

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
APRIL 3, 2012**

6:00 p.m. Executive Session - To discuss Real Estate negotiations, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag.
Moment of Silence.

Mayor's Proclamation - Recognizing the Lewiston High School Cheerleaders in their recent competition victory as the New England Cheerleading Champions

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

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

REGULAR BUSINESS:

1. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Davinci's, 150 Mill Street.
2. Public Hearing and Final Passage for Land Use Code amendments concerning the placement of political campaign signs.
3. Continuation of Condemnation Hearing for the building located at 220 Park Street.
4. Condemnation Hearing for the building located at 81 Lincoln Street.
5. Condemnation Hearing for the building located at 67 Oak Street.
6. Order authorizing the City Administrator to Execute a Collective Bargaining Agreement with the Police Supervisory Command Unit.
7. Resolve adopting Androscoggin County 2011 Hazard Mitigation Plan.
8. Resolve calling on the Androscoggin County Commissioners to adopt a Dispatch Plan that eliminates the payments made by Lewiston and Auburn for services other than those required to be provide by the County.
9. Resolve authorizing Phase 1 of the Pierce Street Park Improvements.
10. Order authorizing the City Administrator to execute a Letter of Agreement with FPL Energy Maine Hydro LLC regarding the purchase and sale of the Lewiston Canal System.
11. Reports and Updates
12. Any other City Business Councilors or others may have relating to Lewiston City Government.

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6:00pm

SUBJECT:

Executive Session to discuss Real Estate negotiations 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:

1	2	3	4	5	6	7	M
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To enter into Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Real Estate negotiations of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Davinci's, 150 Mill Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Davinci's, 150 Mill Street.

The Police Department has reviewed and approved the application.

There was no reference to the business or property address in the Council Constituent Concern log, as maintained by the 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 approval of the requested action.

EATBkmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to Davinci's, 150 Mill Street.

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

Date of Application: 3/14/2012 Expiration Date: 4/14/2012 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: DaVincis Business Phone: 207-782-2088

Location Address: 150 Mill Street, Lewiston, ME 04240

(If new business, what was formerly in this location: _____)

Mailing Address: 150 Mill Street, Lewiston, ME 04240

Contact Person: Jules Patry Home Phone: 207-784-0411

Owner of Business: Jules Patry Date of Birth: 5/12/1958

Address of Owner: 84 Lisbon Street, Lewiston, ME 04240

Manager of Establishment: Kindy Egg Date of Birth: 4/17/1976

Owner of Premises (landlord): Mill 2 Storehouse, LLC

Address of Premises Owner: 2 Great Falls Plaza, Auburn, ME 04210

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): DaVincis
150 Mill Street, Lewiston, ME 04240

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: Davincis

Corporation Mailing Address: 150 Mill Street, Lewiston, ME 04240

Contact Person: Jules Patry Phone: 207-782-2233

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? corner of Oxford + Chestnut streets

Please describe the type of proposed entertainment:

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

If new applicant, what is your opening date?: _____

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: J. Patry Title: President Date: 3/14/2012

Printed Name: Jules Patry

Sent to Code Enforcement: _____ Need reply by: _____ Approved: _____

Sent to Police & Fire: _____

Hearing Date: _____ Approved by Council: _____ Vote No: _____

CITY OF LEWISTON, MAINE
Department of City Clerk

Supplementary Questionnaire for Corporate Applicants

- 1. Exact corporate name: Davincis
- 2. Date of incorporation: 6/15/1995
- 3. State in which you are incorporated: Maine
- 4. If not a Maine corporation, date corporation was authorized to transact business within the State of Maine: _____
- 5. List the names, addresses previous 5 years, birth dates, title of all officers, directors, and % of stock owned:

NAME	ADDRESS. PREVIOUS 5 YEARS	BIRTH DATE	% OF STOCK	TITLE
Jules R. Patry	84 Lisbon St #4 17 Hillview Lane Lewiston, ME 04240	5/12/1958	50%	Pres
Suzanne A. Patry	84 Lisbon St #4 17 Hillview Lane Lewiston, ME 04240	8/14/1956	50%	Treas

- 6. What is the amount of authorized stock? 2000 Outstanding stock? 100
- 7. Is any principal officer of the corporation a law enforcement official?
no

Dated at Lewiston on 3/14/2012
City or Town Date

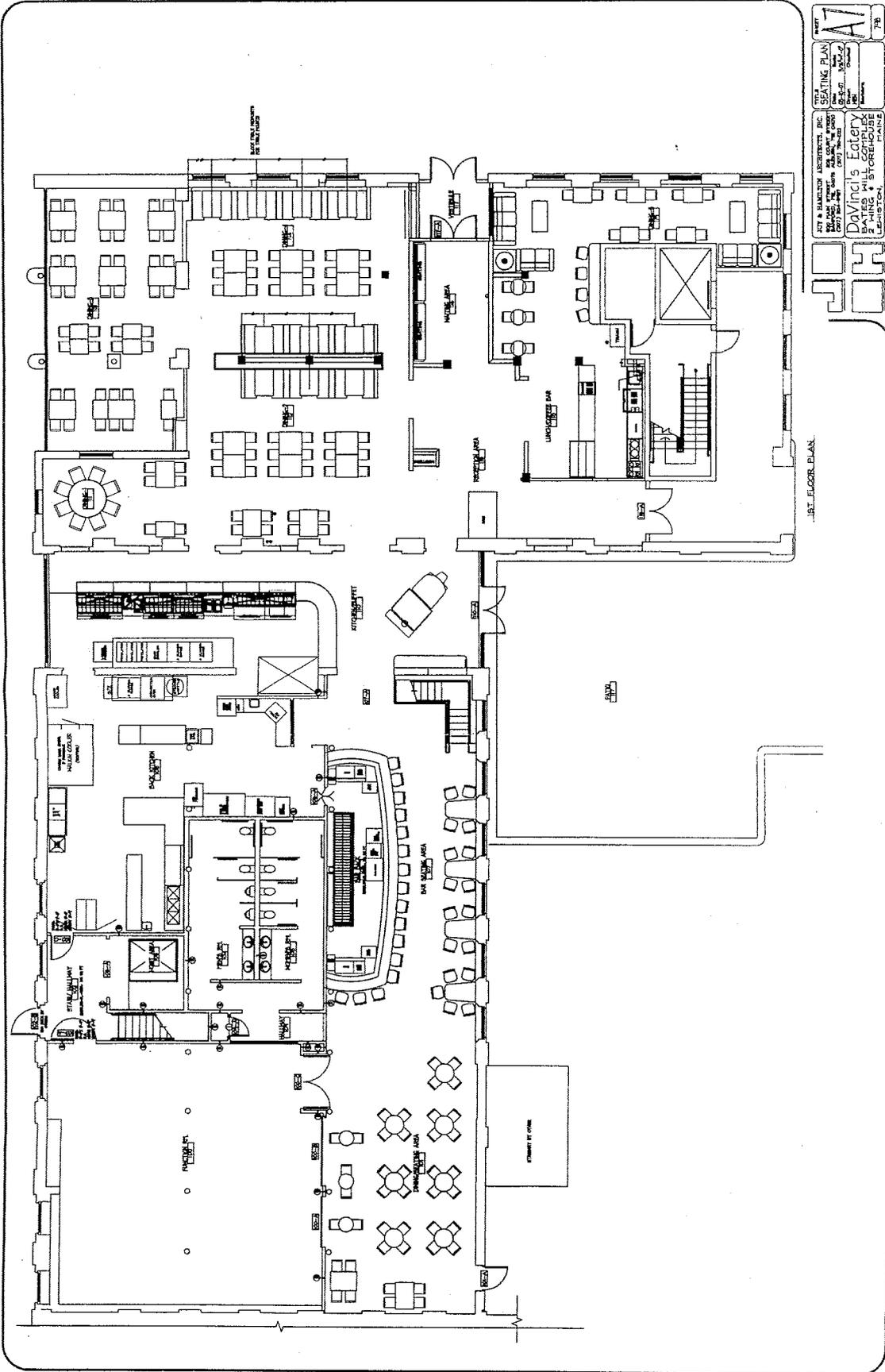

SIGNATURE OF DULY AUTHORIZED OFFICER

**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.

See attached



1ST FLOOR PLAN
 DATE: 08-28-07
 SCALE: 1/8" = 1'-0"
 PROJECT: Davinci's Eatery
 275 N. BANGOR AVENUE
 LEWISTON, MAINE

JCH
 JCH

1ST FLOOR PLAN

CHESTNUT STREET

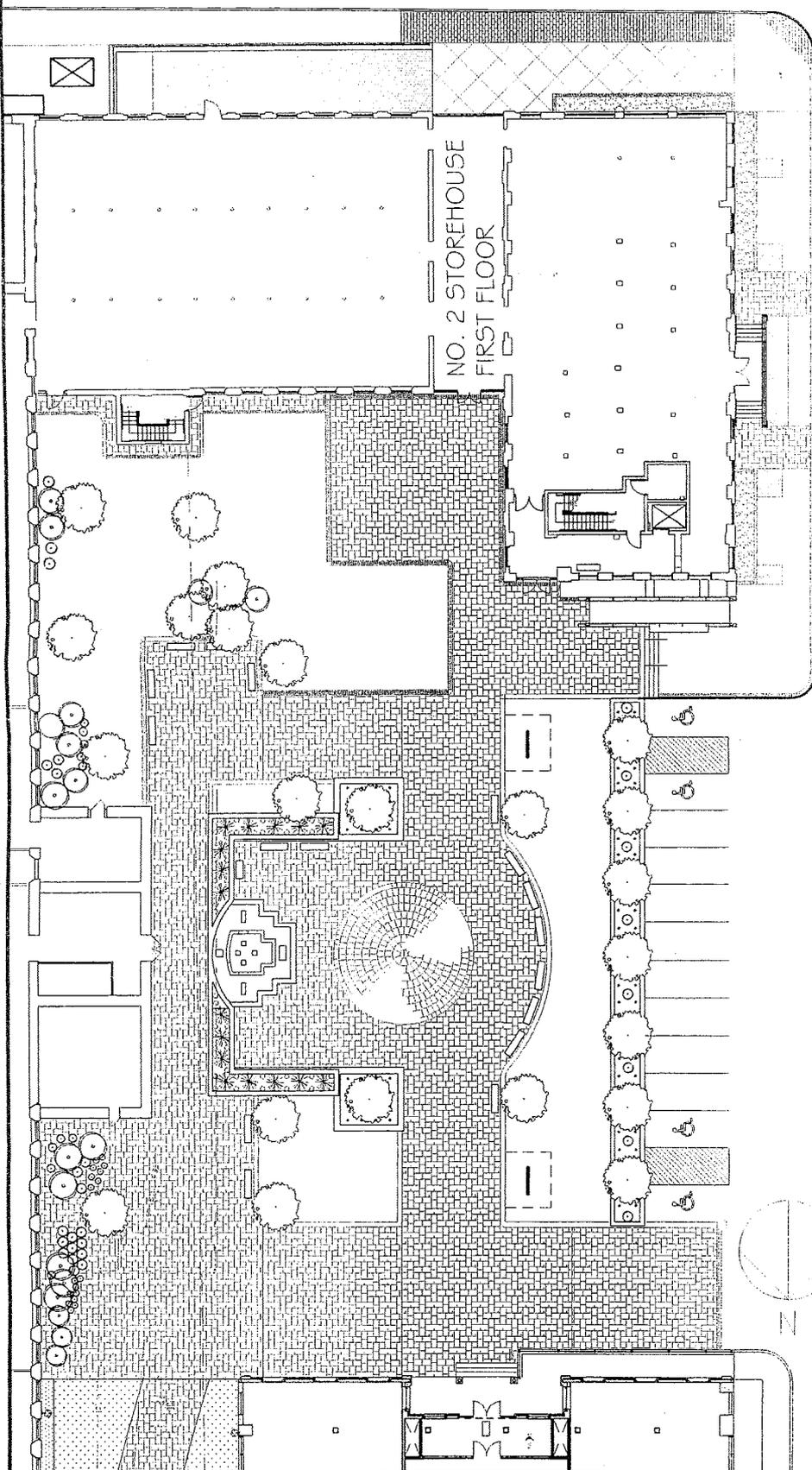
NO. 2 STOREHOUSE
FIRST FLOOR

MILL STREET

DATE	NO.	BY
10-20-2007	100	SKC
10	100	10-20-07

SITE LAYOUT PLAN
Mill Street Courtyard
BATES MILL COMPLEX
 Lewiston, Maine

PLATZ ASSOCIATES
 Architects - Engineers
 Construction Managers
 Tel: 207-764-7841
 Fax: 207-764-2656
 Two Great Falls Plaza, Auburn, Maine 04210





POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: February 2, 2012

RE: Liquor License/Special Amusement Permit – **Davinci's**

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

Davinci's
150 Mill Street



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



Professionalism

Integrity

Compassion

Dedication

Pride

Dependability

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Public Hearing and Final Passage for Land Use Code Amendments concerning the placement of political campaign signs.

INFORMATION:

During a recent City Council workshop, the Council discussed the issue of placement of political signs in the right-of-ways (traffic islands and so forth) during the six weeks leading up to an election day. Resident Elaine Makas brought her concern to the Council noting the city is very unsightly during this time and so many signs could create a visibility problem for drivers or pedestrians and create a safety concern.

During a recent Council meeting the Council sent this issue to the Planning Board for their recommendation and they approved a recommendation to authorize city staff to remove illegal political signs.

The ordinance amendment approved by Council on first passage and recommended by the Planning Board authorizes signs within or outside of the public right-of-way on any street and authorizes the code enforcement staff to remove signs placed contrary to the ordinance.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to Appendix A, Article XII "Performance Standards", Section 16, "Signs", of the City Zoning and Land Use Code, concerning authorization for city staff to remove illegally placed political signs, receive final passage by a roll call vote.

**AN ORDINANCE PERTAINING TO ZONING AND LAND USE PERFORMANCE
STANDARDS RELATIVE TO POLITICAL SIGNS**

THE CITY OF LEWISTON HEREBY ORDAINS:

APPENDIX A

ZONING AND LAND USE CODE

ARTICLE XII.

PERFORMANCE STANDARDS

Sec. 16. Signs.

(b) *Signs permitted in all districts.*

(1) The following types of signs may be erected in all zoning districts without obtaining a permit from the code enforcement official:

c. *Temporary signs.* Temporary signs listed below shall not be placed in a position that will impair vision, obstruct traffic, or in any manner create a hazard or nuisance to the general public.

5. *Political signs.* Signs of a temporary nature bearing political messages relating to an election, primary or referendum may be placed within or outside the public right-of-way of any street or highway in accordance with the timelines established in M.R.S.A. Title 23, §1913-A, Section 1(H). Political signs located within or outside the public right-of-way of any street or highway are prohibited on or in front of City owned property including schools, parks, cemeteries, and municipally owned buildings. Notwithstanding Article V. Sec. 7, the code enforcement official may remove any political signs erected contrary to this section.

REASON FOR PROPOSED AMENDMENT

The Zoning and Land Use Code does not contain a provision that authorizes the code enforcement official to remove illegal political signs; however, M.R.S.A. Title 23, §1917 Section 5, provides for immediate removal of illegal signs located with the public right-of-way, by the Commissioner of the Maine Department of Transportation (MDOT) and it is the position of the MDOT that municipalities may remove illegal political signs located within the public right-of-way. Illegal signs are deemed to be signs that create public safety issues and/or are located within the interstate system. Consistent with MDOT's position on the removal of illegal political signs, the code enforcement official removes such signs along with signs erected contrary to the Zoning and Land Use Code. This amendment will specifically provide for such authorization.

CONFORMANCE WITH COMPREHENSIVE PLAN

Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community. . . (See Economy, Policy 1, Strategy C, p 39).



CITY OF LEWISTON

Department of Planning & Code Enforcement



**TO: City Council
Mayor**

FROM: David Hediger, City Planner

DATE: March 28, 2012

RE: Zoning and Land Use Code Amendment: Political Sign Removal

As the Council will recall, on February 14, 2012 a workshop was held to discuss political signs. Specifically, the discussion focused on whether or not political signs should continue to be permitted in the public right-of-way of any street or highway; be subject to size restrictions, and should the ordinance be amended to authorize staff to remove illegal political signs. In view of that discussion, on March 6, 2012 the Council held a public hearing and voted 7-0 for first passage of a proposed amendment to Article XII, Section 16(b)(1) of the Zoning and Land Use Code authorizing staff to remove illegal political signs and that the matter be referred to the Planning Board for their review and recommendation pursuant to Article XVII, Section 5 of the aforementioned code.

On March 26, 2012 the Planning Board voted unanimously (7-0) to send a favorable recommendation for the City Council's consideration to amend Article XII, Performance Standards, Section 16(b)(1) of the Zoning and Land Use Code of the City of Lewiston providing authorization for staff to remove illegal political signs.

The Zoning and Land Use Code does not contain a provision that authorizes the code enforcement official to remove illegal political signs. However, M.R.S.A. Title 23, §1917 Section 5, provides for immediate removal of illegal signs located with the public right-of-way, by the Commissioner of the Maine Department of Transportation (MDOT) and it is the position of the MDOT that municipalities may remove illegal political signs located within the public right-of-way. Illegal signs are deemed to be signs that create public safety issues and/or are located within the interstate system. Consistent with MDOT's position on the removal of illegal political signs, the code enforcement official currently removes such signs along with others signs erected contrary to the Zoning and Land Use Code. The proposed amendment will specifically provide for such authorization with respect to political signs.



City of Lewiston
Planning & Code Enforcement
Gil Arsenault, Director



MEMORANDUM

To: City Clerk's Office
City Council Members

From: David Hediger

Date: March 27, 2012

Subject: Planning Board Action

The Planning Board took the following action at their public meeting held on March 26, 2012 regarding a recommendation on a proposed amendment to Appendix A, Article XII, Section 16(b) of the Zoning and Land Use Code specifically authorizing the removal of political signs by a code enforcement official.

The following motion was made:

MOTION: by **Walter Hill** pursuant to Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration a proposed amendment to Article XII, Performance Standards, Section 16(b)(1) of the Zoning and Land Use Code of the City of Lewiston providing authorization for staff to remove illegal political signs. Second by **Bruce Damon**.

VOTED: 7-0 (Passed)

c: Ed Barrett, City Administrator
Planning Board Members

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

LEGAL AD

**PUBLIC HEARING NOTICE
CITY OF LEWISTON
LAND USE CODE AMENDMENT**

A public hearing on the following Land Use Code amendment, for passage on final reading, will be held in the Council Chambers, City Building, Lewiston, on **Tuesday, April 3, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested persons may appear and will be given the opportunity to be heard before final action is taken:

Sign Ordinance Amendment

This amendment will allow the placement of political campaign signs within or outside the public right-of-way of any street in Lewiston and authorizes the Code Enforcement officials to remove political signs erected contrary to the city ordinance.

Copies of this proposal are available for review at the City Clerk's Office and Public Library during regular business hours. FMI, please visit our www.lewistonmaine.gov and see on the Non-Discrimination Policy.

Kathleen M. Montejo, City Clerk

LEGAL AD - SUN JOURNAL - Thursday, March 29, 2012

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise
FROM: Lewiston City Clerk's Office 777-4621 fax

Thank you.

Please bill the City Clerk's Dept account.

**LEWISTON CITY COUNCIL
MEETING OF APRIL 3, 2012**

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Continuation of Condemnation Hearing for the building located at 220 Park Street.

INFORMATION:

The Council is asked to continue the hearing on the condemnation of the building at 220 Park Street for approximately 60 days.

Notice was served on the property owners for an Order of Condemnation for a hearing to be held at the April 3 City Council meeting. The owners have requested a 60 day extension to resolve some pending issues and work with the city regarding the property.

Since the Notice was formally served on the owners, the Council is asked to take action by continuing the hearing for approximately 60 days.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To continue the condemnation hearing and to postpone action on the Order of Condemnation for the property at 220 Park Street to a future City Council meeting.

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Condemnation Hearing for the building located at 81 Lincoln Street.

INFORMATION:

The City has begun the process for condemnation of the property at 81 Lincoln Street under the dangerous building classification. This property has been abandoned by the owner and upon inspection of city staff has been determined to be an unsafe structure.

Attached is background material regarding this property and it's condition. The City Attorney will be present on Tuesday evening to assist the City Council with the condemnation hearing and to advise accordingly.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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1) To conduct a hearing to determine if the building located at 81 Lincoln Street has meet the dangerous building statutes as defined in Title 17, sec. 2851 et all.

If it is determined that the building does meet the dangerous building criteria, then the Council is asked :

2) To accept the Findings of Fact regarding the building at 81 Lincoln Street to be a dangerous building as defined by state statutes, to adopt the Order of Condemnation and to order the corrective action for the property owner which establishes the time frame in which the corrective action must be completed, and to authorize the City Administrator to take necessary actions to implement the corrective action as determined by the Municipal Officers, should the property owner fail to comply with the Council abatement order.

MEMORANDUM

To: Mayor McDonald; Lewiston City Council
From: Gildace Arsenault, Director, Lewiston Planning Department
Date: March 27, 2012
RE: Dangerous Buildings Hearings for 220 Park Street, 81 Lincoln Street and 67 Oak Street

Dear Mayor and City Council,

At the Council meeting on April 3, the Planning Department will be presenting evidence as to why 81 Lincoln Street and 67 Oak Street are dangerous buildings within the meaning of 17 M.R.S. § 2851. We will be requesting that the Council continue the hearing as to 220 Park Street for 60 days to give the owner a chance to address the problems at the property.

We will be requesting that the Council find that 81 Lincoln Street and 67 Oak Street properties are dangerous buildings and order that they be demolished.

To assist your decision I have included the following materials for each property:

- Documents establishing the identity of the current owner and any party in interest;
- The Notice of Hearing and proof of service on the owner and any party in interest;
- Previous correspondence, notices, or citations to the owner;
- Photographs depicting the dilapidation at the properties; and
- Other documentation that you might find useful in making your decision.

At the meeting, the Planning Department will present this evidence as well as testimony showing why these properties are dangerous and should be demolished. I will also prepare for the Council proposed findings of fact, conclusions of law, and a proposed order of demolition.

81 Lincoln Street

Ownership Documents

WARRANTY DEED
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS, that Denis J. Dufour and Robin L. Dufour of Mechanic Falls, County of Androscoggin, and the State of Maine, for consideration paid, GRANT to David Beckelman of South Portland, County of Cumberland, and the State of Maine, whose mailing address is P.O. Box 228, Yarmouth, Maine 04096, with **WARRANTY COVENANTS**, the land with buildings thereon in Lewiston, County of Androscoggin, and the State of Maine, described as follows:

The land with the buildings thereon situated in Lewiston, County of Androscoggin, State of Maine, bounded and described as follows:

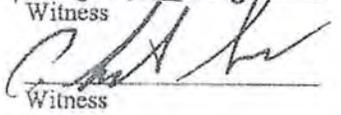
Beginning on the westerly line of Lincoln Street, at the southeasterly corner of land now or formerly owned by W.H. Williams; thence in a southerly direction by said westerly line of Lincoln Street, twenty-five (25) feet to the northerly line of land formerly owned by Harry Stetson; thence in a westerly direction by said northerly line of said land formerly owned by said Harry Stetson, and a continuation westerly of the same sixty-three and seventeen hundredths (63.17) feet; thence in a northerly direction by land now or formerly of Donat Boisvert et al twenty-five (25) feet to the southerly line of said land now or formerly owned by said W.H. Williams; thence in an easterly direction by the southerly line of said land now or formerly of W.H. Williams, sixty-three and seventeen hundredths (63.17) feet to the point of beginning on said westerly line of said Lincoln Street.

Meaning and intending to convey the same premises conveyed to the Grantors by virtue of a deed from Sylvia L. Labbe, Personal Representative of the Estate of Marcel A. Labbe, dated October 27, 2004 and recorded in the Androscoggin County Registry of Deeds in Book 6119, Page 257.

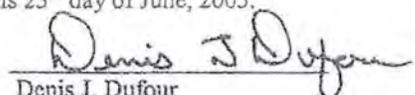
MAINE REAL ESTATE
TRANSFER TAX PAID

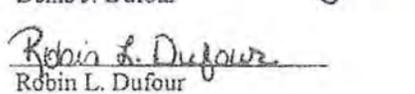
Witness our hands and seals this 23rd day of June, 2005.



Witness


Witness



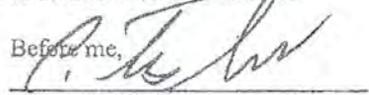
Denis J. Dufour


Robin L. Dufour

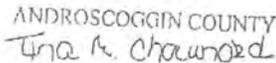
STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

June 23, 2005

Then personally appeared before me the above named Denis J. Dufour and Robin L. Dufour and acknowledged the foregoing instrument to be their free act and deed.

Before me,


Notary Public/ Attorney at Law

ANDROSCOGGIN COUNTY

Tina M. Chaunard
REGISTER OF DEEDS

C. TRENT GRACE
Notary Public, Maine
My Commission Expires February 8, 2008



A05-513

Notice of Hearing
Certificates of Service

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

David Beckelman
6 Liberty Court
Yarmouth, Maine 04096

MERS as nominee for First Financial Mortgage Corp.
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

81 LINCOLN STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

April 3, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 81 Lincoln Street, Lewiston, Maine, identified as Lot 50 on Tax Map 208, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 6384, Page 148, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: February 9, 2012

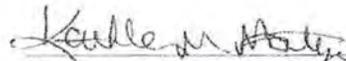

Kathleen M. Montejo, City Clerk

EXHIBIT B

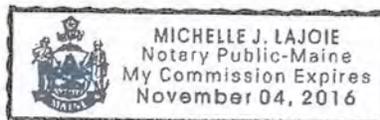
STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.

Michelle J. Lajoie

Notary Public / Attorney at Law



SEAL

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 2-17-12, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on David Beckelman as follows:

David Beckelman
6 Liberty Court
Yarmouth, ME 04096

To him in hands

Costs of Service:

Service: \$ _____
Travel: \$ _____
Postage: \$ _____
Other: \$ _____
TOTAL: \$ 46.05

Pauline
Signature
Rep. [unclear]
Agency



NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

David Beckelman
6 Liberty Court
Yarmouth, Maine 04096

MERS as nominee for First Financial Mortgage Corp.
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

81 LINCOLN STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

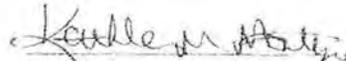
April 3, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 81 Lincoln Street, Lewiston, Maine, identified as Lot 50 on Tax Map 208, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 6384, Page 148, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: February 9, 2012

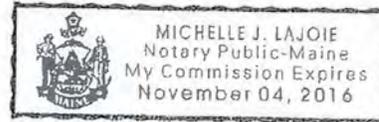

Kathleen M. Muntejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the forgoing instrument to be her free act and deed.

Michelle J. Lajoie
Notary Public / Attorney at Law



CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 2/23, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on MERS as nominee for First Financial Mortgage Corp. as follows:

c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Costs of Service:

Service:	\$ <u>29⁰⁰</u>
Travel:	\$ _____
Postage:	\$ _____
Other:	\$ _____
TOTAL:	\$ <u>29⁰⁰</u>

W. Brett DeMorris Britt

Signature

Wilmington Process Service
P.O. Box 1360
Wilmington, DE 19899-1360

Agency

EXHIBIT D

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

David Beckelman
6 Liberty Court
Yarmouth, Maine 04096

MERS as nominee for First Financial Mortgage Corp
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

81 LINCOLN STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

April 3, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 81 Lincoln Street, Lewiston, Maine, identified as Lot 50 on Tax Map 208, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 6384, Page 148, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: February 9, 2012


Kathleen M. Montejo, City Clerk

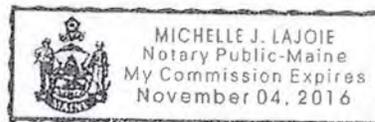
STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.

Michelle J. Lajoie

Notary Public / Attorney at Law



City
Correspondence

**CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, MAINE 04240
(207) 513-3125 EXT. 3226
NOTICE OF CONDEMNATION/PLACARDING
VIA FIRST CLASS & CERTIFIED MAIL
RETURN RECEIPT REQUESTED
POSTED AT SITE**

June 23, 2011

David Beckelman
6 Liberty Court
Yarmouth, Maine 04096

Specialized Loan Servicing, I.L.C.
P.O. Box 636005
Littleton, CO 80163-6005
attention: Customer Care Support

U.S. Bank as Trustees
U.S. Bancorp
U.S. Bancorp Center
800 Nicollet Mall
Minneapolis, MN 55402

RE: 81 Lincoln Street Map 208, Lot 50 Tax Id# RE00008276

Dear David Beckelman

It has come to the attention of this office that the building at 81 Lincoln Street is vacant and has suffered severe deterioration making it unfit for occupancy due to violation(s) of the following provisions of Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, Chapter 38, Article II, Sections 38-26 et seq. as per The Code of Ordinances of the City of Lewiston hereafter referred to as the (Code). The building is without necessary facilities such as heat, hot potable water, and electricity. The means of egress do not meet the minimum requirements of Code. The plumbing drainage system is failing with the pipes corroded, blocked and leaking. It is in need of substantial rehabilitation to be approved for re-occupancy or demolished and in its present condition is a dangerous building.

EXHIBIT E

A dangerous building is defined as pursuant to the Maine Revised Statutes Title 17, §2851:

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure.

I hereby condemn and placard the building its accessory structure/garage at 81 Lincoln Street as being unfit for occupancy pursuant to and in accordance with Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, PM 105.1, PM-105.2, PM 105.3, PM 105.4, PM-105.6, PM 107.1, PM 107.2, PM-107.3, PM-504.1 et seq, of the Code of Ordinances of the City of Lewiston. Pursuant to PM-105.6 & PM-903.1 of the Code, you are hereby ordered to immediately ensure this building is secured from unauthorized entry. You are to make substantial repairs, with all appropriate permits issued by this office, or to demolish this building, leaving the property in manner to the satisfaction of this office by no later than July 29, 2011.

The City of Lewiston may order the demolition of this building pursuant to the provisions of the Maine Revised Statutes, Title 17, Chapter 91, Subchapter 4, Dangerous Buildings, Section 2851, if the building is not maintained secured or is a threat to public safety and a nuisance.

The above-mentioned property will be placarded and may not be re-occupied until proper abatement of all violations and rehabilitation has been completed. An inspection shall be conducted to confirm compliance. At such time the condemnation order and placarding shall be discontinued pursuant to the above referenced Code Section PM 107.3 stating "the code official shall remove the condemnation and placarding whenever the defect or defects upon which the Condemnation and Placarding were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code."

Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. Please contact this office immediately if circumstances do not permit the timely compliance with this order and abatement of the violations or if you have any questions regarding this matter.

In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 50, Article II, and Section 50-36 thru 50-51 of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred and ten dollars (\$110.00) for the first citation and you will be reordered to abate the outstanding violations in the previous Notices and Orders. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a

civil penalty of two hundred and fifteen dollars (\$215.00), the third is four hundred and twenty five dollars (\$425.00), the fourth and subsequent citations are eight hundred and fifty dollars (\$850.00), and penalties are cumulative. In the future, if any of the above violations are repeated, you are not entitled to receive any further notification, and this office may serve you with a citation.

In lieu of or in addition to the issuance of citations, this office may initiate a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. § 4452 et seq. and § 3758-A et seq. as amended. A judgment from such a lawsuit in the City's favor will result in a court order that any violations be abated, the imposition of a fine of up to two thousand, five hundred dollars (\$2,500.00) per violation, per day, the payment of court costs and the City's legal fees.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Planning and Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and fifty dollar (\$150.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section PM-106.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,


Thomas E. Maynard
Code Enforcement Officer & Constable

c: Gildace J. Arsenaault, Director of Planning & Code Enforcement

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

Photographs





81 LINCOLN STREET - 14

Fig. 2.



2



5



3



4

Apartment Ransacked with Debris
and car keys strewn about

12-1-2011 to 3-21-2012
81 Lincoln St

PS 3

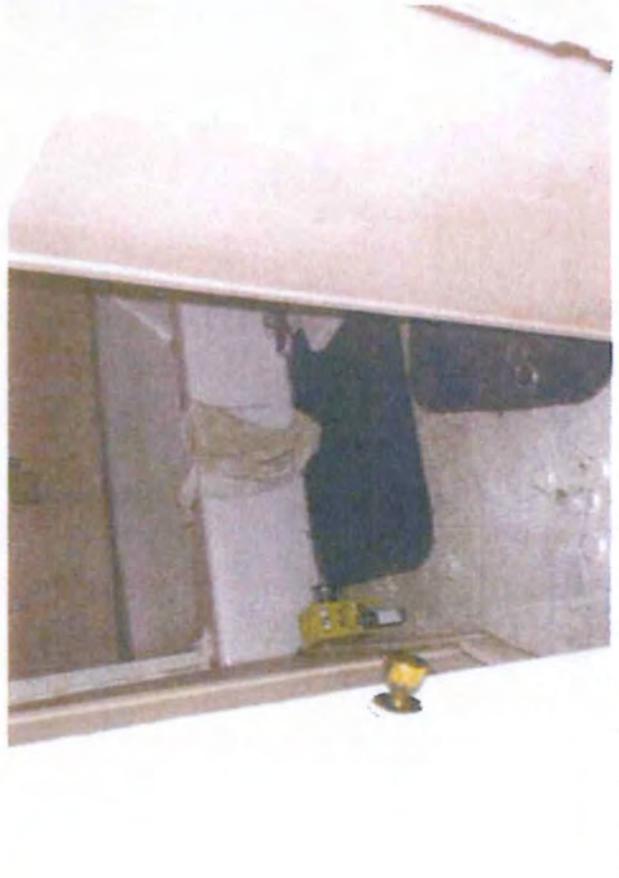
9



8



10



7

12-1-2011 to 3-21-2012
81 Lincoln St

134



13



12



12-1-2011 to 3-21-2012
 81 Lincoln St. B. E. Ma

Pa S



17



16



4



5

12-1-2011 - 3-21-2012
 81 Lincoln St
 R. E. H.

18



19

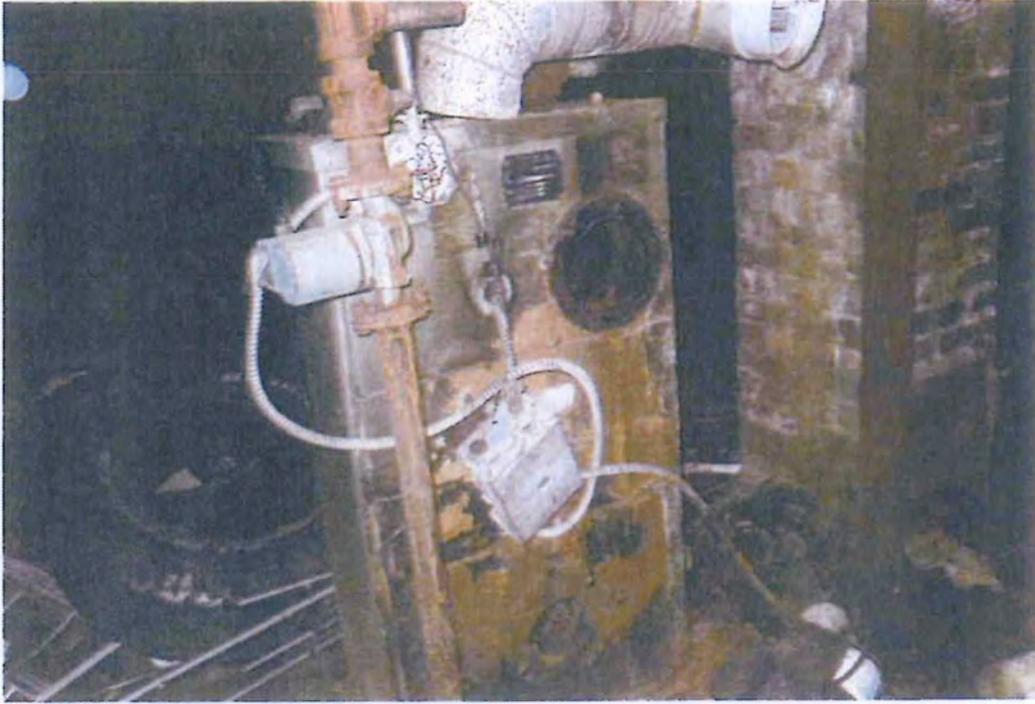


12-1-2011 5-5-2011 2:30: 3:30.

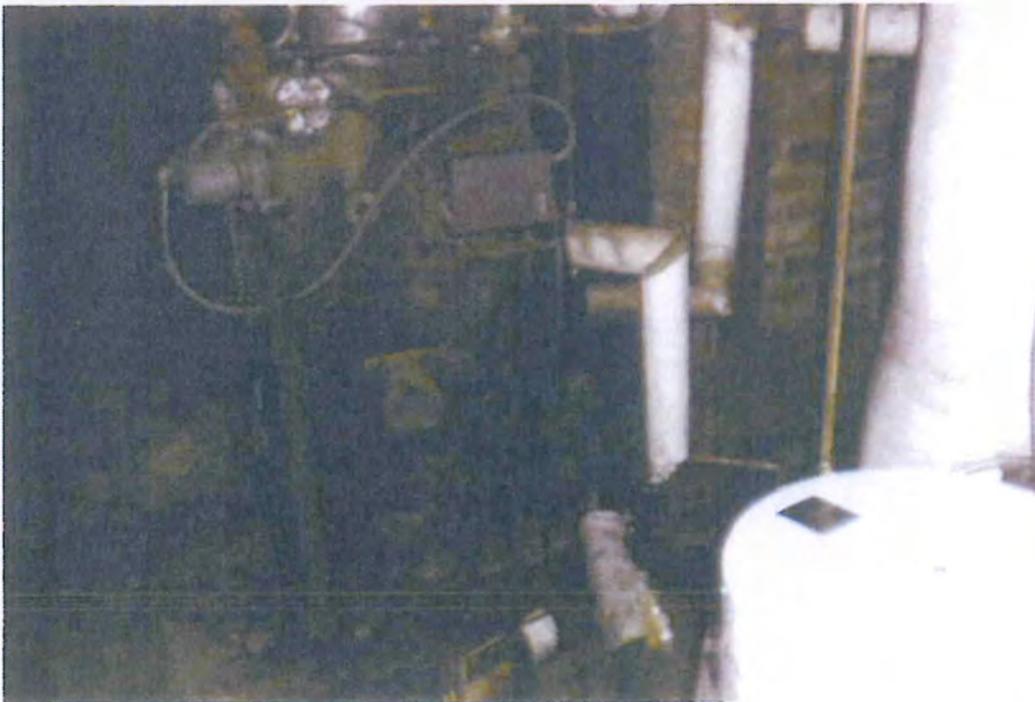
81 Lincoln St

Result of Plumbing Drain leak

21



20



5-5-2011 to 3-21-2012.
81 Lincoln st

Boiler detector and after copper theft.

19 8



25



24



2

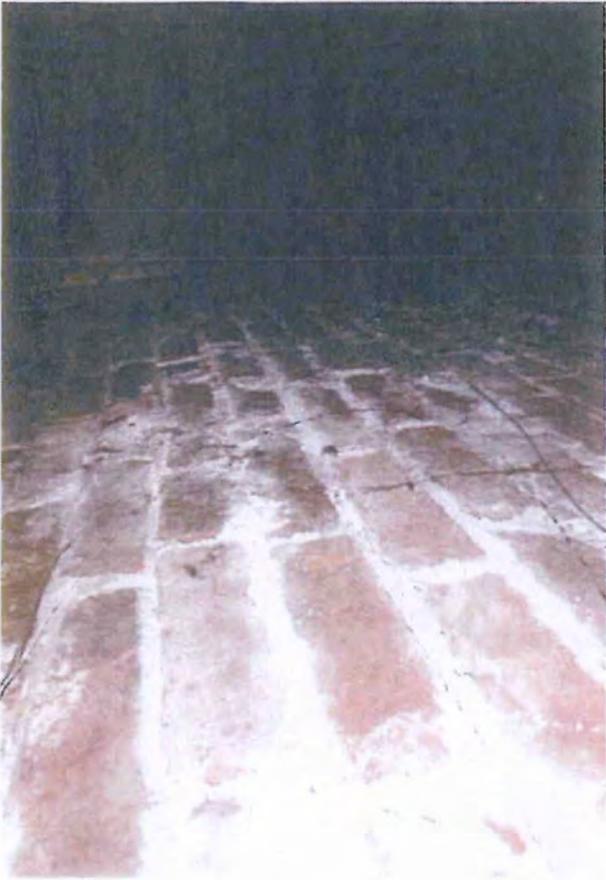


3

Disintegrating Mosquito

3-21-2012 1:30 PM
E14 ... 1. ... P. B. ...

15 a



22

22



22

22

Damage from frost

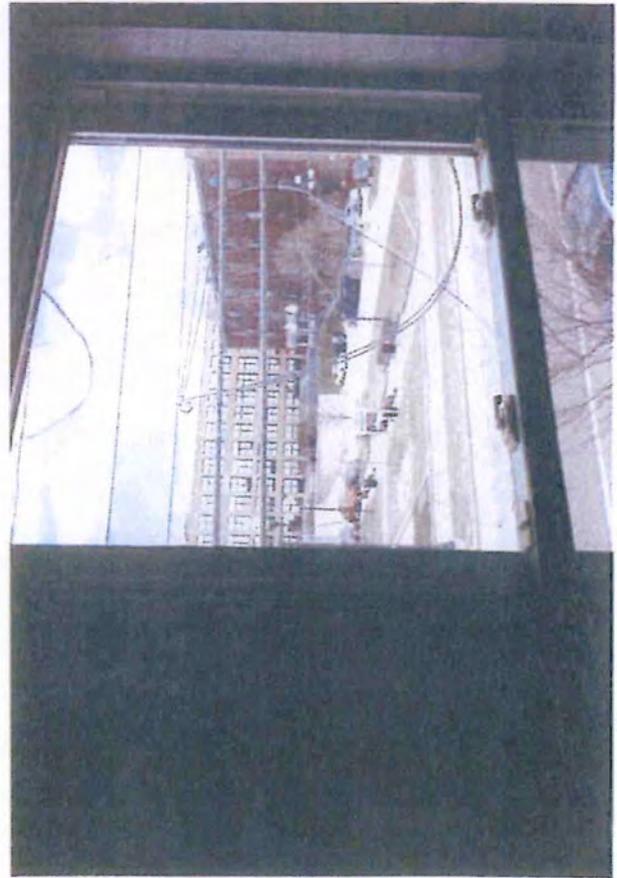
to T.M. ...

3-21-2012
81 Lincoln St.

8/10



0



11



32

3-21-2012
81 Lincoln St P.M. Broken Windows



13



34

5-5-2011 3:00pm
81 Lincoln St
R.H. 1
Stair geometry -



35

6/12



39



38



1



2

Mean of Edgess width Dimensions

5-5-2011
81 P. number R 9 Mc. 1

89 13

12-1-2011

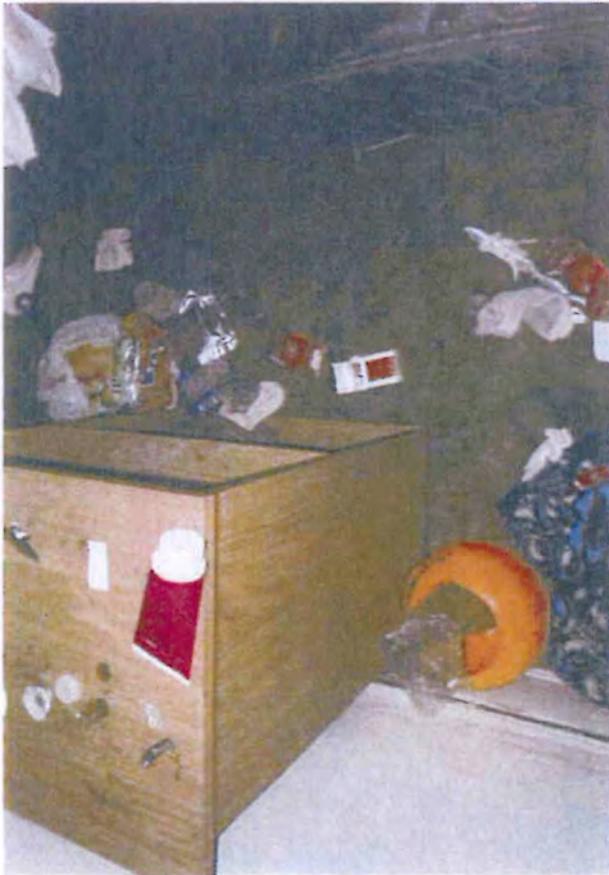


43



42

A room had been made to sleeping.



3-21-2012 81 P. ... L. ... R - Salt 1

Other Documentary Evidence

81 Lincoln Street
Police Log

For Date: 04/19/2011 - Tuesday
11-32363 1610 Phone - POL-Other Non Criminal Turned Over to Other Age
Location/Address: [LEW 2534] AP - 81 LINCOLN ST Apt. #3
Jurisdiction: Lewiston

Narrative:
having trouble w/landlord,david beckelman not supplying them
w/proper running of the furnace which is supplying them no
heat or hot water for days gave her the number of salvation army
and red cross aslo called 415 capt vailleux and he will call code
inforcement gil arsenault and get to me as to where to go from her

415

Narrative:
415 advises that he spoke with gil arsenault and they are
aware of the problems and that tom menard was on his way
over there as they were speaking

For Date: 06/20/2011 - Monday
11-51915 1113 Phone - POL-Theft Cleared
Location/Address: [LEW 2534] AP - 81 LINCOLN ST Apt. #2
Jurisdiction: Lewiston
ID:

Disp-11:18:37 Enrt-11:26:05 Arvd-11:28:30 Clrd-12:13:04

Narrative:
caller is on scene caller will be outside
would like to report a theft of a refrigerator on the 2nd fl
and a washer and dryer stolen from the third floor. believes
the tenants may have taken them when they moved out.

For Date: 06/21/2011 - Tuesday
11-52386 1953 Phone - POL-Theft Cleared
Primary Id: Corporal Raymond ROBERTS
Location/Address: [LEW 2534] AP - 81 LINCOLN ST
Jurisdiction: Lewiston
ID:

Disp-19:58:19 Enrt-20:00:02 Arvd-20:03:44 Clrd-20:35:00

ID:

Disp-20:36:36 Arvd-20:36:59 Clrd-20:45:39

Narrative:

CROSS REF/51915
THIS WAS A THEFT OF ITEMS NOW THEY HAVE COME BACK AN STOLE
THE COPPER PIPING
Refer To Incident: 11LEW-2800-CP

For Date: 11/02/2011 - Wednesday
11-94894 1955 Phone - POL-Police Information Cleared
Location/Address: [LEW 2534] 2ND FL - 81 LINCOLN ST
Jurisdiction: Lewiston
ID:

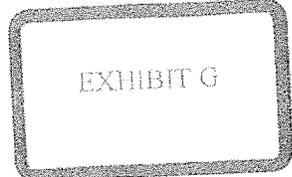
Disp-20:02:14 Arvd-20:42:49 Clrd-20:54:51

ID:

Disp-20:43:36 Enrt-20:43:38 Arvd 20:46:20 Clrd 20:54:52

ID:

Disp-20:44:08 Enrt-20:44:10 Arvd-20:46:25 Clrd-20:54:55



Narrative:

Reports Ruth Moreno 08-15-74 and Michael Boothby 06-11-68 have been staying in an abandoned building possibly 81 Lincoln St. It is desc as a 3 story gray building between 69 Lincoln St and Lewiston House of Pizza. Caller was concerned because the building doesn't have any power and is afraid of fire danger. Ruth Moreno has 24 material also.

Narrative:

SCN/446834 MKE/EWM ORI/ME0010000
NAM/MORENO,RUTH SEX/F RAC/W DOB/19740815 HGT/600 WGT/170
EYE/GRN HAI/BLK OFF/5013 DOW/20110818 OCA/11-00381
GEO/01016 MIS/UPFF - UNSWORN FALSIFICATION CL,D
IMMEDIATELY CONFIRM RECORD WITH ORI.

Narrative:

OBVIOUS SIGNS THAT PEOPLE ARE STAYING IN BUILDING, REAR DOOR IS OPEN, NEEDS TO BE TAKEN UP BY CODE ENFORCEMENT.

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Condemnation Hearing for the building located at 67 Oak Street.

INFORMATION:

The City has begun the process for condemnation of the property at 67 Oak Street under the dangerous building classification. This property has been abandoned by the owner and upon inspection of city staff has been determined to be an unsafe structure.

Attached is background material regarding this property and it's condition. The City Attorney will be present on Tuesday evening to assist the City Council with the condemnation hearing and to advise accordingly.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/klmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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1) To conduct a hearing to determine if the building located at 67 Oak Street has meet the dangerous building statutes as defined in Title 17, sec. 2851 et all.

If it is determined that the building does meet the dangerous building criteria, then the Council is asked :

2) To accept the Findings of Fact regarding the building at 67 Oak Street to be a dangerous building as defined by state statutes, to adopt the Order of Condemnation and to order the corrective action for the property owner which establishes the time frame in which the corrective action must be completed, and to authorize the City Administrator to take necessary actions to implement the corrective action as determined by the Municipal Officers, should the property owner fail to comply with the Council abatement order.

MEMORANDUM

To: Mayor McDonald; Lewiston City Council
From: Gildace Arsenault, Director, Lewiston Planning Department
Date: March 27, 2012
RE: Dangerous Buildings Hearings for 220 Park Street, 81 Lincoln Street and 67 Oak Street

Dear Mayor and City Council,

At the Council meeting on April 3, the Planning Department will be presenting evidence as to why 81 Lincoln Street and 67 Oak Street are dangerous buildings within the meaning of 17 M.R.S. § 2851. We will be requesting that the Council continue the hearing as to 220 Park Street for 60 days to give the owner a chance to address the problems at the property.

We will be requesting that the Council find that 81 Lincoln Street and 67 Oak Street properties are dangerous buildings and order that they be demolished.

To assist your decision I have included the following materials for each property:

- Documents establishing the identity of the current owner and any party in interest;
- The Notice of Hearing and proof of service on the owner and any party in interest;
- Previous correspondence, notices, or citations to the owner;
- Photographs depicting the dilapidation at the properties; and
- Other documentation that you might find useful in making your decision.

At the meeting, the Planning Department will present this evidence as well as testimony showing why these properties are dangerous and should be demolished. I will also prepare for the Council proposed findings of fact, conclusions of law, and a proposed order of demolition.

67 Oak Street

Ownership Documents

WARRANTY DEED

**Joint Tenancy
Maine Statutory Short Form**

KNOW ALL PERSONS BY THESE PRESENTS, That

Robert M. Leighton and Claire R. Leighton

of Lewiston, County of Androscoggin, State of Maine,

for consideration paid, grant to Kevin L. Roy and Karen E. Roy

of Westbrook, County of Cumberland, State of Maine,

whose mailing address is 14 Crestwood Drive, Westbrook, Maine 04092

with warranty covenants, as joint tenants the land in Lewiston, County of Androscoggin, and State of Maine, described on the attached EXHIBIT A.

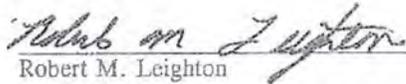
MAINE REAL ESTATE
TRANSFER TAX PAID

WITNESS our/my hand(s) and seal(s) this 22nd day of August, 2005.

*Signed, Sealed and Delivered in
presence of:*



to the


Robert M. Leighton

Claire R. Leighton

STATE OF MAINE

August 22, 2005

COUNTY OF Cumberland

Then personally appeared the above named Robert M. Leighton and Claire R. Leighton and acknowledged the foregoing instrument to be their free act and deed.

Before me,



Notary Public
Printed Name: FRED OETTEL
My Commission Expires: 5-16-2007

EXHIBIT A

Order No: 1086985 (Roy)

EXHIBIT 'A'

THE LAND TOGETHER WITH ANY BUILDINGS AND IMPROVEMENTS THEREON, SITUATED IN LEWISTON, COUNTY OF ANDROSCOGGIN AND STATE OF MAINE, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHEASTERLY LINE OF OAK STREET AT THE NORTHERLY CORNER OF LOT NUMBERED TWENTY (20), ACCORDING TO A PLAN OF LOTS MADE BY READ AND MOORE FOR SULLIVAN BROTHERS, SAID PLAN BEING RECORDED IN THE ANDROSCOGGIN COUNTY REGISTRY OF DEEDS, BOOK OF PLANS, VOLUME ONE, NUMBER FORTY-ONE; THENCE SOUTHEASTERLY BY THE NORTHEASTERLY LINE OF SAID LOT NUMBER TWENTY (20), EIGHTY (80) FEET TO THE EASTERLY CORNER OF SAID LOT; THENCE SOUTHWESTERLY BY THE SOUTHEASTERLY LINE OF SAID LOT, THIRTY ONE AND EIGHTY-SEVEN HUNDREDTHS (31.87) FEET; THENCE NORTHWESTERLY SEVENTY-SEVEN AND EIGHTY-FIVE HUNDREDTHS (77.85) FEET TO THE SAID SOUTHEASTERLY LINE OF OAK STREET; THENCE NORTHEASTERLY BY THE SAID SOUTHEASTERLY LINE OF OAK STREET, THIRTY-TWO AND FIVE HUNDREDTHS (32.5) FEET TO THE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT IN COMMON WITH MICHAEL H. RANCOURT OF RIGHT OF WAY FOR USE OF THE GRANTEE AND HIS TENANTS, INVITEES AND ASSIGNS OVER AND ACROSS THE SOUTHWESTERLY HALF OF THE EXISTING DRIVEWAY LOCATED ON THE SOUTHWESTERLY SIDE OF LOT NUMBER 19 SHOWN IN BOOK OF PLANS, VOLUME ONE, NUMBER 41.

THE PREMISES ARE CONVEYED SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD AND THIS DEED INCLUDES ALL RIGHTS, EASEMENT, PRIVILEGES AND APPURTENANCES BELONGING TO THE PREMISES HEREINABOVE DESCRIBED.

BEING THE SAME PREMISES CONVEYED TO ROBERT M. LEIGHTON AND CLAIRE R. LEIGHTON BY VIRTUE OF A WARRANTY DEED FROM MAURICE R. BLONDIN AND JACQUELINE B. BLONDIN RECORDED ON NOVEMBER 13, 1995 AS BOOK 3509, PAGE 145 IN THE ANDROSCOGGIN COUNTY REGISTRY OF DEEDS.

ANDROSCOGGIN COUNTY
Tina K. Chaudhry
REGISTER OF DEEDS

Notice of Hearing
Certificates of Service

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Kevin L. Roy
Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

Bank of America NA as successor to BAC Home Loans Servicing, L.P.
c/o CT Corporation System
One Portland Square
Portland, Maine 04101

MERS as nominee for Countrywide Bank
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Evergreen Credit Union
c/o Roderick R. Rovzar
Norman Hanson DeTroy
415 Congress Street
Portland, Maine 04112

67 OAK STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

April 3, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 67 Oak Street, Lewiston, Maine, identified as Lot 479 on Tax Map 195, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 6463, Page 271, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The

EXHIBIT B

City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: February 9, 2012

Kathleen M. Montejo
Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.

Michelle J. Lajoie
Notary Public / Attorney at Law



SEAL

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

VERIFIED RETURN OF SERVICE

State of Maine

County of Androscoggin

Court

Case Number: NONE Court Date: 4/3/2012 7:00 pm

Plaintiff:

City of Lewiston, Maine,

vs.

Defendants:

Kevin L. Roy and Karen E. Roy,

For:

Brann & Isaacson

Lewiston, ME

Received by Speedy Courier & Process Serving Inc. on the 13th day of February, 2012 at 1:00 pm to be served on Kevin L. Roy, 28162 Islet Trail, Bonita Springs, FL 34135-8507.

I, Scott Caro, being duly sworn, depose and say that on the 17th day of February, 2012 at 6:29 pm, I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the Notice of Hearing with the date and hour of service endorsed thereon by me, to: Kevin L. Roy at the alternate address of: 28356 Nautica Lane, Bonita Springs, FL 34135, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

Given address is incorrect. Don Lagana, owner, has lived here since November of 2010. Notified client.

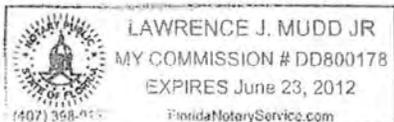
I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served. Under penalty of perjury, I declare that I have read the foregoing document, and that the facts stated in it are true. NO NOTARY REQUIRED PURSUANT TO F.S. 92.525(2).

Scott Caro
205363

Speedy Courier & Process Serving Inc.
3415 Cayman Lane
Naples, FL 34119
(239) 596-4064

Our Job Serial Number: LJM-2012000128

Subscribed and Sworn to before me on the 20th day of February, 2012 by the affiant who is personally known to me.

NOTARY PUBLIC

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 2/17, 2012 (date), I served the above-referenced NOTICE OF

HEARING, a copy of which is attached hereto, on Kevin L. Roy as follows:

Kevin L. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

Costs of Service:

Service:	\$ _____
Travel:	\$ _____
Postage:	\$ _____
Other:	\$ _____
TOTAL:	\$ _____



Signature

Agency

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Kevin L. Roy
Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

Bank of America NA as successor to BAC Home Loans Servicing, L.P.
c/o CT Corporation System
One Portland Square
Portland, Maine 04101

MERS as nominee for Countrywide Bank
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Evergreen Credit Union
c/o Roderick R. Rovzar
Norman Hanson DeTroy
415 Congress Street
Portland, Maine 04112

67 OAK STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

April 3, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

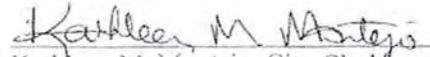
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This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: February 9, 2012

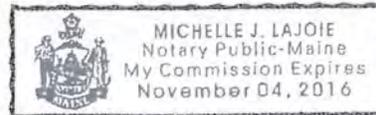

Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law



VERIFIED RETURN OF SERVICE

State of Maine

County of Androscoggin

Court

Case Number: NONE Court Date: 4/3/2012 7:00 pm

Plaintiff:

City of Lewiston, Maine,

vs.

Defendants:

Kevin L. Roy and Karen E. Roy,

For:

Brann & Isaacson

Lewiston, ME

Received by Speedy Courier & Process Serving Inc. on the 13th day of February, 2012 at 1:00 pm to be served on Karen E. Roy, 28162 Islet Trail, Bonita Springs, FL 34135-8507.

I, Scott Caro, being duly sworn, depose and say that on the 17th day of February, 2012 at 6:29 pm, I:

SUBSTITUTE served by delivering a true copy of the **Notice of Hearing** with the date and hour of service endorsed thereon by me, to: **Kevin L. Roy as Husband** at the alternate address of: **28356 Nautica Lane, Bonita Springs, FL 34135**, the within named person's usual place of **Abode**, who resides therein, who is fifteen (15) years of age or older and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

Given address is incorrect. Don Lagana, owner, has lived here since November of 2010. Notified client.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served. Under penalty of perjury, I declare that I have read the foregoing document, and that the facts stated in it are true. NO NOTARY REQUIRED PURSUANT TO F.S. 92.525(2).

Subscribed and Sworn to before me on the 20th day of February, 2012 by the affiant who is personally known to me.

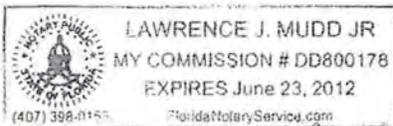
Lawrence J. Mudd Jr.
NOTARY PUBLIC

Scott Caro

Scott Caro
205363

Speedy Courier & Process Serving Inc.
3415 Cayman Lane
Naples, FL 34119
(239) 596-4064

Our Job Serial Number LJM-2012000129



CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 2/17, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Karen E. Roy as follows:

Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

Costs of Service:

Service: \$ _____
Travel: \$ _____
Postage: \$ _____
Other: \$ _____

TOTAL: \$ _____



Signature

Agency

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Kevin L. Roy
Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

Bank of America NA as successor to BAC Home Loans Servicing, L.P.
c/o CT Corporation System
One Portland Square
Portland, Maine 04101

MERS as nominee for Countrywide Bank
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Evergreen Credit Union
c/o Roderick R. Rovzar
Norman Hanson DeTroy
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Portland, Maine 04112

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April 3, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The

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Dated: February 9, 2012

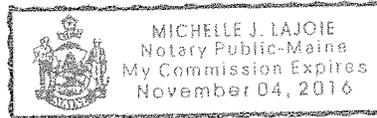
Kathleen M. Montejo
Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.

Michelle J. Lajoie
Notary Public / Attorney at Law



CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 2-15-12, 2012 (date), I served the above-referenced NOTICE OF

HEARING, a copy of which is attached hereto, on Bank of America NA as follows:

% WILLIAM RICHARDSON Admin. ASST
Bank of America NA as successor to BAC
Home Loans Servicing, L.P.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

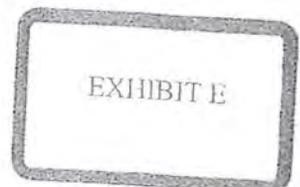
Costs of Service:

Service:	\$ <u>16 00</u>
Travel:	\$ <u>8 40</u>
Postage:	\$ <u>60</u>
Other:	\$ <u>5.00</u>
TOTAL:	\$ <u>30.00</u>

Eric M. Arnold

Signature
H. Skiff

Agency



NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Kevin L. Roy
Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

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Portland, Maine 04101

MERS as nominee for Countrywide Bank
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Evergreen Credit Union
c/o Roderick R. Royzar
Norman Hanson DeTroy
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Portland, Maine 04112

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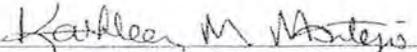
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Dated: February 9, 2012

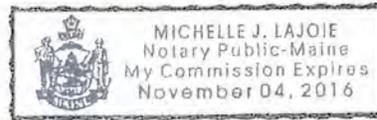

Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law



CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 2/23, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on a person authorized to accept service on behalf of MERS as nominee for Countrywide Bank by delivering a copy of same at the following address:

c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Costs of Service:

Service:	\$	<u>59⁰⁰</u>
Travel:	\$	_____
Postage:	\$	_____
Other:	\$	_____
TOTAL:	\$	<u>59⁰⁰</u>

DeNorris BRITT
Signature
Wilmington, Delaware
P.O. Box 1380
Wilmington, DE 19899-1380
Agency



NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Kevin L. Roy
Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

Bank of America NA as successor to BAC Home Loans Servicing, L.P.
c/o CT Corporation System
One Portland Square
Portland, Maine 04101

MERS as nominee for Countrywide Bank
c/o The Corporation Trust Company
Corporation Trust Center
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Evergreen Credit Union
c/o Roderick R. Rovzar
Norman Hanson DeTroy
415 Congress Street
Portland, Maine 04112

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April 3, 2012
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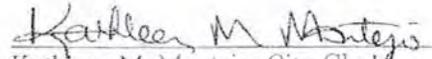
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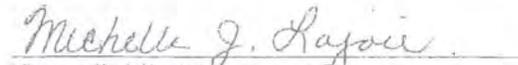
Dated: February 9, 2012

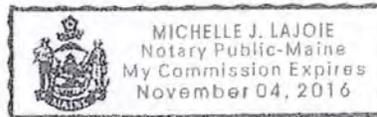

Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law



CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On Feb. 15, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Evergreen Credit Union as follows:

c/o Roderick R. Rovzar
Norman Hanson DeTroy
C415 Congress Street
Portland, ME 04112

Costs of Service:

Service:	\$	<u>16.00</u>
Travel:	\$	<u>8.40</u>
Postage:	\$	<u>6.00</u>
Other:	\$	<u>5.00</u>
TOTAL:	\$	<u>30.00</u>

Samuel D. Keniff
Signature

D. Keniff
Agency

EXHIBIT G

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Kevin L. Roy
Karen E. Roy
28162 Islet Trail
Bonita Springs, Florida 34135-8507

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415 Congress Street
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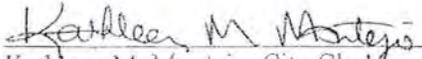
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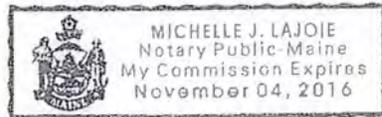

Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

February 9, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law



City
Correspondence

CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, MAINE 04240
(207) 513-3125 EXT. 3226

NOTICE OF CONDEMNATION/PLACARDING
VIA FIRST CLASS & CERTIFIED MAIL
RETURN RECEIPT REQUESTED
POSTED AT SITE

December 17, 2010

Kevin L. Roy
Karen E. Roy
28162 Inlet Trail
Bonita Springs, Florida 34135



RE: 67 Oak Street

Dear Owner(s):

It has come to the attention of this office that the building at 67 Oak Street is vacant and is unfit for occupancy due to violation(s) of the following provisions of Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, Article VI, Sections 18-200 & 18-201, as per The Code of Ordinances of the City of Lewiston hereafter referred to as the (Code). The building is without necessary facilities such as heat, hot potable water, electricity and has been abandoned. It has suffered severe deterioration and in need of substantial rehabilitation to be approved for occupancy.

I hereby condemn and placard the building at 67 Oak Street as being unfit for occupancy pursuant to and in accordance with Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, PM 105.1, PM-105.2, PM 105.3, PM 105.4, PM-105.6, PM 107.1, PM 107.2, PM-107.3, PM-504.1 et seq, PM-903.1 of the Code of Ordinances of the City of Lewiston. You are hereby ordered to immediately ensure this building is secured from unauthorized entry. You are to make substantial repairs, with all appropriate permits issued by this office, or to demolish this building, leaving the property in manner to the satisfaction of this office by no later than **February 25, 2010**.

The City of Lewiston may order the demolition of this building pursuant to the provisions of the Maine Revised Statutes, Title 17, Chapter 91, Subchapter 4, Dangerous Buildings, Section 2851, if the building is not maintained secured or is a threat to public safety and a nuisance.

The above-mentioned property will be placarded and may not be re-occupied until proper abatement of all violations and rehabilitation has been completed. An inspection shall be conducted to confirm compliance. At such time the condemnation order and placarding shall be discontinued pursuant to the above referenced Code Section PM 107.3 stating "the code official shall remove the condemnation and placarding whenever the defect or defects upon which the Condemnation and Placarding were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code."

EXHIBIT H

Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. Please contact this office immediately if circumstances do not permit the timely compliance with this order and abatement of the violations or if you have any questions regarding this matter.

In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 50, Article II, and Section 50-36 thru 50-51 of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred and ten dollars (\$110.00) for the first citation and you will be reordered to abate the outstanding violations in the previous Notices and Orders. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred and twenty five dollars (\$225.00), the third is four hundred and twenty five dollars (\$425.00), the fourth and subsequent citations are eight hundred and fifty dollars (\$850.00), and penalties are cumulative. In the future, if any of the above violations are repeated, you are not entitled to receive any further notification, and this office may serve you with a citation.

In lieu of or in addition to the issuance of citations, this office may initiate a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. § 4452 et seq. and § 3758-A et seq. as amended. A judgment from such a lawsuit in the City's favor will result in a court order that any violations be abated, the imposition of a fine of up to two thousand, five hundred dollars (\$2,500.00) per violation, per day, the payment of court costs and the City's legal fees.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Planning and Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and five dollar (\$105.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section PM-106.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,



Thomas E. Maynard
Code Enforcement Officer

c: Gildace J. Arsenault, Director of Planning & Code Enforcement

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

Photographs



EXHIBIT I

Further Damage: Interior View



Collapsing Porch



#1



12-1-2011 2:00pm.
67 Oak St. R. E. Kendall

Floor has collapsed A Porch was collapsed, both are dangerous.

#2



kg 3

4

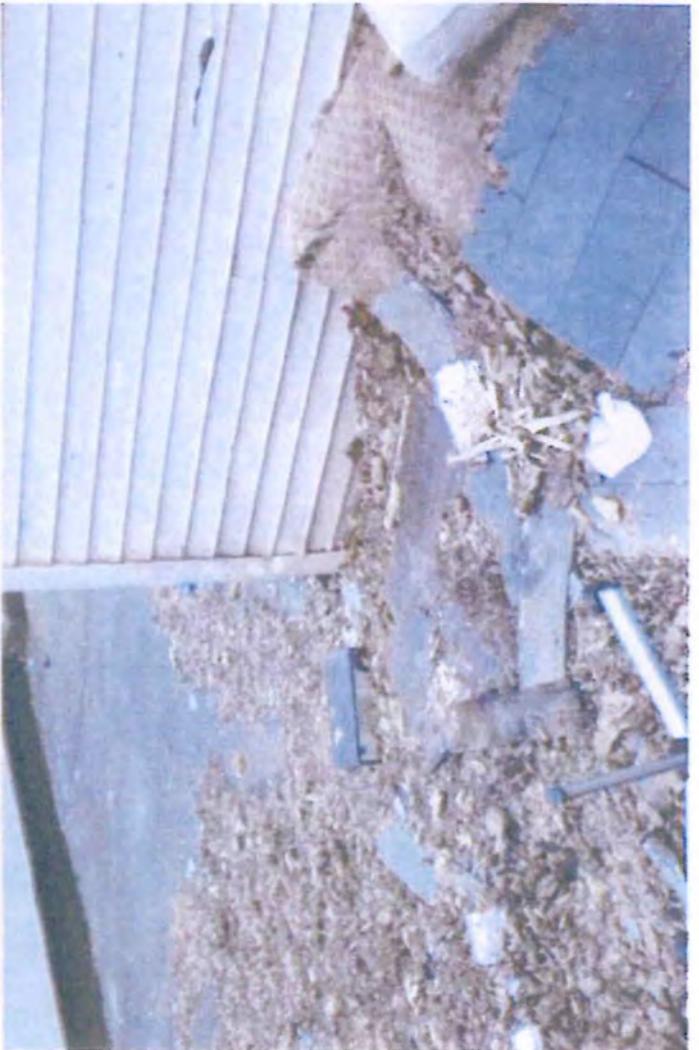


6



3-21-2011 Further Details of Collapsing Porch. Additional Deposits of Garbage.
 67 Oaks 1:08 PM

Garbage and debris about the property Pg. 4



Vandal damage -

12-1-2011 Room
67 Oak St
Edm.

Pg. 2



12



13

Collapsing Rear Shed and Fire Loading with debris and garbage.



3-21-2017 Alan P. Maguire & Garbage & Debris 67 Oak St.

856



15



4



17



6

67 Oak St 12-1-2011 2:09 PM
 P. E. Reynolds
 Copper heating system removed.

201



19



20



21



22

Collapse of Interior Materials Due to moisture
and structural damage from freeze thaw cycles.

Ph E. Myrdal

12-1-2011 2:00 pm

82 n. 1st

R58



23



25



2



2

12-1-2011 2:00 AM The Ellywood Collapse of Interior - Damage due to leaks and
67 Oak St.

31



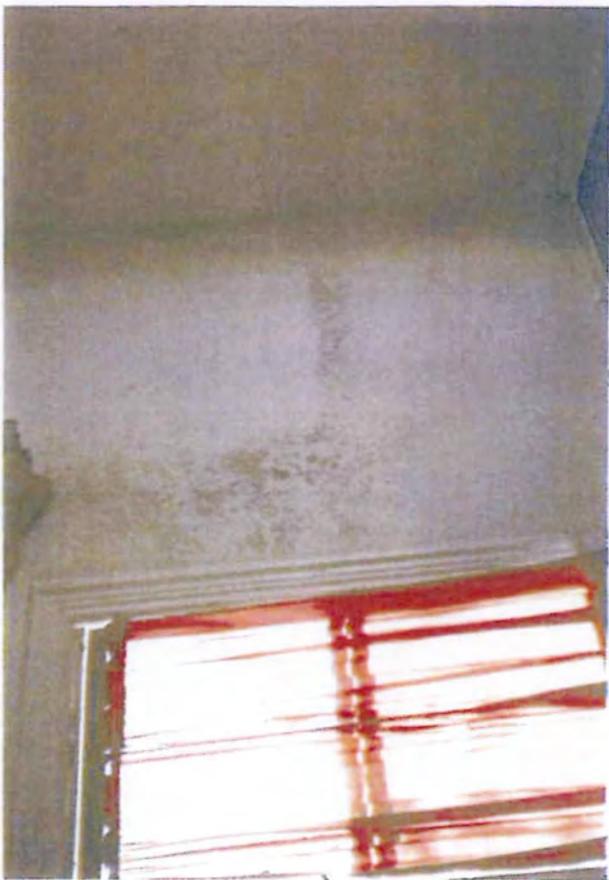
26



27



29



28

12-1-2011 2:00 pm. Jim E. Maynard Moisture Damage to walls. Mold growth
C7 a.l.t

1510



31



32



33



34

Garbage & Debris. Increased fire loading and unsanitary.

12-1-2011 2:00pm.
67 Oak St. E. 11th. 1

EVIDENCE BEG NOW BEEN INSTANTLY USED. Pg 11



98



99

Garbage: Debris. Evidence of Recent habitation



100



5

Fire tooling

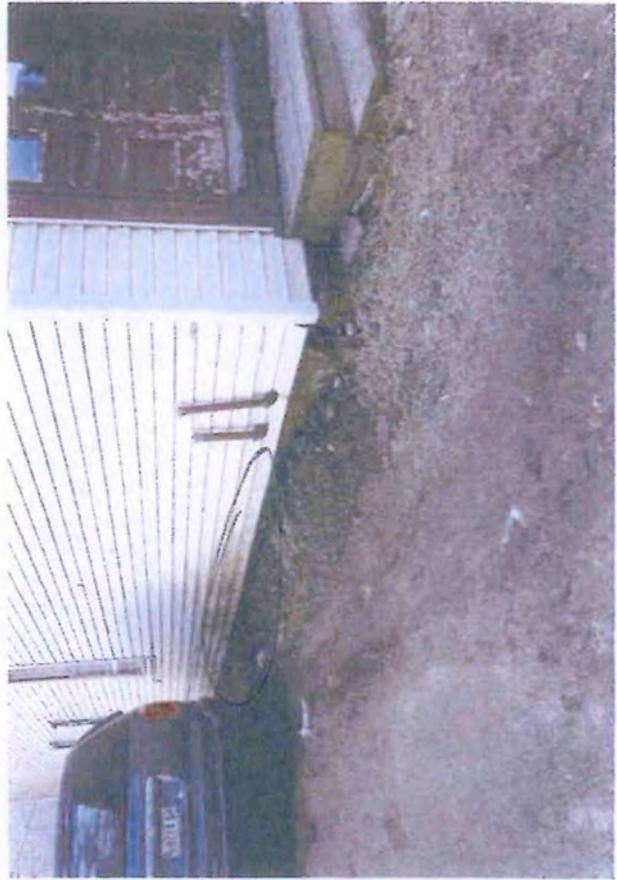
12-1-2011 2:00PM
67 Oak st A. P111 1

09 12

40



41



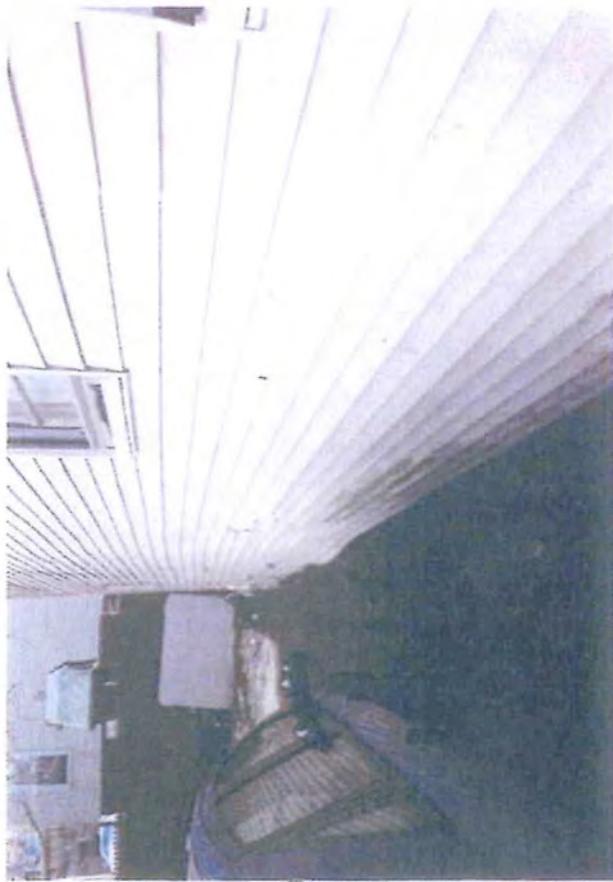
3



4

3-21-2012 1:00 PM
67 Oak St
R. F. Mann

09 13



3-21-2012 1:00PM
CZ A-1 at [Signature] E. Moran

3



42

7/14/14

2nd to 3rd floor.



46



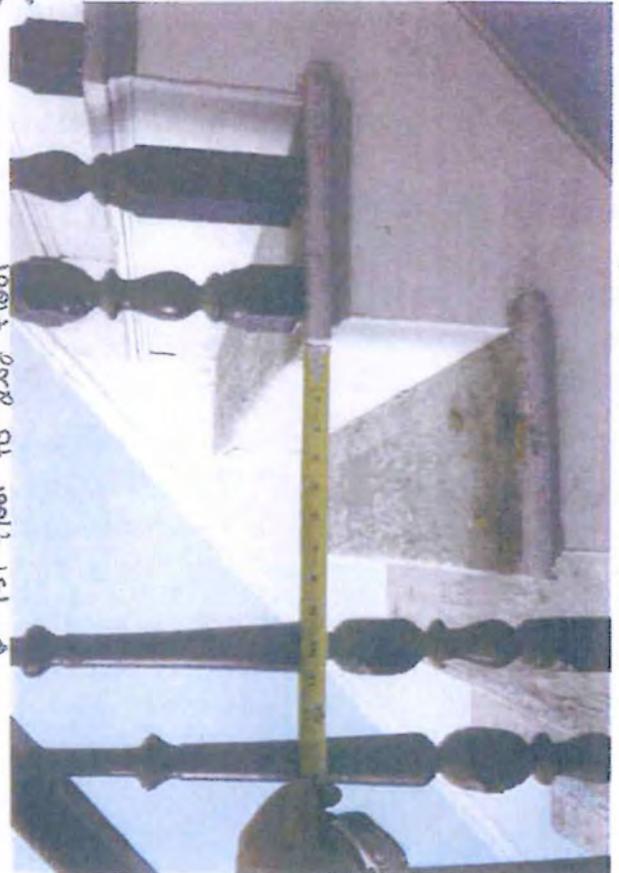
47

2nd to 3rd floor . 7"



48

1st floor to 2nd floor



49

3-21-12.
67 Oak St.
Primary Means of egress stairs
stair + hand rail

09/15



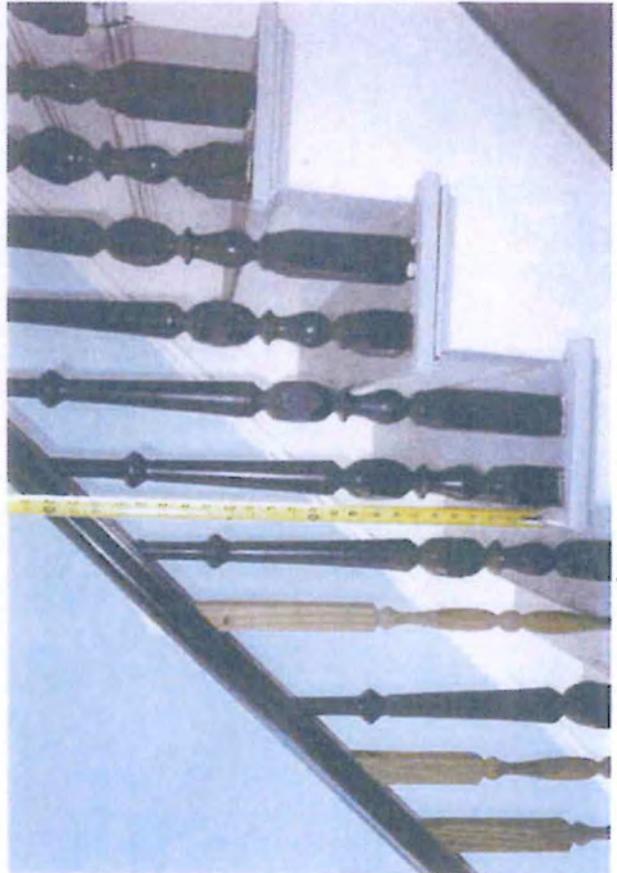
49



50



1



2

3-21-2012
 670 Oak St
 rear stair way
 1 1 1 1 1 1
 A 7-M. and

Other Documentary Evidence

67 Oak Street
Police Log

For Date: 12/14/2010 - Tuesday

10-97694 1114 Phone - FIRE INFORMATION Cleared

Location/Address: [LEW 1975] AP - 67 OAK ST

Jurisdiction: Lewiston

Narrative:

per 415 this bldg is not secure. major water problem and water has been shut off by Lewiston water.

attempt to contact bldg owner and left message

Narrative:

updated site file w/a hazard

11-57106 1411 911 - POL-Suspicious Condition Report Taken

Primary ID: Patrol Officer Eric W SYPHERS

Location/Address: [LEW 1975] AP - 67 OAK ST

Jurisdiction: Lewiston

ID:

Disp-14:14:36 Enrt-14:18:21 Arvd-14:20:04 Clrd-14:52:49

ID:

Disp-14:14:36 Arvd-14:16:32 Clrd-14:45:19

ID:

Disp-14:45:23 Arvd-14:45:29 Clrd-14:55:58

Narrative:

WHITE MALE CARRYING A BLACK DUFFEL BAG, IS IN THE CONDEMNED BUILDING, NO ONE IS SUPPOSED TO BE IN THERE.

Narrative:

ATN 892455A

For Date: 09/19/2011 - Monday

11-81529 1821 Phone - POL-Hazardous Conditions Cleared

Primary ID: Patrol Officer Brian M BEAUPARLANT

Location/Address: [LEW 1975] VACANT - 67 OAK ST

Jurisdiction: Lewiston

ID:

Disp-18:31:19 Enrt-18:31:37 Arvd-18:32:40 Clrd-18:36:56

Narrative:

advises that this is a condemned building and access can be gained.

she saw several somalians coming out of it and now it is needs to be resecured

Narrative:

reoccurring complaint. to be forward to the cio team for follow up

EXHIBIT J

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Order Authorizing the City Administrator to Execute a Collective Bargaining Agreement with the Police Supervisory Command Unit.

INFORMATION:

The City Council is requested to ratify a three year agreement with the Lewiston Police Supervisory Command Unit which represents the supervisory personnel of the police department.

This agreement is for the period of July 1, 2010 to June 30, 2013.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/ckmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Order authorizing the City Administrator to execute a Collective Bargaining Agreement between the City of Lewiston and the Lewiston Police Supervisory Command Unit, said agreement being for the period of July 1, 2010 to June 30, 2013.



City of Lewiston Maine
City Council Order
April 3, 2012



Order, Authorizing the City Administrator to Execute a Collective Bargaining Agreement with the Police Supervisory Command Unit.

Whereas, the City and the Police Supervisory Command Unit representatives have worked diligently over the last two years to develop a new collective bargaining agreement; and

Whereas, all who participated in the development of the Police Supervisory Command 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 the Police Supervisory Command 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 2011-2013 Police Supervisory Command Unit collective bargaining agreement and is authorized to approve any final administrative 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

TO:	Mayor and City Council
FROM:	Phil Nadeau, Deputy City Administrator & Chief City Negotiator
DATE:	March 29, 2012
RE:	Proposed Police Supervisory Command Unit Contract

1. BACKGROUND

The city has been working for the last two years with the Police Supervisory negotiating team to develop the enclosed proposed contract. The Police Supervisory membership voted to support the contract. Notable features of the proposed contract are as follows:

- Contract for three years: FY2011, FY2012 and FY2013
- COLA adjustments: FY2011 – 0.0%; FY2012 – 2.0% (effective 1/1/12); FY2013 – 2.0%(effective 7/1/12)
- Offset for FY2013 COLA and retirement cash out for vacation and sick time – will impact FY12 contributions to be deposited July 2012: Retirement Health Savings cap will be reduced from 8 to 4 sick days; vacation days will no longer be eligible.
- Vacation day accrual: Increase from 40 to 45 days
- Sick time accrual: Increase from 175 to 180 days; increase retirement cash out from 80 to 85 days through 6/29/13; increase cash out from 85 to 90 days effective 6/30/13

2. RECOMMENDED ACTION

To approve the proposed contract.

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF LEWISTON

AND

LEWISTON POLICE SUPERVISORY COMMAND UNIT

July 1, 2010 to June 30, 2013

DRAFT #3 PN- 3.27.12

ARTICLE 1
PREAMBLE

This Agreement is entered into by the City of Lewiston, hereinafter referred to as the "Employer", and the Lewiston Police Supervisory Command Unit, hereinafter referred to as the "Union".

ARTICLE 2
RECOGNITION

Section 1.

The Employer recognizes the Union as the sole and exclusive bargaining agent for the purpose of negotiating wages, hours of work and other conditions of employment for all sergeants, lieutenants and captains hereinafter referred to as "Employees".

Section 2.

The Union and the Employer acknowledge that they have fully bargained upon all matters which were a subject of collective bargaining and that the terms and conditions set forth in this Agreement express the full and complete agreement of the parties. In the event that either party desires to meet and discuss items which are not included in this Agreement at any time during the term of this Agreement, it may give notice of such desire to the other party. If the other party agrees to meet and discuss those matters, and if the parties reach an agreement, such agreement shall be set forth in a formal amendment to this Agreement and shall not become effective until so documented. This provision shall not be deemed to imply any obligation to meet and discuss any items, such action being purely discretionary with each party.

ARTICLE 3
UNION SECURITY

Section 1.

Members of the Lewiston Police Command Unit who are members of the Union, or who may become members during the term of the Contract shall remain members of the Union in good standing and membership shall be irrevocable during the term of the Contract, except that the Employee may revoke his membership effective upon the expiration of this Agreement provided the Employee notifies the Employer and the Union in writing at least thirty (30) days and not more than sixty (60) days prior to the expiration of this Agreement.

Section 2.

Membership in the Union is not compulsory. However, those employees who choose not to join the Union shall be subject to one of the following options:

1. The Employee may sign a payroll deduction authorization form authorizing the deduction of seventy five (75%) of the regular weekly Union dues; or
2. The Employee may elect to be represented by the Union on a fee-for-service basis. The Union may charge such an Employee a reasonable fee, for any requested services, including reasonable fees for employee representative services, attorney's fees and costs and expenses and arbitrators' fees and expenses.

**ARTICLE 4
CHECK OFF**

Section 1.

The Employer agrees to deduct Union dues and/or Union benefit premiums upon receipt of authorization cards from Employees who desire to have the Employer deduct such dues and/or premiums. The Treasurer of the City of Lewiston, after such deductions are made, will remit on a monthly basis monies deducted to the Treasurer of the Lewiston Police Supervisory Command Unit, Lewiston Police Headquarters, Lewiston, ME 04240, along with a list of current Union members for whom deductions are made.

Section 2.

The Employer will make no deduction on account of assessments for back dues. The forms of written authorization to be honored by the Employer for the deduction of Union dues and/or premiums shall be supplied by the Union.

**ARTICLE 5
HOURS OF WORK**

Section 1.

- (a) Subject to the provisions of Section 2, below, bargaining unit employees in the patrol division shall be scheduled for a minimum average work week of forty (40) hours based on three shifts with a mutually agreeable starting time:

6:30 a.m. to 4:00 p.m. with a one-half (1/2) hour lunch break; 2:30 p.m. to 12:00 a.m. with a one-half (1/2) hour lunch break; 10:30 p.m. to 8:00 a.m. with a one-half (1/2) hour lunch break on a work cycle of four days of duty followed by two days off. Supervisors will be assigned to patrol shifts based on seniority pick of the three shifts. The opportunity to change shift selection will occur every four months. Shift change shall occur in the first week of January, May and September. Shift selection ballots shall be provided by the Employer to all Supervisors at least four weeks prior to the shift change. Supervisors will complete and return shift selection ballots at least three weeks prior to the shift change. Any Supervisor failing to complete a shift selection ballot may be assigned at the discretion of the Chief of Police for that upcoming shift rotation.

- (b) Subject to the provisions of Section 2 below, all supervisors working a Monday through Friday schedule such as C.I.D., Administration and Support Services shall work a 40-hour work week with mutually agreeable starting times, with a half hour (1/2) hour lunch break and two fifteen (15) minute breaks, all inclusive.
- (c) The schedule for the member(s) of the Special Enforcement Team will be a 'five and two' work week. Changes to this schedule will be by mutual agreement of the parties.
- (d) Sergeants, who are interested in being assigned to the Selective Enforcement Team, will have an opportunity to express their interest to the Deputy Chief. This interest will be expressed at the beginning of each calendar year on a Special Assignment interest form. If the list of interested sergeants contains at least two (2) names, the selection will be made from said list. If there are less than two (2) volunteers, then the selection will be made by the Chief of Police from the complement of sergeants assigned by the patrol division for a period not to exceed nine (9) months.
- (e) Absent the circumstances noted in the final sentence in the paragraph above, assignment to the Special Enforcement Team will be for a period of up to two (2) years. By mutual agreement, extensions up to one (1) year at a time may be made.
- (f) Primarily the Sergeant of the Special Enforcement Team will work a forty (40) hour work week, Monday through Friday, from 8:00 a.m. to 4:30 p.m. with a one half (1/2) hour lunch break. To meet the operational demands and other related activities, the hours of work can be changed by mutual agreement. The Special Enforcement Team and Sergeant are assigned to the Patrol Division.

Section 2.

The Employer reserves the right to make temporary or emergency changes in the scheduling of any or all members of the bargaining unit; provided that whenever practical, notice of any such change shall be given to those affected at least two (2) weeks in advance. Temporary changes shall be for a period of nine (9) months. Assignments

may be extended beyond the nine (9) month period by mutual agreement between the Chief of Police and the Union.

ARTICLE 6
MEAL PERIODS

Section 1.

Each Employee shall be granted a lunch period of thirty (30) minutes during each full work shift.

Section 2.

Employees working the day watch on Easter Sunday, Thanksgiving Day and Christmas Day shall be granted an extra hour for lunch and one half (1/2) hour on New Year's Day; provided, however, the Chief shall have absolute authority to deny such extra hour (or ½ hour) or to call Employees back to duty during some or all of said such extra hour (or ½ hour) when he deems it advisable to do so and no person thus denied some or all of the extra hour shall be entitled to pay for the loss of such benefit.

ARTICLE 7
HOLIDAYS

Section 1.

The following days shall be recognized and observed as paid holidays:

New Year's Day	Columbus Day
Martin Luther King Day	Labor Day
President's Day	Veteran's Day
Patriot's Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

Each eligible employee shall receive one (1) day's pay for each of the holidays listed above on which he performs no work.

Additionally, effective 1/1/12, each member shall be given ~~eight~~twelve (8~~12~~) hours of compensatory time off on January 1st of each year.

Section 2.

An Employee shall be eligible for holiday pay if he is on authorized sick leave or on authorized leave of absence.

To be eligible for holiday pay, an Employee must have worked his last scheduled work day prior to the holiday and his first scheduled work day after the holiday, and also the holiday if scheduled to work on that day, unless he is excused by the Employer or is absent for any reasonable purpose. Reasonable purpose shall include illness. The Employer, however, may require a physician's certificate if an Employee claims that illness prevented him from working on his last scheduled work day prior to the holiday and/or his first scheduled work day after the holiday.

If a holiday is observed on an Employee's scheduled day off or during his vacation, he shall be paid for un-worked holiday.

Section 3.

If an Employee works on any of the holidays listed above, he shall be paid at time and one half (1 ½) on his regular shift, plus an additional eight (8) hours of pay at the regular rate of pay for his holiday.

Employees shall receive time and one half (1 ½) of his regular shift whenever working the night shift on the eve of Christmas and New Years' Day, the morning shift ending on the day shift of Christmas and New Years' Day (exclusive of the night shift on such holidays), plus an additional eight (8) hours of pay at the regular rate of pay for his holiday.

Section 4.

If a supervisor works additional hours beyond his regular shift on any holiday listed above, he shall be compensated for those hours at the rate of two and one half (2 ½) times his normal rate of pay.

Section 5.

All supervisors in C.I.D. and the supervisory staff in support services shall absent themselves from duty (unless otherwise directed, at the discretion of the Chief) on Thanksgiving, Christmas and New Years if they would otherwise been required to work those days and shall be paid their regular holiday pay. Said supervisors may absent themselves from duty (unless otherwise directed, at the discretion of the Chief) on any of the holidays listed in Section 1, above, if they would otherwise have been required to work on those days and be paid their regular holiday pay.

Section 6.

- (a) The Employer shall continue the practice of permitting Employees to substitute for one another on regularly scheduled tours of duty (or some part thereof) in order to permit an Employee to be absent from work to attend to purely personal pursuits.
- (b) The trading of time shall have no effect on hours of work for overtime purposes and shall be on a no-pay basis for those replacing if the following criteria are met:
 - (i) The trading of time is done voluntarily by the Employees participating in the program and not at the behest of the Employer.
 - (ii) The reason for trading time is due, not to the Employer's operations, but to the Employee's desire or need to attend to personal matters.
 - (iii) The period during which time is traded and paid back be the calendar year.
- (c) The trading of time shall be at the discretion of and with prior approval of the Chief of Police.

ARTICLE 8

CALL BACK PAY

The Employer will provide a minimum of two (2) hours pay at the rate of time and one half (1 ½) whenever an Employee is called in for work at a time other than his regular shift; provided, however, that the minimum amount of pay shall not apply with respect to an Employee who is called for less than two (2) hours if the end of the call-in time falls at the commencement of his regular shift.

ARTICLE 9

SICK LEAVE

Section 1.

An Employee shall accrue one (1) day of sick leave for each month of service accumulative to one hundred ~~seventy-five~~eighty [175~~180~~] sick leave days. An Employee may use 12-days of sick leave per year for the care of a sick child. In addition, sick leave for catastrophic illnesses involving the Employee's spouse and/or children may also be utilized to provide care to the extent of the Employee's accrued sick leave. Sick leave shall be earned by an Employee for any month in which the Employee is compensated for at least ten (10) days. After the Employee has been on Workers' Compensation for three (3) months, Workers' Compensation shall not be deemed to be compensation for the

purpose of the preceding sentence unless the injury which caused the Employee to be on Workers' Compensation occurred in an extra-hazardous situation as defined in Article 10, Section 3.

Section 2.

Effective upon the signing of this collective bargaining agreement, and Upon retirement pursuant to the Maine State Retirement System, an Employee shall receive an amount equal to his salary at the time of retirement for one half (1/2) the number of accumulated unused sick leave, subject to a maximum of ~~eighty [80]~~eight-five (85) days effective upon the signing of this FY11-13 collective bargaining agreement ninety (90) days effective on 6/30/13..

Section 3.

The amount of payment for all unused sick leave is to be calculated at the Employee's rate of pay in effect on the pay day immediately preceding the Employee's separation.

Section 4.

Whenever possible, an Employee out sick shall notify the department of said sickness at least two (2) hours before the start of his scheduled shift. Failure to give proper notification may be cause for reasonable disciplinary action in the sole discretion of the Chief.

Section 5.

In the event an Employee becomes ill while on an assigned shift, and he has completed a quarter (1/4) of said shift, he shall be paid for one half (1/2) a shift and credited sick leave for the second half. If the Employee has worked three quarters (3/4) of his shift and becomes ill, he shall be paid one (1) day's pay with no loss of sick leave.

Section 6.

As an incentive to conserve sick leave, the City agrees to reimburse Employees at their regular rate of pay for eight (8) hours (straight time pay) for each Four (4)-month period in which no sick leave is used. Said period shall begin at 12:01 a.m. on July 1, 1993. Employees meeting these criteria may submit their written request to the Chief's Office for said reimbursement no later than thirty (30) days after becoming eligible. Absence of such written request shall disallow the Employee from receiving the incentive for any given four (4)-month period.

ARTICLE 10

EXTRA-HAZARDOUS INJURIES

Section 1.

Any Employee paid Workers' Compensation benefits for "Extra-Hazardous" injury in the line of duty as hereinafter defined shall be paid, in addition thereto, the difference between the compensation benefits and his full weekly wages, or the percentage of his full weekly wages equal to his percentage of disability determined by Workers' Compensation Commission, all as reduced by earnings from other sources. Such supplemental income shall be payable for a period of a maximum of fifty-two (52) weeks.

Section 2.

In the event that an Employee is disabled longer than fifty-two (52) weeks, the Employee shall apply to the Maine State Retirement System for retirement.

Section 3.

Extra-hazardous injuries are defined as follows:

- (a) Injuries sustained from violent acts of persons being apprehended, arrested or detained.
- (b) Injuries incurred while standing in a roadway directing traffic, provided the officer has not unreasonably neglected to wear safety equipment provided the officer when available.
- (c) Injuries incurred during the official operation of a police motor vehicle in emergency situations.
- (d) Injuries sustained while actively engaged in suppressing riots, insurrections and similar civil disturbances.
- (e) Injuries sustained in any other authorized situation in which the officer is exposed to extra-hazardous conditions which contribute to the injury.
- (f) Extra-hazardous status will be awarded in the case of a recurrence of an injury if the recurrence is determined by competent medical authority to be related to a previous injury subject to the limitation of supplemental income for a maximum cumulative total of fifty-two (52) weeks.

Section 4.

The Employer reserves the right to grant such pay differential in cases not described above on a case-by-case basis, with no individual award being used as precedent in any other instance. Any such payment shall not be admissible in any arbitration proceeding.

ARTICLE 11 SENIORITY

Section 1.

A seniority list shall be established listing all Employees by rank covered by this Agreement, with the Employee with time in rank listed first. In the case where more than one Employee is promoted to the same rank on the same day, seniority shall be determined first by the Employee's rank, next by the length of time in rank, next by the Employee's time in rank immediately preceding the last promotion and finally by the Employee's length of service in the department. An Employee with time as a detective shall be senior to an Employee without such time. The Employer agrees to furnish the Union with a list of employees with their length of service within thirty (30) days after signing of this Agreement. Any objections to the seniority list as submitted shall be reported in writing to the Chief of Police within ten (10)-days, or the list will stand approved.

Section 2.

- (a) Seniority in rank within a division shall be the governing factor in all matters affecting vacation preference.
- (b) Seniority in rank shall be given due consideration when making a reduction in work force in instances where the Employees involved have equal skill, ability, training and experience. Seniority shall be determined as stated in Section 1 above.
- (c) In the event of a lay-off or a reduction in the size of the bargaining unit, an Employee may bump into another job in the same or lower classification, provided the Employee has the skill and ability to perform the work. The Police Chief shall determine whether the Employee has the skill and ability to perform the work.

An Employee who displaces another Employee in a lower classification shall become the most Senior Employee within that classification. The affected Employee may in turn exercise his right to bump as described above.

- (d) The City shall notify the individuals initially affected by such a reduction and then post the City's intent to reduce the work force on the department bulletin board at least two (2) weeks prior to the effective date of the first lay off.
- (e) An Employee must notify the City of his intention to exercise his bumping rights or accept lay-off within five (5) working days of the City's notice. The Employee

who is bumped shall enjoy similar bumping rights or accept lay-off but must notify the City of his intention within three (3) working days.

- (f) An Employee who displaces another Employee will have two (2) calendar weeks during which to demonstrate his ability to satisfactorily perform the work. Failure on the part of the Employee to demonstrate his ability to satisfactorily perform the work required in the job he has bumped into will result in his having one (1) opportunity to bump into a lower classification. The determination as to whether the Employee has satisfactorily performed the job shall be the judgment of the Police Chief.
- (g) An Employee laid-off shall remain on the lay-off list for a fifteen (15)-month period. At the end of such fifteen (15)-month period, all names, whether re-called or not shall be purged from the lay-off list and be considered terminated. Any recall during said period shall be in reverse order of seniority providing the Employee has the skill and ability to perform the work, as determined by the Chief.

Section 3.

The promotion of an Employee shall be deemed final and permanent after the expiration of a period of twelve (12)-months. During the probationary period of any Employee, the Employer may terminate his promotion in the sole discretion of the Employer. During the probationary period of an Employee, the Employer will cause such Employee to be evaluated at least quarterly by one (1) or more of his Superior Officers. Each quarterly report will be discussed with the Employee and any weakness in his work will be reviewed with the objective of increasing his proficiency. The Employer may also discuss interim formal or informal reports with the Employee with the same object.

Section 4.

Promotions: The term promotion, as used in this provision, means the advancement of the Employee to a higher paying rank, i.e., Sergeant or Lieutenant.

- (a) Whenever the Employer decides to fill a job opening above, the rank of Sergeant occurring in any existing job classification or as a result of the development or establishment of new job classifications, the Chief shall request a certified list from the Human Resources Department.

Candidates certified and submitted to the Chief shall be compiled from those candidates who had applied for the written Promotional Exam and subsequently placed on the Eligibility List.

Section 5.

Effective on 1/1/12, Each Employee who shall have completed ten (10) years of employment with the Employer on the date of a trimester rotation of assignments shall receive ~~twelve (12)~~fourteen (14) hours credit time as of the date of such rotation, such credit time to be utilized in the same manner as any other vacation time. Such time shall not be scheduled for Monday or Friday except by special permission from the Chief.

Section 6.

Patrol Division Sergeants will be assigned in command for their respective shifts after shift bid placement. The Senior Sergeant shall be offered the opportunity to serve as the second-in-command of their respective shift assignment. If refused, the next Senior Sergeant shall be offered the opportunity. Should all Sergeants refuse, the Shift Commander will be responsible for making the second-in-command assignment.

**ARTICLE 12
WAGES**

Section 1.

Employees shall be placed on the appropriate seniority step indicated below:

SENIORITY STEPS*

	0-2YRS	2 YRS+	5 YRS+
<u>7/1/10 (NO COLA)</u>			
Sergeant	\$27.27 —29.21	\$28.08 30.08	\$28.93 30.96
Lieutenant	31.47 33.83	32.41 34.85	33.38 35.88
<u>7/1/0811(NO COLA)</u>			
Sergeant	\$28.00 —29.21	\$28.85 30.08	\$29.70 30.96
Lieutenant	32.50 33.83	33.50 34.85	34.50 35.88
<u>1/1/0912 (2.0%)</u>			
Sergeant	\$28.50 —29.79	\$29.35 30.68	\$30.20 31.58
Lieutenant	33.00 —34.51	34.00 35.55	35.00 36.60
<u>7/1/0913 (2.0%)</u>			
Sergeant	\$29.21 30.39	\$30.08 31.29	\$30.96 32.21
Lieutenant	33.83 35.20	34.85 36.26	35.88 37.33

***Matriculation to the next seniority step shall occur on the Employees' anniversary date, except as outlined in the attached Memorandum of Understanding.**

ARTICLE 13
VISITS BY UNION REPRESENTATIVES

Section 1.

The Employer agrees that Union representatives shall have access to the premises of the Employer at reasonable times and for reasonable periods of time during daytime working hours to conduct local Union business of this bargaining unit, provided that such business shall not interfere with the performance of the assigned functions of any Employees of the Employer who are on duty. Upon their arrival, such representatives will, as a courtesy, make their presence known and identify themselves to the Employer.

Section 2.

Up to three (3) members of the Union negotiating team shall be permitted to attend negotiating sessions at mutually agreed times without loss of straight-time pay. If more than three (3) members of the Union negotiating team are scheduled to be on duty, the Employer and the Union shall agree on which of such member shall have the benefit of this Section. An effort will be made to schedule negotiating sessions at times when fewer than three (3) members of the negotiating team are scheduled to be on duty.

ARTICLE 14
COMPENSATION FOR OUTSIDE WORK

Section 1.

An Employee hired by outside private individuals or organizations for police duty shall be paid for such service at one and one half (1 ½) times the Employee's hourly rate, payment to be made as soon as reasonable after such service. This section shall be effective as of the first payroll period commencing after the execution of this Agreement.

Section 2.

An Employee who performs such outside detail shall receive no less than a guarantee of two (2) hours pay for any such detail; provided, however, that this guarantee shall not apply to the jobs of short duration and regular repetition, such as escorting cash from commercial establishments to banks as has been the past practice. Any new jobs

falling within the exception in the preceding sentence shall be compensated at a rate agreed upon in advance between the Employer and the Union Grievance Committee.

Section 3.

- (a) If an Employee reports for such private duty work five (5) to thirty (30) minutes late, the equivalent of one half (1/2) hour's pay shall be deducted. If he reports thirty (30) minutes to one (1) hour late, the equivalent of one (1) hour's pay shall be deducted. If he reports more than one (1) hour late, he shall forfeit full pay and the opportunity to work that job and be charged with a refusal.
- (b) If an Employee works five (5) to thirty (30) minutes over the two (2)-hour period, he shall be paid an additional one-half (½) hour's pay. If he works thirty (30) minutes to one (1) hour over, he will be paid an additional hour's pay.
- (c) An Employee who reports late for private duty detail without having called in at least two (2) hours in advance with a reasonable excuse, in addition to the deduction or forfeiture of pay set forth above, shall be subject to reasonable disciplinary action.

Section 4.

- (a) All officers interested in participating in the Extra Job List will be asked at the beginning of each calendar year whether they want to be included on the list.
- (b) If an officer indicates that he does not want to be on the list, s/he will be excluded for that calendar year.
- (c) If the officer later decides to be included on the list, s/he will advise the Administrative Assistant. The officer will be added to the list and an average of all the officer's hours will be assigned to that officer.
- (d) A listing of all Employees eligible for extra jobs in order of seniority, then by alphabet, shall be used for maintaining extra job hours.
- (e) A full vertical column shall be utilized for each hiring incident.
- (f) The Employee with the least amount of cumulative hours shall be the first to be asked. If there are two (2) or more officers with the same amount of cumulative hours, the most senior Employee (or by alphabet) shall be asked first.
- (g) The extra job hours shall be noted with a numerator (indicating the number of hours worked on the job, refused, N/R or N/A) and a denominator (indicating the cumulative number of overtime hours charged.) Those officers who are not called shall be indicated with an N/C for the numerator and the cumulative number of extra job hours previously charged for the denominator.

- (h) When hiring for multiple jobs, officers will be contacted by eligibility. The first officer reached (or to call back) will be offered one job from the package of jobs to help expedite the hiring process.
- (i) Upon being contacted for an extra job opportunity, officers will be given up to two (2) hours to call back (unless a specific job dictates immediate hiring). If the officers do not call back during this period, they will be designated as Not Reached "N/R" and the Administrative Assistant will move on to the next eligible officer.
- (j) The Administrative Assistant in the Administrative Division will be responsible for the Extra Job Log.
- (k) Should any officer notice an error in the Extra Job Log, the matter will be brought to the attention of the Administrative Assistant in Administration, and s/he will be the only one (unless the Chief authorizes another person) to make adjustments.
- (l) Officers are responsible to provide the Administrative Assistant with a phone number that they want to be reached at (i.e., home phone, cellular phone, pager, etc.)

ARTICLE 15

VACATIONS

Section 1.

Each Employee shall accrue paid vacation time at the rate of one (1) working day for each month for which he is compensated for at least ten (10) days. Each Employee who shall have completed five (5) years of employment shall accrue paid vacation leave at the rate of one and one half (1 ½) working days for each month for which he is compensated for at least ten (10) days. Each Employee who shall have completed fifteen (15) years of employment shall accrue paid vacation leave at the rate of one and three-quarter (1 ¾) working days for each month for which he is compensated for at least ten (10) days. Each Employee who shall have completed twenty (20) years of employment shall accrue paid vacation leave at the rate of two (2) working days for each month for which he is compensated for at least ten (10) days.

Employees hired after January 1, 2002 shall accrue paid vacation time at the rate of one (1) working day for each month for which he is compensated for at least ten (10) days. Each Employee who shall have completed five (5) years of employment shall accrue paid vacation leave at the rate of one and one quarter (1 ¼) working days for each month for which he is compensated for at least ten (10) days. Each employee who shall have completed ten (10) years employment shall accrue paid vacation leave at the rate of one and one-half (1 ½) working days for each month for which he is compensated for at least ten (10) days. Each Employee who shall have completed fifteen (15) years of

employment shall accrue paid vacation leave at the rate of one and three quarter (1 $\frac{3}{4}$) working days for each month for which he is compensated for at least ten (10) days. Each Employee who shall have completed twenty (20) years of employment shall accrue paid vacation leave at the rate of two (2) working days for each month for which he is compensated at least ten (10) days.

After an Employee has been on Workers' Compensation for three (3) months, Workers' Compensation shall not be deemed to be compensation for the purpose of accruing vacation unless the injury which caused the employee to be on Workers' Compensation occurred in an extra-hazardous situation as defined in Article 11, Section 3.

Each Employee shall be given an additional eight (8) hours of vacation time on January 1st of each year as a personal day.

Section 2.

Effective upon the signing of this FY11-13 collective bargaining agreement,
Vacation leave may be taken by an Employee at any time after its accrual, subject to the approval of the Chief. Each Employee may accumulate vacation leave accruing under the provisions of this Agreement not to exceed ~~forty~~forty-five [4045] working days in total. The use of accumulated vacation days shall be subject to the provisions of Section 3 hereof.

Section 3.

All Employees covered by this Agreement shall be entitled to annual vacation as set forth in the Article, as follows:

- (a) Seniority in rank within a division shall be the governing factor in choice of vacation dates, subject however, to the limitation set forth in paragraph (c), below.
- (b) During the first full calendar week of January, a vacation schedule shall be posted on the bulletin board in the classroom. The vacation schedule shall begin with the First (1st) full calendar week of February and end with the last full calendar week of January the next calendar year. Employees, in accordance with all other applicable provisions of this Article, may elect vacation periods on a consecutive two (2)-week basis or may elect a one (1) week vacation period.
- (c) No more than one (1) member of each watch in the patrol division and no more than one (1) person per division from the other divisions may be on vacation at any time, except as may be approved by the Chief.
- (d) If an Employee on a seniority basis elects to take one (1) week's vacation on his initial selection, he may elect additional vacation periods after all other eligible Employees have selected, initially, their preferred vacation period from the available schedule. The selection of secondary vacation periods either in one (1) or two (2) week periods shall be done on a seniority basis in accordance with all

other provisions of the Article. If additional vacation time is available, the Employee, on a seniority basis, may select from the remaining available vacation periods in either a two (2) consecutive week period or a one (1) week period.

- (e) Accumulated vacation pay shall be given to Employees upon termination or retirement from the Police Department. In the event of an Employee's death, his accumulated vacation pay shall be paid to his surviving spouse and/or minor children.

ARTICLE 16

DEATH IN THE FAMILY

Section 1.

An Employee who suffers a death in his immediate family (grandparent, mother-in-law, father-in-law, brother, sister, step-brother, step-sister, brother-in-law, sister-in-law, grandchild) shall be granted, upon notifying the Employer, a paid leave of absence of three (3) days to be used to attend and participate in any arrangement, services and/or ceremonies held for the deceased and family. The amount may be extended, if requested, through the Chief's office to five (5) days.

In the event the decedent is the employee's spouse, child, step-child, parent or step-parent, a paid leave of absence of five (5) days shall be granted to be used to attend and participate in any arrangements, services, and/or ceremonies held for the deceased and family. Said leave may be taken immediately following the funeral, or in the case where the funeral and burial are separated by seasonal restrictions, the five (5) days may be split to accommodate both ceremonies.

Additional time may be granted at the discretion of the Chief of Police, with or without pay, as he may determine, taking into consideration such factors as how close the Employee is to the decedent, the location of the funeral, etc.

Section 2.

Relationship of an Employee to step-relatives and parents-in-law will determine the basis of a valid marriage in effect at the time of the death.

Section 3.

If such a death occurs during an Employee's vacation, and if the Employee expends the time on attending the funeral and related ceremonies and duties, the vacation shall be extended correspondingly, however, in no event to exceed five (5) days unless the Chief grants additional time.

ARTICLE 17
INSURANCE AND RETIREMENT

Section 1.

The Employer shall provide Workers' Compensation to its Employees.

Section 2.

The Employer shall make available the Maine Municipal Employees' Health Trust Dual Option Comprehensive Plan. The Employer reserves the right to convert the coverage described in this section to another carrier or other coverage which provides substantially equal or better coverage than that described herein. All Employees shall pay a portion of the POS health insurance premium in accordance to the schedule outlined in Appendix C B:

It is understood that the term applicable premium refers to all available plans— Employee only , Employee & spouse, Employee with children, Employee & spouse with children plan, or any of the other available plans. Employees wishing to participate in the Comprehensive Plan may do so by paying the difference in premiums between the POS Plan and the Comprehensive Plan, in addition to the POS co-payments stated above.

Section 3.

All police officers who are employed by the Lewiston Police Department after December 31, 1982, shall be entitled to a retirement benefit after twenty-five (25) years of service, one-half (1/2) pay, no age, as provided in the MSRS Consolidated Plan, Special Plan 2.

Section 4. Dental Insurance

A dental insurance plan shall be made available to the Employees. The premiums shall be paid by the Employees. Participation shall be regulated in accordance to the plan document.

Section 5. Flexible Benefits Plan

A flexible benefits plan shall be made available to the Employees as allowed under Section 125 of the Internal Revenue Code. Participation shall be regulated in accordance to the plan document. In addition, effective July 1, 2005, the City will

contribute \$200 in the Medical Spending Account for Employees who are participating in the Health Care Program. Spouses and children are not required to participate to qualify for this reimbursement.

Section 6. Retirement Health Savings (RHS) Plan

~~(a) — Employees with more than two hundred eighty [280] hours of accumulated vacation time shall contribute on March 1st of each year the value of thirty-two [32] hours of accumulated vacation into an RHS Plan.~~

(b) Employees shall contribute, once yearly on March 1st, the value of unused, accumulated sick leave to a RHS Plan, as follows:

~~F(a) or~~ For Employees with:

Less than 600 hours, no contribution;
~~between 601 hours and 700 hours, three [3] days;~~
~~between 701 hours and 900 hours, five [5] days;~~
~~between 901 hours and 1000 hours, six [6] days;~~
~~between 1001 hours and 1100 hours, seven [7] days;~~
~~above 1101 hours and above: eight [8] days~~
Four [4] days

(b) Annual Contribution Maximum: Four (4) days

(c) This subsection shall be in effect for the FY12 contribution to be deposited July 2012. Any contributions previously deposited by employees under the prior contract shall remain in their RHS accounts and be unaffected hereby.

ARTICLE 18

OVERTIME WORK

Section 1.

An Employee shall be paid at time and one half (1 ½) his hourly rate for all hours worked when the Employee would normally be off duty and for any hours in excess of his regularly scheduled shift in any day without duplication.

Section 2.

Overtime work made available in the patrol division shall be distributed equally to all Superior Officers. The equalization shall be effected over a calendar year. Only overtime hours worked or refused shall be charged against the Employee. N/R shall indicate the Employee was called but not reached. Computation of overtime shall be listed on a form showing the amount of hours each Employee worked, refused or N/R.

New Superior Officers will start with a listing of hours equal to the average of all hours charged. Overtime required of those from the non-patrol division will also be charged towards equalization. The Union Grievance Committee shall be authorized to examine and copy the overtime form on a bi-weekly basis. A reasonable effort will be made and reasonable amount of time will be expended under the circumstances in any given case to hire a Superior Officer; provided, however, that any action by a Superior Officer resulting in a grievance shall be processed through Step II only and any adjustment necessary shall be done by adjusting the overtime log to show that such hours were either worked, not worked or Not Reached (N/R) and shall not result in any additional funds being expended.

Section 3.

If only one (1) Employee is needed for overtime and if there are no Employees who are available and voluntarily accept overtime and the Chief of Police indicate they are not available, the Employee who is on duty will remain on duty to serve the extra shift unless he is already working a double shift, in which case (and also if more than one (1) Employee is needed, the first refusal and succeeding refusals in succession, to the extent of Superior Officers needed, shall serve on a compulsory basis. If there are two (2) or more Superior Officers on duty, one (1) shall remain on a rotating basis during each quarterly (1/4) rotation of said shift. In the event of an emergency, all Superior Officers who can be contacted may be called for duty.

Section 4.

An Employee who is required to attend District or Superior Court as a witness or as a prosecuting officer, or is summoned before the Grand Jury of the State of Maine, or before the Registry of Motor Vehicles, for any cause which arises out of the Employee's employment when such attendance is at a time that the Employee is not regularly scheduled for duty, shall be compensated for all such time at the rate of one and one half (1 ½) times his hourly rate of pay, with a minimum of two (2) hours for each appearance. If an officer is on his scheduled day off, (defined as the days off in the then current work cycle including vacation, credit time and compensatory time off only) said officer shall be compensated for all such time at the rate of one and one half (1 ½) times his hourly rate of pay, with a minimum of four (4) hours for each appearance. In consideration of the foregoing payment by the Employer, an Employee entitled to compensation from any litigant, court or governmental agency for such attendance shall pay any such compensation over to the Employer. A court appearance involving two (2) or more cases on the morning of a day or on the afternoon of a day shall be deemed to be a single attendance for the purpose of compensation entitlement under the provisions of this Section, unless the appearance is one which continues through the noon hour, or a portion thereof.

Section 5.

An Employee at his/her option, may elect to accumulate compensatory time off to a maximum of 75 hours at the rate of time and one half (1 ½) rather than receive overtime pay for hours worked outside of the Employee's regularly scheduled hours of work. These hours may be carried indefinitely except in the event of a promotion, unused compensatory time must be either used or cashed-out at the pre-promotion rate.

ARTICLE 19

SETTLEMENT OF GRIEVANCES

Section 1.

Any dispute which may arise between the parties as to the meaning or application of any specific term of this Agreement may be settled in the following manner:

Step 1. The aggrieved Employee shall make known his grievance to the Union Steward. The Union Steward, with or without the aggrieved Employee, shall submit the grievance orally to the appropriate division commander or designee within ten (10) days of the act or omission which is subject of the grievance. With respect to a dispute as to pay, the date of the act or omission shall be deemed to be the date on which the payroll check which is claimed to be incorrect is issued. The division commander or designee shall make every reasonable effort to settle the grievance and give his answer to the Union within seven (7) calendar days after presentation to him.

Step 2. If the grievance is still not settled and the Employee wishes to process it further, the Union Steward shall then submit the grievance in writing to the Chief of Police within three (3) calendar days of the division commander or designee answer was due, whichever date first occurs. The Chief or his designee shall then give his written answer to the Union within ten (10) calendar days after presentation to him.

Step 3. If the grievance has not been settled under Step 2 and if the Employee wishes to process it further, it shall be presented in writing to the Human Resources Director within seven (7) calendar days after the delivery of the Chief's written answer or the expiration of the seven (7) day period within which the Chief's written answer was due, whichever date first occurs. The Human Resources Director or his designee shall meet with the Union Steward or Grievance Committee, with or without the aggrieved Employee, within seven (7) days after receipt of the appeal from Step 2, and shall make every reasonable effort to settle the grievance and give the Union his answer in writing within five (5) days after said meeting. The Human Resources Director shall state all of

the reasons for his decision. Failure to include all reasons shall not prevent the use of such reasons in Step 4 of this procedure.

Step 4. In the event the grievance remains unresolved or the decision of the Human Resources Director is unsatisfactory at Step 3, the aggrieved member, his/her representative or the Union may submit any/all of the issues involved to binding arbitration by giving written notice of such intention to the City Administrator within ten (10) administrative work days after receiving the decision of the Human Resources Director. If the parties are unable to agree upon an impartial arbitrator within ten (10) administrative work days of the date when notice of intent to proceed with arbitration is given, either party may request the appointment of an arbitrator by the American Arbitration Association and the proceedings shall, thereafter, be taken in accordance with the rules of the Association. The decision of the arbitrator shall be final and binding upon all parties. The arbitrator shall have no authority to add to, subtract from or modify any provision of the Agreement.

The Employer and the Union shall bear the fees and expenses of the arbitrator equally. Each party shall be responsible for its own witness fees and expenses.

Section 2.

- a) All of the time limits contained in this Article shall be firm and final, subject only to extension by mutual written agreement in advance of the expiration of a time limit.
- b) Should the Employee fail to appeal the grievance within the specified time limits, the grievance shall be considered to have been concluded on the basis of the Employer's last decision.
- c) Should the Employer fail to render a decision within the time limits specified for it, it shall be deemed to have denied the grievance at that step.
- d) The Union's written grievance and appeal, if any, shall be given to the City Administrator, with a copy to the City Personnel Director. The City's written responses at Steps 2 and 3 shall be given to the grievant, with a copy to be furnished to a Union representative.
- e) All processing of grievances at all steps, including arbitration, shall be done so as not to interfere with the performance of the assigned functions of any employees who are on duty.

ARTICLE 20

COMPLAINTS FROM THE PUBLIC

Section 1.

Any complaints from the public shall be in writing and submitted to the Chief of Police, a copy of which the Chief of Police shall make available to the officer involved or the Union Steward within three (3) days of receipt. Members of the public submitting written complaints shall have the content of the Lewiston Police Department "Complaints from the Public Information and Warning Form" explained to them by the member of the police department accepting the written complaint will be requested to sign the Information and Warning Form after its completion by the accepting police department member who shall sign as a witness on the form attesting that the content of the information and warning form was explained to the member of the public submitting the written complaint.

A hearing shall be held between the Chief, the Union Steward and/or Union Representative, and/or the Employee concerned and the person making the complaint at a time and date agreed upon by the parties within five (5) days after receiving the complaint; provided that if no agreement on time and date is reached within ten (10) days thereafter. The Chief of Police shall make a good faith effort to have the complainant appear at the hearing. Failure of the complainant to appear shall not in itself constitute grounds for dismissal of the complaint.

Section 2.

Whenever an officer is called in by a superior officer for questioning under circumstances where discipline appears to be a possible result, the officer may be accompanied by a Union officer.

**ARTICLE 21
DISCIPLINE OF OFFICERS**

Section 1.

Whenever an officer is called in by a Superior Officer for questioning under circumstances where discipline appears to be a possible result, the officer shall be entitled to be accompanied by a Union representative.

Section 2.

In the event the officer being questioned does not desire to be accompanied by a Union Representative, he shall sign a waiver of representation supplied by the Chief's office.

Section 3.

The Employer shall not suspend, discharge, demote or reprimand any Employee without just cause.

Section 4.

If disciplinary action is brought against a member of the bargaining unit, he/she shall be given notice of said disciplinary action in writing with the reasons for said action.

Section 5.

In the event the Union wishes to contest a disciplinary action, a grievance shall be filed alleging a violation of this Article at Step 2 of the grievance procedure.

Section 6.

After disciplinary action by the Police Chief and upon receipt of a written request by the disciplined officer, the Chief shall provide a copy of the complaint and a summary of the investigation report. If confidential or privileged material has been utilized, it shall be noted as such in the summary report. Said officer shall have an opportunity to review documentation utilized to support the decision to impose discipline. Said officer may then authorize the release of the investigative report to either the Union or his attorney.

ARTICLE 22

GENERAL PROVISIONS

Section 1.

The provisions of this Agreement shall be applied equally to all Employees in the bargaining unit without discrimination as to ethnic origin, color, religion, gender, marital status, sexual orientation, age, physical or mental disability, veteran status, political affiliation, or inability to speak English. The Union shall share equally with the Employer the responsibility for applying this provision of the Agreement. All grievances filed under this paragraph may only proceed as far as Step 2 under the Grievance Procedure outlined in Article 19 and shall not be brought to arbitration.

Section 2.

All references to Employees in this Agreement designate both sexes and whenever the male gender is used, it shall be construed to include male and female Employees.

Section 3.

The Employer agrees not to interfere with the rights of the Employees to become members of the Union. The Union agrees not to interfere with the rights of Employees not to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Employer or any Employer representative against any Employee because of Union membership or because of any Employee activity in an official capacity on the behalf of the Union or for any other cause. There shall be no discrimination, interference, restraint or coercion by the Union or any Union representative against any Employee because of non-membership in the Union. An

Employee may proceed with a grievance based upon a violation of this Section by the Union or one of its representatives directly to arbitration under the applicable provisions of this Agreement.

Section 4.

The Union recognizes its responsibilities as bargaining agent and agrees to represent all Employees in the bargaining unit without discrimination, interference, restraint or coercion.

Section 5.

Each Employee shall be entitled to view his personnel file at reasonable times during the weekday day watch. Each Employee shall be entitled to a copy of his personnel file, or any portion thereof, on his request and at his expense (exclusive of letters of reference) and the Employee shall thereafter maintain his own personnel file. Once an Employee shall have been furnished with a copy of his personnel file (during the term of this contract or prior thereto), the Employer shall give to that Employee, free of cost, a copy of each document added thereto that is requested by the Employee.

Section 6.

Any of the duties, authority or discretions herein reserved to the Chief of Police may be exercised by his designee, if any or by the City Administrator if he should choose to act under the provisions of the City Charter.

Section 7.

The City shall fund, exclusive of firearms and lineup training, forty-five (45) hours of annual training for each member of the unit. It is understood that said funds will be used for training purposes only, and, absent a budgetary crisis, be spent during the fiscal year for which it was funded.

ARTICLE 23

BULLETIN BOARDS

Section 1.

The Employer is willing to permit the Union to maintain a bulletin board, at its own expense, with a maximum size of two (2) by four (4) feet, and to mount said board at a mutually acceptable location.

Section 2.

The Union shall limit the posting of notices and bulletins to such bulletin board.

Section 3.

The Union agrees it shall be solely responsible for posting in terms of accuracy and ethical standards, and that it shall not cause to be posted any material which may be profane or derogatory to any individual, the City or any City official.

Section 4.

Any material on the bulletin board which the Employer alleges to be in violation of this Agreement shall be promptly removed by the Union.

**ARTICLE 24
RULES AND REGULATIONS**

The Chief may from time to time alter or change rules and regulations governing the conduct of members of the Police Department. Copies of said rules and regulations and any amendments thereto shall be provided to the Union and the Employees ten (10) days prior to the implementation. Should these rules and regulations be in conflict with this Agreement, they shall be subject to the grievance procedure.

**ARTICLE 25
UNIFORMS AND PROTECTIVE CLOTHING**

Section 1.

The Employer shall furnish to the Employee a \$650 annual allowance for the purpose of supplying permanent Employees with uniforms, protective clothing or any type of protective device listed in Appendix A. Appendix A shall contain both a primary and secondary list for uniform officers. An officer's primary equipment shall be maintained in good condition prior to purchasing secondary equipment. Of the \$650, uniformed officers may also utilize up to two hundred dollars [\$200] for the purchase of appropriate court attire as outlined in Appendix A. Officers not required to wear a uniform shall maintain a complete uniform and with the remaining money purchase appropriate attire [also listed in Appendix A] which shall be worn during working hours. The annual allowance shall be made available on/or after the first day of the fiscal year of the Employer. Effective July 1, 2008, the annual clothing allowance shall be increased to \$700 and on July 1, 2009, increased to \$750.

Employees who voluntarily terminate employment prior to December 31st shall have their uniform allowance pro-rated by one half (1/2). Employees terminating after December 31st shall not have their uniform allowance pro-rated. Said proration shall only apply to items referred to as number two (2) (remaining with the Employee upon separation) in Appendix A, i.e. an Employee spends \$350 for clothing within the 1st six

(6) months, as follows: \$300 identified as (1) on Appendix A and \$50 as (2). Upon voluntary separation, the Employee owes the City \$25.

Section 2.

The Employee shall maintain his uniform and equipment in proper condition.

Section 3.

- f) The Employer shall annually provide to the Union at no cost to the Employee, three (3) protective vests of adequate threat level and suitability for issuance to members of the bargaining unit. Such issuance is to be determined by the Union. Adequate threat level and suitability to be mutually determined and agreed upon prior to purchase and issuance to satisfy individual need and comfort to the user. If no agreement is reached, the Chief shall make the final decision.
- g) Any dispute arising from the Union's issuance of the protective vests shall be resolved internally within the Union and the matter will not be subject to the grievance procedure.

Section 4.

In recognition of the fact that uniformed police officers are assigned to S.E.T. where the wearing of casual "street" clothing is appropriate, the officer may expend up to \$200 from the annual clothing allowance to purchase those articles of clothing permitted. Supervisory officers assigned to S.E.T. are still required to adhere to all other applicable requirements of Article 25.

**ARTICLE 26
MANAGEMENT RIGHTS**

Section 1.

Nothing in this Agreement shall be construed as delegating to others the authority conferred by law on the Employer or in any way abridging or reducing such authority.

Section 2.

Except as limited by specific written terms of this Agreement, the Employer retains the exclusive right to control all aspects of the management and operation of its department, its Employees and its equipment.

Section 3.

When, under the terms of this Agreement, a matter is stated to be at the discretion of the Chief or the Employer, such discretion shall not be subject to any review except as may be authorized by the City Administrator. (Should the Union feel that said discretion was used in an arbitrary or capricious manner, it may be subject to the grievance procedure).

ARTICLE 27

NO STRIKE

There shall be no stoppage of work or slowdown by the Union nor a lockout by the City during the life of this Agreement.

ARTICLE 28

RESIDENCE

An Employee of the Police Department must reside in a city or town whose borders are within 25-miles of Lewiston city limits.

It is understood that those Employees residing outside the radius prior to July 1, 1993 are grandfathered, providing however, that future moves would require them to remain within the limits of the radius.

ARTICLE 29

PERSONNEL POLICIES

The Personnel Policies of the City of Lewiston, as heretofore adopted and as they may hereafter be amended, are hereby adopted except to the extent that they conflict with any provisions of this Collective Bargaining Agreement.

ARTICLE 30

TRANSPORTATION

The Employer reserves the right to provide transportation to any or all members of the bargaining unit between their respective residences within the City of Lewiston and their place of work at the beginning and/or end of their respective work shifts. The parties agree that transportation is not a matter of contract right and that in no event will transportation be furnished other than by police vehicle or at a time when the police vehicle is otherwise needed. No failure of the Employer to provide transportation will be acceptable as justification for an Employee's failure to be present for work when scheduled.

ARTICLE 31
LABOR-MANAGEMENT COMMITTEE

The Union may form a committee of three (3) members of the bargaining unit. Upon request, the Chief of Police will meet with this committee at reasonable times and with reasonable frequency at no additional cost to the City. Upon request, the City Administrator may meet with this committee one (1) time in each of the first, second and fourth calendar quarters of each year. He may, without creating a precedent, meet on other occasions.

ARTICLE 32
LIABILITY INSURANCE

The City will provide and pay for a Police Professional Liability insurance policy that is substantially equal to or better than the policy in effect during 1984. This provision shall not prohibit the City from becoming self-insured in this area for substantially equal or better coverage.

ARTICLE 33
PHYSICAL EXAMINATIONS

The Employer may require all Employees to submit to a physical examination, at least annually, by a physician selected by the Employer, which examination shall be at the expense of the employer and shall be scheduled during each Employee's work shifts.

With the exception of a treadmill test, said examination shall not exceed in scope the pre-employment physical. In compliance with HIPPA, each Employee required to submit to examination hereunder shall execute and deliver to the Employer a good and sufficient written medical authorization permitting the Employer to obtain access to all records and information generated by said examination. Any information provided to the Employer shall also be provided to the Employee.

ARTICLE 34
TERMINATION

This Agreement shall be effective as of the first payroll period of July, 2007 and shall remain in full force and effect through the last pay period of June, 2010. Should the parties fail to reach agreement by the expiration date, the terms and conditions of this Agreement, including automatic step increases, shall continue to be in full force and effect until a successor Agreement is reached.

ARTICLE 35
LEAVE OF ABSENCE AND MILITARY LEAVE

Leaves of absence and military leave shall be granted in accordance with the Personnel Policies of the City of Lewiston and such departmental rules and regulations as are presently in effect, or as they shall be amended from time to time.

ARTICLE 36
ALERT

The Department shall notify any or all Employees on “standby or alert status” of the cessation of said “standby or alert” as soon as possible within a reasonable time after said status has been terminated.

ARTICLE 37
CONTRACT REOPENER

In the event that the City enters into a collective bargaining agreement with another City of Lewiston bargaining unit that provides a cost of living increase in wages for the 2011 fiscal year (July 1, 2010 through June 30, 2011) or any other monetary benefit, to most employees in that other bargaining unit, Article 12 or any other applicable section of this Collective Bargaining Agreement shall reopen for the purpose of negotiating those applicable Sections for the 2011 fiscal year. This Collective Bargaining Agreement shall be automatically opened, for this purpose only, upon the Union actually delivering to the City a written notice of intent to reopen within fifteen (15) days after the City Council’s ratification of the collective bargaining agreement with the other bargaining unit. Step increases in wages based on longevity, seniority or years of service, as well as increases related to promotion or approved reclassifications, shall not be considered a cost of living increase in wages.

The parties hereto have set their hands at Lewiston, Maine this _____ day of September, 2007.

CITY OF LEWISTON

**LEWISTON POLICE SUPERVISORY
COMMAND UNIT**

**By: _____
James A. Bennett
City Administrator**

**By: _____
Danny Lachance
President**

**By: _____
Daniel R. Felkel, Esq.
MAP Representative**

APPENDIX A

PRIMARY CLOTHING

- (1) Uniform hats
- (1) Uniform shirts
- (1) Uniform pants
- (1) Uniform coats
- (1) Uniform jackets
- (1) Uniform rainwear
- (2) Shoes
- (2) Boots
- (2) Socks--navy blue,
white or black
- (1) Uniform Ties and clasps
- (1) Uniform
Leather gear
- (R) Badges
- (2) Nametags
- (1) Handcuffs

SECONDARY CLOTHING

- (2) Gloves
- (2) Crew neck t-shirts
- (2) Insulated underwear
- (2) Briefcases
- (2) Buck knives
- (2) Sweaters
- (2) Polo shirts
- (1) Protective vests with higher
higher level of protection
- (1) Clipboards
- (1) Expandable batons
- (1) Tape measures
- (1) Vest carriers/undergarment
- (1) Holsters (concealed carry)
- (2) Cuff cases (concealed carry)
- (2) B D U

PLAIN CLOTHES

- (2) Suits, sport coat
- (2) Dress shirts
- (2) Dress pants
- (2) Casual pants
(adequate for wear
with sport coat)
- (2) Shoes and boots
- (2) Hats
- (2) Ties
- (2) Belts (dress)
- (2) Outerwear (coats)

- (2) Flashlights (purchased under clothing allowance)
- (2) Turtlenecks
- (2) Bike shorts
- (1) Uniform nylon gear
- (2) Cases, including badge holders, trifolds, bifolds
- wallets with badge holders, badge clips for belts

- (1) Remains with the City upon separation.**
- (2) Remains with the Employee upon separation.**
- (R) Remains with Employee on retirement; Police Chief's discretion on other separation.**

The items of clothing listed below are permitted for purchase by officers assigned to S.E.T.:

- (2) Footwear
- (2) Hats
- (2) Pants
- (2) Outerwear (coats, jackets)
- (2) Shirts
- (2) Sweaters

APPENDIX B

Health Insurance Proposal

**Introducing Health Care Management System
By
Focusing on Prevention**

The program seeks voluntary compliance with an aggressive health care management system which focuses primarily on prevention activities. The goal is to reduce the overall need for health care services among members and to prevent disease by rewarding employees for healthy behavior that will prevent disease. The program can be broken down as follows:

Health Risk Analysis and Educators

The first major part of the program is an individual health risk analysis which will be available for each member that desires one. This service will be provided by a health

care provider that will be under contract with the City to provide these services. The aggregate results of the analysis for all City employees will be available to the City. However, consistent with federal law, the City will not have access to individual's health risk analysis.

A health care educator will be assigned and responsible to work with each and every member that signs up for the program, including spouses (dependents are not required to participate in the program). These educators will work to establish the base information for each member. Once established, the educators will work with the member to provide wellness goals and benchmarks. Educational material and motivation will be a core part of the program.

After the initial consultation, each member will receive at least one additional face to face meeting annually. Such meetings will be primarily designed to be on the job site for the employees and in a private setting. Depending on the results of the health risk analysis and the goals of the member, additional meetings will be scheduled. Should a face to face consultation not be practical, phone and email may be acceptable alternatives.

The City, after consultation with the Health Care Provider and the Health Care Advisory Team, will, at a minimum, provide monthly health related programs and topics that relate to the challenges that are facing the members. The City will continue to seek creative and meaningful ways to reward and recognize employees making progress in obtaining their individual health care goals.

APPENDIX B, Page 2

Health Care Advisory Team

The City will establish a Health Care Advisory Team comprised of representatives from each Union and a department head who will meet regularly to assist in recommending health related programs, adjustments to the percentage distribution and any wellness issues or concerns that may arise. Though the Team may recommend changes or adjustments to the program, the City will make the final determination to either accept or reject such recommendations. Lastly, since communication is such an integral part of any successful program, the Team will serve as a conduit to its members to assist in keeping them apprised of ongoing health care issues.

Health Care Management Proposal

The Employees' portion of the health insurance premium increases from 10% to 25%, effective July 1, 2005. Alternatively, an Employee may participate in the HCMS program and make his/her intentions known to participate by July 1, 2005. The program's implementation date is July 1, 2005. After July 1, 2006, Employees and

spouses are expected to meet the specific goals by utilizing their 'best efforts' as established by their Health Care Educators to obtain the full 15% savings.

The components of the 15% health insurance premium savings are as follows:
5% savings [2.5%] when both Employee and spouse agree to participate in a Health Risk Assessment, a physical examination by personal physicians, including prescribed lab/x-rays;
5% savings [2.5%] when both agree to participate in an exercise program tailored by the Health Care Educator in conjunction with the Employee's physician;
2.5% savings [1.25% each] for non-smokers and those who quit; effective 6/29/10, the term 'non-smoker' will be replaced with 'non-tobacco users'
2.5% savings [1.25% each] for obtaining body fat/waist measurement goals, as follows: Employees must first attempt the Body Fat Analyzer; if not within the established ranges, then the waist measurement standard will be applied—40" waist or less for males, and 35" or less for females.

NOTE: In the Employee Only and Employee with Child plans, the percentages for participation in the four components double for the Employee, i.e., 2.5% becomes 5% and 1.25% becomes 2.5%.

Also, all employees need to meet all four components to receive their 7.5% savings, while spouses need to meet the first two components and only one of the other two remaining components.

Health Insurance Caps

The current health insurance cap is 10% of the POS health insurance premium [for those who participate in the Comprehensive Plan must also pay the difference between the POS Plan and the Comprehensive Plan] to a cap of \$27.50 weekly. The health insurance cap for Employees hired after September 1, 2007, shall increase to 20% of the POS health insurance premium, in addition to any difference between the POS and Comprehensive Plan. Employees and spouses who are participating in the credit program are expected to meet the specific goals by utilizing their 'best efforts'. The program has two goals: First, to improve the health of each employee/spouse; second, to reduce the long-term cost of health insurance for each employee and the City. The use of credits is not intended by the City to be a primary source of savings, but as an instrument to make the program important and meaningful. As such, an employee /spouse who make a 'best effort', but falls slightly short of meeting their goals will not be penalized, providing, however, that the following three criteria are met:

- a. the employee/spouse has participated in the Health Risk Assessment;
- b. has made reasonable progress and improvement since the last measurement;
- c. has been recommended by their health care provider/educator as having made their 'best effort'.

The City will meet and discuss with the Union in all cases it deems an employee/spouse to not have met this standard. Each case shall be decided on an individual basis and shall not be used as a reference in any way for any other employee. At all times, the employee/spouse's Primary Care Physician [PCP] shall be responsible for establishing and/or modifying appropriate goals. The Health Care Educator shall be responsible, in consultation with the employee/spouse's PCP to determine the appropriate activities to meet such goals and to determine whether or not the employee/spouse has made a 'best effort'. In the event of a conflict between the PCP and the Health Care Educator, the employee/spouse's PCP shall have final say in re-determining and/or modifying previously established goals.

After January 1, 2007, the cap shall be increased by 10% each year, to a maximum premium contribution rate of 25% depending on the level of participation. Premium payments between 10% and 25% shall be determined by using the same formula, noted below: For Employees hired after September 1, 2007, the cap on premium payments shall double, as indicated below.

Employees hired before September 1, 2007

%	1/1/07	1/1/08	1/1/09	1/1/10
10	\$27.50	\$30.25	\$33.28	\$36.60
11	30.25	33.28	36.61	40.26
13	35.75	39.32	43.25	47.58
16	44.00	48.40	53.24	58.56
19	52.25	57.48	63.22	69.54
25	68.75	75.63	83.19	91.51

Employees hired on or after September 1, 2007

%	7/1/07	1/1/08	1/1/09	1/1/10
20	\$55.00	\$60.50	\$66.56	\$73.20
21	57.75	63.53	69.89	76.86
23	63.25	69.58	76.54	84.18
26	71.50	78.65	86.53	95.16
29	79.75	87.73	96.51	106.14
35	96.25	105.88	116.48	128.10

Summary Comments

Efforts will be made to provide employees with exercise equipment, or the ability to use existing City owned equipment. Also, since smoking is such a critical component of any wellness program, attempts will be made to provide smoking cessation products at no or minimal cost to the Employees.

In the event that another health plan is made available to another bargaining unit from any other department, the City shall make that plan available to the Lewiston Police Supervisory Command Unit as an alternative plan.

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LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Resolve Adopting Androscoggin County 2011 Hazard Mitigation Plan.

INFORMATION:

The Federal Emergency Management Agency (FEMA) requires that a County-wide Hazard Mitigation Plan be adopted and updated every five years. Over the last two years, Lewiston Public Works has worked with staff of State and County Emergency Management and the Androscoggin Valley Council of Government to complete revisions/updates to this plan. This is its third update.

The focus of this plan is to identify steps that can be taken to mitigate the loss of life and property due to natural disasters. The major threat in Androscoggin County is flooding.

Joanne Potvin, County Emergency Manager, will be present at Tuesday's meeting to explain the plan and answer any questions you may have.

The FEMA established deadline for approval of the Plan is in April.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

ERB/mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve adopting the Androscoggin County 2011 Hazard Mitigation Plan.

RESOLUTION OF ADOPTION

Whereas, natural and man-made disasters may occur at any time, we recognize that to lessen the impacts of these disasters we will save resources, property and lives in **Androscoggin County**.

And whereas the creation of a Hazard Mitigation Plan is necessary for the development of a risk assessment and effective mitigation strategy;

And whereas, the 2 **cities**, and 12 **towns**, and **Androscoggin County** are committed to the mitigation goals and measures as presented in this plan;

Therefore, the Androscoggin County Commissioners, and the Boards of Selectmen or City Councilors of the 14 municipalities hereby adopt the 2011 Androscoggin County Hazard Mitigation Plan.

AUTHORIZING SIGNATURES: City of Lewiston

<u>JOHN T. BUTLER</u>	_____	_____
	Councilor – Ward 1	Date
<u>DONALD A. D'AUTEUIL</u>	_____	_____
	Councilor – Ward 2	Date
<u>NATHAN L. LIBBY</u>	_____	_____
	Councilor – Ward 3	Date
<u>DOREEN M. CHRIST</u>	_____	_____
	Councilor – Ward 4	Date
<u>CRAIG O. SADDLEMIRE</u>	_____	_____
	Councilor – Ward 5	Date
<u>MARK A. CAYER</u>	_____	_____
	Councilor – Ward 6	Date
<u>RICHARD A. DESJARDINS</u>	_____	_____
	Councilor – Ward 7	Date
<u>JOANNE G. POTVIN</u>	_____	_____
	Lewiston EMA Director	Date

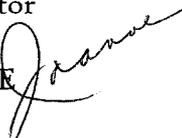
**ANDROSCOGGIN UNIFIED
EMERGENCY MANAGEMENT AGENCY**

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LEWISTON, ME 04240-7101
TEL. (207) 784-0147
24 HR. FAX (207) 795-8938
24 HR. EMERGENCY TEL. (207) 784-3622
WEB SITE - <http://www.androscogginema.org>



Joanne G. Potvin, CEM/ME, Director
e-mail: anem1@roadrunner.com

TO: Ed Barrett, City Administrator

FROM: Joanne G. Potvin, CEM/ME 

SUBJ: ANDROSCOGGIN COUNTY 2011 HAZARD MITIGATION PLAN

DATE: 07 March 2012

During the last two years, your Public Works Department personnel have worked with the State Emergency Management staff, your City's Emergency Management staff and Androscoggin Valley Council of Government to complete revisions/updates to the federally-required County-wide Hazard Mitigation Plan. This recently updated document, which is based on the County Hazard Risk and Vulnerability Analysis, is required in the event that your municipality should decide to apply for Federal Hazard Mitigation Funds or if you already have a project in the works. The document is required to be updated every five years. This is the third such update for this document.

After nearly two years on this project, the revised Plan has received "conditional" approval from the Federal Emergency Management Agency. Final approval is contingent upon receiving your signed and dated Resolution of Adoption. I have enclosed a digital copy of the final Plan along with the City's official adoption signature form. The document must be formally adopted at a regular, public Council meeting and be included on the agenda for that meeting.

With this in mind, I will do a follow-up with the City Clerk in order to secure a date/time at which the document will be formally accepted/signed. As the Federal grant for this project requires a 25% soft (in-kind) match, I will attend the meeting at the appointed date/time. The City Council's time, as well as that of other City officials in attendance and me, will be added to that match. I will bring along a separate "sign-in" sheet that will become part of the match documentation package that will be forwarded to the Federal Emergency Management agency along with your Resolution of Adoption.

I look forward to meeting with the City Council in the near future. It is my hope to be able to wrap up this project within one of the next two council meetings. As I previously indicated, I will work out the date with your City Clerk. Please feel free to contact me if you have questions or concerns or save them for the meeting if you wish. Thank you, in advance, for your time and effort in this endeavor.

Enclosure as listed

Cc w/enclosure: Kathy Montejo, City Clerk

Cc w/o enclosure: Mayor Robert Macdonald, City Councilors, Phil Nadeau, Deputy City Administrator

From: Joanne G. Potvin [mailto:anem1@roadrunner.com]

Sent: Thursday, March 29, 2012 4:07 PM

To: Ed Barrett; Kathy Montejo

Cc: Paul LeClair

Subject: FW: Androscoggin County Conditional Approval - ADOPTION DEADLINE for Hazard Mitigation Plan

Importance: High

Ed,

Hazard Mitigation Plans form the foundation for a community's long-term strategy to reduce disaster losses and break the cycle of disaster damages, construction/reconstruction and repeated damages from certain disasters. The Plan creates the framework for risk-based decision-making in order to reduce damages from future disasters. It eliminates or reduces long-term risk to people and property from identified hazards. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL-93-288) and as amended by the Disaster Mitigation Act of 2000, provides the legal basis for state, local and Tribal governments to undertake risk-based hazard mitigation planning to reduce the damages from natural hazards. The Hazard Mitigation Plan is required as a condition for receiving certain types of non-emergency disaster assistance, for instance, grant dollars to widen a road, elevate a bridge, enlarge a culvert or other project that would reduce or eliminate flooding to a certain area in a future flood event.

The Plan process has four steps:

1. Assemble resources to develop (in our case update) the hazard mitigation plan; since most hazard mitigation projects are public works type projects, public works staff and local EMA directors are the resources that were assembled, countywide, to review and revise the plan
2. Review and identify hazards (risks), through the Hazard Risk and Vulnerability Analysis, along with potential consequential effects of various hazards, for instance, floods will cause road / culvert washouts, bridge washouts, etc.... and impacts on people and property
3. Identify and prioritize ways to reduce or eliminate these undesired effects from the identified hazards, i.e. identify projects
 - a. Steps 1 through 3 have been accomplished through a series of meetings/workshops and reviews of sections of the Plan and maps as they were updated then we had final plan review before it was sent to MEMA/FEMA for conditional approval – we now need Final Approval
4. Implement specific mitigation project(s) as outlined in the Hazard Mitigation Plan, i.e. when hazard mitigation grant funds are made available once a year, a municipality with an approved/adopted Hazard Mitigation Plan has the opportunity to apply for federal funding to complete a project, such as widening a culvert, as long as that project has been identified and listed in the Plan

During the last two years, your Public Works Department personnel have worked with the State Emergency Management Agency staff, your City's Emergency Management staff and Androscoggin Valley Council of Government (contracted by MEMA to assist with plan updates) to complete revisions and updates to the federally-required Countywide Hazard Mitigation Plan. This recently updated document, which is based on the County Hazard Risk and Vulnerability Analysis, is required in the event that the City of Lewiston should decide to apply for federal funds to complete a project or if there is

already a project in the works. The document is required to be updated every five years and this is the third such update for this document.

After nearly two years on this update project, the revised Plan has received "conditional" approval from the Federal Emergency Management Agency, meaning it meets all planning criteria, and final approval is contingent upon receiving the City's signed and dated Resolution of Adoption. I have already sent you the Plan on disc along with the official adoption signature form. The Plan must be formally adopted at a regular, public Council meeting and be included on the agenda for that meeting.

I did receive an e-mail from Kathy, today, indicating that you would try to get the material reviewed and on the Council agenda for April 3rd. As you can see from the e-mail below, all municipal adoptions must be turned over to MEMA **NO LATER THAN April 9** in order for them to upload the Adoption Resolutions to FEMA by the April 14, 2012 deadline. If the adoptions are not turned in to FEMA by that date, the entire process will need to be repeated, i.e. the plan will have to be re-updated, re-submitted and re-approved / adopted by all the municipalities all over again. I am now waiting on Lewiston and Auburn's Adoptions.

I respectfully request your assistance in getting this on the April 3 meeting agenda. I will be at the meeting to answer any and all questions you and/or the Council may have relative to the document. Meanwhile, if you have any questions or concerns whatsoever, please do not hesitate to give me a call. Thank you, in advance, for your positive consideration relative to getting the adoption done as soon as possible to meet the April 9 deadline for MEMA.

Joanne

Joanne G. Potvin, CEM/ME, Director
Androscoggin Unified Emergency Management Agency
2 College Street
Lewiston, ME 04240-7101
Tel: 207-784-0147

From: Mooney, Joann E [<mailto:Joann.E.Mooney@maine.gov>]
Sent: Thursday, March 29, 2012 12:05 PM
To: Joanne G. Potvin
Cc: Hubert, Dwane
Subject: FW: Androscoggin County Conditional Approval - ADOPTION DEADLINE
Importance: High

Joanne,

Per the April 14th email below from FEMA, their conditional approval "**pending receipt of adoption...**" gave Androscoggin County towns one year from that date to adopt. Once past that deadline, the "entire plan" must be re-updated, resubmitted and the review clock starts all over again - not to mention the adoption process.

Because the adoptions must be scanned into the plan so that it is submitted to FEMA as a complete, multi-jurisdictional document, it takes some time - even electronically - so we can not wait until the 14th. Many plan uploads to the FEMA site have failed this past year so we want to avoid any last minute electronic glitches that could slow this down.

Certified Letters:

If you have not already received all adoptions, the remaining towns need to be notified this week, by certified letter, that we must receive their adoption ***on or before April 9th***. All adoptions must be signed *and* dated. Please note that while it has been a terrific planning effort on everyone's part, even if towns have participated in planning meetings and have projects in the plan, non-adoption automatically excludes them from the plan and grant eligibility for the next 5 years of the plan cycle.

Please send me all the existing adoptions so we can scan them into the plan and be ready for ***upload to FEMA on April 9th***.

Sincerely,
JoAnn Mooney
State Hazard Mitigation Officer

Thank you for submitting the Androscoggin County Multi-Hazard Mitigation Plan and congratulations on your successful community planning efforts.

marilyn.hilliard@fema.gov
Mitigation Division, FEMA Region I
99 High St., 6th fl., Boston, MA 02110
617-956-7536 phone
617-956-7574 fax

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Resolve calling on the Androscoggin County Commissioners to adopt a Dispatch Plan that eliminates the payments made by Lewiston and Auburn for services other than those required to be provided by the County.

INFORMATION:

At the last regular Council meeting, staff provided a briefing on the status of current discussions with the County regarding Sheriff's Dispatch. A copy of the memo provided at that time is attached.

Lewiston and Auburn have consistently taken the position that we should not be required to subsidize services provided by the County to other communities that are not required by law, such as police and fire dispatch. We have also urged the County to adopt a plan that would provide the most efficient long-term solution while ensuring that a quality emergency communications system is in place.

The County is continuing to move toward a decision, which we believe may come as soon as this month. As a result, both communities believe it appropriate that the Councils go on record outlining our concerns. A resolve is attached.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve calling on the Androscoggin County Commissioners to adopt a Dispatch Plan that eliminates the payments made by Lewiston and Auburn for services other than those required to be provided by the County.



City of Lewiston Maine
City Council Resolve
April 3, 2012



Resolve, Calling Upon the Androscoggin County Commissioners to Adopt a Plan that Eliminates from the County Tax Dispatch and Communications Costs Associated with Services that Lewiston and Auburn Do Not Receive.

WHEREAS, Lewiston and Auburn have long recognized that we subsidize emergency dispatch services to other communities that are subsidized through the County tax; and

WHEREAS, both communities have consistently supported consolidation of dispatch services in order to enhance public safety, provide fiscal benefits, and address the current inequity in dispatch funding; and

WHEREAS, for the last decade, elected officials, senior administrators, and the heads of public safety agencies within the county have held discussions regarding consolidation of dispatch services; and

WHEREAS, the cities of Auburn and Lewiston have advanced options for consolidating the dispatch of virtually all law enforcement, fire, and EMS services in the county and to finance them in a fair and equitable manner while providing for continued and unfragmented services; and

WHEREAS, such an alternative cost sharing proposal would mark a major milestone in inter-governmental cooperation in Androscoggin County and would enhance public safety, improve coordination of emergency response, and maximize efficient use of public resources; and

WHEREAS, other proposed plans have also come forward that do not achieve the goal of consolidated services and which may or may not eliminate the current subsidy paid by Lewiston and Auburn through the County tax; and

WHEREAS, while there is renewed interest on the part of the Commissioners on reaching a decision on the future of County dispatch, they have not yet been able to reach agreement on a plan;

NOW THEREFORE, be it resolved by the City Council of the City of Lewiston that

We call upon the Androscoggin County Commissioners to adopt a dispatch plan that will totally eliminate the subsidies provided by the taxpayers of Lewiston and Auburn for dispatch services that the County is not required by law to provide and which our communities do not receive. We further call upon the Commissioners to seriously consider plans that would fully consolidate Public Safety Answering Point and dispatch services in a single entity, recognizing that county-wide consolidation will allow for the equitable distribution of costs, long-term equipment and technology savings, and a high quality integrated public safety communication system.

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

27 Pine Street Lewiston, Maine 04240 Telephone (207) 513-3017 Fax (207) 784-2959

BE IT FURTHER RESOLVED THAT, beginning January 1, 2013, the City of Lewiston shall take the necessary steps required to eliminate the current subsidy provided by Lewiston to the County for PSAP and dispatching services provided to other communities within Androscoggin County.



City of Lewiston Executive Department

EDWARD A. BARRETT
City Administrator

PHIL NADEAU
Deputy City Administrator



March 19, 2012

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Androscoggin County Dispatch

The Androscoggin County Commissioners appear to be moving slowly toward a resolution of issues involving their dispatch operation. County communications handles certain required services such as dispatch for the County Sheriff's rural patrols, prisoner transports, and communications related to the county warrant depository. It also performs certain optional services including serving as the Public Safety Answering Point (PSAP) for all municipalities in the county other than Lewiston and Auburn and fire dispatch services for seven communities (for which there is a service charge) and police dispatch for three communities (at no charge).

Lewiston and Auburn have consistently raised concerns about those optional county services financed through the County tax that are provided to other communities, requiring Lewiston and Auburn to contribute to the costs of a service we do not receive.

After many years of discussion, this issue may be coming to a head largely because the Sheriff has indicated that existing County communications equipment is well past its expected life and subject to a catastrophic failure at any time.

Options Under Consideration

Three basic options are currently under consideration: county-wide consolidation of PSAP and dispatch functions; elimination of the County PSAP and consolidation of County and rural dispatch services at Lisbon; and retaining the current system at the County but moving to a charge for services system that would mitigate the equity concerns of Lewiston and Auburn.

Guiding Principles

Throughout this process, the positions taken by the City of Lewiston have been guided by a number of principles:

- Addressing the funding inequity of the current system by eliminating from the County tax services which we do not receive;
- Supporting proposals that control the county-wide capital and operating costs of PSAP and emergency services systems
- Maintaining a quality emergency services communications system.

What follows summarizes each of the options.

County-wide Consolidation

Throughout the years of this discussion, our goal has consistently been a single, county-wide emergency services communication system. Generally, such a system has been seen as built around an expansion of LA911 where a county-wide PSAP and dispatch system would be developed. Other communities would help to pay for this system through a formula that could be based on a number of factors including assessed value, population, or calls for service. Recognizing that this will result in most communities in the County seeing a cost increase, proposals have been developed that would phase these costs in over a three to five year period (during which time Lewiston and Auburn would continue to pay a disproportionate but reducing share). In the early years of such a consolidation, Lewiston and Auburn might be asked to pay slightly more; however, after full implementation, both communities would see savings (Lewiston at \$100,000+ per year; Auburn \$250,000+ per year).

Generally, this proposal has not been supported by the other Androscoggin County communities because it would increase their costs. In addition, there are concerns that the smaller communities would lose control over an operation dominated by Lewiston and Auburn.

Finally, it is not clear how such an organizational transition could take place. There are two options to accomplish such a consolidation. The first would require an interlocal agreement including the County and each of its 14 communities. Under this approach, individual communities would have the ability to decide whether or not to join. Alternatively, they could continue to provide certain services on their own (such as Lisbon's dispatch center) or contract with entities other than LA911 for PSAP and/or dispatch services. In effect, communities would have to willingly agree to enter into a consolidated system. The second option would be to transfer LA911 to the County and finance a consolidated system through the county tax. Under this option, municipalities would be required to pay the County tax whether they used the system or not. This would provide a considerable incentive for them to use the consolidated services. This would result in a significant increase in the County tax, much of which would fall on the smaller communities, again raising concerns and objections. There have also been concerns raised about the ability of the county to manage such a system under its current form of organization.

While the desirability of a county-wide system is high, its feasibility appears low since it can only be accomplished with the willing acceptance of this approach by the smaller communities or by a decision by the county, supported by Lewiston and Auburn, to

consolidate at the County and finance the system through the County tax.

Lisbon Proposal

Under the Lisbon proposal, the County would give up its PSAP designation and merge its operations (limited to its mandated functions of sheriff patrol, prisoner transport, and warrant repository) with Lisbon. The smaller communities would enter into contracts with Lisbon for dispatch services. Lisbon would contract for PSAP services, potentially but not necessarily from LA911. All of this would be accomplished through contracts for service with Lisbon. Under this proposal, Lewiston and Auburn would only be responsible our proportionate share of the County's charges from Lisbon. Each community would be responsible for paying for the services that they receive. Lisbon is also looking to the County to fund needed equipment upgrades through an existing County reserve to which Lewiston and Auburn have contributed through the County tax.

While there has been some support for this proposal from some communities, the county has expressed concerns over the potential loss of control over the services it will continue to provide given that the decision making authority over the Lisbon dispatch center would remain with the Lisbon council. While Lisbon would establish an advisory board with representatives from those governments it serves, this board would only be advisory. Note also that Lewiston and Auburn would have no representation on this board, even though we would continue to pay for our share of County costs. Finally, concern has been expressed that future charges to the County would be established by the Lisbon Town Council which could, under pressure to keep down charges to other towns, seek to increase the County's share of the costs. There appears to be little Commissioner support for this option at this time. Please also note that communities cannot be required to enter into a contract with Lisbon. They could "shop" for PSAP and dispatch services from other communications centers in the state.

County Charge for Services Model

Under this option, which has been proposed by Commissioner Makas, the county would retain its PSAP and current operations supporting municipalities. It would, however, charge towns for these services. As proposed, there would be a \$2 per capita charge for PSAP services; a \$20,000 flat fee plus \$2.63 per capita charge for police dispatching; and the current fee system for fire dispatching would remain in place. The cost of the needed equipment upgrade would be paid for through an existing County reserve account.

Under this proposal, the County would recover \$230,084 in fees against a total budget of \$601,452. The remaining \$371,368 would be funded through the County tax. Lewiston's share would be \$107,229, a reduction of \$47,250 in our tax.

Two issues arise from this proposal. First, the amount remaining in the County tax (\$371,368) would be \$39,861 above Commissioner Makas' estimate of the cost of providing the County's required services only, thus continuing, although at a smaller level, the current subsidy provided by Lewiston and Auburn. Second, the proposal does

not currently address how costs will be allocated going forward. As the costs of County communications increase, it could be relatively easy to allow them to fall through into the County tax rather than proportionately increasing both the tax and the fees for service. Finally, the County reserve would again be used to upgrade county equipment, although perhaps in a more justifiable way than the Lisbon proposal since the investment will be made at the County.

Final Option

There is one final option which has not been discussed in great detail but which remains available. The County could simply eliminate the discretionary services currently provided to certain municipalities and leave it up to each community to determine how best to fill the need. Either initially or at some point, this would also require the County to contract for PSAP services. While this approach eliminates paying for services not received, it does have some potential problems. First, the cost of this option is predicated on only 4 positions to cover a 24/7 operation. This may not be sufficient. Second, it would likely result in a fragmented PSAP and dispatch system that would be less effective than a single consolidated system or a limited number of PSAP/dispatch offices serving the County's population.

Conclusion

At this point, I would recommend that we continue to closely monitor the discussions that are taking place while reaffirming the principles that have guided our involvement in this issue to date:

- Addressing the funding inequity of the current system by eliminating from the County tax services which we do not receive;
- Supporting proposals that control the county-wide capital and operating costs of PSAP and emergency services systems
- Maintaining a quality emergency services communications system.

It is likely that we will be called upon to express our position over the coming weeks as this issue remains under consideration. As a result, we are also interested in hearing the views of the Council, both as to guiding principles and specific proposals.

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Resolve authorizing Phase 1 of the Pierce Street Park Improvements.

INFORMATION: The Downtown Neighborhood Action Committee has been working in concert with the Lewiston Youth Advisory Council on developing an improvement program for Pierce Street Park. The DNAC recruited an in-kind contribution from Harriman Associates for the development of a concept design for the park. The value of this work is \$4,750. The design has subsequently been reviewed at a neighborhood meeting and by the DNAC.

Phase 1 of the project is budgeted at \$63,037 (see attached budget and plan). The City Council has previously authorized \$30,000 in CDBG funds for Public Works to undertake improvements to the Park; an additional \$25,00 from CDBG was also authorized for playground equipment for the Park, subject to the contribution of matching funds. The Committee plans to undertake additional fund raising to allow other project Phases to be completed.

Public Works has indicated that it is in a position to begin work this April, but, should the project have a later start, work would have to be postponed until next year. The DNAC recently voted to request that the Council allow the work to begin this month, recognize the \$4,750 of in-kind design work as a matching contribution, and authorize up to \$3,287 in additional CDBG funds from the \$177,000 available for implementing the Downtown Neighborhood Plan so that Phase 1 can begin. As noted, the DNAC will continue its fund raising efforts.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EABIKMM

REQUESTED ACTION:

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To approve the Resolve authorizing Phase 1 of the Pierce Street Park Improvements.



**City of Lewiston Maine
City Council Resolve
April 3, 2012**



Resolve, Authorizing Phase I of the Pierce Street Park Improvements

Whereas, \$30,000 in Community Development Block Grant funds has previously been approved for Public Works to undertake certain improvements at Pierce Street Park; and

Whereas, \$25,000 in Community Development Block Grant matching funds has also been appropriated for playground equipment in Pierce Street Park; and

Whereas, the Downtown Neighborhood Action Committee has been working on this project in concert with the Lewiston Youth Advisory Council; and

Whereas, Harriman Associates has donated \$4,750 in in-kind services toward the development of a master plan for the park; and

Whereas, this plan has been reviewed and discussed at a neighborhood meeting and approved by the Downtown Neighborhood Action Committee; and

Whereas, Phase I of the project is budgeted at \$63,037 and will allow for improvements to the soccer field, basketball area, paving, painting, green space improvements, entrance signage, and creating a picnic area; and

Whereas, Public Works has indicated that it is in a position to begin work in April and, if the project does not begin this month, it is likely to be delayed due to other work commitments and schedules; and

Whereas, as a result, the DNAC has voted to ask the Council to authorize Phase I of the Pierce Park improvement project to begin and to authorize the use of \$25,000 in CDBG matching funds and up to \$3,287 in CDBG funds designated for implementing the Downtown Neighborhood Action Plan for this purpose;

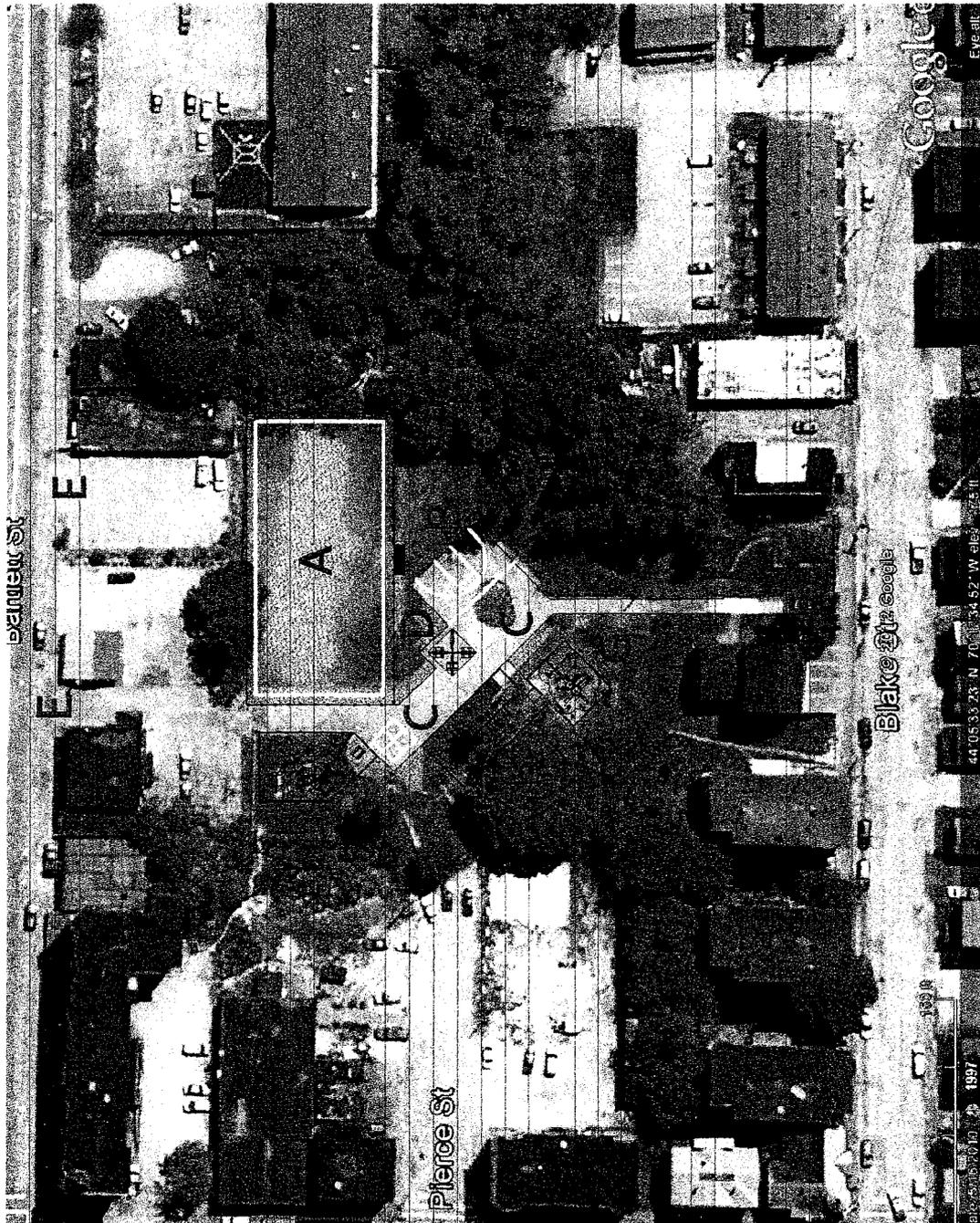
Now, therefore, be It Resolved by the City Council of the City of Lewiston that

Phase I of the Pierce Street Park Improvement project is hereby authorized to proceed and shall be funded by the following existing Community Development Block Grant appropriations: \$30,000 available to Public Works for Park Improvements; \$25,000 available as a matching grant for Pierce Street Park playground equipment; and up to \$3,287 allocated for implementation of the Downtown Neighborhood Action Plan.

Pierce Street Park

Cost Projections: Phases 1-3
(Includes Labor, Equipment, and Materials)

Item	Cost
Phase 1	\$63,037.00
Architectural Design and Planning	\$4,750.00
Soccer Field	\$23,375.00
14' and 8' Fence (contract)	\$19,875.00
Grass	\$1,000.00
Bleachers	\$2,500.00
Trash Can	\$500.00
Soccer Nets	\$1,100.00
Basketball Area	\$4,000.00
Paving, Painting, Green Space	\$14,812.00
Picnic Area	\$14,100.00
3 Picnic Tables	\$3,600.00
Trash Can	\$500.00
16'x16' Shade Structure	\$10,000.00
Entrance Signs	\$2,000.00
Phase 2	\$70,900.00
Playgrounds	\$69,900.00
Area Prep (level, fill, ADA)	\$15,000.00
6' Fence (contract)	\$8,900.00
2-5 Yrs Playground	\$13,000.00
5-12 Yrs Playground	\$20,000.00
8 Swings	\$10,000.00
3 Benches	\$3,000.00
2 Trash Cans	\$1,000.00
Phase 3	\$20,000.00
Sled Hill	\$20,000.00
Total Phases 1-3	\$153,937.00



- A Soccer Field
- B Basketball Area
- C Pave, Pointy Grass
- D Shade Structure
- E Entrance Signs
- F 3-5 yrs. Play Structure
- G 5-12 yrs. Play Structure
- H Swing Area
- I Sled Hill

Lewiston Youth Advisory Committee
 Downtown Neighborhood Action Committee
 City of Lewiston

Pierce Street Park

Lewiston, Maine

1997
 44° 05' 33.23" N 70° 13' 34.52" W
 Eye alt.
 Google Earth

LEWISTON CITY COUNCIL

MEETING OF APRIL 3, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Order Authorizing the City Administrator to execute a Letter of Agreement with FPL Energy Maine Hydro LLC regarding the purchase and sale of the Lewiston Canal System.

INFORMATION:

The City and Florida Power & Light (FPL) have been in discussions for several years regarding the acquisition of the Lewiston Canal System. This agenda item is for approval of a Letter of Agreement regarding the terms of the sale and purchase of the canal system. The City's goals have been to gain control of the canals to ensure long term water flow while minimizing any adverse impact on the City's tax rate. The draft Riverfront Island Master Plan recommends acquisition of the canals and views them as an unrecognized, blighted and underutilized asset.

Highlights of the Letter of Agreement and terms of conditions are outlined in the attached memorandum from Lincoln Jeffers, Economic and Community Development Director.

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 Letter of Agreement with FPL Energy Maine Hydro LLC regarding the purchase and sale of the Lewiston Canal System.



City of Lewiston Maine
City Council Order
April 3, 2012



Order, Authorizing the City Administrator to Execute a Letter of Agreement with FPL Energy Maine Hydro LLC Regarding the Purchase and Sale of Lewiston Canal

Whereas, the City of Lewiston and FPL have been in discussions for several years regarding the acquisition of the Lewiston Canal System by the City; and

Whereas, The City's goals have been to gain control of the canals and ensure long term water flow while minimizing any adverse impact on the City's tax rate; and

Whereas, under the terms of the letter of agreement, the City would stop generating power at Upper A; take ownership of the canals and FPL's generating assets associated with them; retain 70 cubic feet per second of water rights supplemented by scheduled flushing flows; repair leaks at dams, weirs, and gates along the canal; create a Tax Increment Financing district to use a portion of the new tax revenue generated by rubber dams being installed at the Monty to undertake canal repair; and negotiate a joint development agreement with FPL that would provide a 20% Tax Increment Financing return to FPL for their rubber dam investment; and

Whereas, the agreement provides for a sixty day due approval period in which to undertake due diligence, seek necessary approvals, and negotiate a joint development agreement and during which either party may provide notice that it does not wish to proceed; and

Whereas, while currently an unrecognized, blighted, and underutilized asset, the draft Riverfront Island Master Plan recommends that the city secure long term control of the canal network for a variety of public purposes that would allow the canals to become an asset that attracts people and investment;

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

the City Administrator is hereby authorized to execute the attached letter of Agreement with FPL Energy Maine Hydro LLC Regarding the Purchase and Sale of Lewiston Canal.



Executive Department
Lincoln Jeffers
Assistant to the Administrator



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Canal Acquisition – Letter of Agreement
Date: May 28, 2011

Staff has been in discussions with FPL Energy Maine Hydro, LLC (FPLE) for several years working to structure an agreement that would result in transfer of the canal system to the city. The portion to be conveyed is that portion of the canal system downstream of the main gatehouse.

The issues surrounding the possible transfer are diverse and complex. This memo is intended to summarize the history and major issues associated with the possible transfer. The details of the agreement are contained within the *Letter Agreement Regarding the Purchase and Sale of Lewiston Canal*, which is included in the council packet. The council is being asked to authorize the City Administrator to execute the agreement. Upon execution of the agreement a 60 day due diligence period will begin where the details of this opportunity can be more fully explored, and a final decision on whether to proceed as outlined in the agreement.

Canal System

The Lewiston Canal System is approximately 1.5 miles in length. It consists of an upper canal, lower canal, and two cross canals. The main upper canal is 4,400 feet long, Cross Canal #1 is 1,350 long, as is the lower canal. The canals vary in width between 62 feet on the upper canal and 47 feet on the lower canal. Water is controlled by the gate house at the head of the main canal; and by weirs, dams, and gates at hydroelectric sites in the canal system. The City owns the Upper Androscoggin Generating Station (Upper A), which is located at the southern end of the upper canal. FPL owns generating stations that are located inside of Bates Mill #5, Hill Mill, Continental Mill, and in independent structures at the Red Shop, and Lower Androscoggin station.

Currently, none of the generating stations fed from the canal system are generating power.

Development of the Monty Hydroelectric Station

In 1983-'84 the City of Lewiston, City of Auburn and Central Maine Power Company all filed the initial paper work to build a hydroelectric facility that would

take advantage of the elevation drop at the Great Falls of the Androscoggin River. Through negotiation it was determined that the cities would withdraw their applications in exchange for CMP moving forward with development of what is now known as the Charles E. Monty Hydro Power Plant (Monty). In exchange for the cities withdrawing their applications, CMP transferred ownership of the Upper A to Lewiston.

Water Rights

As part of the broader agreement CMP agreed to deliver historic water rights owned by the city that had been used at the site where the Monty was being built to the Upper A. intakes via the canal system. Lewiston has water rights to the first 150 cubic feet per second (cfs) of water flow. CMP had rights for the water flow between 151 cfs and 8,280 cfs. Lewiston has rights to the next 555 cfs. CMP has rights to all flowage thereafter. On average, the river flows in excess of 8,280 cfs only 30 to 45 days per year.

FPLE purchased CMP's generating assets, including the canals, in 1999.

Upper A Not Profitable

For the period between December 1984 and December 1998, CMP had a contractual obligation to purchase electricity generated at the Upper A at a rate varying between 9 and 12 cents per kWh for the majority of the contract period. During this time the Upper A was profitable. Since the contract expired, Upper A electricity has been sold on the spot market at prices ranging on average from 2 to 6 cents per kWh. Of the three turbines located at Upper A, Turbine #1 (700KW) has been non-operational since 1996. Turbine #2 (515KW) hasn't spun since 2007. It is estimated to cost \$400,000 to refurbish. Turbines #1 and #2 historically were only put in service during periods of high water and surplus flowage. Turbine #3 (480kW) generated using the city's first 150 cfs of water. It became non-operational late summer 2011. It is estimated to cost \$125,000 to repair.

Over the last several years, the Upper A has lost between \$42,000 and \$78,000 annually on operations and debt service compared to revenues. The Upper A currently has approximately \$381,500 in outstanding debt, with an annual debt payment of \$48,659 in 2012. The debt payment will decline each year (see proforma) until retired in 2027. To be able to generate revenue an estimated minimum of \$125,000 must be invested in Turbine #3, increasing and extending the debt on an asset that even without the additional debt, has not been covering its expenses. For similar reasons, recent councils have chosen not to invest in repairs to Turbine #2. The city's experience has been that turbines need to be rebuilt, on average, every 10 years

With low wholesale electric rates, more traditional and alternative energy capacity planned and coming on line, downward pressure on retail rates for New England to remain economically competitive, and the need for relatively frequent capital expenditures to maintain generating capacity, the long term prognosis for profitability is not good.

Revenue/Cost Sharing Agreement with Auburn

In 1984, Lewiston and Auburn entered into a joint agreement where Auburn receives 17.5% of the property taxes paid on the Monty. Auburn also receives 50% of the revenues generated from the surplus flowage (the 555 cfs) at the Upper A. Coterminous with their rights to 50% of surplus flowage revenues, Auburn is responsible for 17.7% of the capital expenses, maintenance, and operational expenses of the Upper A; 17.7% of the cost of the production, distribution, and sale of power; and 17.7% of Lewiston's share of the cost of canal maintenance.

Possibility of losing water rights

The city had been given early advice from outside legal counsel that if the city stopped generating power at the Upper A, FPLE would have no obligation to deliver water to the site, and the canals could go dry. When this agreement was last before the council for discussion in public session, that fact was questioned. Brann and Isaacson evaluated the possibility and determined that loss of water rights was not automatic. FPLE does not agree with that assessment. The issue has been put aside for the time being, with both the City and FPLE preferring to focus their energies to see if a mutually beneficial agreement could be reached.

Impetus for an Agreement

The canals have been a part of the fabric of Lewiston since the 1850's. For the last several decades, they have been sequestered behind chain link fence topped with barbed wire. Pedestrian bridges are severely deteriorated. The canals are an unrecognized, blighted, and underutilized asset. One of the recommendations of the draft **Riverfront Island Master Plan** is that the city explore a variety of approaches to securing long terms control of the city's canal network for a variety of public purposes. If owned by the city, they have the potential to become an asset that attracts people and investment.

Deal Structure

The City's goals in discussions with FPL have been to gain control of the canals and ensure long term water flow while minimizing any adverse impact on the City's tax rate. City ownership of the canals would allow them to be better maintained as an asset and amenity.

The following summarizes the Letter of Agreement:

- 1) City stops generating power at Upper A, surrenders FERC license
- 2) FPLE will amend its Lewiston Falls FERC license to remove the property to be conveyed from their license
- 3) Ownership of canals and hydro generating stations/equipment transfers to city. FPL retains ownership of the gate house.
- 4) City gives up all but 70 cfs of its water rights to FPL
- 5) To avoid stagnation, the canals would get flushing flows of:
 - a. An additional 224 cfs for 1 hour 2x week - June 1 –Sept 30
 - b. An additional 224 cfs for 1 hour 1x week – October 1 - May 31
- 6) Transfer to the City of CMP's environmental indemnity to FPLE
- 7) An additional \$500,000 environmental indemnity from FPLE

- 8) If desired the City may use the canals as a thermal sink for heating or cooling purposes.

City obligations:

- 9) Repair leaks at dams, weirs, and gates along the canal
 - a. estimated at \$750,000
 - b. repairs are necessary to maintain water at historic levels at reduced water flows.
- 10) Create a Tax Increment Financing district to use a portion of the new tax revenue generated by the rubber dams being installed at the Monty (Lewiston Falls FERC license) to pay canal repair debt (see proforma).
- 11) FPL receives 20 year, 20% TIF on their rubber dam investment
- 12) If the city determines in its reasonable discretion that the full 70 cfs is not needed to maintain aesthetic flows at historic levels, FPLE may request that the company be allowed to flow those waters not needed through the Monty. The city will not unreasonably withhold its approval.

Benefits

- A. Would ensure canals remain full of water at historic levels if City stops generating
- B. The Monty has much more efficient equipment and higher head than the Upper A, so the City's water allocation will generate more power flowing through the Monty.
- C. The energy potential of the canals is greater as a heat source for heat pump technology than it is for hydroelectric generation. It would take investment to capture it, but there is enough potential in the canals to heat the entire Bates Mill or another mill complex without burning fossil fuels.
- D. FPL would no longer be a tenant in Bates #5, simplifying options for how to move forward with the building.
- E. The long term operational losses and debt service at Upper A are capped

Other Considerations

- Any investment beyond stabilization of the canal to stop leaks would need to come back to Council for action
- Over the term of negotiating this agreement FPLE has invested \$8.6 million installing new turbines at Gulf Island dam and approximately \$2 million in rubber dams and other improvements at Deer Rips

Financial Implications

As noted above, over the last several years the Upper A has lost between \$42,000 and \$78,000 annually. With the turbine shut down it is no longer generating revenues, but the debt service remains as will some of the operational expenses. Some of the costs associated with staffing won't disappear, but can be redirected to other projects

Canal Maintenance Costs

The canals and generating assets to be transferred currently generate \$57,600 annually in taxes. The City has a contractual obligation to pay a share of the maintenance cost of the canals. The most recent annual fee was \$59,200. That fee is adjusted annually for inflation. In the *Annual Canal Maintenance* proforma, the payment to FPL is projected to increase 1.8% annually for the next 20 years. This is based on the city's increase in annual payments over the last 9 years.

If the City takes ownership of the canals Public Works has projected the annual maintenance cost to be \$90,000 in Year 1, \$60,000 in Year 2, and \$45,000 annually thereafter.

Over the course of 20 years the city is estimated to spend \$450,000 less in maintenance if the canals are city owned.

Tax Increment Financing

Tax increment Financing (TIF) is a statutory mechanism that allows taxes generated by new investment in a community to be used to pay for municipal debt associated with a project and/or to return a portion of the tax revenues generated by a project to the developer to assist them with their project development costs. TIFs are used to support economic development and to reduce the impacts of development on the tax rate and general fund.

The amount the City pays in County Taxes and the amount of State Revenue Sharing and State Aid for Education received is based on the City's Total Valuation. The higher the total valuation, the less money received from the state and the more paid to the County. When creating a TIF District, the amount of Assessed Valuation associated with paying TIF project costs are not included in the City's Total Valuation. Keeping that value out of the Total Valuation is called sheltering, and is one of the major benefits of TIFs to cities. Sheltering does not bring new revenue to the City, but maintains levels of state funding received that would otherwise be lost, and the level of county taxes paid which would be increased if the value was not sheltered.

Conclusion

The City is actively engaged in planning the future of the downtown. There has been a lot of focus on the canals as an unrecognized and untapped asset in both the Strategic Plan adopted by the Council last year and in the Riverfront Island Master Planning initiative that is nearing completion. They are recognized as having the potential to play a large role in the future of the community.

In May 2011 the Planning Board voted 4 to 3 to send a positive recommendation to the City Council regarding acquisition of the canals.

Next steps

The letter of agreement is among the first steps in moving forward with acquisition of the canals. Following is an outline of the steps that need to be taken.

- Council approval of Letter of Agreement
- Due diligence
 - Confirm 70 cfs will be adequate to keep canals full at historic levels
 - Review title and environmental indemnity to be provided
 - Negotiate and approve Joint Development Agreement and TIF
 - Get CMP release of FPL Continuing Site and Interconnection Agreement, to be effective at closing
- TIF approvals
- Surrender FERC license
- Transfer canals
- Engineer canal fixes
- Complete canal repairs within 1 year

I look forward to discussing this with you in workshop to see how you would like to proceed.

Canal Acquisition Proforma

FY	New AV ¹ Rubber Dams	New Taxes ²	Canal Repair Debt ³	New Tax Revenues after Debt	% of New Taxes to Debt	20% TIF to FPL	Net New Dam Taxes to General Fund	% New Dam Tax Revenue Retained by City	Existing Upper A Debt as of 6/30/2012
2013	\$ 3,400,000	\$ 87,686	\$ 71,250	\$ 16,436	81%	\$ 17,537	\$ (1,101)	-1%	
2014	\$ 3,400,000	\$ 87,686	\$ 69,563	\$ 18,124	79%	\$ 17,537	\$ 586	1%	\$ 48,659
2015	\$ 3,400,000	\$ 87,686	\$ 67,875	\$ 19,811	77%	\$ 17,537	\$ 2,274	3%	\$ 46,902
2016	\$ 3,400,000	\$ 87,686	\$ 66,188	\$ 21,499	75%	\$ 17,537	\$ 3,961	5%	\$ 45,089
2017	\$ 3,400,000	\$ 87,686	\$ 64,500	\$ 23,186	74%	\$ 17,537	\$ 5,649	6%	\$ 43,574
2018	\$ 3,400,000	\$ 87,686	\$ 62,813	\$ 24,874	72%	\$ 17,537	\$ 7,336	8%	\$ 35,529
2019	\$ 3,400,000	\$ 87,686	\$ 61,125	\$ 26,561	70%	\$ 17,537	\$ 9,024	10%	\$ 24,057
2020	\$ 3,400,000	\$ 87,686	\$ 59,438	\$ 28,249	68%	\$ 17,537	\$ 10,711	12%	\$ 18,238
2021	\$ 3,400,000	\$ 87,686	\$ 57,750	\$ 29,936	66%	\$ 17,537	\$ 12,399	14%	\$ 17,631
2022	\$ 3,400,000	\$ 87,686	\$ 56,063	\$ 31,624	64%	\$ 17,537	\$ 14,086	16%	\$ 17,081
2023	\$ 3,400,000	\$ 87,686	\$ 54,375	\$ 33,311	62%	\$ 17,537	\$ 15,774	18%	\$ 16,506
2024	\$ 3,400,000	\$ 87,686	\$ 52,688	\$ 34,999	60%	\$ 17,537	\$ 17,461	20%	\$ 15,926
2025	\$ 3,400,000	\$ 87,686	\$ 51,000	\$ 36,686	58%	\$ 17,537	\$ 19,149	22%	\$ 15,346
2026	\$ 3,400,000	\$ 87,686	\$ 49,313	\$ 38,374	56%	\$ 17,537	\$ 20,836	24%	\$ 14,764
2027	\$ 3,400,000	\$ 87,686	\$ 47,625	\$ 40,061	54%	\$ 17,537	\$ 22,524	26%	\$ 14,181
2028	\$ 3,400,000	\$ 87,686	\$ 45,938	\$ 41,749	52%	\$ 17,537	\$ 24,211	28%	\$ 8,099
2029	\$ 3,400,000	\$ 87,686	\$ 44,250	\$ 43,436	50%	\$ 17,537	\$ 25,899	30%	
2030	\$ 3,400,000	\$ 87,686	\$ 42,563	\$ 45,124	49%	\$ 17,537	\$ 27,586	31%	
2031	\$ 3,400,000	\$ 87,686	\$ 40,875	\$ 46,811	47%	\$ 17,537	\$ 29,274	33%	
2032	\$ 3,400,000	\$ 87,686	\$ 39,188	\$ 48,499	45%	\$ 17,537	\$ 30,961	35%	
Totals			\$ 1,104,375	\$ 649,345		\$ 315,670	\$ 268,741		\$ 381,582

¹ FPL projects to invest \$5 million in rubber dams at Lewiston Falls. An estimated 85% of the project is in Lewiston.

Those value have been adjusted by the 85% State Equalized Value ratio.

² Mil rate is .02579. The rate is held steady throughout the proforma, as is the assessed valuation of investments. In reality the mil rate would likely increase and the AV decline

³ \$750,000 @ 4.5% for 20 years

29-Mar-12

Other Considerations

City will lose approx, \$57,600 annually in lost property tax revenue from the canals, but will also stop paying \$59,200 Maintenance fee

City is currently losing, on average, between \$42,000 and \$78,000 annually by operating the Upper A. hydro station

City has approximately \$381,582 in outstanding debt related to Upper A

Annual Canal Maintenance

FY	Paid to FPLE today ¹	City ownership	Net
2013	\$ 59,200	\$ 90,000	\$ (30,800)
2014	\$ 60,266	\$ 60,000	\$ 266
2015	\$ 61,350	\$ 45,000	\$ 16,350
2016	\$ 62,455	\$ 45,000	\$ 17,455
2017	\$ 63,579	\$ 45,000	\$ 18,579
2018	\$ 64,723	\$ 45,000	\$ 19,723
2019	\$ 65,888	\$ 45,000	\$ 20,888
2020	\$ 67,074	\$ 45,000	\$ 22,074
2021	\$ 68,282	\$ 45,000	\$ 23,282
2022	\$ 69,511	\$ 45,000	\$ 24,511
2023	\$ 70,762	\$ 45,000	\$ 25,762
2024	\$ 72,036	\$ 45,000	\$ 27,036
2025	\$ 73,332	\$ 45,000	\$ 28,332
2026	\$ 74,652	\$ 45,000	\$ 29,652
2027	\$ 75,996	\$ 45,000	\$ 30,996
2028	\$ 77,364	\$ 45,000	\$ 32,364
2029	\$ 78,756	\$ 45,000	\$ 33,756
2030	\$ 80,174	\$ 45,000	\$ 35,174
2031	\$ 81,617	\$ 45,000	\$ 36,617
2032	\$ 83,086	\$ 45,000	\$ 38,086
Total	\$ 1,410,104	\$ 960,000	\$ 450,104

¹Canal Maintenance Agreement with FPL is tied the Gross National Product implicit price deflator and for projections increases 1.8% annually

3/28/2012

Letter Agreement Regarding the Purchase and Sale of Lewiston Canal

This Letter Agreement (“**Agreement**”), between the City of Lewiston, a Maine municipality with a mailing address of 27 Pine Street, Lewiston, ME 04240 (“**City**”), and FPL Energy Maine Hydro LLC, a Delaware limited liability company with a mailing address of 26 Katherine Drive, Hallowell, Maine 04347 (“**FPLE**”), (collectively the “**Parties**” and individually as a “**Party**”) is effective April 10, 2012 (“**Effective Date**”).

BACKGROUND

City has expressed interest in acquiring the Lewiston Canal System (“**Canal**”), so called, owned by FPLE and located in Lewiston, Maine, and FPLE has expressed interest in conveying the portion of the Canal located downstream of the Main Gatehouse to City.

The Parties agree as follows:

1. FPLE Conveyance of Property. At Closing (as defined in Paragraph 10), FPLE will convey, by quitclaimdeed, and otherwise “where is, as is,” to City for the consideration described in this Agreement, all FPLE Canal property and interests downstream of the Main Gatehouse, and the parcel of land adjacent to Cowan Mill, as described in **Exhibit 1** (the “**Property**”). Conveyance of the Property will expressly exclude the following property (collectively, “**Retained Property**”):
 - (a) the Main Gatehouse, its parking areas, and related real and personal property;
 - (b) All FPLE’s riparian, flowage and water-related easements and rights, including without exception all rights to draw water from the Androscoggin River and the Canal System. In addition, any other retained rights and easements, including but not limited to access rights on and over the Property, necessary or convenient for FPLE’s continued operation and maintenance of the Lewiston Falls Hydroelectric Project, licensed by the Federal Energy Regulatory Commission (“**FERC**”) as Project No. 2302, and other properties owned and retained by FPLE;
 - (c) the lot sold to James Grimmel, described in that certain deed to James Grimmel dated March 25, 2010 and recorded in Androscoggin County Registry of Deeds, Book 7906 at Page 243 a copy of which is attached hereto as **Exhibit 1(c)**; and
 - (d) certain limited personal property of FPLE to be identified by notice from FPLE to City within sixty (60)days after the Effective Date of this Agreement, which notice shall be attached to this Agreement as **Exhibit 1(d)**.

2. Title to Property. Conveyance of the Property to City shall, as more particularly set forth in Paragraph 1 of this Agreement, be subject to (or as appropriate, exclude) the Retained Property. FPLE has provided City with a list of encumbrances known to FPLE and affecting the Property as identified from FPLE's lender's existing title insurance policy for the Property, attached to this Agreement as **Exhibit 2**. FPLE has no obligation, however, to update the title insurance policy for the Property, to order an updated title search for the Property, or to perfect or warranty title to the Property.
3. Assignment of CMP Indemnity Rights. At Closing, FPLE will, subject to the consent of Central Maine Power Company ("**CMP**"), which consent FPLE will use commercially reasonable efforts to secure, partially assign the CMP environmental indemnities for the Property to City to the extent such indemnities (for environmental matters existing on the Property prior to FPLE ownership) relate to the Property ("**CMP Indemnities**"). The assignment of the CMP Indemnities shall not require any City payment to CMP or FPLE, nor payment from FPLE to CMP. City will cooperate with FPLE to secure CMP's consent to such assignment. As described in Section 9(d) such FPLE partial assignment and CMP consent is a condition of Closing, which the City may waive in its discretion.
4. FPLE Indemnification. At Closing, FPLE will, by separate agreement, indemnify City against claims, losses or expenses (including attorneys' fees) arising from or related to any future required environmental clean-up arising from FPLE's non-compliance with environmental law or regulation, provided that FPLE shall not be required to indemnify City to the extent that such clean-up was caused or aggravated by City or its successor's actions or is within the scope of the CMP Indemnities if the CMP Indemnities have been assigned to the City. Notwithstanding anything in this Agreement to the contrary, FPLE's collective maximum indemnification liability to the City shall be limited to no more than Five Hundred Thousand Dollars (\$500,000).
5. City Retirement of Upper Androscoggin Station. City shall retire, as of the Closing Date, City's Upper Androscoggin generating station (FERC Project No.11006) and, at Closing, will convey to FPLE all of its riparian, flowage and water-related rights, except the City's rights to the first 70 cubic feet per second ("**CFS**") of water flow, which City will retain as further described below. City's conveyance of such rights will be by quitclaim deed.
6. Joint Development Agreement. On or before the Closing, City and FPLE will enter into a Joint Development Agreement that will include the following:
 - (a) City's creation of an Infrastructure and Credit Enhancement Tax Increment Financing ("**TIF**") District, subject to the approval of the Maine Department of Economic and Community Development ("**DECD**"), that captures for a period of 20 years the incremental tax revenues associated with the net increased assessed value associated with the installation of inflatable rubber dams at the Lewiston Falls Project (Project No. 2302) and utilizes a portion of the incremental tax revenues to (i) defray the financing costs of the Repairs (as

defined in Paragraph 11); and (ii) reimburse to FPLE 20% of the total tax increment generated as a credit enhancement TIF payment.

7. Approval Period. Each party has 60 days after the Effective Date (“**Approval Period**”) for due diligence. During this period, City shall determine whether the 70 CFS reservation of water rights described in Paragraphs 5 and 11 is sufficient for its needs. In addition, during the Approval Period:

- (a) The Parties will negotiate the Joint Development Agreement;
- (b) FPLE will secure the necessary corporate approvals of senior management for the transactions contemplated herein
- (c) City will secure the necessary approval of the City Council.

In the event that either Party provides notice to the other Party within the Approval Period that it does not intend to proceed with the transactions contemplated by this Agreement, then neither Party shall have any further obligation to the other under this Agreement. If neither Party provides such notice during the Approval Period, then this Agreement shall be binding on both Parties after the Approval Period, subject only to the conditions set forth in Paragraphs 8 and 9.

8. Regulatory Approvals. If neither Party has terminated this Agreement pursuant to Paragraph 7, then before the Closing the Parties shall cooperate and consult with each other to obtain regulatory approvals as described below:

- (a) At FPLE’s expense, FPLE will use commercially reasonable efforts to obtain the following regulatory approvals:
 - (i) FERC approval for removal of the Property from FPLE’s FERC license by license amendment;
 - (ii) ISO-New England approval of Canal system generation retirement, or waiver of this condition by FPLE; and
 - (iii) Any other regulatory approval necessary for FPLE’s consummation of this Agreement.
- (b) At City’s expense, City will use commercially reasonable efforts to obtain the following regulatory approvals:

- (i) FERC approval of surrender of Lewiston's FERC license for the Upper Androscoggin Station and decommissioning of City's turbines; and
- (ii) Any other regulatory approval necessary for City's consummation of this Agreement.

9. Conditions Precedent. The following are conditions precedent to Closing:

- (a) FPLE must secure the regulatory approvals described in Paragraph 8 (a).
- (b) FPLE must secure a release of the Property from its mortgage.
- (c) FPLE and City must secure Amendment of the Lewiston Falls Project Agreement, if applicable
- (d) FPLE must secure CMP's approval of the assignment of the CMP Environmental Indemnities.
- (e) City must secure approval by the DECD of the TIFs described in the Joint Development Agreement.
- (f) City must secure the regulatory approvals described in Paragraph 8(b).
- (g) Within 60 days of the Effective Date, at the City's option and in its sole discretion, the City may obtain a full release from CMP, acceptable to FPLE, of FPLE's obligation under the Continuing Site and Interconnection Agreement to be effective at Closing as it pertains to the Property. If the City does not obtain such release and provides notice in writing to FPLE within 60 days of the Effective Date, this Agreement shall terminate and the Parties shall have no further obligations or liability to each other under this Agreement.

10. Closing.

- a. Closing Date. The closing ("**Closing**") will take place in the City Attorney's offices 10 days after the last to occur of the conditions precedent set forth in Paragraphs 8 and 9 if that day is a business day, and if not a business day, on the next business day, unless the Parties agree to a different time and place.
- b. Termination Rights. The Parties anticipate that the Closing will occur on or before November 20, 2012 ("**Outside Closing Date**") and agree to work diligently to complete the Closing by the Outside Closing Date. If the Closing does not occur by the Outside Closing Date and the Parties do not agree in writing to an extension, this Agreement shall be null and void and neither Party shall have any further obligation to the other under this Agreement.

- c. Closing Documents. The following documents shall be delivered by the Parties at Closing:
- i. Quitclaim deed conveying the Property to City and, if appropriate, bill of sale for personal property transferred by FPLE to City, if any;
 - ii. CMP's release of FPLE under the Continuing Site/ Interconnection Agreement as it relates to the Property;
 - iii. The Joint Development Agreement between City and FPLE that specifies the rights and obligations of each Party, and that outlines the terms of the TIF Agreement consistent with the provisions of this Agreement;
 - iv. Quitclaim deed conveying City's water rights to FPLE and changing the nature and location of delivery of City's retained water rights;
 - v. Water release agreement between City and FPLE, if applicable;
 - vi. Amendment of the Lewiston Falls Project Agreement, if applicable;
 - vii. Release of mortgage or other encumbrances, as applicable, for the Property;
 - viii. Other agreements or documents as may be necessary or desirable to consummate the provisions of this Agreement.
- d. Costs. The Parties agree that the costs of all transfer taxes and recording fees due as a result of the transactions under this Agreement shall be paid by each Party at Closing as required by Maine law. Each Party will be responsible for its own respective costs to prepare and review the Closing documents and to make the appropriate regulatory filings. Other applicable charges (such as utilities and license fees) applicable to the Property shall be prorated as of the Closing Date as appropriate.

11. Post Closing Obligations. If the Parties close as provided in Paragraph 10, the Parties agree as follows:

- a. During the period commencing on the Closing Date and continuing until up to 6 months thereafter (the "**Interim Period**"), FPLE will maintain a flow of water within the Canal from the Main Gatehouse into the Canal sufficient to maintain the water level in the Canal at or near typically historic operational levels when generating power.

The intent of this provision is to maintain the water level in the Canal at typical historic levels, but in no case shall FPLE be required to release more than 150 CFS, other than as necessary for flushing flows, which City may request as provided in Paragraph 11(e). City will be obligated during the Interim Period to use reasonable efforts to maintain the Canal in such a manner that the leakage, as measured by total discharge from the Main Gatehouse, is not more than the greater of (“Maximum Leakage Level”) (i) thirty percent (30%) more than the leakage as measured by FPLE and witnessed by the City at or about the date of Closing, or (ii) 70 CFS. City may request that FPLE close the gates as an alternative to maintaining the Maximum Leakage Level, and in the event that leakage levels exceed the Maximum Leakage Level for a consecutive period of 14 days, FPLE may close the gates, as its sole remedy for the failure of City to maintain such leakage level and provide notice to City of the same. City will allow FPLE to inspect Canal leakages and to repair or modify the Canal as may be commercially cost effective at FPLE’s sole expense as determined by FPLE in its sole and absolute discretion should FPLE desire to further reduce leakage.

- b. On the day after the completion of the Interim Period, as noticed in writing to FPLE from City, the repair period (“**Repair Period**”) will begin and the flow of water within the Canal will be reduced, as requested by City, to as low as gate leakage by FPLE, and no more than 70 CFS in order to allow City to drain the Canal to perform commercially reasonable repairs and modifications to the Canal system (the “**Repairs**”) to reduce the total flow required by City from the Main Gatehouse to the Canal to no more than 70 CFS thereafter.
- c. As soon as practicable after the completion of the Repair Period, FPLE or its successors or assigns to the Lewiston Falls Hydroelectric Project, shall deliver to City flows of 70 CFS, as measured and delivered at FPLE’s Main Gatehouse, for the sole purpose of aesthetic flows to maintain the appearance of the Canal. FPLE will provide said flows by opening a gate at the Main Gatehouse (or other similar low cost measures). It is understood that City may request adjustments to the discharged amounts on a weekly basis to discharge less than 70 CFS by notifying FPLE one business day in advance of the requested change. Notwithstanding the prior sentence, in case of emergencies FPLE will respond with less notice and with reasonable promptness to reduce the flow. The deliveries of flow shall be subject to reasonable interruptions including during times of FPLE maintenance such as on the gates at the Main Gatehouse, during replacement of flashboards at the Lewiston Falls dam, and during force majeure events.
- d. If City determines in its reasonable discretion that the full 70 CFS retained by City for the sole purpose of aesthetic flows to maintain the appearance of the Canal is not required and provides written notice thereof to FPLE, FPLE may utilize, upon consent of City, which shall not be unreasonably withheld, the

balance of water for its purposes at no cost. It is understood that the City may utilize the water quantity established for aesthetic purposes for other secondary purposes, such as serving as a thermal sink for heating or cooling purposes. However, the City's reserved water may not be used by the City for power generation purposes.

- e. In addition to the above reserved water rights of City, City shall have the right to request flushing flows, for the purpose of alleviating water quality issues associated with stagnation, in the amounts of:
 - i. up to an additional 224 CFS (294 CFS total) for up to one hour duration up to a frequency of twice a week during the period extending from June 1st to September 30th of each year to the extent reasonably necessary to reduce stagnation issues in the Canal system; and
 - ii. up to 224 CFS (294 CFS total) for up to one hour duration up to a frequency of once a week for the period extending from October 1st to May 31st of each year to the extent reasonably necessary to reduce stagnation issues in the Canal system.

City will use reasonable methods to minimize such requests, it being recognized that little to no flushing flows may be necessary with the 70 CFS reserved flow of City for aesthetic purposes.

- f. The delivery of flushing flows and water flow within the Canal are subject to periodic interruption during FPLE maintenance such as on the gates at the Main Gatehouse, replacement of flashboards at the Lewiston Falls dam, and during force majeure events.

12. Miscellaneous.

- a. Notwithstanding any provision contained in this Agreement, neither Party shall be liable to the other to the extent performance of this Agreement is delayed or prevented by force majeure. This clause shall not apply to the payment of money by a Party.
- b. This Agreement may not be assigned by either Party, by operation of law or otherwise, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- c. Nothing contained in this Agreement shall be construed to make either Party a partner, joint venturer, or agent of the other.
- d. All notices required under this Agreement shall be in writing and shall be effective upon receipt or refusal when personally delivered, or sent to the address of a Party specified above by:

- i. first class U.S. mail, registered or certified, return receipt requested, postage pre-paid; or
 - ii. Express mail, or other, similar overnight courier service.
- e. Headings in this Agreement are for reference purposes only and shall not affect the interpretation or meaning of this Agreement.
- f. This Agreement shall be executed in counterparts, each of which shall be deemed an original but all of which together constitute one and the same agreement.
- g. No delay or omission by either Party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.
- h. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, then the remaining provisions of this Agreement will remain in full force and effect.
- i. If any legal action or arbitration proceeding has commenced in connection with the enforcement of this Agreement or any instrument or agreement required under this Agreement, the prevailing Party shall be entitled to attorneys' fees actually incurred, costs and necessary disbursements incurred in connection with such action or proceeding, as determined by the court or arbitrator.
- j. This Agreement shall be governed by Maine law. The parties agree that the Joint Development Agreement or another agreement exchanged at closing shall provide for arbitration of any disputes arising or relating to this Agreement and the Joint Development Agreements. The arbitration provisions shall be governed by the commercial arbitration rules of American Arbitration Association.
- k. This Agreement, together with any attached exhibits, constitutes the entire agreement between the Parties with respect to its subject matter. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly contained in this Agreement. This Agreement supersedes all prior negotiations, agreements, and undertakings between the Parties with respect to such matter. This Agreement may be amended only by an instrument in writing executed by the Parties or their permitted assignees.

[SIGNATURE PAGE FOLLOWS]

CITY OF LEWISTON

FPL ENERGY MAINE HYDRO LLC

By:
Its:

By:
Its:

EXHIBIT 1

Description of Property

EXHIBIT 1(a)

Grimmel Deed

EXHIBIT 1(b)

FPLE Retained Personal Property

EXHIBIT 2

**Schedule B of FPLE Lender's Title Policy June 21, 2007
Exceptions from Coverage**