach stabilized occupancy levels in Year 4 of operations. The reimbursement payments will hold steady at \$100,000 annually for Years 4 – 7, and will then decline in value for the last 3 years of payments.

You'll notice that the proposed TIF term is for 12 years. Despite a 12 year term, the developer will only receive TIF reimbursements for 10 years of that term. The reason for the extra two years is to allow the Maine Department of Economic and Community Development to approve the TIF, which will allow the developer to move forward with financing and design of the project. If the project is delayed, the two years provides some flexibility in when the 10 year reimbursement schedule begins, avoiding the cost of having to amend the TIF Program and seeking state approval for the amendment.

At the time of the Option Agreement it was thought that the majority of the parking for the hotel could be accommodated in the Lincoln Street Garage. As the details of that arrangement were further explored, with the hotel franchise requiring that spaces in the garage be dedicated and signed for guests of the hotel, and the City's bond financing not allowing such an arrangement, the number of spaces to be provided in the garage has been reduced to fifteen. Those spaces will be leased to the hotel for a 25 year term. The rate for the first 10 years will be \$120 annually per space. For the remaining term of the lease the rate will be 20% of the prevailing yearly parking pass rate.

The city will spent \$425,000 in building surface parking and public green space on top of the CSO mitigation project located at 8 and 34 Water Street. The city will continue to own the land, but lease the space to the hotel for \$1 annually. The developer will be responsible for plowing and maintaining the surface parking and park lands. The city will fund this obligation using the sale proceeds from 15 and 29 Lincoln Street.

If the city acquires the canal system the Joint Development Agreement has a provision whereby the city will lease the "Red Shop," which spans the cross canal to the developer. The developer must give notice of their intent to redevelop and lease within 24 months of the Certificate of Occupancy being issued for the hotel. The building will be leased by the city in an "as is" condition. It will be used as a café, function space, boat house or other use complementary to the river and recreational assets in the area. It will be a 10 year lease with one 5 year option to renew. The lease rate for the first 10 years will be \$1 annually, triple net (developer pays taxes, insurance, and other costs of ownership/maintenance). The reduced rent is provided to allow the developer to recoup their costs for redeveloping the property. If the developer chooses to renew the lease it will be at market rates. During the initial 10 year term the developer may purchase the building at market rate, with the cost capped at \$250,000. The purchase price after 10 years is not capped.

**Summary**

The proposed project will jump start redevelopment efforts in the Riverfront Island area of the City. A hotel has long been envisioned on this site. The project will create 21 new jobs and expand the tax base. The project will bring renewed life and vitality to this area of the city, and bring a quality hotel to Lewiston's downtown. The TIF has been structured to only provide the level of support necessary to make the project viable. The city will not incur new debt for this project.

**Riverfront Island Hotel TIF District**

|                              | <b>Invest<sup>1</sup></b> | <b>AV<sup>2</sup></b> | <b>Taxes<sup>3</sup></b> | <b>TIF</b>   | <b>TIF %</b> | <b>Parking Revenue (4)</b> | <b>Net General Fund</b> |
|------------------------------|---------------------------|-----------------------|--------------------------|--------------|--------------|----------------------------|-------------------------|
| <i>Land Acquisition Cost</i> | \$ 500,000                |                       |                          |              |              |                            |                         |
| <i>CSO Infrastructure</i>    | \$ 425,000                |                       |                          |              |              |                            | \$ 75,000               |
| <b>Year</b>                  |                           |                       |                          |              |              |                            |                         |
| 1                            | <b>0</b>                  | <b>0</b>              | <b>0</b>                 | <b>0</b>     | <b>0</b>     | <b>0</b>                   | <b>0</b>                |
| 2                            | \$ 7,689,400              | \$ 4,613,640          | \$ 118,986               | \$ 110,000   | 92%          | \$ 1,800                   | \$ 10,786               |
| 3                            | \$ 7,689,400              | \$ 4,998,110          | \$ 128,901               | \$ 120,000   | 93%          | \$ 1,800                   | \$ 10,701               |
| 4                            | \$ 7,689,400              | \$ 5,382,580          | \$ 138,817               | \$ 130,000   | 94%          | \$ 1,800                   | \$ 10,617               |
| 5                            | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 100,000   | 63%          | \$ 1,800                   | \$ 60,448               |
| 6                            | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 100,000   | 63%          | \$ 1,800                   | \$ 60,448               |
| 7                            | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 100,000   | 63%          | \$ 1,800                   | \$ 60,448               |
| 8                            | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 100,000   | 63%          | \$ 1,800                   | \$ 60,448               |
| 9                            | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 90,000    | 57%          | \$ 1,800                   | \$ 70,448               |
| 10                           | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 80,000    | 50%          | \$ 1,800                   | \$ 80,448               |
| 11                           | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ 70,000    | 44%          | \$ 1,800                   | \$ 90,448               |
| 12                           | \$ 7,689,400              | \$ 6,151,520          | \$ 158,648               | \$ -         | 0%           | \$ 1,800                   | \$ 160,448              |
| <b>Total</b>                 |                           |                       |                          | \$ 1,000,000 |              |                            | \$ 750,685              |

1 \$500,000 land + \$7,189,400 construction and FFE costs

2 Changes in Assessed Value for Years 1 -4 reflect an estimate of value during ramp up in revenues to stabilization in Year 4.

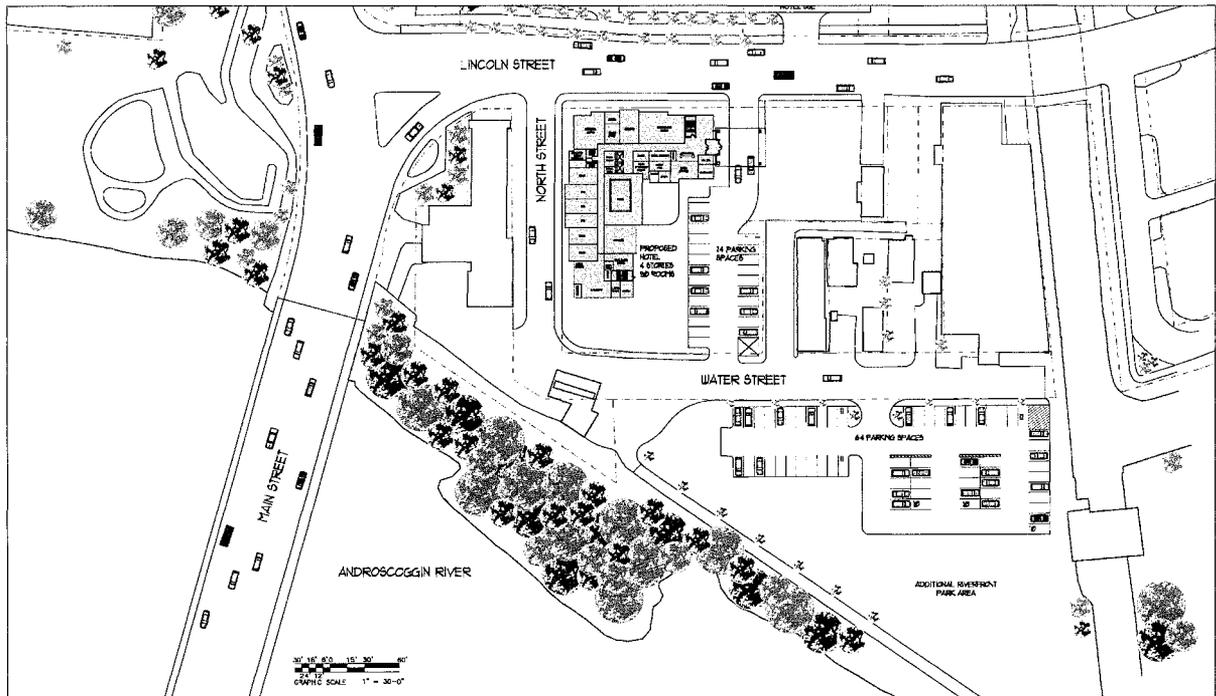
3 .02579 mil rate held constant through proforma. In likelihood, both the mil rate and assessed valuation will change over time.

4 Annual fee for 15 Spaces at \$10 per month

Proposed

# Riverfront Island Hotel

## Tax Increment Financing and Development District Program



**PROPOSED HOTEL**  
LEWISTON, MAINE

**ARCHETYPE**  
ARCHITECTS  
44 State Street, Portland, Maine 04101  
207.774.4633 Fax: 207.774.4554

*Submitted by:*  
**City of Lewiston**  
**Economic and Community Development Department**  
**27 Pine Street**  
**Lewiston, ME 04240**  
**January 2012**



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## **5. DEVELOPMENT PROGRAM**

### **Project Overview**

Parallax Partners, Inc. (the “Developer”) has proposed constructing a 90 room business class hotel on a 1.03 acre parcel in Lewiston, Maine consisting of two contiguous lots, 15 and 29 Lincoln Street, currently owned by the City of Lewiston (the “City”). The hotel will create an estimated 21 hotel operation related jobs. Total project costs are estimated \$9.9 million.

The proposed hotel is located on a high profile site on the banks of the Androscoggin River. The site is located in Lewiston’s Western Gateway Development District. It is at the nexus of two major roads, and in an area the City has focused its redevelopment efforts. The hotel will expand the City’s tax and employment base.

Parallax has requested TIF financing and other public investments to make the project economically feasible.

#### **a) Description of the Public Facilities to be Constructed**

There is existing road infrastructure and capacity to support the project. The City will contribute \$425,000 to the construction of approximately 64 surface parking spaces at 8 and 34 Water Street, along with public park infrastructure, lighting, curbing, roadway improvements, landscaping, sidewalks, related site and greenspace improvements to the waterfront public space on the same parcels.

Beneath the surface of 8 and 34 Water Street the City operates a Combined Sewer Overflow (CSO) mitigation system that receives and stores combined sewer discharges for a significant portion of the downtown area. The parking and green space will be built on top of the CSO mitigation system. The city will continue to own 8 and 34 Water Street, and to operate and maintain the CSO system. The City will lease the parking area to the Developer for \$1 per year. As part of the lease the Developer will plow and maintain the paved area and green space as well as cutting the grass and maintaining the landscaping on the parcels.

The surface parking and green space to be built is located outside of but adjacent to the proposed TIF district.

The City will use a portion of the proceeds from the sale of the TIF District properties to the developer to pay for the public facilities to be constructed. The City will not incur debt to build these facilities.

#### **b) Description of Commercial Facilities**

Within the proposed TIF district, Parallax Partners will build a 90 room focused-serve branded hotel. It will have a fitness center, indoor pool, breakfast room and meeting room space for up to 70 people. Total project costs are estimated at \$9.9 million. The hotel will be built primarily on 15 Lincoln Street. The land at 29 Lincoln Street is also

suitable for commercial development, but Parallax is not required under the terms of the agreement to develop the parcel.

**c) Duration of the Program**

The City's designation of the TIF District and adoption of this Development Program creates a TIF District that will capture the value of improvements made within the District during the 12-year maximum life of the TIF District and permit a portion of the captured TIF Revenues to be used to finance the Project itself. Tax reimbursements made under the Development Program will continue for a total of ten (10) years beginning in the tax year of a "Triggering Event." The "Triggering Event" means the earlier of (a) the first Tax Year when the Increased Assessed Value of the TIF District first equals at least Four Million Five Hundred Thousand Dollars (\$4,500,000.00); or (b) the 2014-2015 Tax Year. In an effort to make the Project attractive to investors, the Developer is seeking TIF District approval despite the possibility that the Project may not be completed for a year or more after the TIF District is in place. The TIF District term will run from the Maine Department of Economic and Community Development's ("DECD") final approval of the District for a period of up to twelve (12) years, and will terminate automatically at the conclusion of a ten (10) year period following the Triggering Event.

**d) Certification of Original Assessed Value**

Lewiston's Chief Assessor has determined the Original Assessed Value of the proposed TIF District on April 1, 2010 was Zero dollars (\$0). A letter certifying the value, acreage, and the accuracy of the TIF District Maps is attached as Exhibit C hereto.

**e) TIF District Maps**

Two maps are included in Exhibit C. One map provides the boundaries of the Proposed Riverfront Island Hotel TIF District. The other shows the location of the TIF District within the municipal boundaries.

**f) Financial Plan**

The City will create and establish a segregated fund in the name of the City designated as the Riverfront Island Hotel Development Program Fund (the "Development Program Fund"). The Development Program Fund is pledged to and charged with the payment of the project costs in the manner provided in 30-A M.R.S.A. § 5227(3)(A) (2011). The Development Program Fund will consist of a Project Cost Account, which will be designated as the "Developer TIF Account."

Each year during the term of District, commencing with the Tax Year in which the Triggering Event occurs and continuing thereafter during each of the TIF Reimbursement Years, the City shall retain in the District the amount of Captured Assessed Value necessary to generate the Tax Increment Revenues to be refunded to the Developer as set forth in the table below provided, that nothing herein shall commit the City to deposit any amount in any TIF Reimbursement Year in excess of collected property taxes for real and

personal property located within the TIF District for such TIF Reimbursement Year. The City will deposit all of the TIF Revenues from the District into the Developer TIF Account.

**Developer Share of TIF Revenues:** The occurrence of the Triggering Event commences a 10-year period of reimbursements to the Developer by the City. Once the Triggering Event occurs, the City will deposit the Developer’s share of TIF Revenues derived from the District into the Developer TIF Account, and will refund those TIF revenues to the Developer pursuant to an Agreement for Development Assistance and Tax Increment Financing (the “TIF Agreement”), in the specific amounts specified below:

| <b>TIF Reimbursement Year(s)</b> | <b>Developer TIF Reimbursement</b> |
|----------------------------------|------------------------------------|
| 1                                | \$110,000                          |
| 2                                | \$120,000                          |
| 3                                | \$130,000                          |
| 4-7                              | \$100,000                          |
| 8                                | \$90,000                           |
| 9                                | \$80,000                           |
| 10                               | \$70,000                           |

**i. Cost Estimates for the Development Program**

Total hotel project costs are estimated at \$9.9 million including land purchase (\$500,000); soft costs (\$1,500,000); construction (\$6,300,000); and Furniture, Fixtures and Equipment (\$1,600,000). Public investment in surface parking, greenspace, landscaping, infrastructure and related accoutrements and site-improvements are estimated at \$425,000, which has been established as the amount of City investment in these aggregate improvements.

The proposed TIF District will provide a total of \$1 million to the Developer to be used toward financing costs. The amount per year will vary as described in Section 5(c).

ii. **Amount of Public Indebtedness**

There will be no public debt associated with the Development Program.

iii. **Sources of Anticipated Revenues**

The Developer is seeking to borrow approximately \$7.4 million in primary bank financing, with approximately \$2.48 million in equity sources and/or secondary financing. TIF revenues may be used as a funding source for a secondary loan. One or more local Development Corporations are possible sources of secondary financing.

iv. **Related Agreements**

Included in **Exhibit A** is a copy of an Option Agreement between Parallax Partners and the City of Lewiston on October 6, 2011. Also in Exhibit A is a copy of Joint Development Agreement between the two parties, approved by the City Council on December 20, 2011. Exhibit B of the Joint Development Agreement and approved by the City Council as part of the same action is an Agreement for Development Assistant and Tax Increment Financing.

The Option Agreement provided Parallax with the site control needed to move forward with due diligence for development of the hotel. The Joint Development Agreement provides the basic framework this Development Program is built upon, and which it more fully elaborates.

v. **Estimates of Increased Assessed Values and CAV**

The City will use a portion of the new tax revenues generated to assist the Developer in securing financing. The TIF reimbursement schedule is designed to provide the highest levels of support to the project during the early years of the Development Program, when the project will work to build its operations toward the goal of stabilization, stable support in the middle years, and lower levels of support during the last three years of the TIF Reimbursement Years. Over the course of the TIF Reimbursement Years the average level of support equals \$100,000 annually. The following table outlines an estimate of the Increased Values of the district for each year of the program, and the portion of the increased assessed values to be applied to the development program as Captured Assessed Values, and the resulting tax increments returned to the Developer in each year of the Program.

| Tax Year Beginning July 1 | Increase in District Assessed Value <sup>1</sup> | Total New Tax Revenues <sup>2</sup> | TIF Revenues Paid to Developer | Captured Assessed Value (CAV) | % of TIF Revenues Reimbursed to Development Program | General Fund Taxes Retained by City |
|---------------------------|--|-------------------------------------|--------------------------------|-------------------------------|---|-------------------------------------|
| 1                         | \$0  | \$0                                 | \$0                            | \$0                           | 0%  | \$0                                 |
| 2                         | \$4,613,000                                      | \$118,969                           | \$110,000                      | \$ 4,265,219                  | 92%   | \$8,969                             |
| 3                         | \$4,998,000                                      | \$128,898                           | \$120,000                      | \$ 4,652,966                  | 93%   | \$8,898                             |
| 4                         | \$5,382,000                                      | \$138,802                           | \$130,000                      | \$ 5,040,713                  | 94%   | \$8,802                             |
| 5                         | \$6,151,000                                      | \$158,634                           | \$100,000                      | \$ 3,877,472                  | 63%   | \$58,634                            |
| 6                         | \$6,151,000                                      | \$158,634                           | \$100,000                      | \$ 3,877,472                  | 63%   | \$58,634                            |
| 7                         | \$6,151,000                                      | \$158,634                           | \$100,000                      | \$ 3,877,472                  | 63%   | \$58,634                            |
| 8                         | \$6,151,000                                      | \$158,634                           | \$100,000                      | \$ 3,877,472                  | 63%   | \$58,634                            |
| 9                         | \$6,151,000                                      | \$158,634                           | \$90,000                       | \$ 3,489,725                  | 57%   | \$68,634                            |
| 10                        | \$6,151,000                                      | \$158,634                           | \$80,000                       | \$ 3,101,978                  | 50%   | \$78,634                            |
| 11                        | \$6,151,000                                      | \$158,634                           | \$70,000                       | \$ 2,714,230                  | 44%   | \$88,634                            |
| 12                        | \$6,151,000                                      | \$158,634                           | \$0                            | \$0                           | 0%  | \$158,634                           |
|                           |  |                                     | \$1,000,000                    |                               |   | \$655,744                           |

<sup>1</sup> Changes in Assessed Value for Years 1 -4 reflect an estimate of value during ramp up in revenues to stabilization in Year 4.

<sup>2</sup> For proforma purposes, the mil rate is held constant at .02579 for the TIF Reimbursement Years . After initial ramp up period, the Assessed Valuation is held constant in Years 4 - 10 but In likelihood, both the mil rate and assessed valuation will change over time.

vi. **Tax Shift Calculations**

Tax Shift Calculations are attached as Exhibit D. The following chart summarizes the tax shifts during the TIF Reimbursement Years.

| Tax Year Beginning July 1 | Education | State Revenue Sharing | City Taxes | Total |
|---------------------------|-----------|-----------------------|------------|-------|
| 1                         |           | \$9,479               | \$840      |       |
| 2                         |           | \$10,341              | \$917      |       |
| 3                         |           | \$11,202              | \$993      |       |
| 4                         |           | \$8,617               | \$764      |       |
| 5                         |           | \$8,617               | \$764      |       |
| 6                         |           | \$8,617               | \$764      |       |
| 7                         |           | \$8,617               | \$764      |       |
| 8                         |           | \$7,755               | \$688      |       |
| 9                         |           | \$6,894               | \$611      |       |
| 10                        |           | \$6,032               | \$535      |       |
| Total                     |           |                       |            |       |

**g) Relocation of Displaced Persons**

There is no relocation associated with this project.

**h) Proposed Regulations and Facilities to Improve Transportation**

Access to the site will be provided by existing roads. The project has not been through Planning Board approval yet, but based upon consultant review and traffic engineering manuals, the project will not generate the 100 passenger car equivalent per hour threshold that requires a Traffic Movement Permit. Any offsite improvements will be determined at the time of Planning Board approval, but minimal improvements, if any, are anticipated.

**i) Environmental Controls**

Architectural and civil design work is underway on the project. It is expected to be before the Lewiston Planning Board for Development Review Approval in winter 2012, and for construction to begin during the 2012 construction season. The Lewiston City Council approved establishment of the Riverfront Island Hotel Tax Increment Financing District and Program at their December 20, 2011 meeting.

**j) Plan of Operation Upon Completion of Capital Improvements**

During the twelve (12) year maximum term of the TIF District, the City's Finance Department will be responsible for monitoring the fiscal operation of the District. The City's Development Department will oversee annual Economic Development Incentive reporting requirements as required by 5MRSA §13070-J.

**6) PUBLIC HEARING**

**a) Public Notice**

A copy of the public notice and proof of publication are provided in Exhibit E.

**b) Attested Public Hearing Minutes**

A Lewiston City Clerk certified copy of the December 20, 2011 public hearing at which the Lewiston City Council approved the creation of the Riverfront Island Hotel Tax Increment Financing District and Development Program is provided in Exhibit F.

**c) Record of District Designation**

The Lewiston City Council approved creation of the proposed TIF district at their December 20, 2011 meeting. Evidence of their approval is provided in Exhibit F.

Copies of the Planning Board's and City Council's decisions are attached as Exhibit F.



## JOINT DEVELOPMENT AGREEMENT

THIS JOINT DEVELOPMENT AGREEMENT ("AGREEMENT") made as of \_\_\_\_\_, 2011 by and between THE CITY OF LEWISTON, a body politic and corporate situated in Androscoggin County, Maine (hereinafter sometimes referred to as the "City," which expression shall include its successors and assigns), and PARALLAX PARTNERS, INC., a Maine corporation, with a place of business in Lewiston, Maine (hereinafter sometimes referred to as "Developer," which expression shall include its successors and assigns). Developer and the City are referred to individually as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, Developer and the City have entered into an Option Agreement dated October 6, 2011 (the "Option Agreement") attached hereto as Exhibit A pursuant to which the City has granted Developer an option (the "Option") to purchase two parcels of real estate located at 15 Lincoln Street and, 29 Lincoln Street, Lewiston, Maine, as further described in the Option Agreement (the "Properties") upon the satisfaction of certain conditions in connection with Developer's +/- \$9.9 million investment in the construction of a +/-90-100-room hotel (the "Hotel") on the Properties (the "Project");

WHEREAS, One of the conditions to exercise of the Option is the Parties' negotiation and entry into a Joint Development Agreement addressing specific details of the Project and the Parties' respective responsibilities and obligations following Developer's exercise of the Option;

WHEREAS, the construction of this project will create jobs, expand Lewiston's tax base, establish a room base in the downtown that is currently non-existent resulting in a downtown that is easier and a more desirable place to visit, and which will be a catalyst for other development in the Riverfront Island area and Western Gateway Development District, and

WHEREAS, the 2010 Strategic Plan specifically calls for the development of a hotel at 15 Lincoln Street, and this Project will fulfill that objective, and

WHEREAS, the 2010 Strategic Plan addresses the City's desire to leverage the land it owns in the Riverfront area "in support of directed development to transform the downtown and the riverfront," and this Project will do precisely that, and

WHEREAS, the 2010 Strategic Plan both notes that development in the Riverfront area may require the construction of additional surface parking and also encourages the use of existing parking facilities, and this Project will utilize the adjacent Lincoln Street Garage, and

WHEREAS, the undertakings set forth herein are interrelated and mutually dependent on one another; and

WHEREAS, the Parties wish to identify their mutual understandings and commitments in this Agreement.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

ARTICLE I  
DEFINITIONS

The following terms shall have the following meanings.

“**Agreement**” shall have the meaning as set forth in the preamble.

“**City**” shall have the meaning as set forth in the preamble.

“**City Agreements**” shall mean the CSO License, the Parking Lease, the Red Shop Lease and the TIF Agreement.

“**Closing**” shall have the meaning set forth in Section 2.4(b).

“**Closing Conditions**” shall mean the following conditions:

- (a) The Project has completed development review with the City’s Planning Board and received approval; and
- (b) Developer has provided evidence to the City that Developer has obtained financing and other cash resources, including those that the City may assist in securing as provided in Section 2.5(f), sufficient to construct and operate the Project; and
- (c) The TIF shall have been approved by the State of Maine Department of Community and Economic Development.

“**CSO License**” shall have the meaning assigned in Section 2.5(b).

“**CSO Property**” shall have the meaning assigned in Section 2.5(b).

“**Developer**” shall have the meaning set forth in the preamble.

“**Development District**” shall have the meaning as set forth in Section 2.5(e).

“**Eligible Costs**” shall have the meaning as set forth in Section 2.5 (b).

“**Hotel**” shall have the meaning set forth in the recitals.

“**Option**” shall have the meaning set forth in the recitals.

“**Option Agreement**” shall have the meaning set forth in the recitals.

“**Option Notice**” shall have the meaning set forth in Section 2.5(a)

“**Option Payment**” shall mean the **\$7,500** payment previously made by Developer to the City under the Option Agreement.

“**Parking Lease**” shall have the meaning set forth in Section 2.5(c).

“**Party**” and “**Parties**” shall have the meaning set forth in the preamble.

“**Project**” shall have the meaning set forth in the recitals.

“**Purchase Price**” shall mean **\$500,000**.

“**Red Shop**” shall have the meaning assigned in Section 2.4(e).

“**Red Shop Lease**” shall have the meaning assigned in Section 2.4(e).

“**Surface Parking**” shall have the meaning set forth in Section 2.5(b).

“**TIF**” shall have the meaning assigned in Section 2.5(e).

“**TIF Agreement**” shall have the meaning assigned in Section 2.5(e)

## ARTICLE II RESPONSIBILITIES OF THE PARTIES

### 2.1 Obligations of the Parties.

Each of the Parties shall cooperate fully with the other parties to the extent necessary to enable all parties to satisfy their obligations under this Agreement and execute such further agreements, instruments and other documentation as may be reasonably necessary to reflect the obligations and agreements of the parties hereunder. Except as otherwise provided herein or in the Option Agreement, each Party shall bear its own costs in connection with the various tasks described herein.

### 2.2 Obligations Under Option Agreement.

Each of the Parties shall comply with their respective obligations under the Option Agreement.

### 2.3 Obligations as to Communication.

The City and Developer shall each designate a primary contact person for management of the obligations of each Party to this Agreement. The City and Developer shall each, through their respective contact persons, keep the other informed on all aspects of each Party's obligations described in this Agreement. The City and Developer contact persons (or respective designees) shall hold regular meetings, no less frequently than monthly, to exchange information and report on the progress of the various tasks described in this Agreement. Neither Developer nor the City shall issue any press releases to the media concerning the subject matter hereof without first notifying the other party.

2.4 Obligations of Developer. If the Developer intends to exercise the Option in accordance with the Option Agreement, Developer shall:

(a) Immediately notify the City of such exercise under Term 3 of the Option Agreement ("Option Notice") in accordance with the notice provisions set forth below in Section 5.7.

(b) Schedule with the City a closing (the "Closing") to occur no later than one hundred and eighty (**180**) days after the City's receipt of the Option Notice, provided, that if the Developer, or City as may be applicable, shall not have satisfied the Closing Conditions by such date, the City shall, if Developer is diligently proceeding in good faith to satisfy the Closing Conditions extend such date for up to an additional ninety (**90**) days. In the event that the State of Maine Department of Community and Economic Development has not issued final approval of the TIF, Developer may at its sole discretion elect to postpone Closing until sixty (60) days after said approval. At the Closing, Developer shall provide evidence of its satisfaction of the applicable Closing Conditions and shall pay the City the Purchase Price, less the amount of the Option Payment, and the City shall transfer to Developer or its assigns good and marketable title by Quitclaim Deed, free and clear of liens and encumbrances, to the Properties, without representations or physical warranties in "as is, where is" condition. The City shall retain any easement for a sewer line that runs beneath 15 Lincoln Street and the City's rights to maintain said sewer line, including without limitation, any rights as set forth in the Quitclaim Deed Without Covenant (Release) from The Franklin Company to The City of Lewiston dated December 15, 1865 and recorded at Book 41 Page 203 in the Androscoggin County Registry of Deeds. If repair work by the City pursuant to said rights shall ever necessitate excavation of the line across the property, the City agrees to promptly, at its sole cost and expense, restore and repair the surface of such portion of the Properties, to a condition substantially the same as it was prior to the repair work on the sewer line. City agrees to notify Developer at least 10 days in advance of any entry by the City onto Properties to conduct maintenance and repairs in connection with said rights, except in case of emergency, in which case City shall endeavor to

notify Developer in a reasonably timely manner. In the event that, after repairs are conducted, City has not returned the Properties to their original or similar condition within ten (10) business days and City is not diligently undertaking efforts to do so, Developer may engage a contractor to complete the work with the cost to be reimbursed by the City.

(c) Execute and deliver the City Agreements in accordance with the provisions of Section 2.5 (b) through (e).

(d) Proceed in good faith and with all deliberate speed with the financing and construction of the Project with the goal of opening the Hotel no later than March 1, 2013.

2.5 Obligations of the City. Upon the exercise of the Option, the City shall be obligated to:

(a) Transfer the Properties at the Closing in accordance with Section 2.4(b) above;

(b) It being understood that the construction of surface parking (“Surface Parking”) and public park infrastructure improvements on City property located at 8 Water Street and 34 Water Street, Lewiston, Maine (the “CSO Property”) shall be part of the Developer’s work, the City shall perform the City’s obligations under this subparagraph (b) as set forth below,

1. The City shall contribute **\$425,000** in the aggregate for the Eligible Costs defined herein. The Developer shall contract with a landscape architect and civil engineer acceptable to the City (City hereby acknowledges that it deems Sebago Technics, Inc. to be acceptable, and that in the event that the Developer finds it necessary at any point to contract with a different firm, the City shall not unreasonably withhold, condition, or delay its approval) for the design of the Surface Parking and park infrastructure improvements, including any needed survey or geotechnical work needed on the CSO property. Said fees for this design work shall be borne by the City, or if paid by the Developer prior to closing shall be reimbursed by the City at closing, and shall be included among the costs included in the amount that the City shall invest in said Surface Parking, public park infrastructure, and other public area improvements including streets, sidewalks, landscaping, and other applicable site improvements (“Eligible Costs”).
2. At the Closing, effective upon the completion of the improvements described above and the Project, the City shall license (the “CSO License”) the exclusive use of the Surface Parking to Developer

for \$1 per year for so long as the Hotel is open for business as a hotel, pursuant to which

- (i) Developer may use such Surface Parking for its business on the Properties and may use the green space portion as depicted on Exhibit C attached hereto of the CSO Property for events such as weddings and other outdoor hospitality activities without the need for obtaining a City park use permit, provided that Developer shall indemnify the City for any such events on terms reasonably satisfactory to the City;
  - (ii) the City shall agree not enter into to any long-term parking leases with any person other than Developer of the Surface Parking,;
  - (iii) The Surface Parking and the CSO Property shall remain public land and be open and accessible to the public at all times, except that the Developer may, at its sole discretion, limit public access to the use of the Surface Parking if and to the extent that the Hotel's occupancy demands that the Surface Parking be available for the use of its patrons and guests;
  - (iv) Developer shall be solely responsible for the cost of plowing and maintaining the Surface Parking and park area of the CSO Property, but not the CSO infrastructure itself, which Developer shall have no obligation to maintain;
  - (v) The City shall, at Developer's request, agree that those spaces utilized by the Developer on the CSO Property for Hotel use or related complementary uses be dedicated spaces, and shall permit Developer to create and install signage to this effect as may be necessary, and
  - (vi) The City agrees that, in the event that Developer or its assigns, in its sole discretion, decides in future to expand the Hotel by any number of rooms, that the Developer may, at its sole cost, design and construct additional surface parking spaces on the CSO Property which shall be subject to the foregoing terms and conditions.
- (c) At the Closing, City shall enter into a twenty-five (25) year lease, (the "Parking Lease") with the Developer pursuant to which, effective as of the date the Hotel receives its certificate of occupancy, Developer shall be entitled to lease fifteen (15) dedicated spaces in the City's Lincoln Street parking garage, and shall

be entitled to lease additional spaces on an annual basis to the degree that Developer demonstrates a need for said spaces for its business. The lease rate for such spaces shall initially be \$120 per parking space per year for the first ten years of the Parking Lease and thereafter shall be at an annual rate equal to twenty percent (20%) of the yearly parking pass rate for such garage as set by the City's council ("the Parking Lease Fee"). Developer shall be permitted to sublease any such spaces to third parties, with the written permission of the city, which shall not be unreasonably withheld, conditioned or denied.. The parking provided under the Parking Lease shall be for the use of overnight guests of the Hotel and not for the use of daily visitors, who, if they choose to park in the garage will pay the regular hourly parking rates charged by the garage. The number of spaces to be provided in the garage each year will be agreed upon by June 15<sup>th</sup> of each year the Parking Lease is in place, with the understanding that at least fifteen (15) spaces shall be made available per the terms and rates above. Developer agrees to pay the Parking Lease Fee in one lump sum on July 1 of each year the Parking Lease is in place. Additionally, without altering the Purchase Price, Developer may elect to lease, rather than purchase, such portion of the Surface Parking adjacent to the hotel as Developer may designate (the "Surface Parking Lease");

(d) After the Closing, if the City obtains ownership or control of the so-called "Red Shop" hydro station building located on the canal between the CSO Property and Simard/Payne Park (the "Red Shop"), the City and Developer shall enter into a lease of the Red Shop (the "Red Shop Lease"), which lease shall provide that: (i) the City shall lease such property to Developer in an "as is, where is" condition with no representations or warranties as to physical condition, (ii) Developer may use the Red Shop as a café, function space, or boat house or other use that is a complement to the river and recreational uses in the area reasonably acceptable to the City, (iii) Developer shall be solely responsible for the expenses of any and all such improvements and operations of any such facility, (iv) the City shall extend to the Developer any rights to enter and access the waterways to which the Red Shop is adjacent and over which the City may have control, for the use by patrons of the Hotel and the Red Shop as it may be improved, (v) to activate the following lease and or purchase terms the Developer must provide notice of intent to lease the premises within twenty-four (24) months of the later to occur of (a) a Certificate of Occupancy issued for the Hotel; or (b) the City gains ownership of the canals and/or Red Shop. Renovations to the Red Shop must be completed within twelve (12) months of providing notice of intent to exercise the option to lease the premises. The term of the Red Shop Lease shall be ten (10) years, with one (1) five (5) year option to renew. In exchange for the Developer undertaking the cost of renovation and operation of the Red Shop and making it available for use by members of the public and patrons of the Hotel, The lease rate for the first ten (10) years shall be \$1 per year and other standard terms and conditions of a triple net lease of commercial property. If the developer chooses to exercise its option to renew the lease, the lease rate shall be at the fair market rent at the time of renewal. The Developer shall have an option to purchase the Red Shop, and any associated rights of water access under the Red

Shop Lease, at the then market rate, but at an option purchase price not to exceed \$250,000, which may be acted upon by the Developer at any time up to the end of Year Ten (10) of the Red Shop Lease. If agreement cannot be reached as to the fair market rent to be paid during the renewal period, or the Purchase Price after Year Ten (10), Developer may hire a commercial appraiser to provide an estimate of value. If the City disagrees with the estimate of value provided by the Developer's appraiser, the City may hire a commercial appraiser at its cost. If upon receipt of the City's appraisal, agreement cannot be reached on the market rent or purchase price to be charged, a third appraiser will be selected by the two appraisers and hired by the parties, the costs of which will be shared equally. The median rent or purchase price among the three appraisals shall be binding.

(e) Effective as of the Closing, the City shall create a municipal development district (the "Development District") pursuant to 30-A M.R.S.A. § 5221 *et. seq.* which shall also be a Tax Increment Financing ("TIF") District pursuant to 30-A M.R.S.A. § 5221 *et. seq.*, which District shall encompass the Properties and the TIF shall provide a return to Developer of an average of \$100,000 per annum of any property taxes on the tax increment revenues, and a maximum of \$130,000 in any year, as that term is defined in 30-A M.R.S.A. § 5222, for a period of ten years from the creation, or the triggering date, of the TIF, whichever is later, in accordance with the terms of the Agreement for Tax Increment Financing ("TIF Agreement") attached hereto as Exhibit B. The City's valuation of the Hotel shall take into account the ongoing construction progress of the Project and the initial ramp-up of the Hotel to the extent permissible under applicable law.

(f) The City shall assist and support the Developer's applications and efforts with respect to securing sources of financing for the Project, including those that may be available through the South Park Development Corporation provided, that the City shall not be required to provide any financial assistance of any kind of nature as part of such support.

(g) In establishing the impact fees that it will assess on the Project, the City will take account of any measures the Developer takes regarding water-saving measures, such as but not limited to low-flow fixtures, ozone laundry systems, and low- or no-irrigation plantings, and stormwater treatment measures, whether in terms of quantity or quality, which may mitigate stormwater impact fees.

(h) The City will not offer the Properties for sale to any person other than the Developer during the pendency of negotiations between the Developer and City.

(i) In the event the Developer shall acquire the properties abutting 39 Lincoln Street within 24 months of a certificate of occupancy being issued for the Hotel, the City agrees to convey the property it owns at 39 Lincoln Street, Lewiston, Maine to the Developer for no additional consideration.

ARTICLE III  
LIMITATION OF LIABILITY

Notwithstanding any other provision of this Agreement, in no event shall the Parties, by reason of any of their respective acts or omissions relating to any of their obligations under this Agreement, be liable whether in contract, tort, warranty, negligence, strict liability or otherwise for any special, indirect, incidental or consequential damages arising out of or in connection with this Agreement, or the performance, non-performance or breach thereof; provided, however, that nothing in this Article III shall be deemed a waiver of claims for injunctive relief, specific performance and direct damages.

ARTICLE IV  
INDEMNIFICATION

Each Party shall indemnify, defend and hold harmless the other Party and its agents, servants, officers, directors, employees and affiliates from and against any loss, cost, liability, claim, damage, expense (including, without limitation, all out-of-pocket expenses, reasonable attorneys' fees, disbursements and costs), penalty or fine incurred in connection with any claim or cause of action arising from or in connection with this Agreement or the agreements contemplated hereunder, to the extent caused by the negligence, misrepresentation, fraud, fault or misconduct of the indemnifying Party.

ARTICLE V  
MISCELLANEOUS

5.1. Representations and Warranties. Each Party represents and warrants that (a) it is an entity or municipality, as the case may be, 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, such obligations are contingent upon obtaining the necessary approvals.

5.2. Governing Law. This Agreement shall be interpreted in accordance with and governed by the laws of the State of Maine, without regard to the conflicts of law principles thereof.

5.3. Relationship of Parties. The Parties understand and agree that neither Party is an agent, employee, contractor, vendor, representative or partner of the other Party, that (except as expressly set forth in writing) no Party shall owe a fiduciary duty to the other Party, that no Party shall hold itself out as such to third parties and that no Party is capable of binding the 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 constitute a partnership, joint venture or any other form of business organization or arrangement between or among the Parties.

5.4. Remedies. In the event of any breach or threatened breach of this Agreement by any Party hereto, the other Party shall be entitled to equitable relief through an injunction in addition to any other rights and remedies available to it.

5.5. Integration. The terms and provisions contained in this Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes and terminates all previous undertakings, representations and agreements, both oral and written, between the Parties with respect to the Project.

5.6. No Oral Modifications. This Agreement may not be amended or modified except by written agreement executed by each of the Parties hereto.

5.7. Notices. Any notices, requests, demands and other communications required or permitted to be given under this Agreement shall be in writing and delivered by hand or a recognized overnight courier service, addressed as follows:

If to the City:           Edward Barrett, City Administrator  
                                  City Hall  
                                  27 Pine Street  
                                  Lewiston, Maine 04240

With a copy to:         Martin I. Eisenstein  
                                  Brann & Isaacson  
                                  184 Main Street  
                                  P.O. Box 3070  
                                  Lewiston, ME 04243-3070

If to Developer:       Parallax Partners, Inc.  
                                  55 Lisbon Street, Suite 2400  
                                  Lewiston, ME 04240

With a copy to:         David L. Galgay, Jr.  
                                  Verrill Dana LLP  
                                  One Portland Square  
                                  P.O. 586

or to such other address as the party hereto may from time to time give written notice of to the others.

5.8. Arbitration. Except for claims for equitable relief, including claims for specific performance, all disputes arising in connection with or under this Agreement shall be finally settled by arbitration, using the Streamlined Arbitration Rules and Procedures administered by JAMS then in effect. The proceedings shall be held in Lewiston, Maine.

5.9. No Third Party Beneficiary. This Agreement is exclusively for the benefit of the Parties hereto. It may not be enforced by any party other than the Parties to this Agreement, and shall not give rise to liability to any third party.

5.10. Assignment by Developer. Developer may assign its rights under this Agreement and/or to convey the real estate acquired by it pursuant to the Option, to one or more entities that will be owned or controlled by its principals. Should it do so, it will assign all of the benefits of this Agreement to that entity or entities and obligate it or them to perform all of its undertakings herein, and Developer shall remain liable for any obligations under this Agreement pertaining to the subject matter of any such assignment up until the moment of such assignment. Except as permitted by this section, Developer may only assign its rights under this Agreement with the prior consent of the City.

5.11. Termination. This Agreement shall terminate if the Option expires or the Option Agreement otherwise terminates without the Option having been exercised.

5.12. City Council Approval. This Agreement is subject to the approval of the City's Council, which if not provided prior to the expiration of the Option Agreement, or any extensions thereof, renders the entire agreement null and void.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

PARALLAX PARTNERS, INC.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Its

CITY OF LEWISTON, MAINE

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Its

## List of Exhibits

- A. Option Agreement
- B. TIF Agreement
- C. Proposed Conceptual Plan with Designated Parking Areas

# **Exhibit A**

Option Agreement

## Option Agreement

The City of Lewiston (City) owns the real estate located in Lewiston, Maine at 15 Lincoln Street as described in the deed recorded at Book 7142, Page 164 in the Androscoggin County Maine Registry of Deeds; and 29 Lincoln Street as described in the deed recorded at Book 5227, Page 39 in the Androscoggin County Maine Registry of Deeds ("the Properties"). The City agrees to provide a one-hundred-eighty (180) day option to Parallax Partners Inc., a Maine corporation, (Developer) and its assigns, for the purposes of acquiring the Properties, under the following terms (Term Conditions):

1. Developer will initiate a market feasibility study to site a hotel in Lewiston, Maine within 30 calendar days of execution of this Option Agreement.
2. Developer will finalize the feasibility study within 90 days of execution of the Option Agreement.
3. Developer will provide the city with written notice of their decision to proceed or not proceed with the hotel project within 120 days of execution of this Option Agreement.
4. Developer and City agree to negotiate a Joint Development Agreement that will further define the terms of the sale of the real estate and development of the project. Points of agreement that will be included in the Joint Development Agreement include:
  - a. The purchase price for 15 and 29 Lincoln Street will be \$500,000
  - b. A substantial portion of the parking for the project may be provided in the Lincoln Street Parking Garage, which will be provided at the rate of \$10 per month per space.
  - c. City will invest in park and parking lot improvements in support of this project at 8 and 34 Water Street at a cost not to exceed \$500,000.
  - d. A Tax Increment Financing District will be created for a term of up to five years, with the specific terms to be developed based on the results of the Feasibility Study referenced in Term 2 above.

The Joint Development Agreement will be acted upon by the Lewiston City Council prior to expiration of this Option, or any extensions thereof.

### **Option Payment**

Upon execution of this agreement the Developer agrees to make a one-time, non-refundable (except as otherwise provided below) option payment of seven thousand five hundred dollars (\$7,500.00). The option payment will be credited toward the land acquisition cost at the time of real estate transfer.

At the end of the one-hundred-eighty (180) day period, in the event that the Developer is working in good faith to negotiate a Joint Development Agreement with the City, the Developer may request and the City shall grant an extension period of an additional ninety (90) days for the purposes of consummating the Joint Development Agreement.

If at the end of the option period or any extension thereto the Joint Development Agreement has not been executed, this agreement shall automatically terminate and neither party shall have any further obligation to the other.

### **Termination**

In the event that developer does not perform Term Condition 1 in a timely manner, the City will have the option of terminating this option at its sole discretion and may retain the deposit.

In the event that in developer's sole judgment the feasibility analysis described in Term Condition 2 does not support the proposed project, developer shall be entitled to terminate as described in Term Condition 3 and shall receive a full refund of its deposit.

In the event that during the pendency of this agreement the City continues to market this property or negotiates with others in pursuit of its development, or actively pursues negotiations for the sale of city property or the provision of direct financial incentives with the developer of another similar hotel project in the downtown area with the exception of (1) those properties for which the City has entered into an option agreement with others prior to the date of this agreement (specifically the Mill 5 property under option to Great Falls Recreation & Development, LLC and the property commonly known as Island Point with Great Falls Property, LLC,) and including any extensions thereto and (2) any other property, project, or development for which the City may have contractual obligations in effect prior to the date of this agreement ("Other Deal Terms"), which the City shall disclose to the Developer upon execution of this Agreement, the Developer shall be entitled to the return of its deposit and shall be entitled to seek damages which shall be limited to the amount of any monies paid by the Developer in its project diligence (including legal fees, the cost of the feasibility analysis, professional fees such as those paid to designers and engineers, and any franchise license fees). If upon review of the Other Deal Terms the Developer considers in its sole discretion that one or more of these other

properties, projects or developments may bind the City to actions that would conflict with the proposed project, and provides written notice to the City of the unacceptable conflict within five business days of execution of this agreement, the developer may terminate this agreement and receive a full refund of its deposit. It is understood that developer shall not commence its feasibility analysis until it has reviewed these disclosures.

If during the pendency of this agreement the City is approached by any party, including but not limited to those with whom it has an existing agreement as defined above, who wishes to pursue negotiations for sale of City owned property or requiring financial incentives from the City for a similar hotel project, and the City wishes to engage in said negotiations, the City shall disclose this to the developer immediately, at which point the developer may, in its sole discretion, terminate this agreement, receive a refund of its deposit, and be entitled to seek damages as described herein.

The downtown area shall be defined as the area located two-thousand-five-hundred (2,500) feet or less as measured from the northeast corner of the option property.

Executed on the 6<sup>th</sup> day of October, 2011.



Edward A. Barrett  
Lewiston City Administrator

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Chris Thompson  
President, Parallax Partners, Inc.

# **Exhibit B**

TIF Agreement

**EXHIBIT B**

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

**THIS AGREEMENT FOR DEVELOPMENT ASSISTANCE AND TAX  
INCREMENT FINANCING (the “AGREEMENT”)** made as of December 21, 2011, by and between THE CITY OF LEWISTON, a body politic and corporate situated in Androscoggin County, Maine (hereinafter sometimes referred to as the “City,” which expression shall include its successors and assigns), and PARALLAX PARTNERS, INC., a Maine corporation, with a place of business in Lewiston, Maine (hereinafter sometimes referred to as “Developer,” which expression shall include its successors and assigns). Developer and the City are referred to individually as a “Party” and collectively as the “Parties.”

**WITNESSETH**

**I. WHEREAS,**

A. The City’s Comprehensive Plan, Downtown Master Plan and similar documents have clearly established the City’s policy of stimulating the rehabilitation of property and development of economic opportunities in its downtown, particularly in the vicinity of 15 Lincoln Street through 29 Lincoln Street in Lewiston, Maine.

B. Significant blight and depressed economic conditions currently exist in this area, and the City has concluded that rehabilitation and revitalization of the area will not occur without a Tax Increment Financing District and that both are necessary to promote public health, safety and general welfare, and to develop economic opportunities in the downtown.

C. The City intends to designate the Riverfront Island Hotel Tax Increment Financing District (the “TIF District”) and intends to adopt a development program for the TIF District (the “Development Program”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Lewiston City Council on December 20, 2011.

D. Upon submission of an application to the Maine Department of Economic and Community Development (“DECD”), the City expects DECD to review and approve the Riverfront Island Hotel Tax Increment Financing District and the Development Program.

E. In connection with the Development Program, and as contemplated thereby, the City and the Developer have agreed to execute this Agreement, intending this

Agreement to be and constitute the agreement contemplated by and described in the Development Program.

F. The City and Developer have entered into a Joint Development Agreement, dated December 21, 2011 (“Joint Development Agreement”), containing mutual obligations to invest in and improve property in the TIF District.

G. Prior to the City making any payments to the Developer pursuant to this Agreement, Developer shall have first acquired from the City pursuant to the transactions contemplated in the Joint Development Agreement, real properties located at 15 and 29 Lincoln Street, both of which are located in the proposed TIF District. All of the real and personal property Developer owns or will own in the TIF District are herein referred to as the “Developer TIF Properties.”

H. Pursuant to its obligations under the Joint Development Agreement, Developer intends to make certain improvements to certain Developer TIF Properties, including construction of a 90 bed hotel in the TIF District, but can only do so with the support and assistance of the City through this Tax Increment Financing Agreement.

I. Developer’s financial investments in the Developer TIF Properties, along with its other obligations under the Joint Development Agreement, are anticipated to aggregate approximately \$9.9 Million. Developer’s investment in the TIF District, made in connection with the Joint Development Agreement, will result in significant economic benefit to the City, including the rehabilitation of property within the TIF District and the creation of jobs within the TIF District.

J. Developer has requested assistance from the City with certain financing costs related to the Developer TIF Properties, including assistance with debt service on indebtedness incurred to finance Developer Project Costs, within the meaning of 30-A M.R.S.A. Section 5225(1)(A)(2) (the “Financing Costs”); and

K. The City’s financial assistance with Developer’s Financing Costs is determined to be consistent with the City’s plans for economic development and its community development plan, including without limitation the clearance of blighting conditions, the provision of impetus for industrial and commercial development; the increase of employment; and provision of facilities outlined in the City’s development program as part of the City’s community development program.

L. Now, therefore, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows.

**II. THE CITY AND DEVELOPER 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. Any capitalized terms not specifically defined in this Agreement shall have the meanings stated in 30-A M.R.S.A. Section 5222, as amended.

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

2. **Captured Assessed Value** - shall mean the percentage of the Increased Assessed Value retained in the TIF District, as certified by the Tax Assessor, that is utilized from year to year to finance the Developer Project Costs. This percentage shall vary annually in order to accomplish the TIF reimbursement schedule specified in Section II of this Agreement.

3. **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.

4. **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 Developer TIF Properties in the TIF District as of April 1st of each year that this Agreement remains in effect.

5. **Developer** shall mean Parallax Partners, Inc., a Maine corporation, with a mailing address of 55 Lisbon Street, Suite 2400, Lewiston, Maine, and its successors and assigns. Copies of notice required under this Agreement shall be sent to: David L. Galgay, Jr., Esq., Verrill Dana, One Portland Square, PO Box 586, Portland, ME 04112-0586.

6. **Developer Project Costs** – shall mean the costs incurred by Developer to improve and develop the Developer TIF Properties within the meaning of 30-A M.R.S.A. Section 5225(1)(A).

7. **Developer TIF Account** – shall mean the name of the project cost account of the Riverfront Island Hotel Development Program Fund, which shall be an account

pledged to and charged with the payment of the Developer Project Costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S.A. § 5227(3)(A)(1).

8. **Developer TIF Properties** – shall have the meaning stated in Section I (G).

9. **Development Program** - shall have the meaning given such term in the recitals hereto.

10. **Development Program Fund** - shall mean the Riverfront Island Hotel Development Program Fund, created pursuant to and in accordance with the terms and conditions of the Development Program and 30-A M.R.S.A. § 5227(3), and shall consist of the project cost account known as the Developer TIF Account.

11. **End Tax Year** – shall mean the conclusion of the tenth (10<sup>th</sup>) Tax Year following the occurrence of the Triggering Event.

12. **Event of Default** - shall have the meaning stated in Section II (F)(1).

13. **Financing Costs** – shall have the meaning stated in Section I (J).

14. **Increased Assessed Value** – shall mean the amount of valuation of Developer TIF Properties, by which the Current Assessed Value of the Developer TIF Properties exceeds the Original Assessed Value of the Developer TIF Properties during the TIF Reimbursement Years.

15. **Joint Development Agreement** – shall have the meaning stated in Section I(F).

16. **Optimal Assessed Value** – shall mean an assessed value for the Developer TIF Properties that is at least the amount set forth in the table below:

| <b>TIF Reimbursement Year(s)</b> | <b>Optimal Assessed Value</b> |
|----------------------------------|-------------------------------|
| 1                                | 4,613,000                     |
| 2                                | \$4,998,000                   |
| 3                                | \$5,382,000                   |

|      |             |
|------|-------------|
| 4-10 | \$6,151,000 |
|------|-------------|

The Optimal Assessed Value amounts shall be reduced in any year to reflect any reduction in value from any fire, earthquake, or other casualty or act of God until such 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.

17. **Original Assessed Value** – shall mean the assessed value of all Developer TIF Properties in the TIF District as of March 31, 2011 (April 1, 2010).

18. **Tax Increment Revenues** – shall mean the portion of property tax payments attributable to the Captured Assessed Value in the TIF District during each of the TIF Reimbursement Years.

19. **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>. For explanatory purposes, the Tax Year beginning July 1, 2013 and ending June 30, 2014 shall be herein referred to as the 2013-2014 Tax Year.

20. **TIF District** - shall have the meaning given such term in the recitals hereto, which is shown in Exhibit A and consists of approximately 1.03 acres.

21. **TIF Reimbursement Years** – shall mean the period of ten (10) consecutive Tax Years beginning with the Tax Year in which the Triggering Event occurs.

22. **Triggering Event** – shall mean the earlier of (a) the first Tax Year when the Increased Assessed Value of the TIF District first equals at least Four Million Five Hundred Thousand Dollars (\$4,500,000.00); and (b) the 2014-2015 Tax Year.

**B. City’s Obligations.**

1. **Establishment of TIF District.** Subject to the Developer’s compliance with the Joint Development Agreement, in form and substance satisfactory to the City, the City will diligently pursue establishment of the TIF District as a Tax Increment Financing District pursuant to 30-A M.R.S.A. § 5221 *et seq.*, for the purpose of facilitating the provision of the

financial assistance contemplated hereunder.

2. **Creation of Development Program Fund.** Within sixty (60) days after the Triggering Event, the City shall create and establish a segregated fund designated as the “Riverfront Island Hotel Development Program Fund” (hereinafter the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S.A. § 5227(3). The Development Program Fund shall consist of a Project Cost Account that is pledged to and charged with the payment of project costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S.A. § 5227(3)(A)(1). The Project Cost Account shall be designated as the “Developer TIF Account.” Monies deposited in the Developer TIF Account shall be used and applied exclusively to fund the City’s payment obligation to Developer under this Agreement.

3. **Deposits into Developer TIF Account.** Each year during the term of this Agreement, commencing with the Tax Year in which the Triggering Event falls and continuing thereafter for the remaining term of this Agreement, there shall be deposited into the Developer TIF Account contemporaneously with each payment of Property Taxes an amount equal to that portion of the Property Taxes constituting Tax Increment Revenues for the period to which the payment relates up to the amount sufficient to fund the City’s payment obligation to Developer under this Agreement.

4. **Additional Components of Development Program.** In addition to the components of the Development Program adopted by the City Council, the Development Program shall also encompass the project costs determined by the State to be encompassed by the provisions of 30-A M.R.S.A. Section 5225, as the same may from time to time be amended.

C. **Developer Obligations.**

1. **Developer Obligation to Construct.** Developer agrees to construct a hotel as contemplated by the Joint Development Agreement.

2. **State Reporting Requirements.** To the extent required by statute and regulations, Developer shall comply with all reporting requirements relating to tax increment financing.

3. **Developer Obligation to Achieve and Maintain Optimal Assessed**

**Value.** Developer agrees that the Optimal Assessed Value shall be achieved as soon as reasonably practicable, and that as of April 1st 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.

**D. Administrative Provisions.**

1. **Taxable Status of District Property: Tax Base Conservation Payment.**

The parties agree that other than property owned by the City, public ways, water pipes or conduits, industrial inventories or stock in trade, there is no real property located within the boundaries of the TIF 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 TIF District should be determined to be entitled to such exemption from municipal taxation, the owner of such real property shall annually during the term of this Agreement 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 30<sup>th</sup> of each year in which it is due. Developer shall promptly pay the Tax Base Conservation Payment, if any is due. 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 Developer with respect to property located within the TIF 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. **Developer Payment.** Developer 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 an amount equal to any amount of property taxes due from Developer on Developer TIF Properties that is due and unpaid.

3. **Deposits into Development Program Fund.**

(a) Each year during the term of this Agreement, commencing with the Tax Year in which the Triggering Event occurs and continuing thereafter during each of the TIF Reimbursement Years, the City shall retain in the District the amount of Captured Assessed Value necessary to generate the Tax Increment Revenues to be refunded to the Developer as set forth in the table below provided, that nothing herein shall commit the City to deposit any amount in any TIF Reimbursement Year in excess of collected property taxes for real and personal property located within the TIF District for such TIF Reimbursement Year.

(b) For each of the TIF Reimbursement Years, the City shall deposit into the Development Program Fund contemporaneously with each payment of property taxes for real and personal property located within the TIF District, an amount equal to one hundred percent (100%) of that portion of the payment constituting Tax Increment Revenues. The City shall allocate the Tax Increment Revenues so deposited in the Development Program Fund to the Developer TIF Account as follows:

| <b>TIF Reimbursement Year(s)</b> | <b>Developer TIF Reimbursement</b> |
|----------------------------------|------------------------------------|
| 1                                | \$110,000                          |
| 2                                | \$120,000                          |
| 3                                | \$130,000                          |
| 4-7                              | \$100,000                          |
| 8                                | \$90,000                           |
| 9                                | \$80,000                           |

|            |          |
|------------|----------|
| 10         | \$70,000 |
| Thereafter | \$0      |

4. **Use of Monies in Development Program Fund.** Monies deposited in the Development Program Fund shall be used and applied to fund the payment obligations as specified in Subsections 5 and 6.

5. **Payment from Developer TIF Account for Developer Project Costs.**

(a) Beginning with the Tax Year in which the Triggering Event takes place and continuing through each of the ten (10) TIF Reimbursement Years, the City shall pay to Developer the amounts specified in Section II (D)(3)(b) of this Agreement within fifteen (15) days after the last payment by Developer of taxes for the Tax Year, provided Developer has made full payment of the taxes on the Current Assessed Value of Developer TIF Properties.

(b) Developer agrees that all payments made to it under this Section II (D)(5) will be used and applied to pay in Financing Costs incurred to finance Developer Project Costs and/or will be used to pay directly, amortize or reimburse Developer for payment of Developer Project Costs.

6. **Failure to Make Payment.** In the event the City should fail to, or be unable to, make any of the payments required under the foregoing provisions of Section II (D) of this Agreement, the item or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to establish and maintain the Developer TIF Account and to deposit Tax Increment Revenues to the Developer TIF Account and its obligation to make required payment to the Developer.

7. **Developer Guaranty of Optimal Assessed Value to the City.**

(a) **Undertaking to Guaranty and Determination of Amounts Guaranteed.** In order to induce the City to enter into this Agreement, Developer covenants that the Optimal Assessed Value shall be achieved as soon as reasonably practicable. To give effect to that covenant,

Developer agrees that in the event that as of April 1st of each TIF Reimbursement Year while this Agreement remains in effect, either: (i) the Current Assessed Value is less than the Optimal Assessed Value, as specified in Section II (A)(16), or (ii) the amount of taxes paid by Developer is less than the amount of tax reimbursement to be paid back to the Developer for such TIF Reimbursement Year as specified in Section II (D)(3)(b), the Developer 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) and the greater of: (x) 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 and (y) the amount of tax reimbursement paid to the Developer for such TIF Reimbursement Year as specified in Section II (D)(3)(b) (the “Guaranteed Payments”).

(b) Due Date of and Interest on Guaranteed Payments. Such Guaranteed Payments, if any, 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 obligations shall remain in effect during the term of this Agreement.

**E. Pledge and Security Interest.**

1. **Pledge of Developer TIF Account.** In consideration of this Agreement and other valuable consideration and for the purpose of securing the City’s payment of the amounts provided for hereunder, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge to the Developer the Developer TIF Account and all sums of money and other securities and investments therein.

2. **Perfection of Interest.** To the extent deemed necessary or desirable by the Developer, the City shall cooperate with the Developer in executing certain control or three party agreements, and also consent to appropriate financing statements and continuation statements being duly filed and recorded in the appropriate state offices, as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to

perfect and maintain the security interests in the funds in the Developer TIF Account.

**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 Taxes.** Developer shall fail to make any payment of municipal taxes assessed upon property owned by Developer within the TIF District within Forty-Five (45) days after the due date of such taxes, or any failure by the City to pay any amounts due under Section II (D)(3) above when the same shall become due and payable.

(b) **Failure to Make Deposits into Developer TIF Account.** Any failure by the City to make deposits into the Developer TIF Account as and when due.

(c) **Failure to Honor Joint Development Agreement Obligations.** Developer shall fail to observe and perform in all material respects its obligations under the Joint Development Agreement.

(d) **Other Failures to Perform.** Any other failure by a party hereto to observe and perform in all material respects any covenant, condition, agreement or provision contained in this Agreement 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) hereof shall have occurred and be continuing for a period of fifteen (15) days after a party's receipt from the other party of written notice of an Event of Default by the party,

the non-defaulting party may take any one or more of the following remedial steps: (a) the non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect any amount then due and thereafter to become due, to 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; and (b) the Developer shall also have the right to exercise any rights and remedies available to a secured party under the laws of the State of Maine. No party has the right to terminate this Agreement.

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. Assignment.**

1. **Consent to Pledge and/or Assignment.** The City hereby acknowledges that the Developer may from time to time pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Developer Project Costs, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment by the Developer of all the Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developer hereunder, to third parties as collateral or security for financing the Developer Project Costs and/or the Developer TIF Properties, as applicable, on

one or more occasions during the term hereof. The City agrees to execute and deliver any such consents or other confirmations required by such prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder. The City agrees to execute and deliver any other documentation including, without limitation, any reasonable three-party control agreement, as shall confirm to such pledgee or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to such pledgee or assignee such rights and/or remedies as the Developer or such pledgee or assignee may reasonably deem necessary for the establishment, perfection and protection of its interest herein.

2. **Assignment.** Except as provided in Section II (G)(1), and except for the purpose of securing financing for the Developer Project Costs and/or the Developer TIF Properties, as applicable, or for an assignment to a successor entity or an affiliate entity, the Developer shall not transfer or assign any portion of its rights in, to and under this Agreement without the written consent of the City, which consent shall not be unreasonably withheld.

#### **H. Miscellaneous.**

1. **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.

2. **Time of the Essence.** Time is of the essence with respect to this Agreement and the transactions contemplated herein.

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 whom 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 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 mailing 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 effective date of this Agreement determined under Section 12 below and shall expire at the end of the 10<sup>th</sup> TIF Reimbursement Year or the payment of all amounts due to the Developer hereunder and the performance of all obligations on the part of the City hereunder, whichever last occurs, unless sooner terminated as provided in this Agreement. The obligations of the City to deposit Tax Increment Revenues into the Developer TIF Account and to make payments from the Developer TIF Account to Developer shall terminate subsequent to the end of the End Tax Year unless this Agreement shall be terminated earlier. For Tax Years after the End Tax Year, and thereafter, all property within the TIF 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. **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 Developer 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 Developer.

9. **No Personal Liability of Officials of the City.** 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.

10. **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.

11. **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.

12. **Effectiveness.** Notwithstanding any other term contained herein, this Agreement shall not be effective and neither party shall have any obligations under this Agreement until: (a) Developer has acquired the Developer TIF Properties at the Closing referred to in the Joint Development Agreement; and (b) the Lewiston City Council has approved this Agreement; and (c) the transactions contemplated by this Agreement have received all necessary approvals by the Maine Department of Economic and Community Development.

(Remainder of page intentionally left blank)

**IN WITNESS WHEREOF**, the said City of Lewiston and Parallax Partners, Inc. 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.

**CITY OF LEWISTON**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
By: Edward A. Barrett  
Its: City Administrator

**PARALLAX PARTNERS, INC.**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
By:  
Its:

STATE OF MAINE  
ANDROSCOGGIN, SS.

December \_\_\_\_, 2011

Personally appeared before me the above-named \_\_\_\_\_, \_\_\_\_\_ 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

STATE OF MAINE  
ANDROSCOGGIN, SS

December \_\_\_\_, 2011

Personally appeared before me the above-named \_\_\_\_\_, \_\_\_\_\_ of Parallax Partners, Inc. and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Parallax Partners, Inc.

\_\_\_\_\_  
Notary Public/Attorney-at-Law

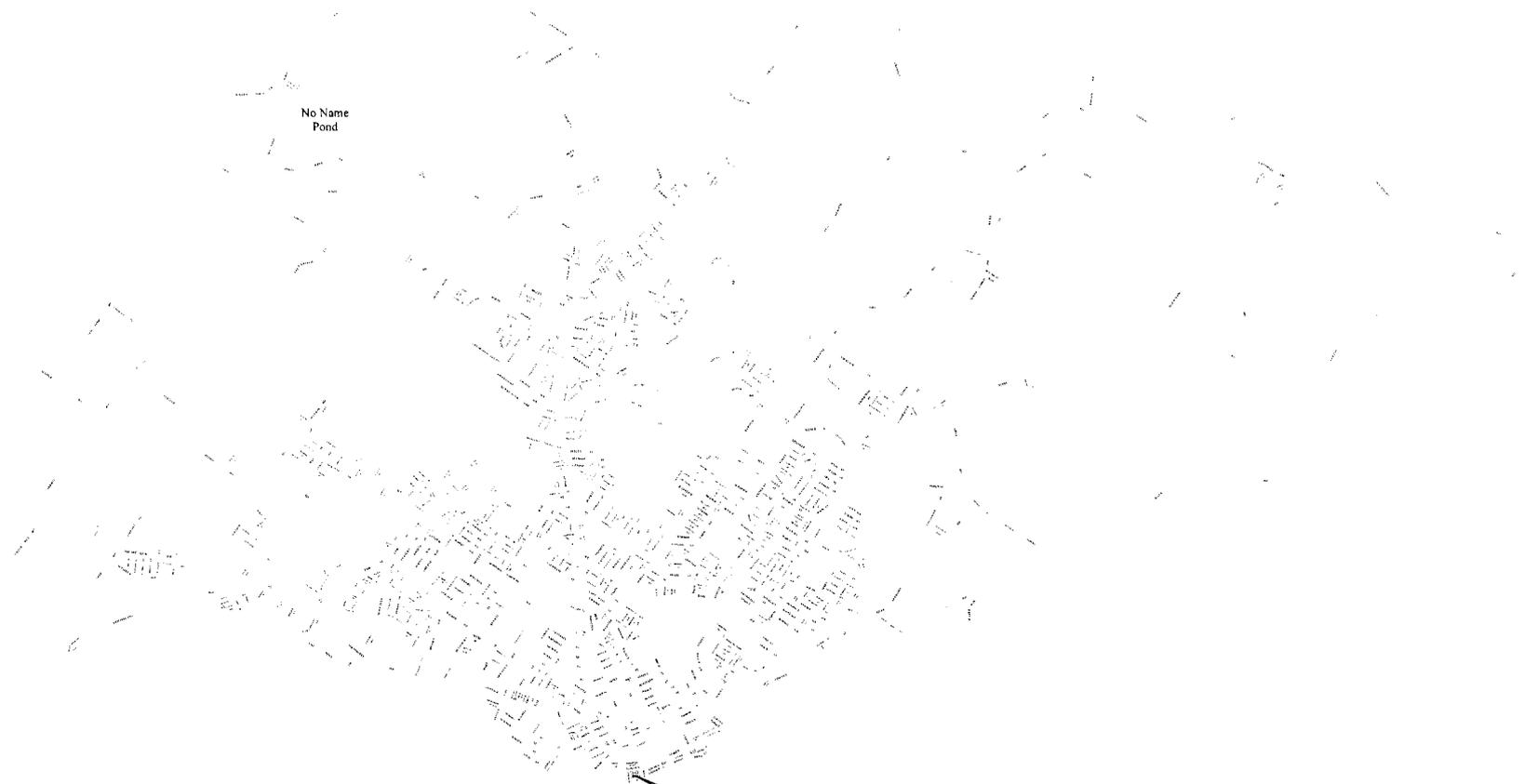
Exhibit A

Developer Tax Increment Financing District Description





This is provided by the City of Lewiston. Aerial Photography and  
mapping computer or other software by James W. Duffell Co. by  
posting property addresses and other geographic data files. It  
does not constitute a warranty of accuracy or liability for any  
errors or omissions. It is provided for informational purposes only.  
Users should not rely on this information for any legal or financial  
decisions. The City of Lewiston is not responsible for any errors or  
omissions, and makes no warranty of accuracy of this map  
and its data or any other information.



Riverfront Island Hotel TIF District

Riverfront Island  
Hotel  
TIF District

December 2011  
Scale: 1" = 1750'



# **Exhibit C**

Conceptual Plan

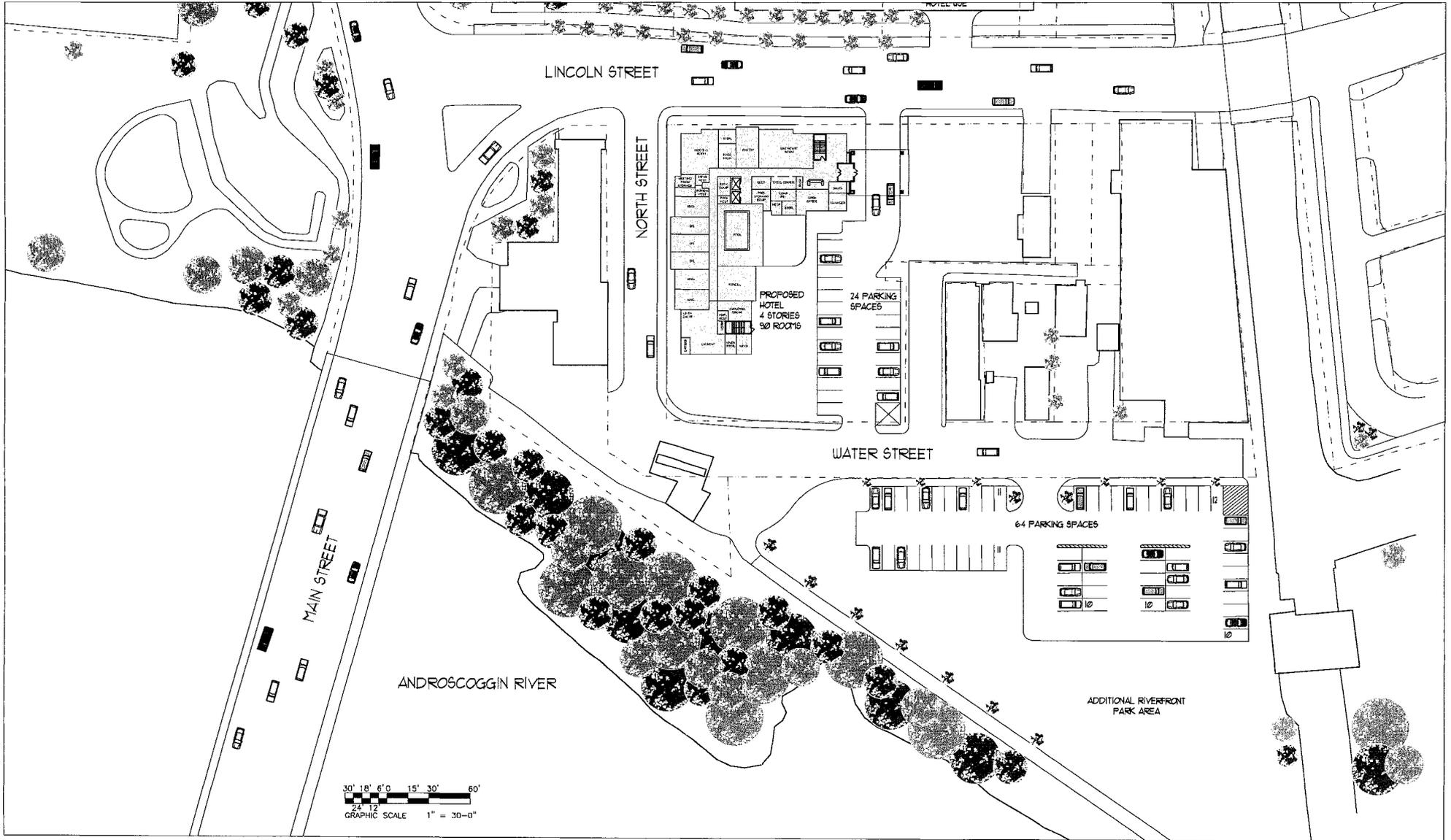


Exhibit C

**PROPOSED HOTEL**  
LEWISTON, MAINE

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 11**

**SUBJECT:**

Order authorizing the City Administrator to Execute a Non-Exclusive Option Agreement with Great Falls Recreation for the Bates Mill Five Property.

**INFORMATION:** Great Falls Recreation has asked the City to consider providing a 6 month non-exclusive option on Bates Mill 5 running from January 1 through June 30, 2012 based on the possibility that the upcoming state legislative session may consider a comprehensive approach to gambling in the state, perhaps based on a zone system where the state would solicit interested in establishing casinos in various districts. The proposed option would be non-exclusive, i.e., the city would retain the right to sell, lease, demolish, or otherwise dispose of the building and land at any time during the option period. There is no option fee required.

If, during this period, Mill 5 should become unavailable to Great Falls for any reason and should gambling be approved by the state in Lewiston, Great Falls would agree to seek another location in the City and seek the Council's permission for such location. Should Great Falls exercise the option in order to establish a casino on the site, it would be required to guarantee an investment of at least \$50 million. If Great Falls has not purchased the property by June 30 and wishes to extend it, an option payment of \$50,000 would be required along with \$5,000 monthly payments, none of which would be applied to the purchase price. The remainder of the option conditions are similar to those that are included in the option with Great Falls that will expire at the end of this calendar year.

While it is unlikely that the state will authorizing gambling in Lewiston during this six month period, this option would not encumber the property and would allow the city to dispose of it at any time. As such, it would not restrict the ability of the City to take other actions in regard to the Mill property including option or sale to another party for redevelopment or demolition.

**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 |
|---|---|---|---|---|---|---|---|

To approve the Order authorizing the City Administrator to execute a non-exclusive Option Agreement with Great Falls Recreation for the Bates Mill Five property.



**City of Lewiston Maine  
City Council Order  
December 20, 2010**



**Order,** Authorizing the City Administrator to Execute a Non-Exclusive Option Agreement with Great Falls Recreation for the Bates Mill 5 Property.

Whereas, Great Falls Recreation has asked the City to consider providing a 6 month option on Bates Mill 5 running from January 1 through June 30, 2012; and

Whereas, This interest is based on the possibility that the upcoming state legislative session may consider a comprehensive approach to gambling in the state, perhaps based on a zone system where the state would solicit interested in establishing casinos in various districts; and

Whereas, the option would be non-exclusive, i.e., the city would retain the right to sell, lease, demolish, or otherwise dispose of the building and land; and

Whereas, should the Mill 5 site become unavailable for any reason and should gambling be approved by the state in Lewiston, Great Falls would agree to seek another location in the City and seek the Council's permission for such location; and

Whereas, the option would not encumber the property and would allow the city to dispose of it at any time during the six month period;

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

The City Administrator is hereby authorized to execute a non-exclusive option agreement with Great Falls Recreation for the Bates Mill 5 property substantially in the form that is attached hereto.

**OPTION AGREEMENT BETWEEN  
THE CITY OF LEWISTON AND  
GREAT FALLS RECREATION & REDEVELOPMENT, LLC**

**A.** The City of Lewiston (the "City") is the owner of the contiguous area of land that is bounded on the East by the Upper Canal, on the North by Main Street, on the West by Lincoln Street, and on the South by Cross Canal Number 1 running from the Main Canal to the Mill Street Bridge and the public parking garage on the southwest corner of the Bates Mill No. 5 Surface Parking Lot (Tax Map/Lot parcels 207/153, 207/155, and portions of 207/152; 207/146; and 207/165). Parcels to be conveyed include the following parcels: Map 207, Lots 138, 139, 140, 141, 143, 145, and that portion of Map 207, Lot 152 not occupied by the Lincoln Street Parking Garage, located at 16 Lincoln Street, and its planned expansion running from the eastern side of the structure to Mill Street. ("Option Property"); and

**B.** Great Falls Recreation & Redevelopment, LLC ("Great Falls") desires to obtain a non-exclusive option to purchase the Option Property for its redevelopment as a casino (which may be limited to a slot parlor) and related amenities (the "Project") on the terms set forth below.

**C.** Great Falls on its behalf and on behalf of its assigns and successors in title agrees to not request tax increment financing or similar tax benefits with respect to the Option Property.

**TERMS OF EXCLUSIVE OPTION TO PURCHASE REAL ESTATE**

**1. Identification of Option Property.** The City grants a non-exclusive option to purchase Option Property identified in Introductory Paragraph A above to Great Falls (the "Option"). Nothing in this agreement shall restrict, limit, or otherwise constrain the ability of City to sell, lease, encumber, demolish or take any other action the City may desire in regard to the Option Property and/or building, or any portions thereof, located on the property during the term of this option or any extension thereto. The City may terminate this Option at any time by providing written notice to Great Falls of its termination.

**2. Purchase Price.** The purchase price for the Option Property shall be the fair market value of the Option Property at its highest and best use other than as a casino on the date Great Falls notifies the City of its intent to exercise the Option. Upon notice to the City that (i) Great Falls has received approval for the Project, (ii) is exercising the option, and (iii) will close on the real estate within Thirty (30) days from the date on which the Purchase Price is established as provided in this Paragraph, Great Falls shall, at its expense, select a qualified real estate appraiser (any appraiser referred to in this paragraph is at a minimum to be licensed in the State of Maine and hold an MAI) to provide a fair market appraisal of the Option Property. The appraiser shall assume that

the Option Property is vacant and free of hazardous waste. After said appraisal is completed it shall be delivered by the Great Falls to the City, which shall have Thirty (30) days to accept or reject the appraisal in writing to the Great Falls. In the event of rejection, the City shall at its expense, select a qualified real estate appraiser to provide a fair market appraisal of the Option Property subject to the same assumptions and shall deliver said appraisal to the Great Falls within Sixty (60) days of its notice of rejection to the Great Falls. If the City and Great Falls cannot agree on the fair market value of the Option Property within fifteen (15) days of the Great Falls having receipt of City's appraisal, the two selected appraisers shall mutually select a third qualified real estate appraiser, whose expense shall be shared equally by City and Great Falls, to provide an independent fair market appraisal of the Option Property. The fair market value established by said third appraiser shall become the fair market value for the calculation of the Purchase Price for the Option Property and be binding upon City and Great Falls.

**3. Option Term.** The effective date of this Option shall be January 1, 2012. The Option shall terminate on June 30, 2012 unless extended as provided herein. If, during the initial Option period, the State of Maine takes action which could reasonably be expected to result in licensing a casino or gaming facility in Lewiston, the City may, but is not required to, extend this non-exclusive Option for an additional period deemed adequate by City to allow Great Falls to pursue state and local regulatory approvals for establishing a casino or gaming facility. If such approval is achieved, Option may be further extended by City to ninety (90) days after the Project receives final and unappealable state and local regulatory approvals provided Great Falls commences the project design and works toward state and local regulatory approvals (the "Project Development Work") for the Project within one hundred and twenty (120) days after state authorizing action and pursues the Project Development Work diligently to its completion thereafter. During this and any other Option extension period, City retains the right to sell, lease, encumber, or take any other action the City may desire in regard to the Option Property and/or building, and any portions thereof, located on the Option Property or to terminate the Option at any time. If Great Falls has not purchased the Option Property by June 30, 2012, and wishes to continue to option the property thereafter, subject to City agreement and the requirements set out in the third sentence of this Section 3, Great Falls shall make an option payment of \$50,000 to the City on or before July 15, 2012 and, commencing on August 1, 2012 and continuing on the first day of each month thereafter until closing, Great Falls shall make Additional Option Payments of Five Thousand Dollars (\$5,000.00) to the City. The payments required under this Paragraph shall not be credited to the purchase price.

**4. State Approval.** If Great Falls exercises the Option, it shall redevelop the Option Property as a casino and related amenities. The Option is not exercisable by Great Falls unless the casino proposal is authorized by the State of Maine and the City is provided with a guarantee from Great Falls that a minimum of \$50 million will be invested in the project. If a lower level of investment is guaranteed, City, at its sole discretion, may allow Great Falls to exercise the Option, the parties may renegotiate the terms and conditions of the Option, or City may work with Great Falls to identify an

alternative location for a casino/gambling facility, such location to be acceptable to the City.

**5. Distribution of Casino Revenue.** For the purposes of this section, "net slot machine income" shall be as defined in 8 M.R.S.A., Subsection 1001 (29-A). Unless otherwise provided by state law, distribution of net slot machine income shall be according to the following schedule: 2.0% of net slot machine income to Lewiston, 0.5% to Lewiston for infrastructure improvements, 1.0% to Auburn, 1.0% to Androscoggin County, 0.5% to be shared equally by Sabattus, Lisbon and Greene, 3% to cleaning Maine rivers with a strong focus on the Androscoggin, and at least 0.3% to a downtown Lewiston renovation fund and 0.3% to an energy independence fund for businesses or individuals to purchase alternative energy sources (windmills, geothermal, solar, etc.) for Lewiston, with the funds for cleaning Maine Rivers and for the purchase of alternative energy sources to be administered by an organization(s) reasonably acceptable to the City for those purposes.. If the casino is approved and developed with gambling revenues derived from sources other than slot machines, or if such sources are added in the future, the City's share of the total distributions paid from those revenue shall be in the same proportions as the City's share of the total distributions paid from net slot machine income revenues is to total net slot machine distributions as set forth in Maine Statutes. If during the Option period and any extension thereto, the distribution of net slot machine revenues required by state law is less than that outlined above, this Option may be terminated at the sole discretion of the City. The City and Great Falls shall then enter into good faith negotiation toward a new distribution formula that shall include terms and conditions intended to provide City with substantially the same share of revenues from gaming operations conducted on the property as contemplated by this Option, with the other terms and conditions of this Option to be included in any successor option.

**6. Hydro Power Facility.** The City retains the right to remove a parcel that encompasses the footprint of the hydro power facility located in Bates Mill #5 plus sufficient land to satisfy the minimum setbacks required by the land use code from the Option or any sale or transfer of the property and, if so, the Purchase Price shall be reduced pro-rata based on the square footage to be purchased compared to the square footage of the whole

**7. City Approval of Alternate Location.** If at any time prior to June 30, 2014, the Option property becomes unavailable to Great Falls for use as the location of a casino or gaming facility due to actions of the City or those of Great Falls and should Great Falls obtain or reasonably anticipate obtaining a gaming license from the State for a casino or gaming facility, Great Falls and its successors and assigns agree that: (i) they will locate such facility in the City of Lewiston at a site acceptable to the City Council; and (ii) paragraph 5 of this Option, Distribution of Casino Revenue, shall continue in effect through June 30, 2014 and shall survive any termination of this Option agreement.

**8. Notice of Exercise of Option.** Great Falls shall provide City with written notice of Great Falls' election to exercise its option rights and acquire the Option Property within the option term described in Paragraph 3 of this Option (together within any extensions).

**9. Noncompetition.** The member(s), manager(s), employees, partners, joint venturers and agents of Great Falls and members of their respective families ("families" being defined as spouse and minor children) shall not directly or indirectly invest or take any ownership interest in any other future casino and/or gaming project, casino and/or gaming ballot initiative in the State of Maine until such time as this Option is terminated, expires or is exercised and a casino has been constructed on the Option Property.

**10. Memorandum of Option.** City and Great Falls hereby mutually agree that the parties hereto may further memorialize the terms of this Option pursuant to an executed Option Agreement and cause a memorandum to be recorded in the Androscoggin County Registry of Deeds. Great Falls shall bear the cost of recording of said Memorandum.

**11. Default.** In the event of a default by either party under this Option, the non-defaulting party shall be entitled to injunctive relief. In the event of a default by either party under this Option, the non-defaulting party shall give the defaulting party thirty (30) days written notice and opportunity to cure the default. Except as expressly provided in Paragraph 14, neither party shall be liable to the other party for any incidental or consequential damages suffered by the other party or their assigns or any of their respective members, shareholders, managers, officers, or directors.

**12. Assignment.** Great Falls has the right to transfer, assign or otherwise convey this Option, any part hereof, or any of its rights, duties, requirements or obligations hereunder to any other person or entity subject to the City's written approval which may not be unreasonably withheld, conditioned or delayed. This Option shall terminate upon the sale or acquisition of Great Falls or a majority of its stock or ownership interest by any other corporation, entity, or individual unless the City provides written approval of the continuation of this Option to the new owner(s) of Great Falls, such approval to not be unreasonably withheld, conditioned, or delayed.

**13. Notices.** Any notices required pursuant to this Option, or other notices which are deemed appropriate by the parties although not specifically called for herein, shall be forwarded by certified United States mail, return receipt requested or by overnight courier with confirmed receipt of delivery to the following addresses: in the case of the City to:

City Administrator  
City of Lewiston  
27 Pine Street  
Lewiston, Maine 04240

and, in the case of the Great Falls to:

Great Falls Recreation & Redevelopment, LLC  
P. O. Box 641  
135 Hogan Road  
Lewiston, Maine 04243-641

**14. Option Property Due Diligence.** City and Great Falls mutually agree that Great Falls shall be solely responsible, at its sole cost and expense, for any and all examinations, inspections, applications, reviews, testing, permits, municipal site plan approval, zoning compliance and all other matters of due diligence Great Falls deems necessary or appropriate regarding its intended use of the Option Property while this Option remains in effect. City shall provide Great Falls (including its agents and contractors) with access to the Option Property for Great Falls to perform all matters of due diligence on the Option Property deemed either necessary or advisable by Great Falls in its sole discretion. In the event Great Falls performs testing on the Option Property, Great Falls agrees that it shall be responsible at its sole expense to restore the Option Property to as close to its pre-testing condition as practicable. Great Falls agrees to (a) hold the City harmless from and (b) defend and indemnify the City against any claims of any type whatsoever, including, but not limited to, any costs, expenses, and/or attorney's fees incurred by the City, that arise out of or in connection with any actions taken by Great Falls, its contractors, employees, consultants or agents pursuant to this Paragraph 14. Before undertaking any such activities, Great Falls shall provide a certificate(s) of insurance evidencing liability insurance coverage with limits of not less than \$1,000,000.00 covering for itself and for each contractor, consultant or agent conducting any activity on the Option Property permitted under this Paragraph 14. Great Falls recognizes and understands that the Mill #5 building is neither heated nor maintained by the City. As such, anyone entering the building does so at his or her own risk and Great Falls agrees to insure against any perils associated with such entry and to hold the City harmless from any and all claims arising therefrom. Notwithstanding anything to the contrary in this Option, in the event any person claiming under Great Falls asserts a mechanics lien on the Option Property by filing a complaint in the local District or Superior Court and such lien is not discharged within sixty (60) days from the date on which the City notifies Great Falls, the City may, in its discretion,, terminate the Option. In any event, Great Falls shall indemnify and defend the City against such claim with the counsel of City's choice.

**15. Purchase and Sale Provisions.** In the event Great Falls exercises the Option under paragraph 8 of this Option, City and Great Falls hereby mutually agree to be bound by the following terms and conditions, which shall be construed as a purchase and sale agreement between Great Falls and City.

- (a) **Option Payments.** The option payments paid by Great Falls to City shall not be credited against the Purchase Price set forth in Paragraph 2 above.
- (b) **Title.** Title to the Option Property shall be good and marketable in accordance with the title standards adopted by the Maine State Bar Association, clear of all liens and encumbrances, except for utility, road and any other easements of record that do not have a

materially negative effect on the Option Property's development as a casino. City shall convey title by good and sufficient municipal deed given at the time of Closing to Great Falls. In the event Great Falls, upon examination to be performed at Great Falls' expense prior to Great Falls' exercise of the Option hereunder, finds that title to the Option Property is not good, marketable or insurable or otherwise not in compliance with this subparagraph 15(b), Great Falls shall provide City with written notice of the particular defects encountered within fifteen (15) days of the date Great Falls is informed of said defects. Upon delivery of such notice, City shall have an additional period of ninety (90) days to remove said objections (or any greater period agreed to in writing and in advance by Great Falls) to furnish good, marketable and insurable title to the Option Property. In the event that the City is unable to convey title as set forth in this paragraph and as otherwise set forth in this Option, Great Falls shall have the following options: (i) to not purchase the Option Property or (ii) purchase the Option Property, subject to the defect, with the Option Property being reappraised as set forth in paragraph 2 of this Option.

- (c) **Closing.** The closing shall take place on a date and at a time selected by the Great Falls within sixty (60) days of the exercise of the Option at the offices of the City in Lewiston, Maine. At the closing, Great Falls will deliver to City the Purchase Price, and City will deliver to Great Falls a good and sufficient municipal deed conveying fee title to the Option Property (or the portion optioned by Great Falls) as set forth above. In addition, provided Great Falls elects to procure title insurance, City shall execute such affidavits as may reasonably be necessary to delete the standard mechanics liens exception from said title policy.
- (d) **Possession.** Possession of the Option Property shall be delivered to Great Falls by City at closing at set forth above and free of all occupants, tenants, and persons in possession thereof.

**16. Effect of Option.** All of the provisions of this Option shall extend to, inure to the benefit of, and be binding on the respective successors and permitted assigns of City and Great Falls. This Option shall be governed by the laws of the State of Maine.

**17. Disputes.** Unless a party is seeking injunctive relief, any controversy or claim, arising out of or relating to this Option, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

IN WITNESS WHEREOF the parties hereto have set their hands this the \_\_\_\_ day of June 2010.

WITNESS:

CITY OF LEWISTON

\_\_\_\_\_

(By)

\_\_\_\_\_

Edward A. Barrett  
Its City Administrator

WITNESS:

GREAT FALLS RECREATION &  
REDEVELOPMENT. LLC

\_\_\_\_\_

(By)

\_\_\_\_\_

Name:  
Title:

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 12**

**SUBJECT:**

Order authorizing the City Administrator to Execute a New Collective Bargaining Agreement with the Maine State Employees Union (MSEA) on behalf of the Lewiston Unit.

**INFORMATION:**

The City Council is requested to approval an agreement with the Maine State Employees Association which represents the general government and clerical employees of the City. This agreement is for the period of July 1, 2011 to June 30, 2013.

Please see attached memorandum from Human Resources Director Phil Nadeau outlining the highlights of the new agreement.

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

The City Administrator recommends approval of the requested action.



**REQUESTED ACTION:**

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To approve the Order authorizing the City Administrator to execute a new collective bargaining agreement with the Maine State Employees Union (MSEA) on behalf of the Lewiston Unit.



**City of Lewiston Maine  
City Council Order  
December 20, 2011**



**Order,** Authorizing the City Administrator to Execute a New Collective Bargaining Agreement with the Maine State Employees Union (MSEA) on Behalf of the Lewiston Unit.

Whereas, the City and MSEA union representatives have worked diligently over the last several months to develop a new collective bargaining agreement; and

Whereas, all who participated in the development of the MSEA collective bargaining agreement believe that all sides have produced a contract which is sensitive to the current economic climate and reflects the organizational goals and objectives of both the city and the MSEA Unit;

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

The City Administrator is authorized to execute the new FY 2012-2013 MSEA Unit collective bargaining agreement and is authorized to approve any final administrative, non-monetary, and non-substantive amendments as needed.



The Office of  
Deputy City Administrator  
Phil Nadeau  
27 Pine Street • Lewiston, Maine • 04240  
Tel. 207-513-3121, Ext. 3201 • Fax 207-795-5069  
Email: pnadeau@lewistonmaine.gov



## MEMORANDUM

|              |  |
|--------------|--|
| <b>TO:</b>   | <b>Mayor and City Council</b>                                  |
| <b>FROM:</b> | Phil Nadeau, Deputy City Administrator & Chief City Negotiator |
| <b>DATE:</b> | December 20, 2011  |
| <b>RE:</b>   | <b>Proposed Maine State Employees Union (MSEA) Contract</b>    |

### 1. BACKGROUND

The city has been working for several months with the MSEA Unit negotiating team to develop the enclosed proposed contract. The MSEA membership voted to support the contract. Notable features of the proposed contract are as follows:

- Contract if for two years: FY2012 and FY2013
- COLA adjustments: FY2012 – 1.0%; FY2013 – 1.0%
- New reclassification language that will eliminated outside market analysis when determining whether changes in job duties warrant increased pay
- New flex language that will permit moving personnel between departments at City Hall to cover short term employee absences
- New language to permit city to seek comparable health insurance coverages

### 2. RECOMMENDED ACTION

To approve the proposed contract.

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 13**

**SUBJECT:**

Order authorizing the City Administrator to execute a New Collective Bargaining Agreement between the City of Lewiston and the American Federation of State, County and Municipal Employees (AFSCME Council #93) Local 3855-00 on behalf of the Lewiston Professional Technical Unit.

**INFORMATION:**

The City Council is requested to ratify a two year agreement with AFSCME Council 93 representing the Lewiston Professional Technical Unit. This agreement is for the period of July 1, 2011 to June 30, 2013.

Please see the attached memorandum from Human Resources Director Phil Nadeau for details regarding the highlights of the new agreement.

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

The City Administrator recommends approval of the requested action.

*EAB/amm*

**REQUESTED ACTION:**

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To approve the Order authorizing the City Administrator to Execute a New Collective Bargaining Agreement between the City of Lewiston and the American Federation of State, County and Municipal Employees (AFSCME Council #93) on behalf of the Lewiston Professional Technical Unit.



**City of Lewiston Maine  
City Council Order  
December 20, 2011**



**Order,** Authorizing the City Administrator to Execute a New Collective Bargaining Agreement with the American Federation of State (AFSCME), County and Municipal Employees, AFSCME Council #93, Local 3855-00 on Behalf of the Professional Technical Unit.

Whereas, the City and AFSCME/Professional Technical Unit representatives have worked diligently over the last several months to develop a new collective bargaining agreement; and

Whereas, all who participated in the development of the AFSCME/Professional Technical Unit collective bargaining agreement believe that all sides have produced a contract which is sensitive to the current economic climate and reflects the organizational goals and objectives of both the city and AFSCME/Professional Technical Unit;

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

The City Administrator is authorized to execute the new FY 2012-2013 AFSCME/Professional Technical Unit collective bargaining agreement and is authorized to approve any final administrative, non-monetary, and non-substantive amendments as needed.



The Office of  
Deputy City Administrator  
Phil Nadeau  
27 Pine Street • Lewiston, Maine • 04240  
Tel. 207-513-3121, Ext. 3201 • Fax 207-795-5069  
Email: pnadeau@lewistonmaine.gov



## MEMORANDUM

|              |  |
|--------------|--|
| <b>TO:</b>   | <b>Mayor and City Council</b>  |
| <b>FROM:</b> | Phil Nadeau, Deputy City Administrator & Chief City Negotiator         |
| <b>DATE:</b> | December 20, 2011  |
| <b>RE:</b>   | <b>Proposed AFSCME Professional Technical Unit (Pro Tech) Contract</b> |

### 1. BACKGROUND

The city has been working for several months with the Pro Tech Unit negotiating team to develop the enclosed proposed contract. The Pro Tech membership voted to support the contract. Notable features of the proposed contract are as follows:

- Contract if for two years: FY2012 and FY2013
- COLA adjustments: FY2012 – 1.0%; FY2013 – 1.5%
- Effective January 1, 2012: double time on Sundays
- Agreement to offset higher FY2013 COLA with elimination of one day contribution by city into the Retirement Health Savings account
- New reclassification language that will be eliminated outside market analysis when determining whether changes in job duties warrant increased pay
- New language to reopen collective bargaining if the city's pursues other health insurance opportunities in the future

### 2. RECOMMENDED ACTION

To approve the proposed contract.

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 14**

**SUBJECT:**

Resolve authorizing certain actions intended to restore the Libby Mill Cupola in memory of former City Councilor James Carigan.

**INFORMATION:**

At a recent workshop, Councilor Bernier and Peggy Rotundo requested that the City Council take steps that would allow the Cupola at the Libby Mill to be restored in memory of former Councilor James Carigan. This included providing \$2,000 toward the estimated \$8,000 cost of restoration and transferring the ownership of the Cupola to Museum LA, subject to a successful private fundraising effort to cover the total cost.

While on the City Council, Councilor Carigan was instrumental in efforts to save the cupola from demolition.

The attached resolve would take these steps, subject to raising the remaining funds necessary by September 1, 2012.

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

This is a policy decision of the City Council.

*EATB/kmm*

**REQUESTED ACTION:**

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To approve the Resolve authorizing certain actions intended to restore the Libby Mill Cupola in memory of former City Councilor James Carigan.



**City of Lewiston Maine  
City Council Resolve  
December 20, 2011**



**Resolve,** Authorizing Certain Actions Intended to Restore the Libby Mill Cupola in Memory of Former Councilor James Carigan.

Whereas, James Carigan served the City of Lewiston as a member of the City Council and through his service on numerous community boards and groups; and

Whereas, while a Councilor, he was instrumental in efforts to preserve the Libby Mill Cupola, a symbol of Lewiston's industrial heritage, from demolition; and

Whereas, the cupola currently is stored at the City's Operation Center on River Road where its condition continues to deteriorate; and

Whereas, the City has been approached by several individuals who are working to transfer the ownership of the cupola to Museum LA and raise the necessary funds to restore it in memory of James Carigan; and

Whereas, it is important to both preserve this symbol of Lewiston's industrial heritage and to commemorate the contributions of James Carigan to our community;

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

We support efforts to restore the Libby Mill cupola in honor of James Carrigan. Toward that end, we hereby designate \$2,000 from the General Fund's contingency account subject to a successful private fundraising effort to raise the total necessary for restoration by August 31, 2012.

**Be it Further Resolved that**

Should this effort be successful, ownership of the cupola shall be transferred to Museum LA.

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 15**

**SUBJECT:**

Receipt of recommendation from the Finance Committee regarding the location of utility poles on Lincoln Street.

**INFORMATION:**

The Finance Committee has prepared a recommendation to the City Council regarding the location of utility poles on Lincoln Street. They are recommending the telephone poles be moved back to the easterly side of the roadway. Please see the attached material for additional information on this item.

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

This is a policy decision of the City Council.

*EATB/Kmm*

**REQUESTED ACTION:**

|   |   |   |   |   |   |   |   |
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To receive the recommendation from the Finance Committee regarding the location of utility poles on Lincoln Street and to determine a course of action.



City of Lewiston  
Finance Department

Norman J. Beauparlant  
Director Budget/Purchasing



December 6, 2011

The Honorable Laurent Gilbert Sr., Mayor  
and Members of the City Council  
City Hall  
Lewiston, Maine 04240

Dear Mayor and Members of City Council:

At a meeting of the Finance Committee held on Monday, November 21, 2011 the Finance Committee Chairman asked the Committee to consider making a recommendation to the City Council concerning the relocation of a number of telephone poles which have been moved to the westerly side of the Lincoln Street Reconstruction Project. After discussion by Committee members and on motion of Mr. Marcotte, seconded by Mr. Poulin, the following was voted:

*In keeping with the City's Comprehensive Plan, it is recommended that the City Council seriously consider relocating a number of telephone/utility poles that have been moved to the river side of the Lincoln Street Reconstruction Project back to the easterly side of the road even if done at City cost within a reasonable amount (\$80,000-\$100,000).*

**VOTE: 4-0**

Sincerely,

  
Norman J. Beauparlant  
Clerk  
Finance Committee

NJB/syt



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



---

December 15, 2011

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: Utility Pole Location – Lincoln Street

Recently, a citizen contacted the City in regard to the placement of utilities along Lincoln Street in the area currently being reconstructed. The Finance Committee has responded to this contact by recommended that the City Council evaluate relocating the above ground utilities on Lincoln Street from the river side to the land side of the street. This would involve that portion of Lincoln Street from Gully Brook to South Avenue. Given this recommendation, I felt some background would be helpful.

During this project's design and public hearing process, the primary concern heard from residents and incorporated into the project's overall design was the impact of widening the street on abutting properties, particularly those located on the land side of the road. As a result, a design criteria limiting the effect of the project on those private properties was adopted.

Under federal and state road standards, utility poles are to be located five feet behind the edge of pavement. Electric utilities require that their wires be located a minimum of 10 feet from any structure. To place the utilities on the land side of the project would have required the acquisition of additional right of way which, in many instances, would have resulted in taking and demolishing privately owned structures. This would have significantly increased the cost of the project and would have had a major impact on numerous residents in the area. We estimate that it would have increased the project's cost by about \$1.4 million. At this cost and with such impacts, this is not a feasible option.

At the present time, most of the utilities on Lincoln Street are located on the river side except for a string of 12 or 13 located on the land side where there are currently few, if any, structures.

## Other Options

**Place Utilities Underground.** All or a section of the utilities could be moved underground. Such installations cost between \$350 and \$500 per linear foot. The section currently being reconstructed is over 6,000 linear feet. The total cost of this option would be between \$2 and \$3 million, although costs could be reduced by identifying key sections to be buried. Nevertheless, moving utilities underground is expensive and this option is likely not feasible.

**Relocate a section of the lines.** While most of the poles are currently located on the river side of the street, there is a string of 12 or 13 that are located on the land side where there are currently few if any structures. This is about the only area where the poles could be placed on the land side without adding significantly to the project's cost, taking property, and relocating residents.

Public Works has developed a cost estimate for keeping these poles and associated utilities on the land side. The cost estimate is:

|                                    |           |
|------------------------------------|-----------|
| Relocate 13 poles @ \$1500 each    | \$ 19,500 |
| Other utility costs for redesign   | \$ 10,000 |
| ROW @ \$2/sf                       | \$ 24,914 |
| Additional clearing                | \$ 3,000  |
| Delay, engineering and legal costs | \$ 15,000 |
| TOTAL                              | \$ 72,414 |

Note that CMP has begun the relocation process; as a result, additional costs might be incurred over and above this estimate.

The major obstacles to this option are the need to acquire additional right of way given that the existing poles would still have to be moved back from their current location and the cost to relocate the poles that have currently been installed along the river. Right of way acquisition might also lead to a delay in completing the project.

This is the only option that appears feasible and, had it been identified during the design process, might well have been implemented at no to limited additional cost; however, utility relocation is currently underway along the length of the project. To implement this change now, it is likely that the entire cost would fall to the City with no state or federal participation.

Dave Jones and I have discussed this issue since it was raised. I have asked him to emphasize to his staff that issues such as the aesthetics of utility placements should be included on our checklists as projects are designed in the future.

# LEWISTON CITY COUNCIL

## MEETING OF DECEMBER 20, 2011

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 18**

**SUBJECT:**

Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**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.

*EAB/kmm*

**REQUESTED ACTION:**

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|--|---|---|---|---|---|---|---|---|

To enter into Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.