

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
JUNE 5, 2012**

6:00 p.m. Executive Session - To discuss Acquisition of Property 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.

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 4.

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

- * 1. Ratification of appointment of Public Health Committee members.
- * 2. Appointment to the Board of Library Trustees.
- * 3. Resolve accepting donations for the purpose of sponsoring performing arts programs for children within the Lewiston and Auburn area.
- * 4. Resolve accepting donations for the purpose of installing a flag pole and bench at the Lewiston Memorial Armory.
- * 5. Order approving annual reports for Affordable Housing Tax Increment Financing Districts known as Community Concepts, Inc., Birch Hill Senior Housing Associates, 81 Ash Street Affordable Housing Development and Lofts at Bates Mill.
- * 6. Order authorizing the City Administrator to execute documents and accepting property and an easement at the intersection of Marguerette Street and Jeannette Avenue.
- * 7. Appointment to the Cable Television Advisory Board.

REGULAR BUSINESS:

- 8. Public Hearing and Final Passage regarding amendments to the General Assistance Ordinance regarding burials and cremations.
- 9. Public Hearing and First Passage regarding an amendment to the Vegetation Ordinance to establish regulations for the Community Forest.
- 10. Public Hearing and First Passage regarding an amendment to the Business Licensing ordinance pertaining to second hand dealers.
- 11. Public Hearing for approval of an Outdoor Entertainment Permit for the Lewiston Farmers Market concerts.
- 12. Public Hearing for approval of outdoor concerts sponsored by L/A Arts at Dufresne Plaza.

13. Public Hearing for approval of outdoor concerts located around the City for the Bands on the Run half marathon event.
14. Condemnation Hearing for the building located at 357 Sabattus Street.
15. Condemnation Hearing for the building located at 72 Wellman Street.
16. Condemnation Hearing for the building located at 220 Park Street.
17. College Street Speed Hump Alternatives.
18. Amendments to the General Assistance Policy.
19. Order authorizing the City Administrator to execute an amendment to the Letter of Agreement with FPL Energy Maine Hydro, LLC - Extension of due diligence period - Canal Acquisition.
20. Approval of the Election Warrant for a Special Municipal Election to be held on Tuesday, July 10, 2012 for a Referendum for a School Construction Project and recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct said election.
21. Appointment of the City Council's representative to the Lewiston Auburn Public Health Committee and City Council's representative to the City's Loan Qualification Committee.
22. Order authorizing the City Administrator to execute a new Collective Bargaining Agreement with the Maine Association of Police, Lewiston Patrol Unit.
23. Reports and Updates
 - a) Update on "Business Friendly Community" state application process.
24. Any other City Business Councilors or others may have relating to Lewiston City Government.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6:00pm

SUBJECT:

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

INFORMATION:

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAJ/Kmm

REQUESTED ACTION:

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

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Ratification of appointment of Public Health Committee members.

INFORMATION:

Deputy City Administrator Phil Nadeau provides staff support to the Lewiston-Auburn Public Health Committee. Committee members have been selected based upon the various organizations they represent. The Council is asked to ratify this list of appointments to the Committee. The Auburn City Council will be acting on these appointments as well.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Appointments to Boards and Committees are a policy decision of the Council.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To ratify the appointment of the following members to the Lewiston Auburn Public Health Committee:

- 1) Mental Health Representative: Catherine Ryder, Tri-County Mental Health - term expires October 22, 2014

- 2) Lewiston-Auburn Business Representative: Diane Stevens, Oxford Networks - term expires October 22, 2014

- 3) Androscoggin Sheriff Department: Theresa Kesteloot - term expires October 22, 2014



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



MEMORANDUM

TO:	City of Lewiston & Auburn Mayor and City Council
FROM:	Phil Nadeau, Deputy City Administrator
DATE:	May 24, 2012
RE:	L-A Public Health Committee By-Law Amendments

1. BACKGROUND

Recently, the City Councils in Lewiston and Auburn approved amendments to the Lewiston-Auburn Public Health Committee By-Laws and also approved the following individuals for appointment to the committee:

- 1 Steve Johndro - Healthy Androscoggin – term expires 10/22/2013
- 2 Patrice Rossini - Lewiston Public Schools – term expires 10/22/2013
- 3 Pam Stinson - Auburn Public Schools – term expires 10/22/2014
- 4 Douglas Divello - Central Maine Medical Center-Admin – term expires 10/22/2014
- 5 Dr. Edmund Claxton - Central Maine Medical Center-Clinical – term expires 10/22/2014
- 6 Rene Dumont - St. Mary's Health Systems-Admin – term expires 10/22/2014
- 7 Stacy Paradis - St. Mary's Health Systems-Clinical – term expires 10/22/2010
- 8 MaryAnn Amrich - Maine CDC - District Health Officer – term expires 10/22/2013
- 9 Ronella Paradis - Maine CDC - Public Health Nurse – term expires 10/22/2013
- 10 Connie Jones - Seniors Plus – term expires 10/22/2013
- 11 Joanne Potvin - Androscoggin County EMA – term expires 10/22/2014
- 12 Qamar Bashir - Catholic Charities Maine – term expires 10/22/2014
- 13 **VACANT** - Mental Health Representative – term expires 10/22/2014
- 14 Fatuma Hussein - Ethno Based MAA/United Somali Women of Maine – term expires 10/22/2013
- 15 **VACANT** - Auburn City Council Representative – term expires December 2013
- 16 Ronald Jean - Lewiston City Council Representative – term expires January 2012
- 17 Dr. Brenda Joly - Research Associate and Faculty,USM,Portland - General Public/Auburn Resident or Non-resident/City of Auburn – term expires 10/22/2013
- 18 Heather Lindkvist - Bates Adjunct Prof - Non-resident General Public/Lewiston Resident or Non-resident City of Lewiston – term expires 10/22/2013
- 19 Larry Marcoux - General Public/City Resident Only City of Auburn – term expires 10/22/2014
- 20 **VACANT** - Lewiston or Auburn Business Sector – term expires 10/22/2014
- 21 Marcia Miller - Maine DHHS - Maine Care – term expires 10/22/2014
- 22 Dot Meagher - Auburn Local Health Officer – term expires 10/22/2014
- 23 Gil Arsenault - Lewiston Local Health Officer – term expires 10/22/2014
- 24 Heidi Mallis - Maine CDC - Western Maine Epidemiologist – term expires 10/22/2014
- 25 Sgt. James Lawlor - Auburn Police Department – term expires 10/22/2014
- 26 Lt. Michael McGonagle - Lewiston Police Department – term expires 10/22/2014
- 27 **VACANT** - Androscoggin Sheriff Department – term expires 10/22/2014
- 28 Dr. Karen Palin - Health Research/Data Liaison Bates College – term expires 10/22/2014

Following your action to appoint these nominees, several positions remained vacant. Those were: Mental Health Representative; Androscoggin Sheriff Department; and an individual to fill the Lewiston/Auburn Business Sector position. I am happy to report that the committee has voted to support the list of nominees that are submitted below.

Additionally, the LAPHC wishes to remind both City Councils that the vacant Mayor/Council representative positions on our committee have not been filled to date.

2. RECOMMENDED ACTION

To ratify the appointment of the following Lewiston-Auburn Public Health Committee nominees:

They are:

- A. Mental Health Representative: Catherine Ryder, Tri-County Mental Health – term expires 10/22/14
- B. Lewiston-Auburn Business Representative: Diane Stevens, Oxford Networks – term expires 10/22/14
- C. Androscoggin Sheriff Department: Theresa Kesteloot – term expires 10/22/14

LEWISTON CITY COUNCIL
MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Appointment to the Board of Library Trustees.

INFORMATION:

The Mayor is nominating Zam Zam Mohamud of 66 Tall Pines Drive to serve as a member of the Board of Library Trustees. This is a three year term, but this appointment is filling a vacancy due to a resignation, and therefore will expire January 7, 2013. The Library Director supports this appointment and Council confirmation is requested.

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 confirm the Mayor's nomination of Zam Zam Mohamud of 66 Tall Pines Drive to serve as a member of the Board of Library Trustees and to appoint Ms. Mohamud as a member of the Board of Library Trustees for a three year term, said term to expire January 7, 2013.

RECEIVED

MAY 17 2012

ZamZam Ali Mohamud

[REDACTED]
Lewiston, Maine
[REDACTED]
[REDACTED]

LEWISTON
CITY CLERK'S OFFICE

My name is ZamZam Mohamud, I have lived in Lewiston since 2001. I am a lifelong learner and completed a Certified Nursing Assistant course. I graduated from the Central Maine Medical Center School of Nursing. I have been working as a Certified Nurse Assistant at CMMC since 2002 – celebrating my 10 years of service this summer.

In addition to my work I am an active member of the community. The Lewiston library is a beacon to our community and I have grown with it since my arrival in Lewiston. I am familiar with the Library's objective of providing "equal opportunity and access to all" and as a "foundation of lifelong learning in our community." This is an institution that I am proud of and would like to be associated with.

As a single mother who raised 2 kids in Lewiston I have been blessed to give back to this wonderful community in various capacities. I am a member of the advisory board of the School-Based Health Centers located in the high and middle schools in Lewiston and Auburn operated by Community Clinical Services, a Federally Qualified Health Center, affiliated with St. Mary's Health System. I am a member of the Lewiston Police Department's Civil Rights Team and also serve as a member of the Central Maine Medical Center School of Nursing Advisory board. I am honored to mention that I am also a member of "Welcome in Maine" committee.

I have always diligently and voluntarily served my community as a member of the Lewiston school district and participated in the Lewiston Middle and High Schools' Community Advisory Board. I led a volunteer effort to provide formal attire and dinner for homeless students to attend the Lewiston High School Prom. This past October, I participated in a panel discussion with other parents as part of the New England Association of School and Colleges' accreditation of Lewiston High School. I served on the Superintendent Search Committee and the Mayor's Downtown Neighborhood Task Force that the Library was a huge focus as part of the community's revitalization. As charity begins at home, I continue to participate in the River Valley Village Residents' Board where I reside.

I believe I am an asset to this board because:

- I am bilingual and fluent in 3 languages and have a long history of volunteerism.
- My children have both volunteered and worked in the Library through the years.
- My ability to communicate and work well with others is profound.
- I bring a large net work that I have developed in the years.
- Contribute to the diversity and representation of our community's changing demographics.
- Self-selected life member of the Lewiston Library!
- Last, I believe that knowledge is power and education is the key to success.

I humbly apply to participate in this important community service right in the Center of our great City.

Respectfully,

ZamZam Mohamud.

ZamZam Mohamud

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Resolve Accepting Donations for the purpose of sponsoring performing arts programs for children within the Lewiston and Auburn area.

INFORMATION:

The Lewiston and Auburn Recreation Departments work together to bring the Wednesdays in the Park program to both communities. The performing arts program has been operating in Lewiston for 33 years. Local businesses and organizations contribute to underwrite the entire operating budget for the program.

The Council is asked to vote to accept the donations for this program.

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 adopt the Resolve accepting donations for the purpose of sponsoring performing arts programs for children in the Lewiston and Auburn area.



City of Lewiston, Maine
City Council Order
June 5, 2012



RESOLVE, Accepting Donations for the Purpose of Sponsoring Performing Arts Programs for Children within the Lewiston and Auburn Area.

Whereas, The Lewiston Department of Recreation and the Auburn Parks and Recreation Department combine efforts to bring the Wednesdays In The Park program to both Communities; and

Whereas, Wednesdays In The Park celebrates its thirty-third season of performing arts this year; and

Whereas, for five weeks during the summer months, various performers will entertain hundreds of children at different park sites throughout Lewiston and Auburn; and

Whereas, Local businesses and organizations donate funds to support the entire operating budget for the Wednesday's In The Park program;

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

the City Administrator is authorized to accept the donations and promotion from the following local businesses and organizations that will allow the Wednesdays In The Park Program to operate:

2012 WEDNESDAYS IN THE PARK SPONSORS

ACA Dr. Paul Fortier Chapter 52	\$100
Auburn Exchange Club	\$250
Franco American War Veterans Inc. Post 31	\$50
Great Falls Security Systems	\$50
Lewiston Housing Authority	\$25
Liberty Mutual	\$1,000
Mechanics Savings Bank	\$125
Maine Family	\$100
Pike Industries	\$100
Platz Associates	\$50
Sam's Italian Sandwich Shoppes	\$50
Shaw's Supermarkets	\$100
Tambrand's	\$500
Total	\$2500

Be it Further Resolved that

the City Council expresses its thanks and appreciation to local businesses and organizations that have contributed funding and promotion to make this program possible.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Resolve Accepting Donations for the purpose of installing a flag pole and bench at the Lewiston Memorial Armory.

INFORMATION:

The Lewiston Lodge of Elks and other sponsors have donated \$3,500 to purchase and install a flag pole and bench at the Lewiston Memorial Armory. This donation will complement the work currently underway at the Armory and will eliminate the necessity of periodically accessing the building flag pole mounted on the roof.

The Council is asked to vote to accept the donation.

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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To adopt the Resolve accepting donations for the purpose of installing a flag pole and bench at the Lewiston Memorial Armory.



**City of Lewiston, Maine
City Council Order
June 5, 2012**



RESOLVE, Accepting Donations for the Purpose of installing a Flag Pole and Bench at the City of Lewiston Armory.

Whereas, this project originated with the Lewiston Elks Lodge #371; and

Whereas, the Benevolent and Protector Order of Elks is a patriotic organization dedicated to promoting Americanism and supporting our nation's youth, veterans, and charities; and

Whereas, the Elks, in conjunction with other sponsors, has offered to donate \$3,500 to purchase and install a flag pole and bench at the Lewiston Armory; and

Whereas, this donation will complement work currently underway at the Armory and will eliminate the necessity of periodically accessing the flag pole mounted on the roof; and

Whereas, a groundbreaking ceremony for the donated flag pole and bench will be held in conjunction with Flag Day and will be facilitated by the officers and members of the Lewiston Elks Lodge and other local sponsors; and

Whereas, the Flag Day aspect of the festivities will commemorate the 235th anniversary of the adoption of the Star Spangled Banner as the official United States of America flag, which was signed into law by the Second Continental Congress on June 14, 1777.

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

the City Administrator is authorized to accept donations in the amount of \$3,500 for a flag pole and bench from the Lewiston Elks Lodge #371 and local sponsors for the purpose of relocating the flag pole from the roof to ground level in front of the Armory.

Be it Further Resolved that

the City Council expresses its thanks and appreciation to the Lewiston Elks and local sponsors that have contributed funding to make this project possible.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Order approving annual reports for Affordable Housing Tax Increment Financing Districts known as Community Concepts, Inc., Birch Hill Senior Housing Associates, 81 Ash Street Affordable Housing Development and Lofts at Bates Mill.

INFORMATION:

As part of its requirements for the Affordable Housing TIF (Tax Increment Financing) that the City received from the Maine State Housing Authority (MSHA) for the Community Concepts Bates Street Senior Housing project, the Birch Hill Elderly Housing Associates project the 81 Ash Street Affordable Housing Development and the Lofts at Bates Mill project, the City is required to file an annual report certifying that the terms of the TIF agreement are being met and that any TIF revenues generated are being used as approved. MSHA requires that this report be certified by the municipality's legislative body.

Please reference the memo from Lincoln Jeffers for additional information. Passage is requested.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

ERISKMM

REQUESTED ACTION:

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To adopt the Order approving the annual reports for Affordable Housing Tax Increment Financing Districts known as Community Concepts, Inc., Birch Hill Senior Housing Associates, 81 Ash Street Affordable Housing Development and Lofts at Bates Mill.



City of Lewiston Maine

June 5, 2012

Order, Approving Annual Reports for Affordable Housing Tax Increment Financing Districts known as Community Concepts, Inc, Birch Hill Senior Housing Associates, 81 Ash Street Affordable Housing Development and Lofts at Bates Mill

WHEREAS, MaineHousing requests the legislative body of the municipality to certify that the public purpose of affordable housing districts is being met; and

WHEREAS, the municipality is requested to further certify that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the Districts and the related Affordable Housing Development Programs are being maintained;

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

The annual reports for Tax Year April 1, 2011 to March 31, 2012 for the Affordable Housing Tax Increment Financing Districts known as Community Concepts, Inc, Birch Hill Senior Housing Associates, 81 Ash Street Affordable Housing Development, and Lofts at Bates Mill are hereby approved and City staff is hereby authorized to submit these reports, as approved, to MaineHousing on the City's behalf.



Executive Department
Lincoln Jeffers
Assistant to the Administrator



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Annual Housing TIF District Reports
Date: May 31, 2012

Under Maine's affordable housing tax increment financing legislation, annual reports are required for each TIF district within a municipality. Attached are the Annual Reports for the Tax Year April 1, 2011 to March 31, 2012 for Lewiston's four approved Affordable Housing Tax Increment Financing (AHTIF) Districts. This report is required to be approved by the legislative body of the municipality annually for each active AHTIF district. These four Districts are designated for the Community Concepts Inc. Bates Street Senior Housing, the Birch Hill Elderly Housing Associates project, the 81 Ash Street Senior Housing project, and the Lofts at Bates Mill family housing project. The following is brief status update on each project.

CCI Bates Street Senior Housing

This project was fully completed in March 2008 and began renting up in April. The 30 units in the complex reached 100% occupancy in fall 2008, and 30 of the 30 (100%) were occupied at the end of the reporting year (March 31). According to the terms of the TIF agreement, CCI is entitled to receive an 80% reimbursement of incremental property taxes paid on this property during the first five years of the 20-year TIF agreement. During this reporting year, this 80% reimbursement amounted to \$29,153, which were designated to offset operating costs and fund capital reserves at the building.

Birch Hill Elderly Housing Associates

This 20-unit affordable senior housing project broke ground in March 2009 and was opened in February 2010. As of March 31, 20 of the 20 units (100%) were rented. Based upon the formula of TIF revenue reimbursement established for the District, this TIF returned \$10,179 to the project to offset operating costs.

81 Ash Street Affordable Housing Development

This 32-unit affordable senior housing project is an adaptive reuse of the historic Healy Asylum property on Ash Street. Construction began in February 2011 and it started welcoming tenants in February 2012. This TIF will return 60% of

incremental property tax revenues for the 17-year life of the TIF. No TIF revenues were reimbursed during this reporting period.

Lofts at Bates Mill

This project is a mixed income family development that will feature 33 affordable housing units along with 15 market rate units. It will be located on four floors in the Bates Mill #2. Construction began in January 2012 and is expected to be complete by the end of the year. The TIF is designed return 50% of incremental property tax revenue to the project over 15 years. No TIF revenues were reimbursed during this reporting period.

Annual Report for Tax Year April 1, 2011 – March 31, 2012
 Affordable Housing Tax Increment Financing District
 Submission Deadline of April 30, 2012

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers
 Printed name

Signature _____ Date June 6, 2012

Title: Director of Economic and Community Development
 Mailing address: 27 Pine Street
 Phone number: 207-513-3014
 Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

Community Concepts, Inc.

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

June 5 , 2012

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	0	0
Rental (senior)	30	0	0	0
Owned home/condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

None

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

No changes from approved Development Program. TIF revenues of \$29,153.02 were reimbursed to the developer during the period. TIF revenues are used to offset operational expenses and to fund capital reserves as indicated in the original program.

Annual Report for Tax Year April 1, 2011 – March 31, 2012
 Affordable Housing Tax Increment Financing District
 Submission Deadline of April 30, 2012

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers
 Printed name

Signature _____ Date June 6, 2012

Title: Director of Economic and Community Development
 Mailing address: 27 Pine Street
 Phone number: 207-513-3014
 Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

Birch Hill Elderly Housing Associates

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

June 5, 2012

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	0	0
Rental (senior)	20	0	0	0
Owned home/condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

None

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

No changes from approved Development Program. Construction for the project was begun in March 2009 and the project opened in February 2010. TIF Revenues totaling \$10,178.62 were reimbursed to the developer during this reporting period. The TIF Revenues were used to help offset operational costs and to keep rents within the affordability limits as specified in the Development Program.

**Annual Report for Tax Year April 1, 2011 – March 31, 2012
Affordable Housing Tax Increment Financing District
Submission Deadline of April 30, 2012**

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers
Printed name

Signature _____ Date June 6, 2012

Title: Economic and Community Development Director
Mailing address: 27 Pine Street
Phone number: 207-513-3014
Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

81 Ash Street Affordable Housing Development

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

June 5 , 2012

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	0	0
Rental (senior)	32	0	0	0
Owned home/condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

None

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

No changes from approved Development Program. Project was completed and began welcoming tenants in February 2012. No TIF revenue reimbursements were made during the reporting period.

**Annual Report for Tax Year April 1, 2011 – March 31, 2012
Affordable Housing Tax Increment Financing District
Submission Deadline of April 30, 2012**

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers
Printed name

Signature _____ Date June 6, 2012

Title: Director of Economic and Community Development
Mailing address: 27 Pine Street
Phone number: 207-513-3014
Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:
Lofts at Bates Mill

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

June 5, 2012

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	33	15
Rental (senior)	0	0	0	0
Owned home /condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

None

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

Under the approved Development Program construction was slated to begin in August 2011. Complexities in financing and legal documentation caused the start of construction to be delayed until January 2012. The current project schedule is for construction to be complete and for lease up to begin in December 2012. No TIF revenues were disbursed during the reporting period.

LEWISTON CITY COUNCIL
MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Order Authorizing the City Administrator to execute documents and accepting property and an easement at the intersection of Marguerette Street and Jeannette Avenue.

INFORMATION:

The property owners of 36 Jeannette Avenue recently discovered their property deed seems to include a portion of land that is part of the intersection of Marguerette Street and Jeannette Avenue. A review of the City records found no documents indicating the City has ever officially taken ownership of the property. The property owners have signed a quit claim deed to officially transfer the property and related pedestrian easement rights to the City in order to clear the title for the City and themselves.

This agenda item is authorized the City Administrator to execute the documents on the City's behalf to complete the transaction and to accept the property and easement.

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 adopt the Order authorizing the City Administrator to execute documents accepting property and an easement at the intersection of Marguerette Street and Jeannette Avenue.



**City of Lewiston, Maine
City Council Order
June 5, 2012**



ORDER, Authorizing the City Administrator to Execute Documents Accepting Property and an Easement at the intersection of Marguerette St. and Jeanette Ave.

Whereas, Jeanette St and Marguerette St were connected with an intersection many years ago; and

Whereas, in February 2012, the owners (Michael L. Cole and Erika Ackley) of a parcel of land at 36 Jeanette St were preparing to sell their property and questioned their deeds, which indicated they owned the land where the intersection was located; and

Whereas, a review of City records found no documents indicating the City had ever officially taken ownership of the property; and

Whereas, a pedestrian easement was not obtained to cross another section of this same property to access a walking trail between Jeanette St and Warren Ave; and

Whereas, the property owners (Michael L. Cole and Erika L. Ackley) agreed to sign a quitclaim deed to officially transfer the property and pedestrian easement rights to clear title for both the City and themselves; and

Whereas, Michael L. Cole and Erika L. Ackley have signed the quitclaim deed and easement deed and had it notarized;

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

the City Administrator is Authorized to execute any documents necessary to complete the transaction and accept the property and pedestrian easement as described in the quitclaim deed.



Department of Public Works

David A. Jones, P.E.
Director



May 30, 2012

To: City Administrator Ed Barrett

Re: Acceptance of Property and Pedestrian Easement at Intersection of Jeanette Ave and Marguerette St

Ed,

Back in late February or early March, David Hediger brought to our attention a question Michael L. Cole and Erika L. Ackley had about their property at 36 Jeanette Ave. They were preparing to sell their property and were reviewing the deeds with their realtor. It appeared to them their deeds were saying they owned the property where the City had installed the intersection of Jeanette Ave and Marguerette St many years ago.

We reviewed City records and found there were no official documents showing the City had actually taken ownership of the property. Plans for the development showed the intersection, which was not constructed until after the streets were accepted, and there is an argument we could have made that we owned it. Additionally, because the City had built the intersection many years ago and have been maintaining it for so many years, we could take it as property we have been using and had possession of. However, the cleanest way to address the issue was to work with the owners to agree on a quitclaim deed to help both the City and the property owners clear title.

We worked closely with their realtor and developed a quitclaim deed for the intersection property transfer and the granting of a pedestrian easement to access the trail between the end of Jeanette Ave and Warren Ave. The property owners signed them on May 30, 2012.

The only action left before getting the document to the registry of deeds is to have the City Council authorize you to execute the documents and accept the quitclaim deed and easement deed.

I have attached a copy of the quitclaim deed and easement deed, a copy of the Maine Revenue Services Real Estate Transfer Tax Declaration and a draft City Council Order for the Council to consider for approval. The original documents will be provided to the City Clerk for processing.

Sincerely,

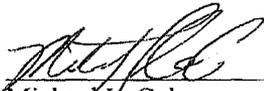
David A. Jones, P.E.
Director

QUITCLAIM DEED
WITH COVENANT and EASEMENT DEED
STATUTORY SHORT FORM
TITLE 33, §775

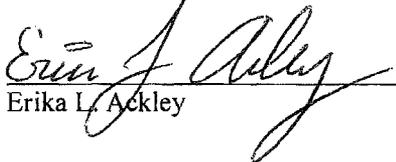
MICHAEL L. COLE and ERIKA L. ACKLEY, whose mailing address is 36 Jeannette Avenue, Lewiston, Maine, 04240, grant to CITY OF LEWISTON, a body corporate and politic in Androscoggin County, Maine, with a mailing address of 27 Pine Street, Lewiston, Maine 04240, with **Quitclaim Covenant**, a lot or parcel of land situated in Lewiston, Maine and described in attached **Exhibit A**.

Also granting to the **City of Lewiston**, its successors and assigns, easements in land now owned by the grantors and located in Lewiston, Maine, as more fully described in attached **Exhibit B**.

DATED: May 30, 2012



Michael L. Cole



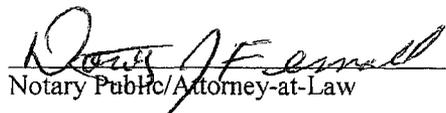
Erika L. Ackley

STATE OF MAINE
ANDROSCOGGIN COUNTY

May 30 2012

Personally appeared the above-named Michael L. Cole and Erika L. Ackley, and acknowledged the above instrument to be their free act and deed.

Before me,



Notary Public/Attorney-at-Law

DOROTHY J. FERNALD

(Print Name)



EXHIBIT A

A certain parcel of land situated on the northerly side of Jeannette Street in the City of Lewiston, County of Androscoggin, State of Maine being bounded and described as follows:

Beginning on the northeasterly side of Lot 15 as shown on an unrecorded plan entitled "Don Fournier Development Webster St. Lewiston, Me." dated June 28, 1963 by Aliberti, Larochelle and Hodson Engineering Corp, Inc., being land now or formerly of Bruce R. Ouellette as described in a deed dated May 24, 1984 and recorded in Book 1725, Page 132 in the Androscoggin County Registry of Deeds ("ACRD") at land now or formerly of Llewellyn A. Turcotte as described in a deed dated March 17, 1987 and recorded in Book 2066, Page 202 ACRD and being on the northwesterly terminus of Marguerette Street as shown on a plan entitled "Re-Subdivision Brier Park Lewiston, Maine Developed by Lewiston Crushed Stone" dated April 1986 and recorded in Plan Book 32, Page 43 ACRD;

Thence northwesterly, by and along the land of Ouellette, a distance of 74.47 feet to a point of curvature;

Thence westerly, by and along the land of Ouellette and along a curve concave to the left having a radius of 10 feet, an arc length of 15.73 feet to the southeasterly sideline of Jeannette Street;

Thence northeasterly, along the southeasterly sideline of Jeannette Street, 10 feet, more or less, to the apparent northeasterly terminus of Jeannette Street;

Thence northwesterly, by and along the apparent northeasterly terminus of Jeannette Street, a distance of 50 feet to the northwesterly sideline of Jeannette Street and land now or formerly of Michael L. Cole as described in a deed dated May 30, 2002 and recorded in Book 5012, Page 14 ACRD;

Thence northeasterly, along the northwesterly extension of the southeasterly sideline of Jeannette Street, a distance of 70 feet, more or less, to the northeasterly line of land formerly of Don T. Fournier as described in a deed dated May 21, 1963 and recorded in Book 985, Page 147 ACRD being the southwesterly sideline of land now or formerly of the City of Lewiston as described in a deed dated February 28, 1948 and recorded in Book 619, Page 300 ACRD;

Thence southeasterly, by and along the land of the City of Lewiston and being the northeasterly line of Fournier, a distance of 135 feet, more or less, to land now or formerly of Lewiston Crushed Stone Co. Inc., as described in a deed dated July 24, 1985 and recorded in Book 1842, Page 129 ACRD;

Thence southwesterly, by and along the land of Lewiston Crushed Stone Co. Inc., a distance of 20 feet, more or less, to the northeasterly sideline of Marguerette Street at its most northerly terminus;

Thence continuing southwesterly, by and along the northwesterly terminus of Marguerette Street, a distance of 50 feet to the Point of Beginning.

Meaning and intending to describe a parcel containing approximately 9,030 square feet.

Being all of Lot 17 and that portion of Warren Street as shown on an unrecorded plan entitled "Don Fournier Development Webster St. Lewiston, Me." dated June 28, 1963 by Aliberti, Laroche and Hodson Engineering Corp, Inc.

EXHIBIT B

Easements for the purposes of pedestrian use, including the installation, repair and replacement of unpaved walking trails, and for the installation, repair and replacement of utility services, in the Easement Area described below.

Easement Area

A certain parcel of land situated on the northwesterly side of Jeannette Street in the City of Lewiston, County of Androscoggin, State of Maine being bounded and described as follows:

Beginning at the most northeasterly corner of Lot 16 as shown on an unrecorded plan entitled "Don Fournier Development Webster St. Lewiston, Me." dated June 28, 1963 by Aliberti, Laroche and Hodson Engineering Corp, Inc., being land now or formerly of Michael L. Cole as described in a deed dated May 30, 2002 and recorded in Book 5012, Page 14 in the Androscoggin County Registry of Deeds ("ACRD") and at land now or formerly of the City of Lewiston as described in a deed dated February 28, 1948 and recorded in Book 619, Page 300 ACRD;

Thence northeasterly, by and along the land of the City of Lewiston, a distance of 70 feet, more or less, to the northeasterly line of land formerly of Don T. Fournier as described in a deed dated May 21, 1963 and recorded in Book 985, Page 147 ACRD;

Thence southeasterly, by and along the land of the City of Lewiston being the northeasterly line of Fournier, a distance of 84.5 feet, more or less, to the northeasterly extension of the northwesterly sideline of Jeannette Street;

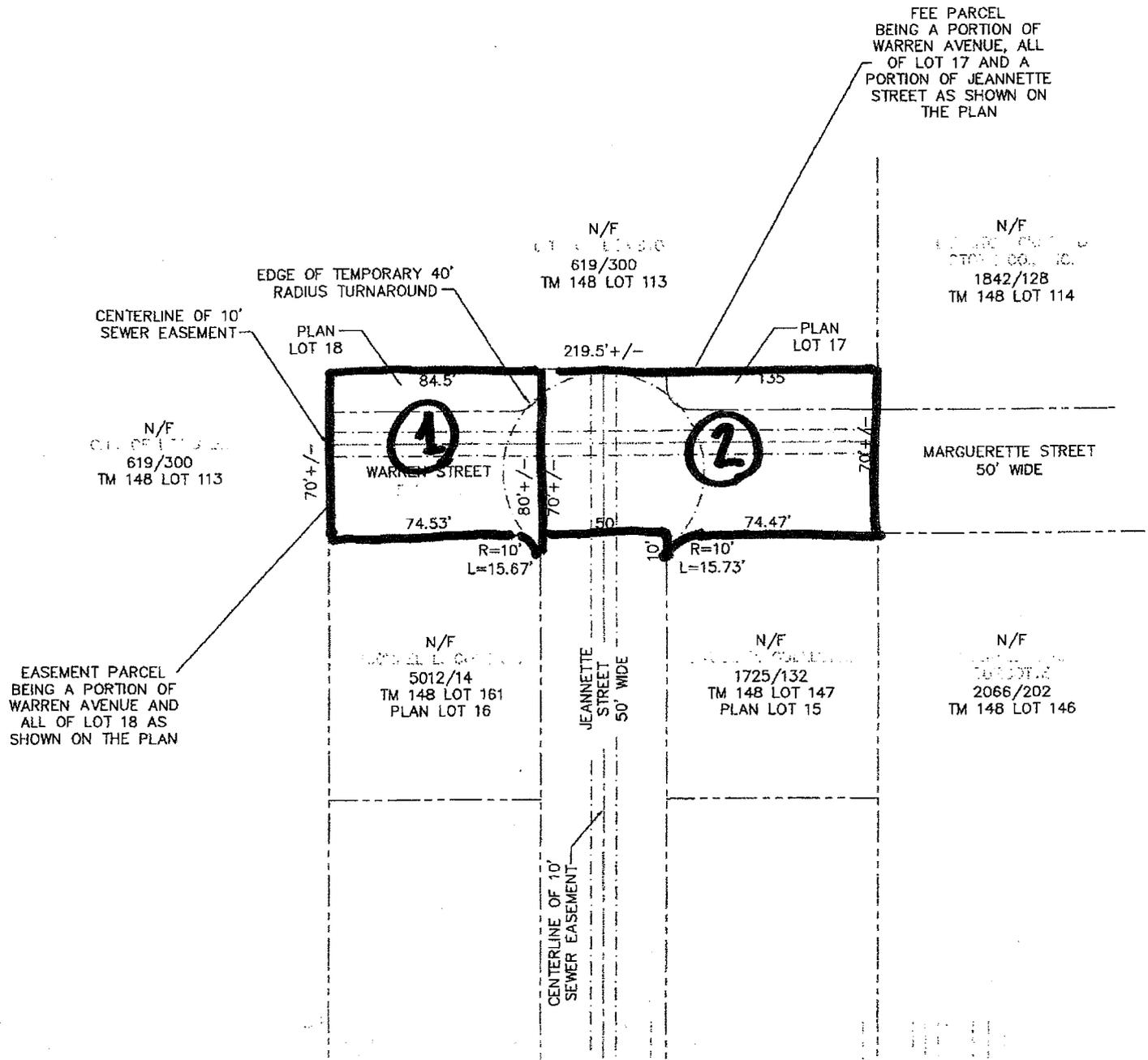
Thence southwesterly, on the northeasterly extension of the northwesterly sideline of Jeannette Street, a distance of 80 feet, more or less, to the land now or formerly of Cole and a point of curvature;

Thence northerly, by and along the land of Cole and along a curve concave to the left, having a radius of 10 feet, an arc length of 15.67 feet;

Thence northwesterly, by and along land of Cole, a distance of 74.53 feet to the Point of Beginning.

Meaning and intending to describe a parcel containing approximately 5,700 square feet.

Being all of Lot 18 and that portion of Warren Street as shown on an unrecorded plan entitled "Don Fournier Development Webster St. Lewiston, Me." dated June 28, 1963 by Aliberti, Laroche and Hodson Engineering Corp, Inc.





0599900

RETTD

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**MAINE REVENUE SERVICES
REAL ESTATE TRANSFER TAX
DECLARATION**

TITLE 36, M.R.S.A. SECTIONS 4641-4641N

PLEASE TYPE OR PRINT CLEARLY

1. COUNTY ANDROSCOGGIN		DO NOT USE RED INK!	
2. MUNICIPALITY/TOWNSHIP LEWISTON		BOOK/PAGE—REGISTRY USE ONLY	
3. GRANTEE/ PURCHASER	3a) Name (LAST, FIRST, MI) CITY OF LEWISTON		3b) SSN or Federal ID 01-6000030
	3c) Name (LAST, FIRST, MI)		3d) SSN or Federal ID
	3e) Mailing Address 27 PINE STREET		3f) City LEWISTON
			3h) Zip Code 04240
4. GRANTOR/ SELLER	4a) Name (LAST, FIRST, MI) COLE, MICHAEL L.		4b) SSN or Federal ID
	4c) Name (LAST, FIRST, MI) ACKLEY, ERIKA L.		4d) SSN or Federal ID
	4e) Mailing Address 36 JEANNETTE AVE		4f) City LEWISTON
			4h) Zip Code 04240
5. PROPERTY	5a) Map Block Lot Sub-Lot N/A		5b) Type of property—Enter the code number that best describes the property being sold. (See instructions) 5d) Acreage:
	5c) Physical Location PORTION OF MARGUERETTE STREET		
		<input type="checkbox"/> No tax maps exist <input type="checkbox"/> Multiple parcels <input type="checkbox"/> Portion of parcel	
6. TRANSFER TAX	6a) Purchase Price (if the transfer is a gift, enter "0")		6a
	6b) Fair Market Value (enter a value only if you entered "0" in 6a) or if 6a) was of nominal value)		6b
	6c) Exemption claim - <input checked="" type="checkbox"/> Check the box if either grantor or grantee is claiming exemption from transfer tax and explain. Section 4641-C(3) Confirmator deed - no consideration, no value		0.00
		0.00	
7. DATE OF TRANSFER (MM-DD-YYYY) MONTH DAY YEAR		8. WARNING TO BUYER —If the property is classified as Farmland, Open Space or Tree Growth, a Substantial financial penalty could be triggered by development, subdivision, partition or change in use. <input type="checkbox"/> CLASSIFIED	
9. SPECIAL CIRCUMSTANCES —Were there any special circumstances in the transfer which suggest that the price paid was either more or less than its fair market value? If yes, check the box and explain: <input type="checkbox"/>		10. INCOME TAX WITHHELD —Buyer(s) not required to withhold Maine income tax because: <input checked="" type="checkbox"/> Seller has qualified as a Maine resident <input type="checkbox"/> A waiver has been received from the State Tax Assessor <input checked="" type="checkbox"/> Consideration for the property is less than \$50,000	
11. OATH	Aware of penalties as set forth by Title 36 §4641-K, we hereby swear or affirm that we have each examined this return and to the best of our knowledge and belief, it is true, correct, and complete. Grantee(s) and Grantor(s) or their authorized agent(s) are required to sign below: Grantee _____ Date _____ Grantor <i>[Signature]</i> Date <u>5/30/12</u> Grantee _____ Date _____ Grantor <i>[Signature]</i> Date <u>5/30/12</u>		
12. PREPARER	Name of Preparer <u>Brann & Isaacson</u> Phone Number <u>207-786-3566</u> Mailing Address <u>P.O. Box 3070</u> E-Mail Address <u>lawyers@brannlaw.com</u> <u>Lewiston, ME 04243-3070</u>		

LEWISTON CITY COUNCIL
MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Appointment to the Cable Television Advisory Board.

INFORMATION:

The Mayor is nominating the following resident to serve on the Cable Television Advisory Board, which is a joint committee with Auburn residents to oversee the operations of the Great Falls TV station:

Stavros Mendros, 135 Hogan Road - two year term - to expire January 7, 2014

Council confirmation of the Mayor's nominations is requested.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Appointments to the citizen boards and committees are a policy decision of the Council.

EAB/kmm

REQUESTED ACTION:

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To confirm the Mayor's nomination of Stavros Mendros, 135 Hogan Road, to serve as a member of the Cable Television Advisory Board and to appoint Mr. Mendros as a member of the Board for a two year term, said term to expire January 7, 2014.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Public Hearing and Final Passage regarding amendments to the General Assistance Ordinance regarding burials and cremations.

INFORMATION:

The Social Services Director and the City Administrator are recommending amendments to the General Assistance ordinance which governs the City's assistance program for low income and eligible residents. The amendments pertain to the criteria used regarding burials and cremation services for residents whose families are unable to pay for this service. Note the underlined language is the new proposed language and the words that are struck out are proposed to be deleted.

Please see the attached memorandum from Social Services Director Sue Charron.

The City's procedures on burial and cremation are defined in the Ordinance and in the Policy Manual. Ordinance amendments require two passages and amendments to the Policy only require one. This agenda item is for adoption of the proposed Ordinance amendments on first passage. If approved, final passage will be scheduled for the June 5 Council meeting and the applicable Policy Manual amendments will also be scheduled for that night.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/KMM

REQUESTED ACTION:

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That the proposed amendments to the City Code of Ordinances, Chapter 46 "General Assistance", Section 46-98 "Basic necessities; maximum level of assistance, burial and cremations", receive final passage by a roll call vote.

AN ORDINANCE PERTAINING TO BURIAL AND CREMATIONS

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 46 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 46

GENERAL ASSISTANCE

ARTICLE IV. DETERMINATION OF ELIGIBILITY

Sec. 46-98. Basic necessities; maximum levels of assistance.

g. Burial, cremations.

1. Under the circumstances and in accordance with the procedures and limitations described below, the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. The administrator will provide for burial and cremation services to eligible persons up to the allowed maximum amounts as established by the city council in the general assistance policy.
2. Funeral directors must give timely notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of ~~the next~~ 3 business days following the funeral director's receipt of the body, whichever is earlier. This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact with the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.
3. Application for assistance shall be created on behalf of the deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the administrator on behalf of the deceased.
4. With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 46-40.
5. Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons

are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

6. The financial responsibility of certain family members. Grandparents, parents, siblings, children and grandchildren of the deceased, who live in the state or own property in the state, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator, with any reasonable requested information regarding their income, assets, and basic living expenses. If any responsible family members refuse to provide the requested information or refuse to allow the municipality to investigate their resources, the municipality will not grant the requested burial or cremation assistance. If the administrator makes a finding that one or more legally liable relatives has a financial capacity to pay for the burial or cremation, the municipality will not grant the requested burial or cremation assistance.
 7. ~~Ten~~ Eight days to determine eligibility. The administrator may take up to ~~ten~~ eight days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation.
 8. The municipal obligation to pay when legally liable relatives or others can contribute. The figures provided in the general assistance policy are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source.
- h. *Burial expenses.* The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremation. Burial services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, preparation of the body, a minimum casket, and necessary transportation. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a cement liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.
 - i. *Cremation expenses.* In the absence of any objection by any family members of the

No. 12-
Effective:

deceased, ~~or when neither the administrator nor the funeral director can locate any family members,~~ the administrator will issue general assistance for cremation services. ~~Minimum services for a e~~Cremation services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, an appropriate container for cremation, and necessary transportation. ~~Additional payments for the actual cremation charge shall be paid directly to the cremation facility.~~ Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a liner if the cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

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



Social Services Department
Sue Charron
Social Services Director



MEMORANDUM

TO: Mayor Macdonald and Members of the City Council

FR: Sue Charron, Social Services Director

RE: General Assistance Burial/Cremation Changes

DT: May 15, 2012

Please see the attached Lewiston General Assistance Ordinance and the General Assistance section of the City of Lewiston policy manual for deletions and additions. Revisions are necessary because of recent law changes, updates to current procedures, and a decrease in the crematory fee. Also included is a proposal to revise the current cremation policy which, if approved, would negate the need to vote on the decrease in the crematory fee.

The ordinance needs to reflect the law changes in Title 22, Part 5, Chapter 1161, Section 4313.

- The new language increases the amount of time that the funeral director has to notify the administrator of the receipt of a deceased person, from the end of the next business day to the end of 3 business days,
- The new language decreases the amount of time that the administrator must render a decision after receiving an application from within 10 days to within 8 days.
- The new language removes siblings from the list of relatives who are considered legally liable to pay for burial or cremation costs.

The ordinance and policy manual need to be revised to reflect current procedures.

*City Hall • 27 Pine Street • Lewiston, Maine • 04240 • Voice Tel. 207-513-3130 • Fax 207-784-2959
• TTY/TDD 207 784-5999 • Email: scharron@ci.lewiston.me.us*

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities, and/or in the delivery of its programs, activities and services based on an individual person's race, ancestry, color, religion, gender, age, physical or mental disability, veteran status, or limited English speaking ability. For more information about this policy, contact or call Compliance Officer Mike Paradis at (V) 207-513-3140, (TTY) 207-784-5999, or email mparadis@ci.lewiston.me.us



Social Services Department
Sue Charron
Social Services Director



- Language is added to include donated lots. Because St. Peter's cemetery donates lots to the city for burials, the city will not pay for a lot in any other cemetery.

The ordinance needs to be revised to reflect current procedures.

- Language is deleted to remove the liability risk. Because of the potential for liability, the area funeral directors will not sign off on a cremation if there are no known next of kin. The legal staff at the Maine Municipal Association has advised GA administrators not to sign off on a cremation because of the potential for liability.

The policy manual will need to be revised to reflect a decrease in the crematory fee, if the council wishes to continue with existing policy.

- Effective April 16, 2012, Gracelawn Memorial Park decreased their standard crematory fees from \$300.00 to \$275.00.

However, if the council wishes to adopt the following proposal instead, there would be no need to vote on the change in the above monetary amount for the crematory fee because the funeral home would pay the crematory expense out of the GA maximum allowed for the total cremation expense. The ordinance and policy manual would need to be revised.

The proposal is to revise the current policy so that it is reflective of the original language and is consistent with the surrounding communities— allowing for only one maximum total payment paid to the funeral home and increasing the current amount of \$750 to \$785. The funeral home would be responsible for paying the crematory fee directly out of the \$785.

- The most recent decrease in the crematory fee is welcome news; however, there has been an increase in the crematory fees from \$125 in 2000 to \$300 in 2011, and it is very likely that there will be another increase at some time.

if we revert back to the original policy, the funeral homes will be responsible for paying for any increase out of the \$785. However, every other municipality pays only one set amount directly to the funeral home. The cities of Portland, Auburn

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**Social Services Department
Sue Charron
Social Services Director**



and Waterville pay a total maximum of \$785, and Biddeford pays a total of \$700.00. The City of Lewiston's policy must be consistent with other

municipalities around the state and the fees must be in line with those of the surrounding communities.

The current GA cremation policy that has been in effect since October 17, 2000, allows for separate payments to the funeral home and to the crematory. The maximum amount that is paid to the funeral home for associated cremation costs is \$750; and the maximum amount that is paid to the crematory for the actual cremation fee is \$300.

Keep in mind that the maximum amount paid for a burial is \$1,000, with additional costs for the opening and closing and a liner if required by the cemetery. Because the crematory fee has increased over the years, the city is currently paying more for total cremation costs than for the \$1,000 maximum amount allowed for burial, and that was never the intent.

Prior to October 17, 2000, the maximum amount allowed for the funeral home's associated cremation expenses and the actual crematory fee was a total of \$750— the funeral home paid the crematory fee out of the \$750.

The reason for the change was twofold: representatives of the funeral homes expressed concerns that the \$750 did not cover their expenses associated with the cremation and, more importantly, that the crematory was charging some of the funeral homes a higher fee than what the city was being charged. The variation in the crematory fees resulted in some of the funeral homes handling more than their fair share of indigent cases.

In an attempt to treat all of the funeral homes in an equitable fashion and to ensure that indigent families were able to have their family members taken care of as timely as possible, the city implemented what is the current policy. Keep in mind that in 2000 when the policy was implemented, the crematory expense was only \$125. I am of the belief that, when the existing policy was implemented, there was no thought of an increase in the crematory fees and, had there been even the slightest notion of an increase, the existing policy would never have been implemented.

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**Social Services Department
Sue Charron
Social Services Director**



In 2011, Gracelawn increased the cremation cost to \$300. Gracelawn also changed its policy so that the same fee applied to all funeral homes and to all

general assistance cases. Hence, the city is no longer receiving a reduced rate and the real impetus for the change in the GA policy no longer exists.

I have notified all of the funeral homes that we do business with, about the changes contained in this memo.

City Hall • 27 Pine Street • Lewiston, Maine • 04240 • Voice Tel. 207-513-3130 • Fax 207-784-2959

• TTY/TDD 207 784-5999 • Email: scharron@ci.lewiston.me.us

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities, and/or in the delivery of its programs, activities and services based on an individual person's race, ancestry, color, religion, gender, age, physical or mental disability, veteran status, or limited English speaking ability. For more information about this policy, contact or call Compliance Officer Mike Paradis at (V) 207-513-3140, (TTY) 207-784-5999, or email mparadis@ci.lewiston.me.us.

LEGAL AD

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

A public hearing on the following ordinance amendment, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, May 15, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

GENERAL ASSISTANCE ORDINANCE

This amendment would amend the ordinance language regarding determination of eligibility for burial and cremation expenses due to recent changes in state law. This amendment would extend the time a funeral home has to notify the City about a deceased person in need of city assistance for a burial, limit the time the City has to determine eligibility and eliminate siblings as relatives who are legally liable to assist with burial costs.

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

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, May 10, 2012

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

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Public Hearing and First Passage regarding an amendment to the Vegetation Ordinance to establish regulations for the Community Forest.

INFORMATION:

The Lewiston-Auburn Community Forestry Committee has been working on this proposed ordinance for a while and is presenting the ordinance for Council adoption.

The proposed amendment to the Vegetation Ordinance will outline requirements regarding the Community Forest and provide for the public health and safety by regulating the planting, maintenance, removal and harvesting of trees and shrubs which are part of the community forest.

The amendments also define the duties of the Municipal Arborist, procedures for requests to the Arborist, notice by the Arborist for proposed tree work and notice of tree work by utilities.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to the City Code of Ordinances, Chapter 78 "Vegetation", Article III "Community Forest", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next City Council meeting for final passage.



Department of Public Works

David A. Jones, P.E.
Director



May 29, 2012

To: City Administrator Ed Barrett

Re: Proposed Lewiston Community Forest Ordinance

Ed,

We held a workshop with the City Council on May 24th to introduce and respond to questions and concerns regarding the proposed Community Forest Ordinance. At the end of the workshop, we indicated we would bring the proposed ordinance for a first reading to the June 5, 2012 meeting.

The City's Website describes the Community Forest Board as "a committee which will develop and implement a Community Forest Program, advocate for the community forest, advise and consult on community forestry issues and projects, and develop and advise on policy changes for the City Councils of Lewiston and Auburn. In addition, the Board will develop a plan for and provide advice on management of the public sector portion of the community forest and educate the communities about the community forest and how to care for it. This is a joint citizen committee with the City of Auburn."

The Board has a number of active members, and, as part of their charge, they developed a proposed ordinance (attached) they request the City Council to adopt. The Board plans to also ask the City of Auburn to do the same. The Board has worked for several years to develop the ordinance which provides a framework from which the community forest will be managed. The ordinance:

- establishes the community forest as including all trees growing on public property and trees growing within the limits of any public way within the Urban Compact Zone;
- requires a forest management plan (already adopted by the Council) be followed and administered by the Municipal Arborist;
- outlines the responsibilities and qualifications of the Municipal Arborist and tasks him/her with developing rules, regulations and standard practices for trees in the public right-of-way and other public sites for review by the Board and adoption by the City Council;
- establishes a permitting and appeal process for planting, pruning, removing, or otherwise disturbing any public tree;
- requires utility company notifications before affecting public trees;
- establishes the existence and responsibilities of the Community Forest Board in statute;
- assigns 80% of revenues generated from timber harvests to the general fund and 20% to a fund for protecting and enhancing the community forest; and
- establishes penalties for violation of the ordinance.

The City's attorney has reviewed and approved the draft ordinance. Representatives of the Community Forest Board are expected to attend the Public Hearing and will be available to address any questions the City Council might have. I recommend approval of the proposed ordinance.

Sincerely,

David A. Jones, P.E.
Director

Cc: K. Montejo, S. Murch, J. Braunscheidel, C. Webber, B. Damon, M. Bates, J. Elie

Summary of Significant Provisions of Proposed Lewiston Community Forest Ordinance

Sections 78-40 and 78-41 These sections provide an overview of the findings and purposes of the ordinance and attempt to establish a legal basis for imposing obligations and restrictions on abutting property owners with respect to trees which legally belong to them. The legal ownership of street trees by the abutting landowners was established by the Maine Supreme Court in the case of *Brooks v. Bess*, 135 Me. 290 (1937).

Section 78-43 This section defines significant terms used in the ordinance. It also adds the definition of the term "topping" taken from the Georgia model and a definition of the term "shrub" which limits the term to woody vegetation likely to grow to a height of 15 feet or less.

Section 78-44 This section advocates the establishment of a forest management plan to govern the harvesting of trees and directs how the revenues derived from any such harvest will be apportioned.

Section 78-47 This section establishes minimum qualifications for the Municipal Arborist. It should be noted that the only Municipal Arborist presently possessing these qualifications is Steve Murch.

Section 78-48(a) This section establishes the general responsibilities of the Municipal Arborist including an obligation to maintain a list of plants which are suitable for planting in Maine as well as those that are not.

Section 78-48(b) The Municipal Arborist may order an abutting landowner to trim or remove trees and shrubs within the right of way to provide for public safety and prevent the spread of disease. The authority to do so is conferred by 30-A M.R.S.A. § 3291(2). If the property owner neglects to do so, the city can take the necessary actions at the property owner's expense. The city can waive the claim for reimbursement if the city is the primary beneficiary of the corrective work.

Section 78-48(c) The Municipal Arborist is authorized to issue regulations regarding the planting, maintenance, and removal of trees within the right of way. Such regulations will have the force of law when adopted by the City Council.

Section 78-49(a) and (b) These subsections forbid private property owners from cutting or planting trees or shrubs within the right of way without first obtaining a permit from the Municipal Arborist. They also offer protection against a property owner deciding on his or her own to cut down a valuable tree located in the right of way because he or she is tired of raking leaves.

Section 78-49(c) This subsection establishes a procedure by which an abutting landowner can request the Municipal Arborist to prune or cut trees in front of his or her

residence and be authorized to do the work themselves in cases not considered to be sufficiently urgent to warrant the use of city resources.

Section 78-49(d) This subsection establishes a permitting process for requests to plant trees or shrubs within the right of way. It also protects against haphazard planting of trees or shrubs within the right of way which will create safety issues, threaten the viability of existing trees, or interfere with utility wires.

Section 78-49(e) This subsection establishes an appeal process for persons who disagree with a decision of the Municipal Arborist. Members of the Forest Board would serve as members of the body hearing the appeal.

Section 78-50(a) The Municipal Arborist is required to give abutting landowners notice before removing or spraying trees in front of their homes. This section is intended to prevent situations in which valuable trees are cut or disfigured with no opportunity for input from the abutting property owners.

Section 78-50(b) This subsection establishes an appeal process in cases where the property owner objects to a decision of the Municipal Arborist. Steve Murch has indicated that this provision will not unduly burden his operations since he would not be prevented from proceeding with less drastic operations such as trimming and pruning.

Section 78-51-(a) This subsection requires a utility to give 30 days' notice to the Municipal Arborist before beginning a project which involves cutting or removing trees located in the right of way.

Section 78-51(b) Although the regulation of cutting trees within the right of way by utilities is generally controlled by state law, local municipalities can require more effective notice of what is proposed so that abutting property owners will not be surprised to see a utility crew coming down their street cutting down trees within the right of way before they have an opportunity to be heard about whether the work as proposed is necessary.

Section 78-52 This section confirms the existence of the Lewiston-Auburn Forest Board in essentially the same terms as were used in the resolve adopted by both City Councils in 2002. It also provides for the appointment of ex officio members from city staff to provide a link between the operations of the city and the volunteer Board.

Section 78-53 This section establishes civil penalties for violations of the ordinance. It contains a provision for awarding attorneys' fees to the city if it prevails in an enforcement action. This will help avoid having the ordinance become a scofflaw under which a property owner can remove a tree he or she dislikes with the only consequence being a small monetary penalty. It will also encourage the city to prosecute violators since it can recoup the cost of doing so.

AN ORDINANCE PERTAINING TO COMMUNITY FOREST

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 78 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 78

VEGETATION

ARTICLE III. COMMUNITY FOREST

Sec. 78-40. Findings.

The City Council finds that the community forest is important in advancing the economic and ecological health of the community and in protecting and enhancing its historic and esthetic characteristics. The City Council also finds that public trees beautify our streets and neighborhoods and also serve important environmental and economic purposes in that they release oxygen into the air, absorb carbon dioxide, reduce stormwater runoff, and reduce energy costs by providing shade in warm weather and protection from cold winter winds.

Sec. 78-41. Purpose.

The purpose of this ordinance is to promote these values and to provide for the public health and safety by regulating the planting, maintenance, removal, and harvesting of trees and shrubs which are part of the community forest.

Sec. 78-42. Authority.

The City has authority to enact this ordinance under its home rule powers provided in 30-A M.R.S.A. §§ 2003 and 2004.

Sec. 78-43. Definitions.

- (a) *Board*: The Lewiston-Auburn Community Forest Board as described in § 78-52 of this ordinance.
- (b) *Community forest*: includes all trees growing on public property as well as all trees growing within the limits of any public way located within the Urban Compact Zone.
- (c) *Forest management plan*: A written document, prepared by a Maine licensed professional forester, which, considering landowner objectives, establishes direction and goals for the management of a specific forest land area. A plan normally provides a description of the woodlot including

maps, timber inventory data, wildlife habitat, recreation potential, historic features, and special attributes. It will specify silvicultural practices and activities necessary to harvest products, improve forest health, and minimize adverse environmental impacts. The forest management plan serves as the basis for specific harvest plans.

- (d.) *Pruning*: systematic trimming or cutting branches throughout a tree or plant to enhance its health.
- (e.) *Public tree*: any tree or other woody vegetation which is located within the limits of any public way situated within the Urban Compact Zone.
- (f.) *Shrub*: any woody vegetation likely to grow to a mature height of fifteen (15) feet or less.
- (g.) *Topping*: the severe cutting back of tree limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to reduce the height of the tree by removing or substantially diminishing the normal canopy and disfiguring the tree.
- (h.) *Trimming*: includes pruning

Sec. 78-44. Management.

The broad objectives stated in § 78-40 "Findings" and § 78-41 "Purpose" will be achieved by the active management of the community forest, using best known practices and, within the guidelines of a forest management plan, to promote public safety, forest health, species diversity, and environmental benefit to the community. Harvesting trees may be part of the overall management objectives of this plan.

Sec. 78-45. Harvest Revenues.

If and when revenues generated from any timber harvests exceed the expense of conducting that harvest, the surplus revenues will be distributed as outlined below:

- (a.) 80% to municipal general fund
- (b.) 20% to designated account established for the purpose of protecting and enhancing the community forest

Sec. 78-46. Administration.

The Municipal Arborist shall administer the management plan in coordination with such other municipal agencies/departments that now or may in the future share in the responsibility of caring for and maintaining the community forest.

Sec. 78-47. Municipal Arborist.

The Director of the Department of Public Works shall appoint the Municipal Arborist who shall have a degree in forestry, arboriculture, or urban forestry from an accredited college or university or have equivalent field experience. The Municipal Arborist shall at all times during his or her employment hold a valid arborist's license issued by the State of Maine.

Sec. 78-48. Duties of the Municipal Arborist.

- (a.) The Municipal Arborist shall have responsibility for planting, maintaining, preserving, and removing trees and plants which are part of the community forest in order to promote public safety and to protect and preserve the symmetry, health, and beauty of the community forest and the places where public trees and shrubs are located. The Municipal Arborist shall maintain a list that includes trees and shrubs which are suitable for planting as well as those which are unsuitable in general or under specific circumstances. This list shall be made readily available to members of the public.
- (b.) The Municipal Arborist may order the trimming or removal of trees or shrubs which are located within the public right of way to lessen the danger of travel or to suppress tree pests or insects as provided in 30-A M.R.S.A. § 3283. The Municipal Arborist may also order the trimming or removal of trees or shrubs located on private property outside the right of way for similar reasons by notifying the owner of the property in writing of the required action. In the event that a property owner does not initiate the requested action within 10 business days of receiving notice to do so, the Municipal Arborist may cause such action to be taken at the city's expense. The property owner may appeal the decision of the Municipal Arborist in the manner provided by § 78-49(e) and the Municipal Arborist shall take no action during the pendency of such appeal.
- (c.) The Municipal Arborist shall develop rules and regulations as well as standards of practice governing the planting, placement, maintenance, removal, fertilization, pruning, and bracing of trees in public rights of way and other public sites. These rules shall be reviewed by the Lewiston-Auburn Community Forest Board which may recommend changes and additions for the Municipal Arborist and the City Council to consider. Once adopted by the City Council, the rules and regulations shall have the force of law and violators of any such rules and regulations shall be subject to the penalties established by this ordinance. Copies of such rules and regulations shall be available from the City Clerk and from the Municipal Arborist and shall be posted on the city's website. The Municipal Arborist shall be responsible for initiating proceedings to enforce such rules and regulations.

Sec. 78-49. Requests to the Municipal Arborist; Written Permits Required; Appeals.

(a.) No person shall plant, prune, remove, or otherwise disturb, above or below ground, any public tree without first filing an application with and obtaining a permit from the Municipal Arborist. Any permit granted shall contain a definite date of expiration and may contain conditions attached thereto by the Municipal Arborist. Any violation of this article or the terms of the permit shall be grounds for revocation of the permit, after notice and hearing. In emergency situations, such as storm damage to trees requiring immediate pruning or removal, the work may be performed without permits; however, the Municipal Arborist shall be notified as soon as possible.

(b.) It is the intent of this article to preserve public trees. The Municipal Arborist may issue a permit to cut down, remove, or destroy a public tree under one or more of the following circumstances:

(1) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing utility services, creates unsafe vision clearance or other traffic hazard, or is otherwise dangerous to people or property.

(2) The tree is located in an area where a structure or other improvements will be placed in accordance with plans approved under the Land Use Ordinance.

(c.) Requests for Tree Removal, Pruning, or Trimming

Persons owning or occupying property abutting a public way or their representatives may request the Municipal Arborist to remove or top trees located within the limits of the public way or, alternatively, for a permit authorizing them to do the work on their own. If the Municipal Arborist concludes that the request is not urgent, he may decline to do the work and issue a written permit allowing the property owner or his or her representative to undertake the work on their own and at their own expense. The permit may specify conditions and shall establish an expiration date. Failure to comply with the conditions specified in the permit will subject the property owner and his or her representatives to the penalties established by this ordinance. In lieu of initiating enforcement proceedings when the conditions imposed by the permit are violated, the Municipal Arborist may cause any necessary corrective work to be done at the expense of the property owner or his or her representatives.

(d.) Requests to Plant Trees or Shrubs

Persons owning land abutting a public way or their representatives may request the Municipal Arborist to issue a written permit to plant trees or

shrubs within the limits of the public way. The Municipal Arborist shall issue a permit if he or she determines that the proposed planting will not be harmful to public health or safety, will not damage or encroach upon existing public trees, shrubs, or utility lines, will not damage the public street, sidewalk, or public or private utilities located in the right of way, and that suitable arrangements have been made to provide for future maintenance of the proposed tree or shrub. The Municipal Arborist may specify reasonable conditions in the permit which the property owner or his or her representatives must follow in carrying out the work. Failure to comply with the conditions in the permit will subject the property owner to the penalties established by this ordinance. In lieu of initiating proceedings to enforce the conditions stated in the permit, the Municipal Arborist may cause any necessary corrective work to be done at the expense of the abutting owner.

(e.) Appeals

Any person who is denied permission by the Municipal Arborist to act under this section or who disagrees with a restriction or condition imposed on the action to be taken may appeal the same by filing a notice of appeal to the Board within ten (10) days from the date the action appealed from was taken. The notice of appeal shall contain the name and address of the person filing the appeal, the date and nature of the action from which the appeal is being taken, and a brief description of the basis for the appeal. The notice of appeal shall be filed with the Municipal Arborist who shall promptly forward it, as well as a response to the appeal, to the Chair and Secretary of the Board. The Board shall hear and decide the appeal within thirty (30) days from the date that the appeal was taken. A majority of the members of the Board shall constitute a quorum for purposes of hearing an appeal. The Board shall develop procedures governing the processing of such appeals. Such procedures to be made available to the public.

Sec. 78-50. Notice by Municipal Arborist of Proposed Tree Work; Appeals.

- (a.) Except in the case of an emergency, the Municipal Arborist shall notify any abutting property owner at least ten (10) days before removing, topping, or spraying any public tree. In the case of an abutting property owner who does not occupy the property, notice may be given to any occupant of suitable age and discretion. Notice may be given by mail, by telephone, by electronic transmission, by leaving written notice attached to the person's door, or in person. The notice shall describe the work to be done, when it is scheduled to begin, the process by which an appeal may be taken, and how to contact the Municipal Arborist. With respect to pruning and trimming public trees, no formal notice is required, but the Municipal Arborist shall make a good faith effort when feasible to advise abutting property owners of the work to be done and to provide them with an opportunity to express any objections they may have.

- (b.) Within ten (10) days of the date when notice of the Municipal Arborist's intention to remove, top, or spray a tree is given, an abutting owner or his or her representative may give notice to the Municipal Arborist that he or she is appealing the decision to the Board. Such notice of appeal may be given in person, by telephone, mail, or electronic communication. The procedure with respect to appeals under this section shall be the same as that for appeals under § 78-49(e) of this ordinance except that the proposed action shall be held in abeyance until the appeal has been heard and the Board has rendered a decision.

Sec. 78-51. Notice of Tree Work by Utilities.

- (a.) At least thirty (30) days before initiating any trimming, cutting, or removal of public trees, a utility company must notify the Municipal Arborist who may request the City Council to hold a public hearing to discuss the request.
- (b.) At least thirty (30) days before initiating any trimming, cutting, or removal of public trees, a utility company shall publish notice of its proposal on its website and in at least one newspaper which has daily circulation in the area in which the work is to be done. The notice shall describe the work which is proposed, the streets on which the work is scheduled to be carried out, and the dates on which the work is to be done. The notice shall be published in a display advertisement format which is easily readable and sufficiently prominent so that it is likely to come to the attention of persons whose property will be affected by the proposed tree work. The published notice shall also advise the members of the public of their right pursuant to state law to be added to a list of persons who must be consulted by the utility company before it trims, cuts, or removes trees in which they have a legal interest.

Sec. 78-52. Lewiston-Auburn Community Forest Board.

- (a.) *Statement of purpose.* The existence of the Lewiston-Auburn Community Forest Board is formally recognized. The Board shall develop and implement a community forest program which promotes the economic, environmental, and esthetic values of the community forest.
- (b.) *Members.* The Board shall consist of nine members appointed by the respective mayors.
- (c.) *Qualifications of members.* Members must be residents of Lewiston or Auburn, or own property in either city, and be interested in developing and preserving a healthy community forest. There shall be a minimum of four members from each city although five members shall constitute a quorum and may act regardless of whether there are vacant positions on the Board.

When members of the Board are acting as a Board of Appeals, a quorum shall require the participation of at least two (2) members from each city.

- (d.) *Ex officio members.* There shall be six (6) ex officio members of the Board consisting of the Director (or Superintendent) of the Parks Department in Auburn and the Public Works Director in Lewiston, a member of each city's Planning Board or planning staff to be chosen by the respective Mayors, and the Municipal Arborist from each city. The Board may adopt a by-law regarding the election of associate members of the Board who may participate in the affairs of the Board, but they will not be eligible to vote except in the absence of a regular member of the Board.
- (e.) *Members' terms of office.* Each member shall serve for a term of three (3) years and may be reappointed by their respective mayors. Members currently serving may complete their current terms of office and may be reappointed for additional three-year terms. Terms of office will continue to be staggered to provide for continuity in the Board's program and activities.
- (f.) *Vacancies.* When vacancies occur, the Board shall take appropriate steps to recruit applicants to fill the vacant positions. Members appointed to fill vacant positions on the Board shall serve out the terms of the persons they are replacing.
- (g.) *Compensation.* Members of the Board shall serve without compensation.
- (h.) *Duties and responsibilities.* The Board shall:
 - (1) Develop a plan for and provide advice to city staff and agencies regarding the management of the community forest including the anticipated impact of proposed development;
 - (2) Raise community awareness regarding the importance of the community forest;
 - (3) Raise funds to establish a community forest trust fund;
 - (4) Hear appeals filed pursuant to this ordinance;
 - (5) Adopt by-laws to govern the internal affairs of the Board; and
 - (6) Perform such other functions as are permitted by this ordinance.
- (i.) *Administration.* The Board shall elect a Chair, Vice Chair, Secretary, and Treasurer. Except for the Chair, the officers shall serve for renewable one-year terms. The Chair shall be elected for a renewable two-year term. The

Board may allow the duties of the Secretary and Treasurer to be performed by the same person.

Sec. 78-53. Penalty.

- (a.) Any violator of any provision of this article shall be subject to a civil penalty payable to the city. Each act of violation shall constitute a separate offense.
- (b.) Should any public tree be destroyed, the person causing the destruction shall also make restitution to the city or to the abutting landowner in an amount equal to the cost of removing the destroyed tree plus its replacement value. Replacement value shall be calculated as follows:
 - (1) For a tree up to and including 2 inches in diameter measured at a distance of 4.5 feet from the ground, the replacement value shall be \$200.
 - (2) The replacement value of a tree in excess of 2 inches in diameter as measured at a distance of 4.5 feet from the ground shall be calculated by using the following formula: $\text{restitution} = \$200 + (d^2 \times \$40)$ not to exceed \$2,500 where d equals the diameter of the trunk as measured in inches.
- (c.) The court may also order the violator to reimburse the city for the cost of any action which was necessary to correct violations of the ordinance. If the city is the prevailing party in an enforcement action, it shall be awarded reasonable attorneys' fees and costs.

LEGAL AD

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

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, June 5, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

COMMUNITY FOREST ORDINANCE

This is a new ordinance which establishes the community forest as all trees growing on public property and trees growing within the limits of any public way within the Urban Compact Zone. This ordinance requires a forest management plan be followed and administered by the municipal arborist.

BUSINESS LICENSING ORDINANCE

This amendment is regarding second hand dealer licenses and outlines requirements for the license holders to retain sales records, notify the police department of certain sales, record identification of the seller and addresses low value goods and goods with serial numbers.

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

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, May 31, 2012

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

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Public Hearing and First Passage regarding an amendment to the Business Licensing ordinance pertaining to second hand dealers.

INFORMATION:

The proposed changes are presented at the request of a few local businesses which hold second hand dealer licenses from the City. The changes are being recommended by the Police Chief and the City Administrator.

One amendment states the license holder shall not accept goods from any person whom the licensee has reason to believe is a thief or receiver of stolen property. The other amendments pertain to record retention of goods sold and application of the ordinance regarding low value/high volume goods, such as used books or DVDs.

Attached is a memorandum from the City Administrator, a letter from the City Attorney and a letter from an attorney of one of the businesses with a second hand dealer license.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

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That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article VII "Junk Collectors, Pawnbrokers and Secondhand Dealers", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting for final passage.



City of Lewiston Executive Department

EDWARD A. BARRETT
City Administrator

PHIL NADEAU
Deputy City Administrator



May 31, 2012

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Proposed Amendments to Pawnbrokers and Secondhand Dealers Ordinance

Recently, the City was approached by representatives of a local pawnbroker and a retail store that sells both new and secondhand goods regarding concerns they have with sections of the City's pawnbrokers and secondhand dealers ordinance. As a result of these conversations, we are proposing two amendments to the ordinance.

The first is to Section 22-193, which requires all licensed junk collectors or secondhand dealers to maintain a listing of all articles they have received, information on the individuals from whom this material is purchased, the date and time received, and the amount for which it was sold. The amendment would provide an alternative method by which secondhand dealers could comply with this requirement in situations where a dealer handles a large volume of relatively low value goods such as books, dvds, used video games, and the like. For items valued below \$20 (excepting goods with a serial number or other personalized identifying characteristic), the dealer must continue to maintain all of the required information and must provide it to the Police Department on a monthly basis. This change will, however, will allow dealers with computerized point of sale and inventory systems to more easily comply with information requirements by use of electronic record systems. In addition, these items are exempted from the 15 day retention requirement currently set by Section 22-195.

The second change involves Section 22-194, receiving articles from minors, thieves. Tom Peters, representing a local pawnbroker, has raised concerns that this section was problematic for his client, particularly the following language: "or from a person known or suspected to be a thief or a receiver of stolen property," suggesting that it was vague and potentially placed his client in jeopardy, even when acting appropriately. As a result of this concern, we are proposing an amendment that would eliminate the word "suspected" and adding the following new language: "or from any person whom the licensee has reason to believe to be a thief or receiver of stolen property." I have attached a letter from Mr. Peters on this subject along with an opinion provided by the City Attorney's Office addressing his concerns and suggesting this amendment.

These amendments have been reviewed by both the Police Department and the City Attorney, and I would recommend your approval.

AN ORDINANCE PERTAINING TO SECOND HAND DEALERS

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 22 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 22

BUSINESSES

ARTICLE VII. JUNK COLLECTORS, PAWNBROKERS AND SECONDHAND DEALERS

Sec. 22-193. List of transactions; seller to furnish proof of identification.

- (a) Every person licensed as a junk collector or secondhand dealer shall make out, and have available for periodic collection, a legible and correct list, upon a format furnished by the police chief, containing an accurate description of all articles taken in pawn, purchased, or taken in exchange, the name, residence and date of birth of the buyer or seller other than the licensee, together with the correct and exact time when such articles were pawned or purchased, and the amount the item was sold for. Before recording the information required by this section, a dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item which confirms the person's identification by date of birth and by physical description.
- (b) Alternative compliance mechanism for secondhand dealers. In lieu of the requirements set forth in subsection (a), a secondhand dealer is in compliance with this section with respect to certain secondhand goods if it establishes and maintains the following system for identifying and reporting the purchase of such goods:
- (i) Application to low value goods. This section shall apply only with respect to individual secondhand goods of a mass manufacture process with no specific individual identifying feature, valued at or below \$20, provided the total value of secondhand goods sold by a person to the dealer within a 30 day period does not exceed \$100. Any sale of a secondhand good in excess of the limits established in this paragraph must comply with the requirements set forth in subsection (a) of this section.
- (ii) Goods with serial number. This section shall not apply to a second hand good displaying a readily identifiable serial number or similar registration number, or any other personalized identifying characteristic marking having been uniquely applied. Any sale of a secondhand good with an identifiable number, along with all other secondhand goods sold at such time by the same individual, must comply with the requirements set forth in subsection (a).

- (iii) Record retention. With respect to any sale of secondhand goods under this subsection, the dealer shall maintain records of each secondhand good purchased by the dealer, the date of the purchase, and the name and address of the person selling the good to the dealer. Records may be retained in electronic form.
- (iv) Transmittal to police department. No later than the 15th day of each calendar month, the dealer shall transmit to the chief of police, or the chief's designee, the purchase records collected by the dealer under subparagraph (iii) during the prior calendar month. Transmittal may be provided in electronic form.
- (v) Identification of seller. At the time of purchase of a secondhand good by a dealer, the dealer shall verify the name, address, and date of birth of the person making the return using reasonable means of identification as described in subsection (a).
- (vi) Definitions. For purposes of this section, the term "purchase" includes the provision by the secondhand dealer of any item or thing of value in exchange for the acquisition of a secondhand good.

Sec. 22-194. Receiving articles from minors, thieves.

No one licensed pursuant to this article shall purchase or receive any article from any person under the age of 18 years without the written consent of such person's parent or guardian, ~~or from a~~ any person known by the licensee or suspected to be a thief or a receiver of stolen property, or from any person whom the licensee has reason to believe to be a thief or receiver of stolen property.

Sec. 22-195. Retention of articles purchased.

- (a) Articles purchased by anyone licensed in accordance with the provisions of this article, excepting pawnbrokers, shall be retained by such licensee in the same condition in which they were obtained and in an accessible place at the licensed business location where such articles can be examined and inspected for at least 15 days before they are disposed of. This paragraph does not apply with respect to the sale of any secondhand good or goods which conforms to the requirements of section 22-193(b).
- (b) No pawnbroker shall sell, destroy or alter any property pawned until it has remained in his possession for the duration of time as required by this article, unless forfeited in writing by the customer.

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



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March 19, 2012

Mr. Edward Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, ME 04240

Re: Lewiston Ordinance § 22-194

Dear Ed:

Thank you for a very productive meeting regarding the Section 22-194 city ordinance.

I trust it was clear we are all on the same page regarding doing what we can legally to minimize any avenue whereby stolen items may be sold to any merchant. Our concern has been and remains that we work together, within the confines of the law, so neither the City nor my client violate individual rights or be seen as punishing someone for *potential* wrong doing or *re-punishes* them for a conviction in the past for which they served their time and were never told of additional punishment under city ordinances.

You asked I provide you with some of the research I have done. I will not write a brief but rather point you in the direction where I have concerns.

First, the part of the ordinance that gives me great concern is the part that reads... "*or from a person known or suspected to be a thief or a receiver of stolen property*".

My first concern is one that should be apparent to any reader and certainly to the city attorney upon initial read of the ordinance. I believe this statute violates the **vagueness doctrine**, which "is a derivative of due process, and protects against the ills of laws whose prohibitions are not clearly defined." U.S.C.A. Const. Amend. 14. National Organization for Marriage v. McKee, 649 F.3d 34. The vagueness doctrine invalidates statutes "whose terms are so uncertain that persons of *average intelligence would have no choice but to guess at their meaning and application*." U.S.C.A. Const. Amend. 14. IMS Health Inc. v. Mills, 616 F.3d 7. The "Due Process clauses of Maine and United States Constitution require that a statute *provide reasonable*

and intelligible standards to guide the future conduct of individuals and to allow courts and enforcement officials to effectuate legislative intent in applying the laws.” Maine Real Estate Commission v. Kelby, 360 A.2d 528.

The ordinance raised many questions as written. What constitutes when a shopkeeper knows someone was convicted of a theft. Are they to know the court records? From the newspaper? How far back? Forever? What does it mean to suspect someone is a thief? If they bring in one new unopened package does that mean they should be suspected of stealing it? What if they bring in ten of those items? One can certainly have a hunch but that would not be sufficient for a probable cause standard. What standard are we to use? And how are we to determine someone is a receiver of stolen property?

The point of all this is to be clear with those that have a license to operate within the city when they are and when they are not in violation of the ordinance. The way it is now written I believe it violates the Constitutions under the vagueness doctrine.

Second, I have concerns under the *ex post facto* provision of the US Constitution which prohibits laws that “retroactively alter the definition of crimes or *increase* the punishment for criminal acts.” Collins v. Youngblood, 497 U.S. 37, 43. Both the Maine Constitution and the US Constitution state that a statute “violates the prohibition against *ex post facto* laws if it... *makes more burdensome the punishment for a crime* after it has been committed.” State v. Letalien, 985 A.2d 4, 14. If this case, if someone had a prior conviction of theft, then the city ordinance would add an additional burden by not allowing that person to ever sell goods to a pawnshop.

Typically, the *ex post facto* clause only applies to penal statutes, however it can apply to civil issues “if the party challenging the statute provides the clearest proof that the statutory scheme is so punitive either in purpose or effect as to negate the State’s intention to deem it civil.” Kansas v. Hendricks, 521 U.S. 346, 361. Generally, there are seven factors that provide the framework for this determination and they are:

- “whether the sanction involves an affirmative disability or restraint;
- whether it has historically been regarded as a punishment;
- whether it comes into play only on a finding on scienter;
- whether its operation will promote the tradition aims of punishment – retribution and deterrence;
- whether the behavior to which it applies is already a crime;
- whether an alternative purpose to which it may rationally be connected is assignable for it;
- and whether it appears excessive in relation to the alternative purpose assigned.”

Mendoza-Martinez, 372 U.S. 168-169. In this case, there is a strong argument that the statute is penal in nature because violation of the statute would result in the loss of the pawnbroker’s business license and thus the loss of his ability to make a living. As I mentioned during the meeting in addition there are a significant number of people whose only recourse to get cash advances is a pawnshop and not being able to do so because of a prior conviction could well convert this issue from civil to criminal for them. This is not a new issue in Maine. I would refer you to the cases that ultimately removed civil OUI from our books and the more recent case of State v. Letalien (985 A.2d 4, Me. 2009) where the court concluded registration of sex offenders (SORNA) was an *ex post facto* law albeit non written as criminal in nature.

Lastly there is some question whether the city can legislate in this arena. The State of Maine has laws governing pawnshops. Has the State preempted the field?

Generally speaking, municipal legislation will only be **preempted** "when the Legislature has expressly prohibited local regulation, or when *the Legislature has intended to occupy the field* and the municipal legislation would frustrate the purpose of the state law." Tisei v. Town of Ogunquit, 491 A.2d 564, 570 (Me. 1985). State and federal regulations are so pervasive in regards to the business of pawnbrokers; it well may be a tenuous argument to say that the Legislation did not intend to occupy the field.

I am also concerned that if the ordinance is found valid then given my research which finds no other city has such an ordinance then it will take little time for those to whom this ordinance is directed to simply cross the river to pawn their goods. At the moment no statewide system is in place where all pawnbrokers report the items they receive. Thus a citizen of Lewiston whose item was stolen will have less of a chance to recover that item as the thief expands the geographic scope of where they sell the item in response to the enforcement of this ordinance.

And, lastly, we should be mindful to not create a standard for one merchant that does not apply to other merchants dealing in similar purchases from the public. To do so will give the other merchants an economic advantage over the merchant that has these restrictions. I am sure that is not the intent of the city. If we are truly to find ways to remove options from those that steal I suggest legislation be statewide and cover all merchants that face the potential of being placed in the position of possibly buying stolen goods.

We look forward to your reply and wish to continue to work as a team in the best interests of all the citizens of Lewiston. Thank you and the Mikes for your time and ear to hear our concerns.

Sincerely,
PETERS AND ASSOCIATES, P.A.



Thomas P. Peters, II
Attorney at Law

TPP/jmp.lewistonpawnshop 031912
cc Ricky LaChapelle

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PETER A. ISAACSON 1980

MEMORANDUM

**Confidential & Subject to
Attorney-Client Privilege**

To: Edward A. Barrett, City Administrator
From: Daniel C. Stockford, Brann & Isaacson
Re: Pawnshop Licensing Ordinance
Date: April 4, 2012

This memorandum is in response to your request that we review the concerns raised by Attorney Tom Peters regarding Section 22-194 of the City's pawnshop licensing ordinance. The ordinance provides that "No one licensed pursuant to this article shall purchase or receive any article from... a person known or suspected to be a thief or a receiver of stolen property."

In regard to Attorney Peters' assertion that the ordinance is unconstitutionally vague, the Maine Law Court has held that courts must presume the constitutional validity of an ordinance and that the party attacking the ordinance has the burden of demonstrating its unconstitutionality. "An ordinance is unconstitutionally vague only when it sets guidelines which would force persons of general intelligence to guess at its meaning..." Britton v. Town of York, 673 A.2d 1322, 1324 (Me. 1996). "A municipal ordinance is not unconstitutionally vague where it contains sufficient guidance to allow for effective judicial review and this protects the individual from arbitrary municipal action." Nugent v. Town of Camden, 710 A.2d, 245, 248 (Me. 1998). Because failure to define a term in an ordinance "does not render an ordinance unconstitutionally vague," the courts do not look at whether the ordinance could have provided more specific guidance by defining every term in the ordinance, but at whether the ordinance contains sufficient standards to provide guidance and limit a city's discretion. Britton, at 1324.

In this case, we do not believe that the ordinance provision is unconstitutionally vague. The ordinance simply requires that a pawnshop licensee not purchase or receive articles from persons whom the licensee knows or has reason to suspect are thieves or receivers of stolen property. The City has a strong argument that the ordinance need not define what constitutes knowledge or reason to suspect that a person is a thief or receiver of stolen goods.

Knowledge or reason to suspect theft or receipt of stolen goods could be based on a range of information, including suspicious circumstances surrounding the goods or the person's

Edward A. Barrett
April 4, 2012
Page 2

attempt to pawn the goods, knowledge of a person's criminal record, or receipt of information from third parties. In order to enforce the ordinance, the City would need to make a finding that the licensee had such knowledge or reason to suspect. The licensee would have the opportunity to argue that the facts are not sufficient to make such a finding, and the City's finding ultimately would be subject to judicial review in the courts. In these circumstances, we believe that the ordinance provides sufficient guidance and that there are adequate due process protections in place for the licensee.

While we believe that the ordinance is not unconstitutionally vague as currently drafted, we believe that the language could be tightened up to address this argument. Following is possible revised language that makes more clear that it is directed to those whom the licensee has actual knowledge is a thief/receiver of stolen goods or whom the licensee has reason to believe is a thief/receiver of stolen goods:

No one licensed pursuant to this article shall purchase or receive any article from any person under the age of 18 years without the written consent of such person's parent or guardian, ~~or from any person known by the licensee or suspected to be a thief or a receiver of stolen property, or from any person whom the licensee has reason to believe to be a thief or receiver of stolen property.~~

We do not agree with the other concerns that have been raised. In order to demonstrate that the ex post facto clause applies, it would be necessary to show that the ordinance increases the punishment of a crime after it has been committed. The impact of the ordinance on the pawnbroker is not relevant to this analysis, because the pawnbroker is not the individual who may have committed the crime of theft. Limiting an individual's ability to pawn goods is not a type of restraint that historically has been regarded as punishment.

In addition, there is no indication that the Legislature has intended to occupy the field in a way that would preempt municipal regulation of pawnbrokers. To the contrary, the legislature has specifically delegated to municipalities the authority to grant licenses to pawnbrokers without limiting the conditions that may be imposed on such licenses. 30-A MRSA §3961.

Attorney Peters makes a policy argument suggesting that no other city has such an ordinance, but it appears that a number of municipalities both inside and outside of Maine, including Auburn, have very similar or identical ordinance provisions. Auburn Code section 4-22, which applies to secondhand dealers and pawnbrokers, states that "No person licensed pursuant to this section shall purchase or receive any article from any person under the age of 18 years without the written consent of the person's parent or guardian, or from a person known or suspected to be a thief or a receiver of stolen property."

Edward A. Barrett
April 4, 2012
Page 3

Finally, you raised the question of whether the City could be liable for red flagging individuals on the pawnshop's computer system to bring attention to known or suspected thieves. This practice could give rise to a defamation claim if an individual could demonstrate that the information is false. If the City continues this practice it should ensure that any flagging is based on objectively provable information, e.g., prior criminal convictions for theft. Although there is some risk to this practice, defamation claims are the type of tort for which the City generally would have immunity under the Tort Claims Act.

DCS/lh

LEGAL AD

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

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, June 5, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

COMMUNITY FOREST ORDINANCE

This is a new ordinance which establishes the community forest as all trees growing on public property and trees growing within the limits of any public way within the Urban Compact Zone. This ordinance requires a forest management plan be followed and administered by the municipal arborist.

BUSINESS LICENSING ORDINANCE

This amendment is regarding second hand dealer licenses and outlines requirements for the license holders to retain sales records, notify the police department of certain sales, record identification of the seller and addresses low value goods and goods with serial numbers.

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

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, May 31, 2012

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

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

Public Hearing for approval of an Outdoor Entertainment Permit for the Lewiston Farmers Market concerts.

INFORMATION:

The Lewiston Farmers Market is planning to sponsor and host musical performances at their market location to attract more patrons to the market, as well as for the enjoyment of the vendors. The Market is held on Sundays from 10am - 1pm from June 24 - October 24 and is located at the municipal parking lot on the corner of Lincoln Street and Main Street, adjacent to Bates Mill 5. The musical performances will vary from guitar players to a jazz ensemble and will occur occasionally throughout the summer and fall. Please see the attached application for additional event details

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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To conduct a public hearing on an application for an outdoor entertainment event for the Lewiston Farmers Market concerts, and to grant a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Lewiston Farmers Market Association for outdoor music concerts for the Market, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances.

CITY OF LEWISTON

Special Event Application

Applications must be submitted at least 14 days prior to the event, unless an * appears next to the permit type. *Application must be turned in 30 days prior to the event due to public hearing requirement.

Application Date May 14th 2012

SPONSOR INFORMATION

Name of Sponsoring Organization: St. Mary's Health System / St. Mary's Nutrition Center
Name of Contact Person for Event: Sherie Blumenthal
Title of Contact Person: Food Access Coordinator
Mailing Address: PO Box 7291
Daytime Telephone: 207 513 3848 Cell Phone: 207 333 0481
Email Address: sblumenthal@stmarysmaine.com
Contact Name and Cell Phone Number DURING the Event: same as above
Is your organization incorporated as a non-profit organization? Yes No
Non-Profit Number: 01-0211551

EVENT INFORMATION

Name of Event: Lewiston Farmers' Market Sundays 10am-1pm
Type of Event (walk, festival, concert, etc.): Farmers Market
Date of Event: June 17th - October 24th Rain Date: N/A
Times of Event: Start Time including set-up: 8:00 am Ending time including clean up: 3:00 pm
Actual Event Start Time: 10:00 am Actual Event End Time: 1:00 pm
Estimated Attendance: 100- 400 each market
Location of Event: Municipal parking lot on the corner of Lincoln Street adjacent to Bates Mill 5
If location is a city park, have you applied for use of the property with the Recreation Department and has your request been approved? Yes No Pending
Date request submitted to the Recreation Department: _____

TYPES OF PERMITS/PERMISSIONS NEEDED – PROVIDE AN ANSWER FOR EACH LINE:

Permit Fee	Permission/Permit Type	YES	NO	NOT SURE
Separate fee and permit possible	FOOD – Will food or beverages be sold or given away? If yes, list what types of food or beverages: Note - A food service license may be required.	X – Local produce, meats, cheeses, baked goods, seafood, pretzels, prepared foods will be sold		
Separate fee and permit possible	NON-FOOD ITEMS – Will products be sold or given away (such as t-shirts, crafts, cds, etc.)? If yes, list what items: Note- A peddling permit may be required.	X – Pottery, gift cards, crafts		
\$11	*LIVE MUSIC – Will there be any outdoor musical performances? If yes, please describe:	X – As in the past we will be having local folk musicians primarily play music		
\$16/day	SOUND AMPLIFICATION – Will there be a microphone or speaker system to project sound?	X – On certain days there will be a speaker system		
Separate fee and permit required	ALCOHOLIC BEVERAGES – Will alcoholic beverages be served?		X	
Separate fee and permit required	*CARNIVAL – Will carnival rides be offered? If yes, attach a copy of the state permit. A city permit is required as well.		X	
Separate fee and permit required	FIREWORKS – Will there be a fireworks display? If yes, a permit from the Fire Department is required.		X	
N/A	PARADE – Will there be a parade? If yes, describe route: Note – A permit from the Police Department is required.		X	
N/A	RUN/WALK/CYCLE – Will event involve participants doing a walk-a-thon, road race, etc? If yes, describe route:	X - We would like to host a cycle event at some point in the summer, however the event has not been scheduled yet		
Separate permit required	BURN PERMIT – Will there be any open flame such as a bon fire? If yes, describe activity:		X	

	Note - A permit from the Fire Department is required.			
N/A	TENT/CANOPY – Will you be setting up a tent or canopy? If yes, list number and sizes:	X – There will be between 22 and 30 canopies (10X10) set up in the parking lot at any given farmers’ market. Our market guidelines require these to be weighted down.		
N/A	ROAD/INTERSECTION CLOSURE – Will any roads need to be closed to accommodate your event? If yes, please list:		X	
N/A	MAP/DIAGRAM – Is a map or diagram attached detailing this event and depicting the placement of such items as tables, tents, port-a-potties, stage, parking, etc.? This is a mandatory requirement for this application and must be included with the application form.	X		
N/A	PARKING ACCOMODATIONS – What will be the anticipated need for parking and what is your parking plan?	X – Last season we used the majority of the parking along the Bates Mill Complex as well as along and inside the parking garage. We have additional staff at the market to support with any parking confusions and especially during other events such as the Dempsey Challenge or Balloon Festival		
N/A	TOILETS – Please list amount at event and/or nearest location:	X- Last season we worked something out with YVONNE’s so people could use the bathroom there. It is across the street.		
N/A	WASTE DISPOSAL – Please list process and location:	X- We have a garbage can at the Information Booth at the head of the market		
N/A	HAND WASHING FACILITIES – Please list		X	

	amount at event and/or nearest location:			
N/A	POTABLE WATER – Please list amount at event and location:		X	
N/A	FIRST AID FACILITIES – Please list location at event:	X - We have first aid kit located at the Information Booth		
\$_27.00_	TOTAL FEE AMOUNT INCLUDED – Checks payable to “City of Lewiston”			

EVENT LIABILITY INSURANCE COVERAGE FOR EVENT

For an event such as a walk-a-thon, race, festival, concert, etc. the City requires insurance coverage – general liability.

The City of Lewiston needs to be named as additionally insured in regards to the event activities on that date. Once the event is approved, the Certificate of Insurance will need to be received before the event permits can be issued. Please have “City of Lewiston” listed as additionally insured on the Certificate of Insurance (minimum coverage \$1,000,000) and have your insurance company fax a copy to: City Clerk 207-777-4621

DESCRIPTION OF EVENT – Please describe what will occur during your event

The Lewiston Farmers’ Market is an open air market that supports vendors selling locally grown and produced goods to residents of Lewiston and surrounding areas. We will be opening the market with 24 vendors and will have a rotating guest vendor spot each week. Other happenings at the market will include live music, arts and crafts for kids and Shop with the Chef events.

Signature of Applicant:

Printed Name:

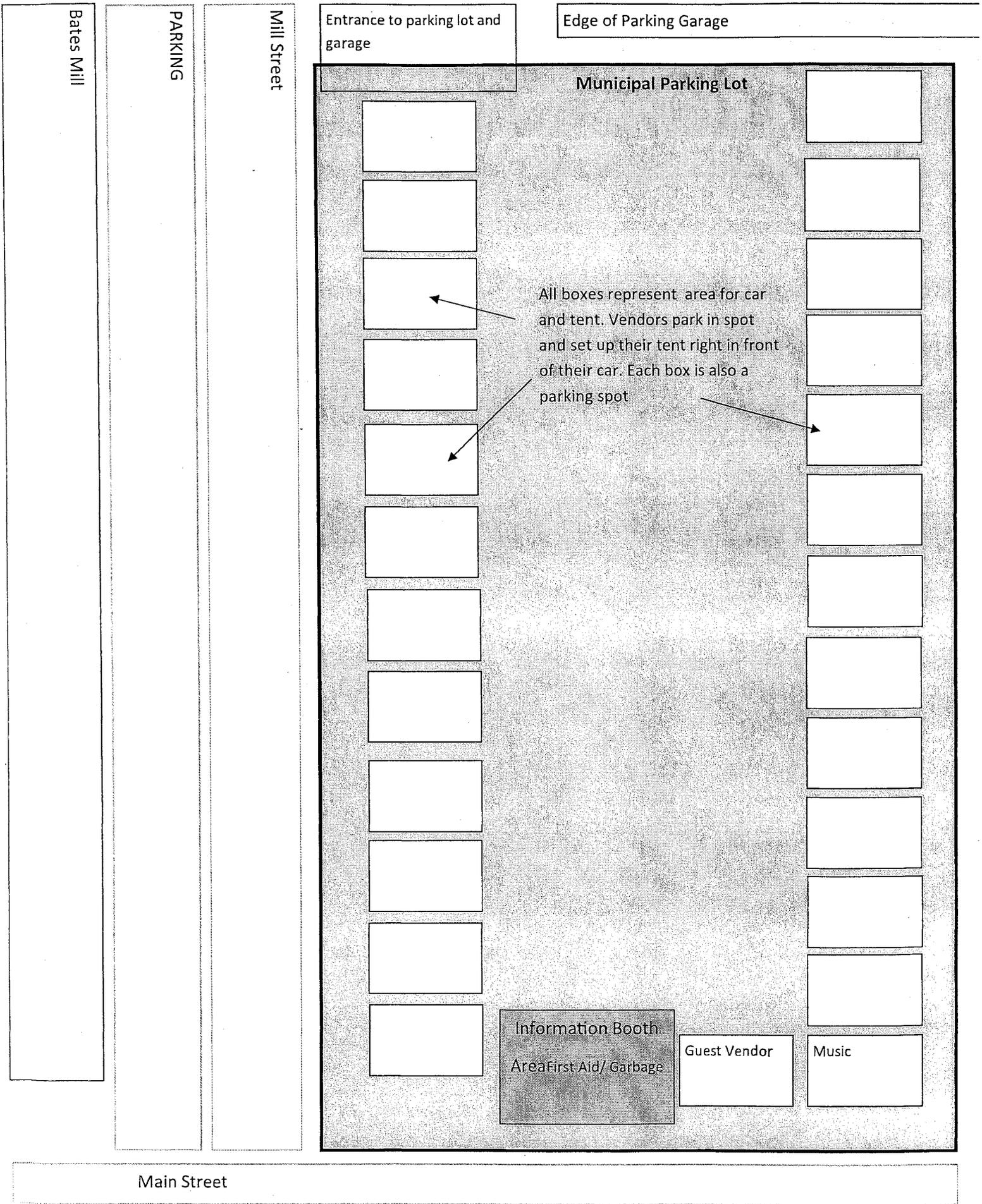
Date Submitted:

Sherie Blumenthal

5/15/12

Please note that you will be contacted by City Staff if you require additional permitting.

LAYOUT MAP OF FARMERS' MARKET (Not to Scale)



LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 12

SUBJECT:

Public Hearing for approval of outdoor concerts sponsored by L/A Arts at Dufresne Plaza.

INFORMATION:

L/A Arts has submitted an application requesting permission to hold outdoor concerts on City property. They plan to hold evening outdoor concerts at Dufresne (Courthouse) Plaza on the last Friday in June, July, August and September to be held in conjunction with the Lewiston Art Walk. L/A Arts has been hosting noon time outdoor concerts for several years and these have been well attended, and wanted to expand to offer the evening events as well.

Per the City Code, an outdoor concert cannot be held on city property without approval by a majority of the Council after a public hearing. Staff recommendations are being sought from the Recreation Department, Police Department, Fire Department, Code Enforcement/Health Officer and the Land Use Code Officer for compliance.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

ZATSKMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To conduct a public hearing on an application from L/A Arts for the evening outdoor concerts to be held at Dufresne Plaza on the last Friday of the month in June, July, August and September, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to L/A Arts for the outdoor concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances.

CITY OF LEWISTON

Event Application

Applications must be submitted at least 7 days prior to the event.

Application Date 2/6/2012

FESTIVAL INFORMATION

Name of Organization: L/A Arts

Contact Person for Event: Odelle Bowman

Title of Contact Person: Executive Director

Contact Name and Phone number during the Event: Odelle Bowman 871-5717

Mailing Address: 221 Lisbon St Lewiston, Me 04240

Telephone: 782-7228

Cell Phone: 8715717

Email Address: odelle.bowman@laarts.org

Is your organization incorporated as a non-profit organization? Yes No

Non-Profit Number: 01 039 1208

EVENT INFORMATION

Name of Event: Sounds of Summer / Antwerk

Location of Event: DuFresne Plaza - Lewiston

Date of Event: May 25th, June 29th, July 27, August 31, September 28

Rain Date: August 2, 9, 16 Dec 1st or 8th

Time of Event: Start Time: 4pm (setup) Ending Time: 8pm performance
6pm (performance)

Estimated Attendance: 70 - 80 people passing thru on
at any one time antwerk

Does the Sponsoring Organization own the property? NO
If not, please attach a letter from the property owner authorizing this event.

Does the Applicant have insurance for this event? Yes No

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 13

SUBJECT:

Public Hearing for approval of outdoor concerts located around the City for the Bands on the Run half marathon event.

INFORMATION:

Museum L/A has submitted an application requesting permission to hold outdoor concerts on City property as part of their June 24 Bands on the Run half marathon fund raising event. Live musical entertainment will be held on Sunday, June 24 from 8am - 2pm at the following locations:

Simard Payne Park, Kennedy Park, Gas Light Park, and Sunnyside Park

Per the City Code, an outdoor concert cannot be held on city property without approval by a majority of the Council after a public hearing. Staff recommendations are being sought from the Recreation Department, Police Department, Fire Department, Code Enforcement/Health Officer and the Land Use Code Officer for compliance.

The Recreation Director and Police Department do not have any concerns regarding these concerts.

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 conduct a public hearing on an application from Museum L/A for the outdoor concerts to be held at Simard-Payne Park, Kennedy Park, Gas Light Park and Sunnyside Park on Sunday June 24, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to Museum L/A for the outdoor concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances.

CITY OF LEWISTON

Special Event Application

Applications must be submitted at least 14 days prior to the event, unless an * appears next to the permit type. *Application must be turned in 30 days prior to the event due to public hearing requirement.

Application Date 2-15-12

SPONSOR INFORMATION

Name of Sponsoring Organization: Museum L-A

Name of Contact Person for Event: Mike Lecompte

Title of Contact Person: Race Director

Mailing Address: 35 Canal St. Box A7, Lewiston ME

Daytime Telephone: 207-212-3722 Cell Phone: 207-212-3722

Email Address: MJLecompte@aol.com

Contact Name and Cell Phone Number DURING the Event: Mike Lecompte - 207-212-3722

Is your organization incorporated as a non-profit organization? Yes No

Non-Profit Number: 01-0504257

EVENT INFORMATION

Name of Event: Bands on the Run Half Marathon + 5K

Type of Event (walk, festival, concert, etc.): Running Race

Date of Event: 6-24-12 ^{Sunday} Rain Date: No

Times of Event: Start Time including set-up: 8 AM ^{June 22} Ending time including clean up: 5 PM ^{June 25}
Actual Event Start Time: 8 AM ^{June 24} Actual Event End Time: 2 PM

Estimated Attendance: 1000

Location of Event: Simard-Payne Park

If location is a city park, have you applied for use of the property with the Recreation Department and has your request been approved? Yes No Pending

Date request submitted to the Recreation Department: June 22 - June 25

TYPES OF PERMITS/PERMISSIONS NEEDED – PROVIDE AN ANSWER FOR EACH LINE:

Permit Fee	Permission/Permit Type	YES	NO	NOT SURE
Separate fee and permit possible	FOOD – Will food or beverages be sold or given away? If yes, list what types of food or beverages: <i>Bagels, fruit, water, Gatorade</i> Note - A food service license may be required.	✓		
Separate fee and permit possible	NON-FOOD ITEMS – Will products be sold or given away (such as t-shirts, crafts, cds, etc.)? If yes, list what items: <i>T-shirts, hats, mugs</i> Note- A peddling permit may be required.	✓		
\$11	*LIVE MUSIC – Will there be any outdoor musical performances? If yes, please describe: <i>B Live Band</i>	✓		
\$16/day	SOUND AMPLIFICATION – Will there be a microphone or speaker system to project sound?	✓		
Separate fee and permit required	ALCOHOLIC BEVERAGES – Will alcoholic beverages be served?	✓		
Separate fee and permit required	*CARNIVAL – Will carnival rides be offered? If yes, attach a copy of the state permit. A city permit is required as well.		✓	
Separate fee and permit required	FIREWORKS – Will there be a fireworks display? If yes, a permit from the Fire Department is required.		✓	
N/A	PARADE – Will there be a parade? If yes, describe route: Note – A permit from the Police Department is required.		✓	
N/A	RUN/WALK/CYCLE – Will event involve participants doing a walk-a-thon, road race, etc? If yes, describe route: <i>See Attached Map</i>	✓		
Separate permit required	BURN PERMIT – Will there be any open flame such as a bon fire? If yes, describe activity: Note - A permit from the Fire Department is required.		✓	
N/A	TENT/CANOPY – Will you be setting up a tent or canopy? If yes, list number and sizes: <i>1 Beer Tent 24x30 10am-2pm Simons Payne</i>	✓		
N/A	ROAD/INTERSECTION CLOSURE – Will any roads need to be closed to accommodate your event? If yes, please list: <i>Oxford St. Mill St.</i>	✓		
N/A	MAP/DIAGRAM – Is a map or diagram attached detailing this event and depicting the placement of such items as tables, tents, port-a-potties, stage, parking, etc.? This is a mandatory requirement for this application and must be included with the application form.	✓		

N/A	PARKING ACCOMODATIONS – What will be the anticipated need for parking and what is your parking plan? <i>Use of Parking Garages – Lincoln x Main Lincoln x Chestnut</i>	✓		
N/A	TOILETS – Please list amount at event and/or nearest location: <i>port-o-toilets 10 - w/ 2 being ADA compliant</i>	✓		
N/A	WASTE DISPOSAL – Please list process and location: <i>Pumpster - Museum L-A site in Park 10 Trash cans in park</i>	✓		
N/A	HAND WASHING FACILITIES – Please list amount at event and/or nearest location:	✓		
N/A	POTABLE WATER – Please list amount at event and location: <i>Poland Spring bottled water</i>	✓		
N/A	FIRST AID FACILITIES – Please list location at event: <i>medical Tent - staffed w/ medical personnel from Dr. Sedwick's practice EMS on Standby</i>	✓		
\$	TOTAL FEE AMOUNT INCLUDED – Checks payable to “City of Lewiston”			

EVENT LIABILITY INSURANCE COVERAGE FOR EVENT

For an event such as a walk-a-thon, race, festival, concert, etc. the City requires insurance coverage – general liability. The City of Lewiston needs to be named as additionally insured in regards to the event activities on that date. Once the event is approved, the Certificate of Insurance will need to be received before the event permits can be issued. Please have “City of Lewiston” listed as additionally insured on the Certificate of Insurance (minimum coverage \$1,000,000) and have your insurance company fax a copy to: City Clerk 207-777-4621

DESCRIPTION OF EVENT – Please describe what will occur during your event

13.1 mile running race and a 3.1 mile running race.
Kid's obstacle course for children ages 5-12.

Signature of Applicant:

MJ. Lecompte

Printed Name:

Mike Lecompte

Date Submitted:

2/15/12

Please note that you will be contacted by City Staff if you require additional permitting.

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 14

SUBJECT:

Condemnation Hearing for the building located at 357 Sabattus Street.

INFORMATION:

The City has begun the process for condemnation of the property at 357 Sabattus 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.

The agenda background material pertains to the condition of this property. The City Attorney will be present on Tuesday evening to assist the City Council with the condemnation hearing and to advise accordingly.

PLEASE NOTE - The background material for this agenda item is included in a separate binder that was distributed with the meeting agenda binder.

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 357 Sabattus 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) With regard to the property at 357 Sabattus Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action.

357 Sabattus Street

Ownership Documents

QUITCLAIM DEED

TRAVIS P. SOULE of New Gloucester, County of Cumberland and State of Maine and RICHARD HERMAN of Falmouth, County of Cumberland, and State of Maine, for consideration paid, grant to 134 MAIN STREET, LLC, a Maine limited liability company with a principal place of business and mailing address of 50 Portland Pier, Suite 400, Portland, Maine 04101, WITH QUITCLAIM COVENANT, those certain lots or parcels of land with the buildings and improvements thereon located in Lewiston, County of Androscoggin, State of Maine, bounded and described as follows:

357 Sabattus Street, Lewiston

Parcel One:

Beginning on the south side of Sabattus Street fifty (50) feet east of the northeast corner of land now or formerly owned by J. Raymond Brackett;

THENCE running South one hundred six (106) feet at right angles to said Sabattus Street;

THENCE parallel to said Sabattus Street forty-five (45) feet, more or less, to Sylvan Avenue;

THENCE northeasterly along said Sylvan Avenue about ten (10) feet;

THENCE northerly parallel to and forty-five (45) feet from the first mentioned line, ninety-nine (99) feet, more or less, to the southerly line of said Sabattus Street;

THENCE westerly along said southerly line of said Sabattus Street forty-five (45) feet to the point of beginning. Being a portion of Lot numbered 5 on a certain plan of lots.

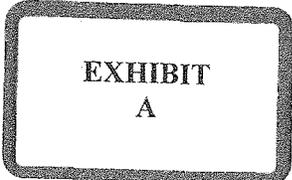
Parcel Two:

Beginning at an iron pin on the northerly side of Sylvan Avenue which point is one hundred twenty-seven (127) feet, more or less, southwesterly from the intersection of Sabattus Street and said Sylvan Avenue;

THENCE North eight (8) degrees seven (7) minutes East and partly along a steel wire fence fifteen and six tenths (15.6) feet to a street fence post;

THENCE South fifty-six (56) degrees twenty-seven (27) minutes East along the line of land now or formerly of Irene Ouellette ten and three tenths (10.3) feet to an iron pin set along the northerly side of said Sylvan Avenue;

NO MAINE R.E.
TRANSFER TAX PAID



THENCE South forty-seven (47) degrees forty-five (45) minutes West along said northerly side of said Sylvan Avenue fourteen and five tenths (14.5) feet to the point of beginning.

Being part of the premises described in the deed of LA Italian Properties, LLC to these Grantors by deed dated February 12, 2007, and recorded in the Androscoggin County Registry of Deeds in Book 7057, Page 239.

Also hereby conveying all rights, easements, privileges and appurtenances belonging to the parcel and subject to any easements, covenants and restrictions of record.

This conveyance is subject to the mortgage from Travis P. Soule to Atlantic National Finance Company, LLC dated April 6, 2007, and recorded in Book 7109, Page 297. Said Mortgage was assigned to Atlantic National Trust, LLC, by an Assignment dated April 19, 2007, and recorded in Book 7120, Page 283.

In witness whereof the said Grantors have signed and sealed this instrument this 10th day of ^{Apr} ~~January~~, 2009.

[Signature]
Witness

[Signature]
Travis P. Soule

[Signature]
Witness

[Signature]
Richard Herman

STATE OF MAINE
ANDROSCOGGIN SS.

Personally appeared before me this 10th day of ^{Apr} ~~January~~, 2009, the above-named Travis P. Soule and acknowledged the foregoing instrument to be his free act and deed.

[Signature]
Notary Public
Print/type name: _____
My commission expires: _____

STATE OF MAINE
ANDROSCOGGIN SS.

Personally appeared before me this 30th day of January, 2009, the above-named Richard Herman and acknowledged the foregoing instrument to be his free act and deed.

Arlene M. Thompson
Notary Public
Print/type name: Arlene M. Thompson
My commission expires: 8/18/2014

SEAL

TITLE NOT SEARCHED

ARLENE M. THOMPSON
Notary Public, Maine
My Commission Expires August 18, 2014

ANDROSCOGGIN COUNTY
Gra R. Chouinard
REGISTER OF DEEDS

Notice of Hearing
Certificates of Service

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

First Horizon Home Loan Corporation
c/o CT Corporation System
One Portland Square
Portland, ME 04101

Atlantic National Trust, LLC
c/o Susan K. Labrie
50 Portland Pier, Suite 400
Portland, ME 04101

Camden National Bank
245 Commercial Street
Rockport, ME 04856

134 Main Street, LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
Portland, ME 04101

357 SABATTUS STREET, LEWISTON, MAINE

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

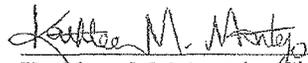
June 5, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 357 Sabattus Street, Lewiston, Maine, identified as Lot 147 on Tax Map 174, and further described in a quitclaim deed recorded in the Androscoggin County Registry of Deeds at Book 7668, Page 46, 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: May 2, 2012


Kathleen M. Montejo, City Clerk



STATE OF MAINE
ANDROSCOGGIN, ss

May 2, 2012

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

Audra Fleury

Notary Public / Attorney at Law

AUDRA FLEURY
Notary Public, Maine
My Commission Expires December 16, 2018

SEAL

ANDROSCOGGIN COUNTY
TINA M. CHOUINARD
REGISTER OF DEEDS

Reborn

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

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

On 5-3-, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on 134 Main Street, LLC as follows:

134 Main Street, LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
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>

Samuel R. ...
Signature

D. Skiff
Agency

EXHIBIT
C

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

First Horizon Home Loan Corporation
c/o CT Corporation System
One Portland Square
Portland, ME 04101

Atlantic National Trust, LLC
c/o Susan K. Labrie
50 Portland Pier, Suite 400
Portland, ME 04101

Camden National Bank
245 Commercial Street
Rockport, ME 04856

134 Main Street, LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
Portland, ME 04101

357 SABATTUS STREET, LEWISTON, MAINE

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

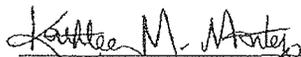
June 5, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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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: May 2, 2012

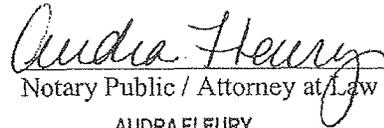


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 2, 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

AUDRA FLEURY
Notary Public, Maine
My Commission Expires December 16, 2018

Return

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

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

On 5-23, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Atlantic National Trust LLC as follows:

Atlantic National Trust LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
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>

Sumner A. Remaldi
Signature

D/ Skeiff
Agency

EXHIBIT
D

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

First Horizon Home Loan Corporation
c/o CT Corporation System
One Portland Square
Portland, ME 04101

Atlantic National Trust, LLC
c/o Susan K. Labrie
50 Portland Pier, Suite 400
Portland, ME 04101

Camden National Bank
245 Commercial Street
Rockport, ME 04856

134 Main Street, LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
Portland, ME 04101

357 SABATTUS STREET, LEWISTON, MAINE

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

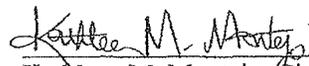
June 5, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 357 Sabattus Street, Lewiston, Maine, identified as Lot 147 on Tax Map 174, and further described in a quitclaim deed recorded in the Androscoggin County Registry of Deeds at Book 7668, Page 46, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

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Dated: May 2, 2012



Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 2, 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

AUDRA FLEURY
Notary Public, Maine
My Commission Expires December 16, 2018

Return

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

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

On May 3, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on a person authorized to receive service for Camden National Bank as follows:

Jen Magurek
(Name of Person Served)
Camden National Bank
245 Commercial Street
Rockport, ME 04856

Costs of Service:

Service:	\$ _____	} <i>See attached Inv.</i>
Travel:	\$ _____	
Postage:	\$ _____	
Other:	\$ _____	
TOTAL:	\$ _____	

Linda L Lasko-Hull
Signature
Knox 50
Agency

EXHIBIT
E

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

First Horizon Home Loan Corporation
c/o CT Corporation System
One Portland Square
Portland, ME 04101

Atlantic National Trust, LLC
c/o Susan K. Labrie
50 Portland Pier, Suite 400
Portland, ME 04101

Camden National Bank
245 Commercial Street
Rockport, ME 04856

134 Main Street, LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
Portland, ME 04101

357 SABATTUS STREET, LEWISTON, MAINE

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

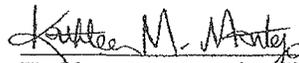
June 5, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 357 Sabattus Street, Lewiston, Maine, identified as Lot 147 on Tax Map 174, and further described in a quitclaim deed recorded in the Androscoggin County Registry of Deeds at Book 7668, Page 46, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

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Dated: May 2, 2012

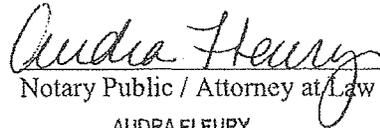


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 2, 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

AUDRA FLEURY
Notary Public, Maine
My Commission Expires December 16, 2018

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

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

On 5-3, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on First Horizon Home Loan Corporation as follows:

First Horizon Home Loan Corporation
c/o CT Corporation System
One Portland Square
Portland, ME 04101

1/6

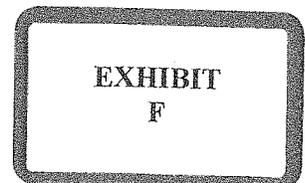
WILLIAM RICHARDSON
ADMIN. ASST.

Costs of Service:

Service:	\$	16.00
Travel:	\$	8.40
Postage:	\$.60
Other:	\$	5.00
TOTAL:	\$	30.00

William Richardson
Signature

DJ Sheriff
Agency



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

First Horizon Home Loan Corporation
c/o CT Corporation System
One Portland Square
Portland, ME 04101

Atlantic National Trust, LLC
c/o Susan K. Labrie
50 Portland Pier, Suite 400
Portland, ME 04101

Camden National Bank
245 Commercial Street
Rockport, ME 04856

134 Main Street, LLC
c/o Susan K. Labrie
50 Portland Pier
Suite 400
Portland, ME 04101

357 SABATTUS STREET, LEWISTON, MAINE

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

June 5, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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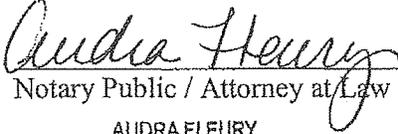
Dated: May 2, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 2, 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

AUDRA FLEURY
Notary Public, Maine
My Commission Expires December 16, 2018

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

April 22, 2011

134 Main Street LLC
50 Portland Pier Suite 400
Portland, Maine 04101

RE: 357 Sabattus Street

Dear Owner(s):

It has come to the attention of this office that the building at 357 Sabattus 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, 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 re-occupancy or demolished.

I hereby condemn and placard the building at 357 Sabattus 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 **June 3, 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

(26)

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.

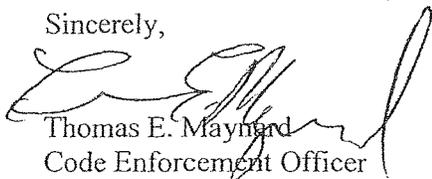
In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 50, Article II, and Section 50-36 thru 50-51 of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred and ten dollars (\$110.00) for the first citation and you 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 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

Sent: Tuesday, November 08, 2011 1:36 PM
To: Tom Maynard
Subject: RE: 357 Sabattus

2
Hi Tom,

I spoke to my contact at Seterus today and she authorized me to place to bid orders for demolition and one bid order for repair. I placed these orders as a rush, so I'm hoping that I have the results by early next week.

Please send me via email or fax the official violation notice. This notice will be required before any of the bids can be approved. My fax number is 216-447-8253. Also, sending them to me will ensure that they get to the correct parties quicker than if you mail them.

My client would also like to know if you have an estimate of the cost the city would charge to demo this property. Fannie Mae will want to know this information and we would like to have it for them along with our bids. Again, the sooner I receive this information, the sooner we can get it over to the necessary parties for their review.

Thank you!

Jodi DiMarco
Code Compliance Specialist
Safeguard Properties
1-800-852-8306 x1692
jodi.dimarco@safeguardproperties.com

Customer Service = Resolution®
Safeguarding Our Clients' Interests

Free! AACE Continuing Education Credits.
Receive 1.0 CEU when you take our Code Enforcement Webinar
http://spiuniversity.adobeconnect.com/e3n6te7whwd/event/event_info.html?preview=false/

From: Tom Maynard [mailto:TMaynard@lewistonmaine.gov]
Sent: Tuesday, November 08, 2011 11:34 AM
To: Jodi DiMarco
Subject: 357 Sabattus

1
Jodie

Yesterday, I inspected 357 Sabattus Street, a vacant property, and found open and unsecured. It has suffered severe damage and deterioration making for a dangerous building. It is my intention to pursue a demolition order in Superior Court and would like to get any contact information for the owner's that you may have. You and Safeguard have been a tremendous help in keeping properties here safe and secure for which I am grateful.

Thank you.

Tom

PRIVILEGE & CONFIDENTIALITY NOTICE: This e-mail and any attachments or links contained herein may contain information that is privileged, confidential, or proprietary. Any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachments is strictly prohibited. If you are not the intended recipient, or received this in error, please delete it immediately and contact the

4/3/2012

EXHIBIT
H

Tom Maynard

From: Jodi DiMarco [Jodi.DiMarco@safeguardproperties.com]
Sent: Tuesday, November 08, 2011 3:43 PM
To: Tom Maynard
Subject: FW: 357 Sabattus
Attachments: 357Sabattusstcondemnation.doc

Thank you Tom.

4

I provided this information to my client.

I will keep you posted.

Thanks!

Jodi DiMarco
Code Compliance Specialist
Safeguard Properties
1-800-852-8306 x1692
jodi.dimarco@safeguardproperties.com

Customer Service = Resolution@
Safeguarding Our Clients' Interests

Free! AACE Continuing Education Credits.
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http://spiuniversity.adobeconnect.com/e3n6te7whwd/event/event_info.html?preview=false/

From: Tom Maynard [mailto:TMaynard@lewistonmaine.gov]
Sent: Tuesday, November 08, 2011 3:25 PM
To: Jodi DiMarco
Subject: RE: 357 Sabattus

3

Jodi

I've attached the condemnation order. At the time, the only owner info I had was "134 Main Street LLC" which is a mortgager in Portland Maine. They advised me that there was a more senior interest, priority lien, on the property being Fannie Mae.

Normally, repairs would require substantial rehabilitation to achieve code compliance. Many permits for such work indicate \$50,000 to \$100,000 in improvement value.

I have not at this time had any kind of a demolition estimate made. Often such buildings, depending on factors such as asbestos abatement etc., require from \$15,000 to \$25,000 to demolish. A large part of that bill is for tipping fees for the disposal of materials.

Thank you for your help.

Tom

From: Jodi DiMarco [mailto:Jodi.DiMarco@safeguardproperties.com]

4/3/2012

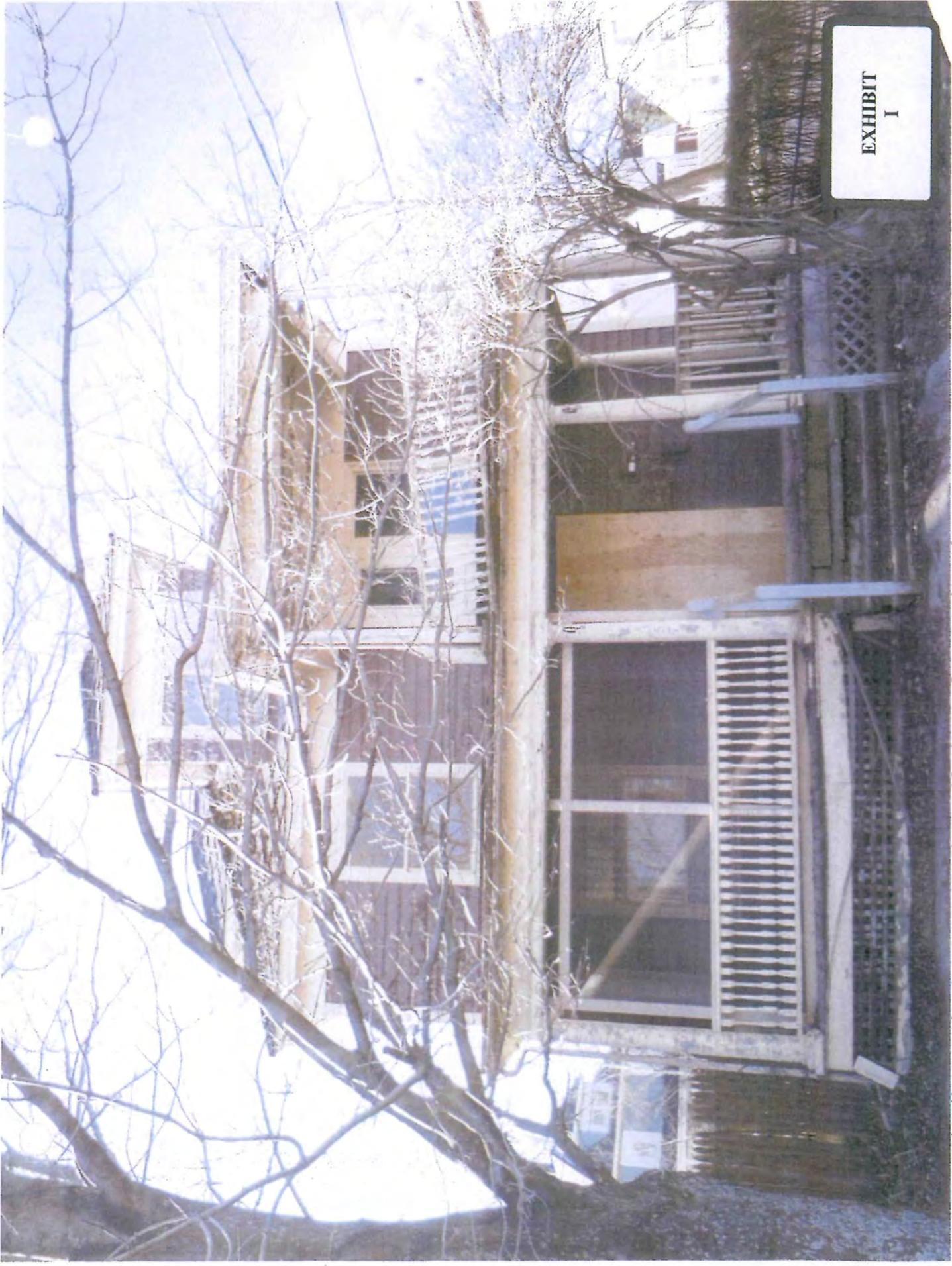
sender. Thank you.

PRIVILEGE & CONFIDENTIALITY NOTICE: This e-mail and any attachments or links contained herein may contain information that is privileged, confidential, or proprietary. Any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachments is strictly prohibited. If you are not the intended recipient, or received this in error, please delete it immediately and contact the sender. Thank you.

4/3/2012

Photographs

EXHIBIT
I



0502 21 44 . ch L 1 9 19 4 7 21 1 12 1



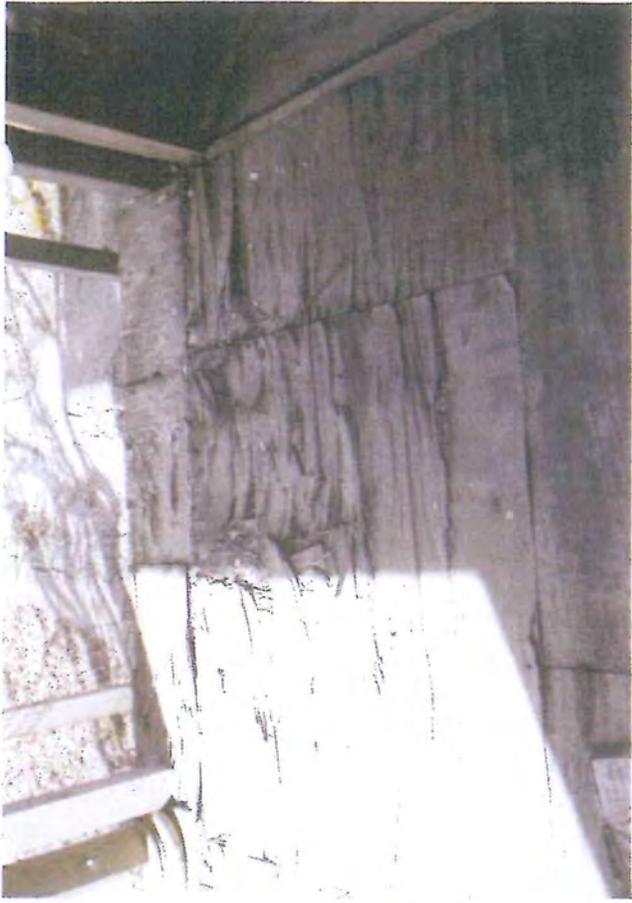
P2



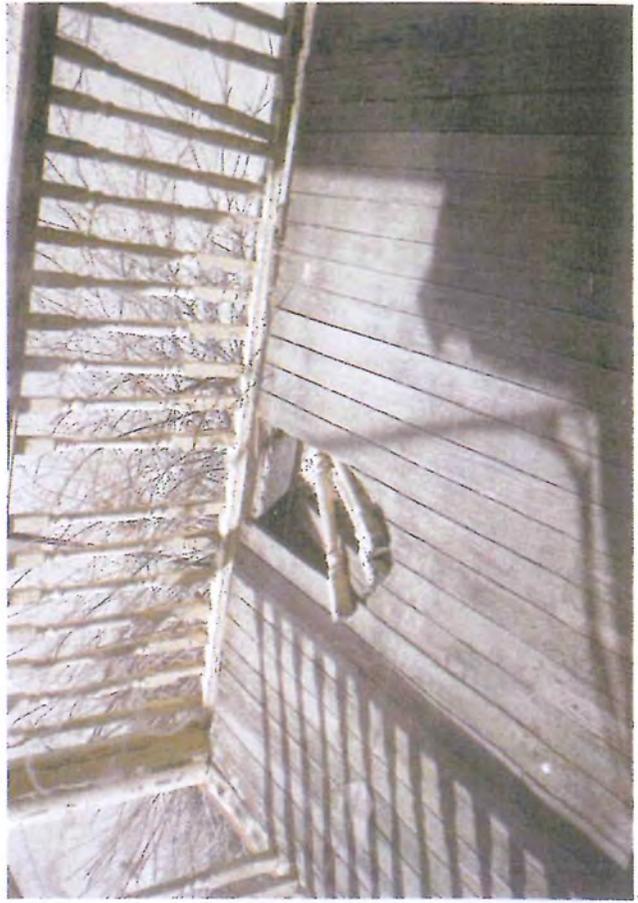
P2

Deterioration of Exterior: Porches

357 Sabattus St. P.M. 1
4-4-17



6



4



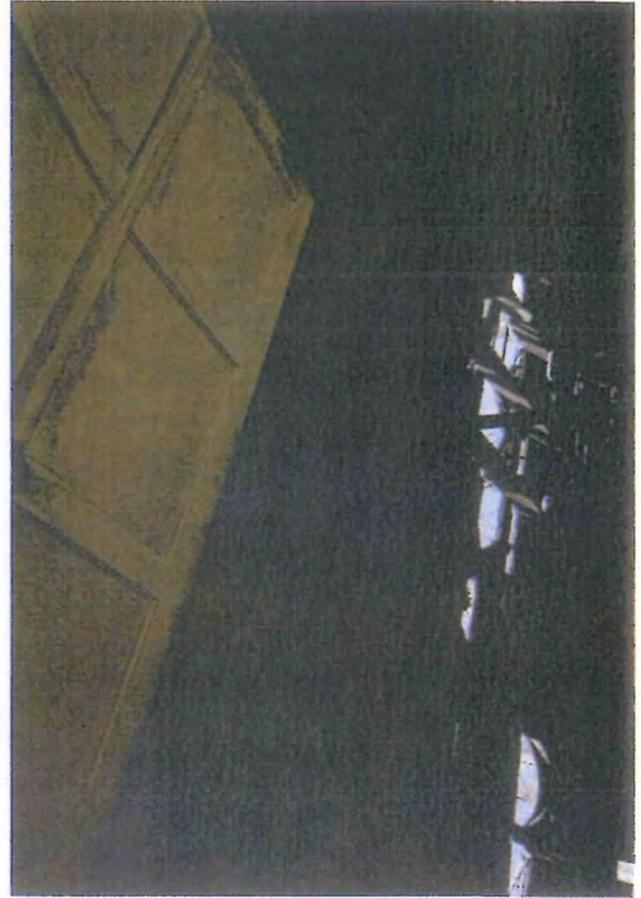
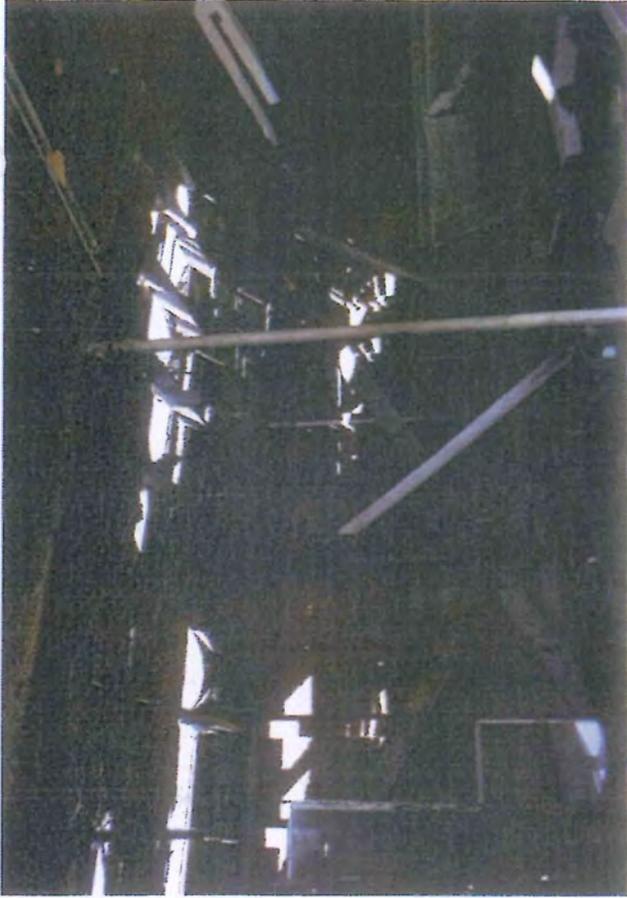
6



7

Deterioration of exterior and porches

357 Sabattus 201. 1
4.4.2012



10 / Deteriorated and in Hapsing Garage



11 / 357 Solutions · P. 7111 / 4.8.2017

10

11



Ceiling Damage due to Roof leaks.



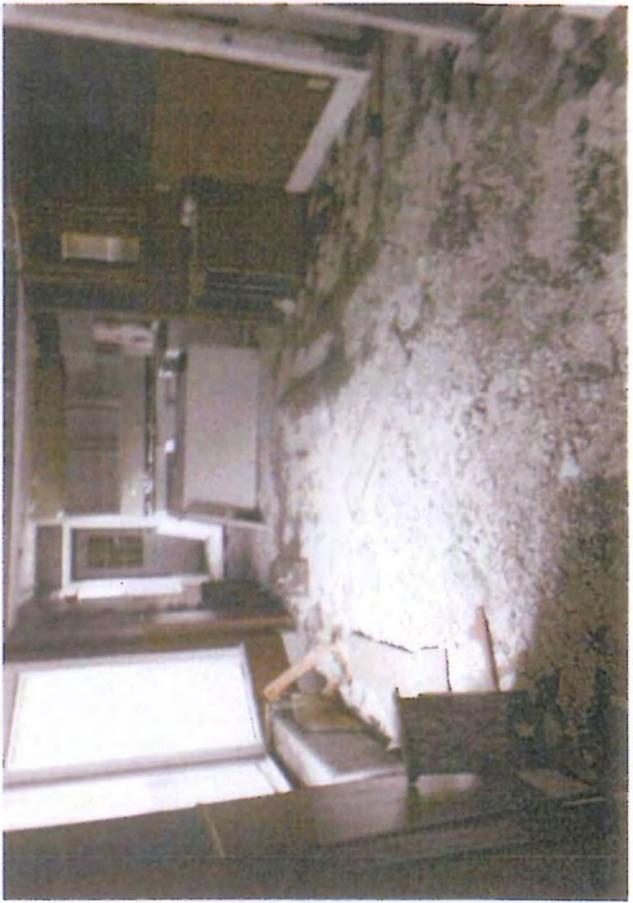
357 Sabattus P 7911.
6-4-2012

14

15



80



82



81



83

357 Sabattus St.
4-4-2012
Op. hrs. 6:30-10:00

21



21



Deteriorated and collapsing ceilings

22



23

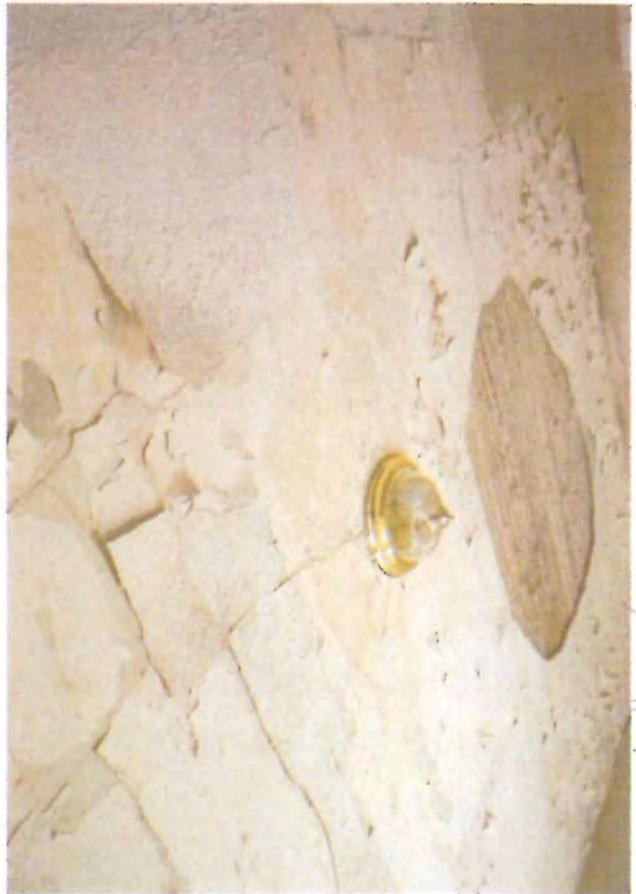


357 Sabattus Plm S.M.A.
4/4/2012



16

Walls Deteriorated
R



17

357 Sabattus at
4A. 2017 9:00 PM. / Deteriorated: collapses ceiling



18

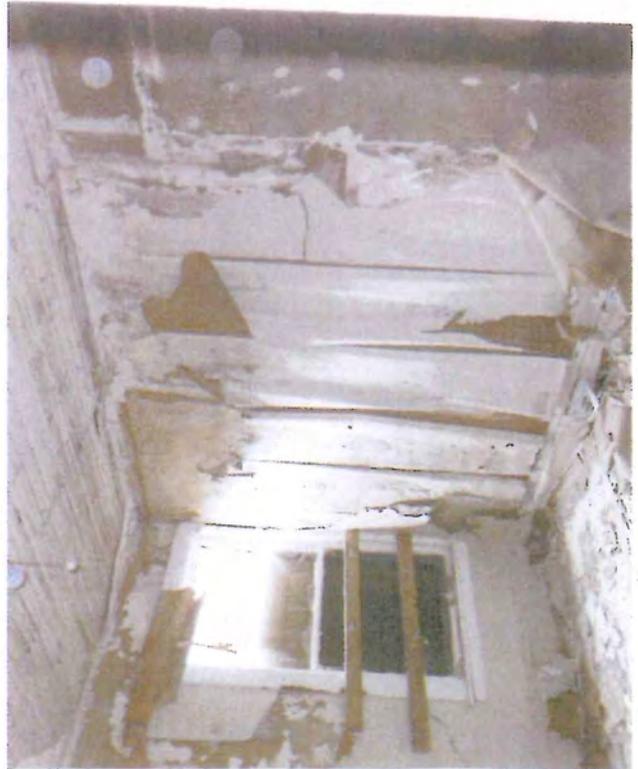
ceiling

Buckled floor

30



31



EST. Structure of ...
6-1-12

P

32



35



Deteriorated and Callousing Ceilings

33



34



Cracked Floor
Deteriorated and Callousing Ceilings

357 Sabattus St
4.4.2012
R. E. Munn

40



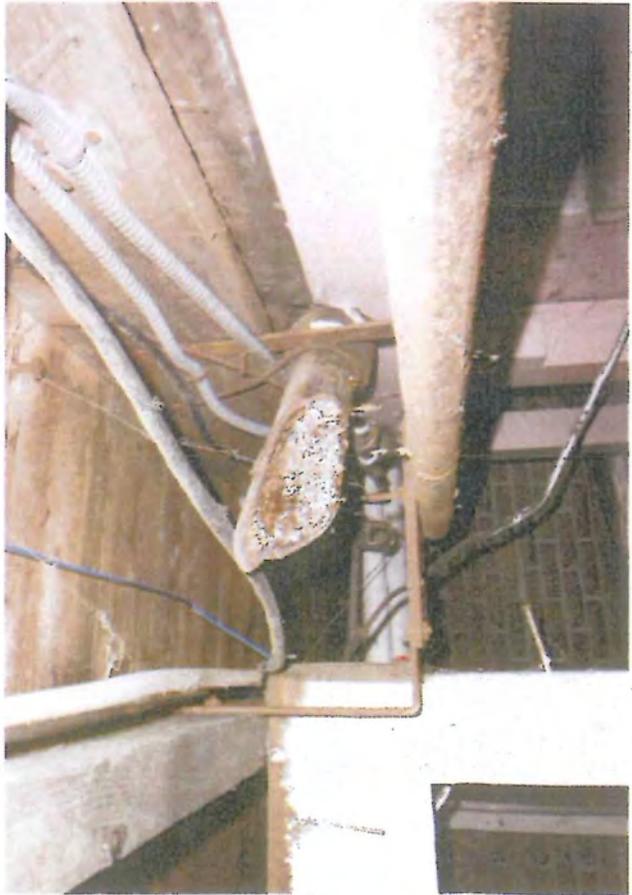
39



Damage and inoperable boilers
E.O. ad. 1 of 2. Inc



37



38

Blocked and damaged
Drinking Section
357 Sabattus st.
4.4.2012 The Chemical

A2

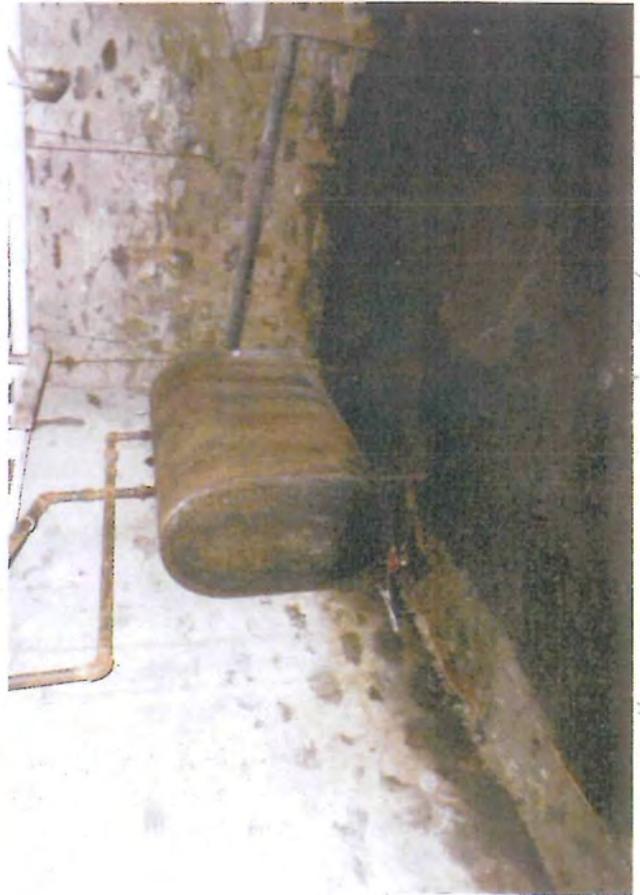


A3



Leaking Pipe / Leaking Assessment

A4



357 Sabattus St
4.A.2AD A P.N.s. Frost/Asbestos excised P.P.S / Leaking Assessment

2



Damage Asbestos enclosed
No. 100

977 Solvings 37
6.11.19 A - P. M. ...

45

Other Documentary Evidence

ROLAND CHABOT

941 MINOT AVENUE
AUBURN, MAINE 04210

Number: 1019

Date: November 21, 2011

Bill To:

JEFFREY BARIL
CITY OF LEWISTON
27 PINE STREET
LEWISTON
MAINE

PO Number

JEFFERY BARIL

Description	Amount
233 BLAKE ST. 8 SHEETS X \$8.00 = \$ 64.00 / LABOR 1 HR. X \$45.00=45.00	109.00
305 BATES 12 SHEETS X \$ 15.00=180.00 / LABOR 2 M3N=250.00	430.00
226 OAK 5 SHEETS X \$15.00=\$ 75.00 / LABOR 2 MEN=100.00	175.00
357 SABATTUS 2 SHEETS X \$ 15.00=\$ 30.00 / LABOR 2 MEN=100.00	130.00
147 SABATTUS 3 SHEETS X \$ 15.00=\$45.00 / LABOR 2 MEN=100.00	145.00
28 WAKEFIELD 3 SHEETS X \$ 15.00=\$45.00 / LABOR 2 MEN=100.00	145.00
SCREWS (COPY ATTACHED)	23.07

THANK YOU
ROLAND CHABOT
D/BA ROLANDS DEMOLITION
941-949 MINOT AVENUE
AUBURN, MAINE 04210

01-0378-009

Total \$1,157.07

VEN # 951 PO. # 23640
 INV. # 1019
 Cost Center # 5151007
 Acct. # 51237
 11/28/2011 U.B.
 Department Authorization
 Finance Director / Controller
 City Auditor

EXHIBIT J

Partial Payment Po 23640

627133 11/25/2011

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 15

SUBJECT:

Condemnation Hearing for the building located at 72 Wellman Street.

INFORMATION:

The City has begun the process for condemnation of the property at 72 Wellman Street under the dangerous building classification. This property sustained fire damage and upon inspection by city staff has been determined to be an unsafe structure.

The agenda background material pertains to the condition of this property. The City Attorney will be present on Tuesday evening to assist the City Council with the condemnation hearing and to advise accordingly.

PLEASE NOTE - The background material for this agenda item is included in a separate binder that was distributed with the meeting agenda binder.

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
---	---	---	---	---	---	---	---

1) To conduct a hearing to determine if the building located at 72 Wellman 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) With regard to the property at 72 Wellman Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action.

72 Wellman Street

Ownership Documents

Release Deed

Karen E. Emmi of 1350 River Reach Drive, Unit 205, Fort Lauderdale, Florida, pursuant to Judgment For Partition of Real Estate in the matter of Karen E. Emmi (a/k/a Karen B. Emmi) vs Jeffrey A. Baumer brought in the Androscoggin County Superior Court under Docket No. RE-11-69, releases to Jeffrey A. Baumer, of 72 Wellman Street, Lewiston, Maine, all of her right, title and interest in and to two (2) certain lots or parcels of land, with any buildings thereon, situated in Lewiston, Androscoggin County, Maine, at Lewiston Highlands, so-called, bounded and described as follows:

Lots numbered fifty-eight (58) and sixty-three (63) on a plan of said Lewiston Highlands, as delineated on a plan of land made for David B. Strout by one J. E. Noon, recorded in the Androscoggin County Registry of Deeds, in Book of Plans, Volume 1, No. 53, to which plan and its record reference may be had for a more particular description of the premises herein conveyed.

NO MAINE R.E.
TRANSFER TAX PAID

Said lots taken together are bounded and described as follows, to wit: Beginning on Wellman Street at the easterly corner of lot now or formerly owned by one Walter C. Towle; thence running one hundred twenty (120) feet in a northwesterly direction on said Towle's land; thence at a right angle northeasterly one hundred (100) feet to land now or formerly of Jane B. Strout; thence at a right angle southeasterly one hundred twenty (120) feet to said Wellman Street; thence at right angles on said Wellman Street one hundred (100) feet to the point of beginning.

Being the premises described in a deed from Anton J. Baumer and Therese M. Baumer to this Grantor (under the name of Karen B. Emmi) and this Grantee as tenants in common dated October 6, 1998 and recorded in said Registry in Book 4082, Page 56.

In Witness Whereof, the Grantor has set her hand and seal on this 14TH day of September, 2011.

L. A. Rubin
Witness

Karen E. Emmi
Karen E. Emmi

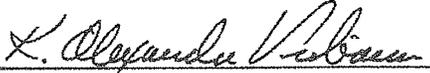


State of Maine
Androscoggin, SS.

September 14, 2011

Then personally appeared the above-named Karen E. Emmi and acknowledged the foregoing instrument to be her free act and deed.

Before me,


K. Alexander Visbaras, Attorney-At-Law

H:\Chents\Emmi\Deed to Wellman Street Lewiston

ANDROSCOGGIN COUNTY
TINA H CHOUINARD
REGISTER OF DEEDS

Notice of Hearing
Certificates of Service

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

Jeffrey A. Baumer
72 Wellman Street
Lewiston, ME 04240

72 WELLMAN STREET, LEWISTON, MAINE

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

June 5, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 72 Wellman Street, Lewiston, Maine, identified as Lot 68 on Tax Map 172, and further described in the release deed recorded in the Androscoggin County Registry of Deeds at Book 8241, Page 164, 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.

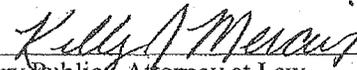
Dated: April 19, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

April 19, 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

ANDROSCOGGIN COUNTY
TINA H CHOUINARD
REGISTER OF DEEDS

KELLY J. MERCIER
Notary Public, Maine
My Commission Expires September 11, 2018

EXHIBIT
B

Return

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

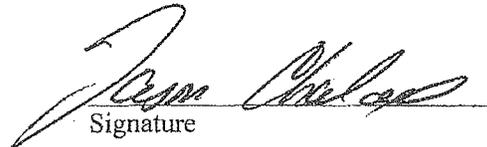
NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On 4-24, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Jeffrey A. Baumer as follows:

Jeffrey A. Baumer
72 Wellman Street
Lewiston, ME 04240

Costs of Service:

Service:	\$	<u>21.00</u>
Travel:	\$	<u>1.60</u>
Postage:	\$	<u>1.00</u>
Other: <i>ep</i>	\$	<u>2.00</u>
TOTAL:	\$	<u>25.60</u>


Signature

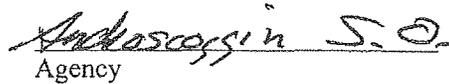

Agency

EXHIBIT
C

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

Jeffrey A. Baumer
72 Wellman Street
Lewiston, ME 04240

72 WELLMAN STREET, LEWISTON, MAINE

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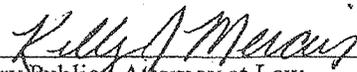
Dated: April 19, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

April 19, 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

KELLY J. MERCIER
Notary Public, Maine
My Commission Expires September 11, 2018

City
Correspondence

LEWISTON FIRE DEPARTMENT
FIRE PREVENTION BUREAU
LEWISTON, ME 04240

REPORT OF FIRE INVESTIGATION

INCIDENT #: 12LEW-140-IN

DATE: 2-4-2012

TIME: 19:59

LOCATION: 72 Wellman St.

INVESTIGATED BY: Fire Investigator Paul Ouellette

CROSS FILE: N/A

REPORT DATE: 2-6-2012

DETAILS OF COMPLAINT: X CHRONOLOGICAL:

=====

On Saturday February 4, 2012 at approximately 20:30 hours, I responded to a two alarm structure fire located at 72 Wellman St. I arrived on scene and met with Lewiston Police who informed me that the single male occupant in the house, Jeffery Baumer, had been injured by the fire, receiving minor burns and smoke inhalation. I was also advised that Mr. Baumer has mental disabilities, including being bi-polar and this is not his first fire in this house, he had a similar fire in the house last week that burnt a hole in the living room floor and was just admitted into the hospital for smoke inhalation. I made the request for the State Fire Marshal's Office to respond due to the injuries sustained.

I was advised by a neighbor, who had just arrived home, that they found Mr. Baumer standing in the doorway of the house breezeway naked while heavy smoke was pouring from behind him and from the house. Mr. Baumer was reluctant in leaving the house, stating he was OK and everything was under control. Neighbors stated that they could see fire in the house through the windows and pulled him out of the house against his will and wrapped him up in a blanket. Mr. Baumer was then transported to St. Mary's Hospital by Untied Ambulance.

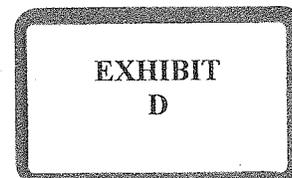
Exterior Observations: I observed a single-family, single story, home with minor exterior damage. There was a single 4' X 4' vent hole located in the middle of the front side of the roof. The left front bay window and left "B" side living room side windows had been broken out. Next to this window, I observed a large vent hole that was cut into the side of the house adjacent to the exterior chimney that lead into the living room area. On the rear "C" side of the building I observed the center top window was broken out with black soot stains directly above it.

I observed a blue Pontiac Grand Prix in the driveway with the gas fill door in the open position and the gas cap was hanging off to the side.

Interior Observations: I proceeded into the single-car attached garage and noted no fire damage. From the garage, I proceeded into the home through the attached breezeway where there was some smoke damage. I proceeded to the entrance way into the house and noted heavy fire and heat damage through out the kitchen area. I entered into the house and observed a disarray of scattered items everywhere. I proceeded to the front living room area where most of the fire damage was noted. I discovered that the living room floor was very weak and felt the floor sink down where I was standing. This area was deemed un-safe to be on. I noted that the heaviest fire damage was noted in the area of the living room fireplace where I could see a multiple of different items stuffed inside overflowing onto the living room floor. I also noted a large burn hole on the living room floor to the right of the fireplace where fire fighter indicated to me that they found a pile shoes burning, separate from the fire located at the fireplace.

Fire fighters stated to me that is seems that there were several other smaller fires within the first floor of the structure that did not correspond to the original fire.

Walking through the first floor, I observed heavy smoke and heat damage to the two bedrooms and bathroom. We also located a cat that had perished in the fire in one of the bedrooms and one that was still alive. Fire fighters secured the cat in the basement bathroom until it could be properly taken care of.



LEWISTON FIRE DEPARTMENT
FIRE PREVENTION BUREAU
LEWISTON, ME 04240

REPORT OF FIRE INVESTIGATION

INCIDENT #: 12LEW-140-IN

DATE: 2-4-2012

TIME: 19:59

LOCATION: 72 Wellman St.

-2-

I proceeded down into the basement and noted the entire area in a complete disarray, several items scattered everywhere. I went into the boiler room, which was directly below where the fire originated and noted significant fire damage to the floor joists and the hole in the floor below the fire place hart area.

Fire Investigator Chris Stanford from the Maine State Fire Marshal's Office arrived on scene to assist with the fire investigation. State Fire Investigator, Kenneth McMaster, also arrived on scene and was directed to St. Mary's Hospital to conduct an interview with Mr. Baumer.

After Investigator Stanford concluded his investigation, he was in agreement that the fire originated on the floor, in front of the fire place, possibly from repeated burns over the past to create the floor and floor joist damage.

Investigator McMaster returned to the scene from conducting his interview and stated that Mr. Baumer doesn't seem to be himself and was mad that his neighbor had pulled him out of the house, he was OK. Mr. McMaster also stated that Mr. Baumer claimed he was not trying to heat the house, he had plenty of oil in his oil tank. This was noted to be incorrect, the oil tank was found empty.

Mr. Baumer stated that he didn't have any cats and if he did, he did not want them. Lewiston Police took the remaining live cat to the SPCA.

The fire caused significant damage throughout the house, estimating \$80,000 in property damage.

I cleared the scene at approximately 00:02 hours.

Conclusion: After careful examination and documentation of the fire scene, it is the conclusion of this investigator that the fire originated on the living room floor, directly in front of the fire place. The cause of the fire was determined accidental, misuse of heating equipment.

Recommendations and / or Comments: This report reflects the findings of this investigation as conducted to date. This investigator remains the right to alter or amend this report should further information become available.

LEWISTON FIRE DEPARTMENT
FIRE PREVENTION BUREAU
LEWISTON, ME 04240

REPORT OF FIRE INVESTIGATION

INCIDENT#: **12LEW-140-IN** CROSS FILE: PHOTOS: Yes: No:
ALARM FROM: TEL: 911 BOX: OTHER:
TIME OF ALARM: 19:59 UNDER CONTROL TIME:
DAY OF WEEK: Saturday MONTH: February DATE: 4th YEAR: 2012
LOCATION: **72 Wellman St.**
OWNER: Emmi Baumer PHONE:
ADDRESS: 1350 River Beach, Dr. Fort Lauderdale, Fl 33315 CELL PHONE:
OCCUPANTS: Jeffrey Baumer
INSURANCE COMPANY: N/A AGENT:
ADDRESS: ADDRESS:

WEATHER CONDITION: The weather condition at the time of the early evening fire was clear and cold with temperatures in the mid to lower teens. There were no winds.

DETAILS OF INVESTIGATION

PROPERTY: The property is that of an occupied single-story, single family structure constructed on ordinary wood framed Type III construction.

ORIGIN: The origin of the fire was determined to be located on the floor directly in front of the living room fireplace.

CAUSE: Misuse of heating equipment

VICTIM INFORMATION: Jeffery Baumer

EXPLAIN: Minor burns to hands, minor smoke inhalation

INVESTIGATION REFERRED TO: Maine State Fire Marshal's Office

STATUS: OPEN: CLOSED: INCENDIARY: YES: NO: UNKNOWN:

DATE CLOSED: 2-6-2012

FIRE INVESTIGATORS SIGNATURE: _____ REPORT DATE: 2-6-2012
Paul Ouellette

FILE COPY

CITY OF LEWISTON
PLANNING & CODE
ENFORCEMENT

February 17, 2012

Jeffrey Baumer
72 Wellman Street
Lewiston, ME. 04240

RE: 72 Wellman Street

Dear Mr. Baumer:

On or about February 4, 2012, the single-family dwelling on the above referenced property was damaged by fire. The building is currently unsecured and is an attractive nuisance which is a violation of Chapter 18, Section 18-51, subsection 108.1.5 (7) of the Code of Ordinances of the City of Lewiston (hereafter the Code). In addition, the building is deemed to be uninhabitable and is hereby condemned in accordance with Chapter 18, Section 18-51, subsection 108.2 of the Code.

Therefore, in accordance with Chapter 18, Section 18-51, subsections 107 and 108.2 of the Code, you are hereby ordered to secure the building against entry at all open doors and windows upon receipt of this notice. In addition, all loose debris should be removed from the building and from the grounds. This office will placard the building as unsafe and uninhabitable in accordance with Chapter 18, Section 18-51, subsection 108.4 of the 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 abatement of the violations or if you have any questions regarding this matter.

In the event that you do not abate the violation(s) by the specified date(s) this office may issue a citation pursuant to Chapter 50, Article II, Sections 50-36 through 50-51 of the aforementioned Code of Ordinances. Said citation shall require you to pay a penalty of one hundred dollars and ten (\$110.00) for the first citation and will order you to abate the violation(s) at issue. In the event that you do not comply with the first citation, additional

Telephone: 207-513-3125, ext. 3225 Fax: 207-795-5071
e-mail: gcampbell@lewistonmaine.gov

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EXHIBIT
E

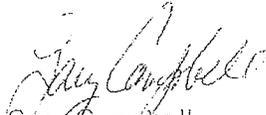
citation. be issued. The second citation imposes a civil penalty of two hundred dollars and twenty-five (\$225.00), the third - four hundred dollars and twenty-five (\$425.00), the fourth and subsequent citations - eight hundred dollars and fifty (\$850.00), and penalties are cumulative. In the future, if the specific violation is 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. as amended. A judgement from such a lawsuit in the City's favor can 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), and 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 Code Enforcement within thirty (30) 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.

Please do not hesitate to contact me should you have any questions regarding this matter.

Yours truly,


Gary Campbell
Building Inspector

FILE COPY

CITY OF LEWISTON
PLANNING & CODE
ENFORCEMENT

February 29, 2012

Jeffrey Baumer
72 Wellman Street
Lewiston, ME. 04240

RE: 72 Wellman Street

Dear Mr. Baumer:

On or about February 4, 2012, the single-family dwelling on the above referenced property was damaged by fire. Due to structural damage from the fire, the building is deemed to be an unsafe structure in accordance with Chapter 18, Section 18-51, subsection 108.1.5 (6) of the Code of Ordinances of the City of Lewiston (hereafter the Code).

Therefore, in accordance with Chapter 18, Section 18-51, subsections 107 and 110 of the Code, you are hereby ordered to initiate renovations or demolish said building by March 30, 2012. Pursuant to a previous order dated February 17, 2012, the city contracted with Roland's Demolition to secure the building. In the interim, the building shall be kept secure, and all loose debris should be removed from the building and from the grounds. In addition, you must obtain a building permit by March 22, 2012 and demonstrate to this office that you have the financial capacity to complete the renovations in a timely manner. I would encourage you to obtain the services of a general contractor who would solicit estimates from sub-contractors and determine your total costs.

In the event that you do not abate the violation(s) by the specified date(s) this office may issue a citation pursuant to Chapter 50, Article II, Sections 50-36 through 50-51 of the Code. Said citation shall require you to pay a penalty of one hundred dollars and ten (\$110.00) for the first citation and will order you to abate the violation(s) at issue. 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 dollars and twenty-five (\$225.00), the third - four hundred dollars and twenty-five (\$425.00), the fourth and subsequent citations - eight hundred dollars and fifty (\$850.00), and penalties are cumulative. In the future, if the specific violation is 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 condemnation proceedings either in superior court or before the city council, which would result in a demolition

Telephone: 207-513-3125, ext. 3225 Fax: 207-795-5071
e-mail: gcampbell@lewistonmaine.gov

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order for the building. A lien would be placed against the property to recover the costs incurred by legal proceedings and demolition.

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 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.

Please do not hesitate to contact me should you have any questions regarding this matter.

Yours truly,


Gary Campbell
Building Inspector

RECD MAR 12 2012

3/10/2012

GARY CAMPBELL
CODE ENFORCEMENT, LEWISTON

REGARDING : 72 WELLMAN ST.
LEWISTON, ME
04240

PROPERTY WILL BE BROUGHT
TO ITS ORIGINAL CONDITION
BY APRIL THIS YEAR, 2012.

WORK WILL INCLUDE BUT NOT BE
LIMITED TO

1. CRACKED & DAMAGED WINDOWS WILL
BE REPLACED & REPAIRED.
2. THE LIVINGROOM FLOOR WILL
BE SECURED TO THE APPLICABLE
CODE
3. THE 200 AMP ELECTRICAL
SERVICE WILL BE BROUGHT TO
CODE.
4. ROOF REPAIRED WHERE NEC.
SINCERELY,

JEFFREY ANTON BAUMEL
BSME 1977
WPA. WORCESTER
MASS. 8



CITY OF LEWISTON
PLANNING & CODE
ENFORCEMENT

FILE COPY

March 23, 2012

Jeffrey Baumer
72 Wellman Street
Lewiston, ME. 04240

RE: 72 Wellman Street

Dear Mr. Baumer:

This is to acknowledge receipt of your letter dated March 10, 2012 with regard to the repair of your fire-damaged home at the above referenced address. It is my opinion that you have minimized the scope of the work necessary to restore the house to a habitable condition.

The entire kitchen and living room must be gutted to bare studs based on the amount of fire and water damage. Any wall or ceiling area exposed to water from the elements or firefighting must be examined to prevent any future mold problems. The remainder of the house which has substantial smoke damage will require either substantial cleaning or replacement of the interior wall and ceiling sheathing and floor coverings.

Due to the fact that there was no insurance on the property and that you have no apparent financial resources, it will be necessary to demonstrate that you have the financial wherewithal to undertake the necessary repairs prior to the issuance of a building permit. Because of the blighting influence on the neighborhood created by your property in its present condition, the repairs must be begun and completed as quickly as possible.

Telephone: 207-513-3125, ext. 3225 Fax: 207-795-5071
e-mail: gcampbell@lewistonmaine.gov

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EXHIBIT
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If you are not forthcoming with proof of financial capacity and an application for a building permit as required by my order dated February 29, 2012, condemnation proceedings will be initiated.

Please do not hesitate to contact me should you have any questions regarding this matter.

Yours truly,



Gary Campbell
Building Inspector

Photographs

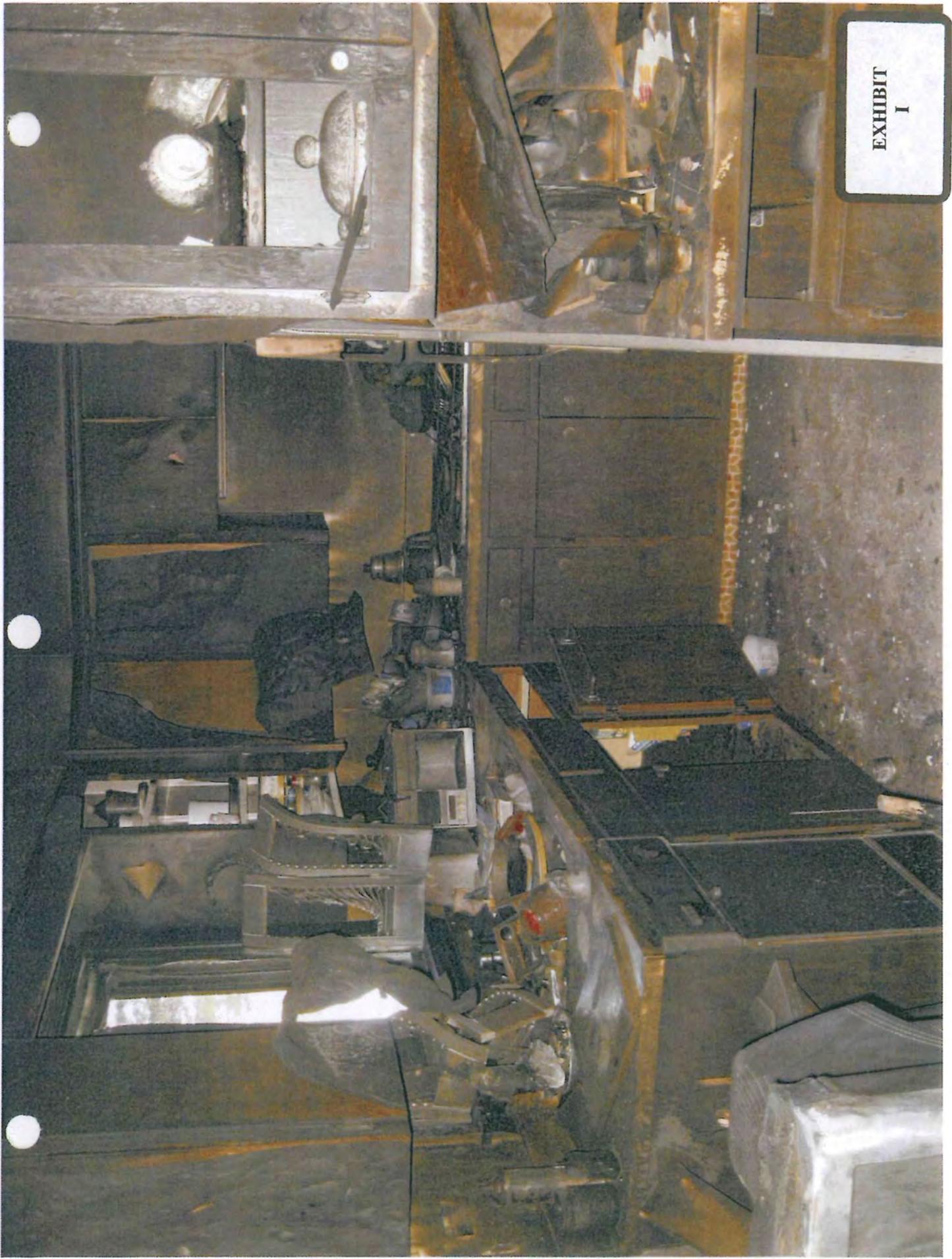


EXHIBIT
I





























Other Documentary Evidence

Report a Concern Form

If you have a concern you wish to share with the City of Lewiston please complete the form below and click Submit. All submissions should receive a response within one business day. If you require an immediate response for a police, fire, animal, code enforcement or public works matter, please call 911.

Contact Information

Name:*

Address:*

City:*

State: *

Email or Contact Phone No.:*

Home Phone No.:

Cell Phone No.:

Please Specify General Inquiry, Request for Service or Complaint*

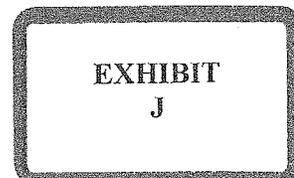
I have a question about how long a partially burned, apparently abandoned home can sit as is before something is done about it. The property at 72 Wellman remains with the door propped open, windows smashed out, and burned furniture and other belongings strewn all over the lawn. There are children on this street, not to mention animals, that could inhabit this house that has remained open to the elements for almost two weeks. Is there not some kind of regulation that at least requires the windows to be boarded up? Thank you. GF

* indicates required fields.

The following form was submitted via your website: Report a Concern Form

Name::

Address::



City: Lewiston

State: ME

Zip: 04240

Email or Contact Phone No.:

Home Phone No.:

Cell Phone No.:

Please Specify General Inquiry, Request for Service or Complaint: I have a question about how long a partially burned, apparently abandoned home can sit as is before something is done about it. The property at 72 Wellman remains with the door propped open, windows smashed out, and burned furniture and other belongings strewn all over the lawn. There are children on this street, not to mention animals, that could inhabit this house that has remained open to the elements for almost two weeks. Is there not some kind of regulation that at least requires the windows to be boarded up? Thank you. GF

Additional Information:

Form submitted on: 2/16/2012 11:29:40 AM

Submitted from IP Address: 134.181.181.156

Referrer Page: <http://www.ci.lewiston.me.us/index.aspx?nid=140>

Form Address: <http://www.ci.lewiston.me.us/Forms.aspx?FID=93>

Report a Concern Form

If you have a concern you wish to share with the City of Lewiston please complete the form below and click Submit. All submissions should receive a response within one business day. If you require an immediate response for a police, fire, animal, code enforcement or public works matter, please call 911.

Contact Information

Name:*

Address:*

City:*

State: * ME

Zip:* 04240

Email or Contact Phone No.:*

Home Phone No.:

Cell Phone No.:

Please Specify General Inquiry, Request for Service or Complaint*

Man living in condemned house at 72 wellman st. and dumping human waste in yard. Why is this being allowed to c
Where is the code enforcement? He has torn down the boards the c
Why have they not been replaced? Does the neighborhood have to t
the new s media to get immediate attention? This situation has contin

* indicates required fields.

The following form was submitted via your website: Report a Concern Form

Name::

Address::

City:: Lewiston

State: : ME

Zip:: 04240

Email or Contact Phone No.::

Home Phone No.::

Cell Phone No.::

Please Specify General Inquiry, Request for Service or Complaint: Man living in condemned house at 72 wellman st. and dumping human waste in yard.

Why is this being allowed to continue? Where is the code enforcement?

He has torn down the boards the city put up. Why have they not been replaced? Does the neighborhood have to bring this to the news media to get immediate attention? This situation has continued for too long.

Additional Information:

Form submitted on: 4/19/2012 9:03:33 AM

Submitted from IP Address: 72.95.102.117

Referrer Page: <http://www.ci.lewiston.me.us/index.aspx?nid=114>

Form Address: <http://www.ci.lewiston.me.us/Forms.aspx?FID=93>

STATE OF MAINE

DISTRICT COURT
District Eight
Div. of So. Androscoggin
Docket No. _____

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER,)
)
 Defendant.)

**PLAINTIFF'S REQUEST FOR
TEMPORARY RESTRAINING ORDER**

Title to Real Estate Involved

The City of Lewiston (the "City" or "Lewiston") hereby requests that this Court grant a temporary restraining order ("TRO") against the defendant, Jeffrey Baumer, prohibiting him from occupying or residing in any structure or on the grounds at 72 Wellman Street in Lewiston, Maine (the "Premises"), from allowing any other person to occupy or reside in the Premises, and from leaving the Premises unsecured. This is necessary to prevent the immediate and irreparable injury to Mr. Baumer, any other individuals occupying or residing in the Premises on a temporary or permanent basis, as well as neighbors and the general public.

Background

The Premises had several fires in the beginning months of 2012. On February 4, 2012, the Premises suffered a two-alarm fire that originated in the fireplace at the Premises. See Report of Fire Investigation, attached hereto as Exhibit A. The Lewiston Fire Department responded and extinguished the fire. *Id.* Mr. Baumer was present at the Premises during the fire and suffered burns to his body. *Id.*

As a result of the fire, and as a result of general deterioration, the Premises is structurally unsafe, unsound, and unsanitary. Affidavit of Gary Campbell ("Campbell Aff.") ¶ 5. The interior has suffered, fire, smoke, and water damage; the floors are structurally unsound; the



Premises is full of junk and debris; the utilities, including water and electricity, have been shut off; and other internal systems, including heat, hot water, and plumbing, are inoperable. *Id.* ¶¶ 6-7; *see also* Photographs of the Premises attached as Exhibit B. The Premises is unsecured and is a dangerous nuisance. *Id.* ¶ 13.

On February 17, 2012, City Building Inspector, Gary Campbell, notified Mr. Baumer that the premises was unfit for human habitation and condemned the Premises pursuant to Lewiston Code of Ordinances Chapter 18, § 18-51, PMC-108.2. See February 17, 2012 letter from Gary Campbell attached hereto as Exhibit C. Mr. Campbell ordered that Mr. Baumer secure the Premises and remove all loose debris from the building and grounds. *Id.* When Mr. Baumer failed to comply with the February 17 order, the City took appropriate and necessary steps to secure the Premises itself. Campbell Aff. ¶ 9.

Mr. Campbell subsequently sent Mr. Baumer a second notice of violation on February 29, 2012, ordering that Mr. Baumer either apply for a building permit in order to initiate renovations on the premises or demolish the building within 30 days. February 29, 2012 letter from Gary Campbell attached hereto as Exhibit D. The deadline for taking these actions was March 30, 2012. *Id.* Mr. Baumer has not complied with that order. Campbell Aff. ¶ 11. Not only has Mr. Baumer failed to comply with the City's orders to renovate or demolish the Premises, but he has been occupying the Premises despite the fact that the Premises has been condemned and placarded pursuant to Lewiston Code, Ch. 18, Art. III, § 18-51, PM-108.5. Affidavit of Corporal Jeffrey Baril ("Baril Aff.") ¶ 6.

In addition, Mr. Baumer has permitted other individuals, including a Paul Sturdevant, to reside in or otherwise occupy the Premises in violation of the City's condemnation and placarding of the Premises. *Id.* ¶ 7. Mr. Baumer has undone the City's efforts to secure the

Premises, and as a result, the Premises currently remains unsecured despite its dangerous, unsafe, unsecure, and unsanitary condition. *Id.* ¶ 5.

Because there are no operable plumbing systems at the Premises, Mr. Baumer has been depositing his, and presumably any houseguest's, human waste on the grounds of the Premises. *Id.* ¶ 9; Constituent concerns, attached hereto as Exhibit E.

As a result of all of these conditions, including the ongoing uncured violations, the City has received numerous complaints from neighboring property owners about Mr. Baumer's activity at the Premises. Exhibit E. The Lewiston Police Department has responded to complaints concerning the Premises and activities thereon twelve times since the February 4 fire. Exhibit B; Sampling of Police Reports, attached hereto as Exhibit F; Baril Aff. ¶ 8.

Argument

A TRO is appropriate in a civil action pursuant to M.R. Civ. P. 80K where an immediate and irreparable injury, loss, or damage will result from any violation. M.R. Civ. P. 80K(b)(1)(C). Although there is no Maine case law interpreting the standard for a TRO in the context of an 80K action, a TRO under M.R.Civ. P. 65(a) also requires a showing that the threatened injury outweighs any harm the TRO would inflict on the other party, that there is a likelihood of success on the merits, and that the public interest will not be harmed by granting the injunction. *Bangor Historic Track, Inc. v. Dep't of Agriculture, Food & Rural Resources*, 2003 ME 140, ¶ 9.

Mr. Baumer's occupation of the Premises, and failure to secure the Premises, presents immediate and irreparable threat to the general public, as well as to himself, and anyone else permitted to occupy, or reside at the Premises. Under the circumstances and conditions as they

presently exist at the Premises, granting the TRO would serve to protect the Defendant, other potential occupiers of the Premises and the public at large, and certainly would not inflict any greater injury on Mr. Baumer than allowing him to continue to reside at the unsafe, unsound, and unsanitary Premises. Based on the foregoing, the City also has a substantial likelihood of showing that Mr. Baumer has violated the City's building code, all violations of which Mr. Baumer has failed to remedy. Finally, the public interest will not in any way be served by allowing Mr. Baumer to continue to occupy the Premises or by leaving the Premises unsecured.

Mr. Baumer and any other occupants are residing or occupying the Premises with no electricity, no running water, no heat, and no plumbing. The Premises has suffered from fire, smoke, and water damage, is filled with debris and has been condemned by the City. Anyone occupying the condemned Premises is in immediate and present danger of harm from another fire because the Premises is fire-loaded from the debris, there is no electricity to power smoke detectors, and there is no means to extinguish any fire that might break out without running water. Additionally, anyone at the Premises risks significant injury or death from the unstable floors and other parts, including structural parts, of the building that have been damaged. This risk extends to members of the public who might enter the Premises because Mr. Baumer has defeated the City's efforts to secure the Premises, which currently remains unsecured and poses an attractive nuisance in the neighborhood, to children and other members of the public.

Mr. Baumer has also been depositing human waste on the grounds of the Premises, which presents an extreme danger to the public health. These activities threaten not only the health and safety of Mr. Baumer but also his neighbors, children, local residents and the general public. Runoff from uncovered human waste, including feces, risks the well being of local water runoff systems, including the Androscoggin River, particularly in light of the recent heavy rains.

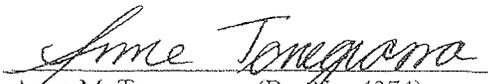
The imposition of a TRO is, in part, for Mr. Baumer's own protection. The burden it will impose on him is minimal. It is certainly in the public interest to remove Mr. Baumer and all other occupants from the Premises and require that it remain secured at all times. The Premises poses an attractive nuisance and, in its unsecured state, stands as an invitation to children or others in the neighborhood. Finally, the City has a substantial likelihood of succeeding on the merits of its 80K claim. There can be no dispute that the Premises violates local building ordinances, that Lewiston ordered Mr. Baumer to correct those violations, and that those violations and orders have all been ignored and remain uncorrected.

Conclusion

Based upon the forgoing, the City of Lewiston submits that it has met the standards for the issuance of a TRO both under M.R. Civ. P. 80K(b)(1)(C) and the standards under M.R. Civ. P. 65(a). Accordingly, the City requests that this Court issue a TRO restraining Mr. Baumer from occupying or residing at the Premises, from allowing anyone else to occupy or reside at the Premises, and from leaving the Premises unsecured. The City has made a reasonable attempt to notify the Defendant of this complaint and motion by telefaxing a copy of this motion to Mr. Baumer's criminal defense attorney, Joshua Klein-Golden, and will attempt to hand deliver a copy to Mr. Baumer personally. Affidavit of Anne M. Torregrossa ¶¶ 4-5.

Date: April 24, 2012

BRANN & ISAACSON


Anne M. Torregrossa (Bar No. 4374)
184 Main Street, P.O. Box 3070
Lewiston, ME 04243-3070
(207) 786-3566

Attorney for the Plaintiff

STATE OF MAINE

DISTRICT COURT
District Eight
Div. of So. Androscoggin
Docket No. _____

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER)
)
 Defendant.)

**AFFIDAVIT OF
GARY CAMPBELL**

Title to Real Estate Involved

I, Gary Campbell, having been sworn according to law, do hereby depose and say:

1. I make the statements in this affidavit based upon my own personal knowledge.
2. I am a building inspector and code enforcement officer for the City of Lewiston and have held that position for 25 years.
3. In connection with my job, I have become familiar with the property at 72 Wellman Street in Lewiston (the "Premises") and its owner, Jeffrey Bauman.
4. On February 4, 2012, the Premises suffered a fire.
5. As a result of the fire, and general deterioration, the Premises is structurally unsafe, unsound, and unsanitary.
6. The interior has suffered, fire, smoke, and water damage; the floors are structurally unsound; and the Premises is full of junk and debris.
7. The utilities, including water and electricity, have been shut off to the Premises as a result of the fire. Other internal systems at the Premises, including heat, hot water, and plumbing, are inoperable.

8. On February 17, 2012, I notified Mr. Baumer that the Premises was unfit for human habitation and condemned the Premises pursuant to Lewiston Code of Ordinances Chapter 18, § 18-51, PMC-108.2. Exhibit B.

9. When Mr. Baumer failed to comply with my February 17 order, I engaged Roland's Demolition to secure the Premises.

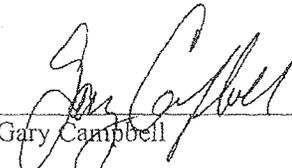
10. I then sent Mr. Baumer a second notice of violation on February 29, 2012, ordering that he either apply for a building permit in order to initiate renovations on the premises or demolish the building. Exhibit C.

11. To date, Mr. Baumer has not complied with either my February 17 or February 29 notices.

12. He has also undone the steps the City took to secure the Premises.

13. The Premises remains unsecured and is a dangerous nuisance.

4-23-12
Date

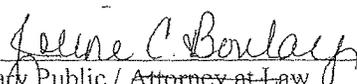


Gary Campbell

STATE OF MAINE
ANDROSCOGGIN, SS.

April 23, 2012

Gary Campbell appeared personally before me on this day, being duly sworn, and deposes and says under oath that the statements made in the above affidavit are true based upon his personal knowledge.



Notary Public / Attorney at Law

JOLINE C. BOULAY
Notary Public, Maine
My Commission Expires July 22, 2018



STATE OF MAINE

DISTRICT COURT
District Eight
Div. of So. Androscoggin
Docket No. _____

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER)
)
 Defendant.)

**AFFIDAVIT OF
CPL. JEFFREY BARIL**

Title to Real Estate Involved

I, Corporal Jeffrey Baril, having been sworn according to law, do hereby depose and say:

1. I make the statements in this affidavit based upon my own personal knowledge.

2. I am a Corporal with the Lewiston Police Department, where I have worked for 23 years. I also have fifteen years of construction management experience. I am currently assigned to assist the Lewiston Planning Department and am serving as a Property Maintenance Inspector.

3. In connection with my position as a Property Maintenance Inspector, I am familiar with the property at 72 Wellman Street in Lewiston (the "Premises") and its owner, Jeffrey Bauman.

4. I am also aware that building inspector Gary Campbell has condemned and placarded the Premises as unfit for human habitation and that the City has taken steps to secure the Premises.

5. Mr. Baumer has undone the City's efforts to secure the Premises, and it remains unsecured.

6. Despite the City's finding that it is unfit for human habitation, Mr. Baumer is currently living at the Premises. I have had numerous conversations with Mr. Baumer regarding the fact that he is living at the Premises and have observed him at the Premises.

7. Recently, Mr. Baumer allowed another individual, Paul Sturdevant, to occupy the Premises.

8. The Lewiston Police Department has responded to the Premises on twelve separate occasions since February 4, 2012.

9. Several complaints have related to Mr. Baumer defecating in the yard and depositing human waste in the yard.

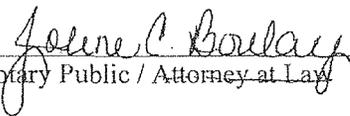
4/24/2012
Date


Cpl. Jeffrey Baril

STATE OF MAINE
ANDROSCOGGIN, SS.

April 23, 2012

Cpl. Jeffrey Baril appeared personally before me on this day, being duly sworn, and deposes and says under oath that the statements made in the above affidavit are true based upon his personal knowledge.


Notary Public / Attorney at Law

JOLINE C. BOULAY
Notary Public, Maine
My Commission Expires July 22, 2018

STATE OF MAINE

DISTRICT COURT
District Eight
Div. of So. Androscoggin
Docket No. _____

CITY OF LEWISTON,)
)
Plaintiff,)
)
v.)
)
JEFFREY BAUMER)
)
Defendant.)

**AFFIDAVIT OF ANNE M.
TORREGROSSA**

Title to Real Estate Involved

I, Anne M. Torregrossa, Esq., having been sworn according to law, do hereby depose and say:

1. I make the statements in this affidavit based upon my own personal knowledge and upon information and belief. To the extent that it is based on belief, I believe it to be true.

2. I am an attorney with the law firm of Brann & Isaacson and represent the City of Lewiston (the "City") in connection with the above-captioned matter.

3. I have attempted to notify the Defendant, Jeffrey Baumer, of the City's request for a temporary restraining order ("TRO") in connection with these proceedings.

4. I spoke with Mr. Baumer's criminal attorney, Joshua Klein-Golden, about this matter and have sent him a copy of the complaint and request for a TRO via telefax.

5. Furthermore, Corporal Jeffrey Baril, of the Lewiston Police Department, will attempt deliver a copy of the City's request for a TRO to Mr. Baumer.

4/24/12
Date

Anne Torregrossa
Anne M. Torregrossa, Esq.

STATE OF MAINE
ANDROSCOGGIN, SS.

April 24, 2012

Anne M. Torregrossa appeared personally before me on this day, being duly sworn, and deposes and says under oath that the statements made in the above affidavit are true based upon her personal knowledge.

CLM

Notary Public / Attorney at Law

Christine L. Mason
Notary Public - State of Maine
My Commission Expires March 5, 2013

STATE OF MAINE

DISTRICT COURT
District Eight
Div. of So. Androscoggin
Docket No. _____

CITY OF LEWISTON,

Plaintiff,

v.

JEFFREY BAUMER,

Defendant.

TEMPORARY RESTRAINING ORDER

Title to Real Estate Involved

Upon request by the Plaintiff, the City of Lewiston, notice having been given to the Defendant, Jeffrey Baumer, this Court finds that the City of Lewiston is entitled to a temporary restraining order against the Defendant pursuant to M.R. Civ. P. 80K(b)(1)(C).

Therefore, it is hereby ORDERED that the Defendant is restrained from:

1. Occupying or otherwise residing in or around any structure or the grounds at 72 Wellman Street in Lewiston, Maine (the "Premises");
2. Allowing any other person to occupy or reside in or around the structure or grounds at the Premises; or
3. Allowing the structure at the Premises to remain unsecured.

a to #. Clerk is to set this matter for hearing at first available date, one hour.

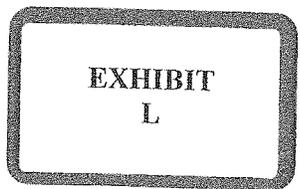
Dated: 4/25/12

[Signature]

Judge, District Court

5. Order to be entered on the docket by reference.

DATE 4/25/12
A TRUE COPY
ATTEST *[Signature]*
(DEPUTY) CLERK OF COURTS



STATE OF MAINE
ANDROSCOGGIN, ss

DISTRICT COURT
Docket No. LEW-CV-2012-310

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER,)
)
 Defendant.)

**MOTION FOR CONTEMPT AND TO
AMEND TEMPORARY RESTRAINING
ORDER**

Title to Real Estate Involved

The Plaintiff, the City of Lewiston ("Lewiston" or the "City"), hereby requests that this Court initiate contempt proceedings against the Defendant, Jeffrey Baumer, pursuant to M.R. Civ. P. 66(d) for violating this Court's April 25, 2012 Temporary Restraining Order ("TRO") and further amend that TRO to clarify the restrictions on Mr. Baumer's use of the premises at 72 Wellman Street in Lewiston (the "Premises").

1. On April 24, 2012, the City filed a request for a TRO against Mr. Baumer prohibiting him from occupying or residing at the Premises, from allowing anyone else to occupy or reside at the Premises, and from allowing the Premises to remain unsecured.

2. On April 25, 2012, this Court granted the City's request and issued a TRO prohibiting Mr. Baumer from occupying or residing at the Premises, allowing anyone else to do so, and from allowing the Premises to remain unsecured.

3. Mr. Baumer accepted service of the TRO and this Court's notice of hearing on the afternoon of April 26, 2012. A copy of Mr. Baumer's acceptance is attached hereto as Exhibit A, and the original has been filed with this Court.

4. A few hours later, also on April 26, the Lewiston Police Department found Mr. Baumer and a friend sleeping in the garage at the Premises. Affidavit of David St. Pierre.

**EXHIBIT
M**

5. Today, April 27, 2012, City Building Inspector, Gary Campbell, found the Premises to be unsecured and Mr. Baumer was not present. Second Affidavit of Gary Campbell & Exhibit B.

6. Less than 24 hours after being served with the TRO, Mr. Baumer has violated all three of the conditions imposed by the TRO by sleeping at the Premises, allowing another person to sleep at the Premises, and by leaving the Premises unsecured. M.R. Civ. P. 66(a)(2)(A)(ii) (defining contempt as the "failure to comply with a lawful . . . order . . . of the court.").

7. It is clear that the existing TRO is not sufficient to keep Mr. Baumer from occupying the Premises or to protect the public from the danger that the Premises presents.

WHEREFORE, the City of Lewiston requests that this Court:

- A. Initiate contempt proceedings against Mr. Baumer pursuant to M.R. Civ. P. 66(d) and issue a contempt subpoena; and
- B. Modify the TRO to additionally prohibit Mr. Baumer from:
 - i. Being present on the Premises unless actively engaged in repair work on the structure at the Premises;
 - ii. Performing any repair work on the Premises without first obtaining a portable toilet for the Premises; and
 - iii. Being present on the Premises for any reason between the hours of 7:00 PM and 7:00 AM.

Date: April 27, 2012

BRANN & ISAACSON



Arnie M. Torregrossa (Bar No. 4374)
184 Main Street, P.O. Box 3070
Lewiston, ME 04243-3070
(207) 786-3566

STATE OF MAINE
ANDROSCOGGIN, ss

DISTRICT COURT
Docket No. LEW-CV-2012-310

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER)
)
 Defendant.)

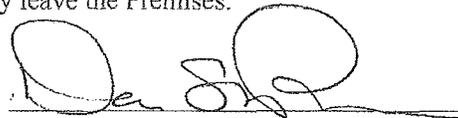
**AFFIDAVIT OF SERGEANT
DAVID ST. PIERRE**

Title to Real Estate Involved

I, David St. Pierre, having been sworn according to law, do hereby depose and say:

1. I make the statements in this affidavit based upon my own personal knowledge.
2. I am a sergeant with the Lewiston Police Department.
3. In connection with my job, I was called to the property at 72 Wellman Street in Lewiston (the "Premises") on April 26, 2012.
4. Upon my arrival, I found the owner, Jeffrey Baumer, and another person sleeping in the garage at the Premises with the door open.
5. When I spoke with Mr. Baumer, he acknowledged having received a copy of this Court's Temporary Restraining Order earlier in the day.
6. At my request, Mr. Baumer agreed to voluntarily leave the Premises.

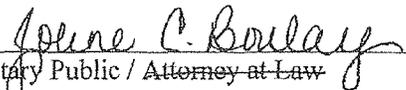
4/27/12
Date


David St. Pierre

STATE OF MAINE
ANDROSCOGGIN, SS.

April 27, 2012

David St. Pierre appeared personally before me on this day, being duly sworn, and deposes and says under oath that the statements made in the above affidavit are true based upon his personal knowledge.


Notary Public / Attorney at Law

JOLINE C. BOULAY
Notary Public, Maine
My Commission Expires July 22, 2018

STATE OF MAINE
ANDROSCOGGIN, ss

DISTRICT COURT
Docket No. LEW-CV-2012-310

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER)
)
 Defendant.)

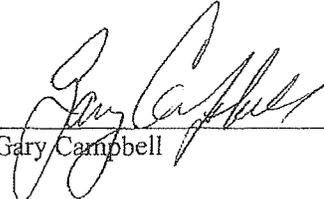
**SECOND AFFIDAVIT OF
GARY CAMPBELL**

Title to Real Estate Involved

I, Gary Campbell, having been sworn according to law, do hereby depose and say:

1. I make the statements in this affidavit based upon my own personal knowledge.
2. I am a building inspector and code enforcement officer for the City of Lewiston and have held that position for 25 years.
3. In connection with my job, I have become familiar with the property at 72 Wellman Street in Lewiston (the "Premises") and its owner, Jeffrey Baumer.
4. On April 26, 2012, around 3:00 PM, I delivered a copy of this Court's Temporary Restraining Order and Notice of Hearing to Mr. Baumer. He willingly signed an acceptance of service form. A copy of that form is attached as Exhibit A.
5. Today, I inspected the Premises and found it to be unsecured. I have attached photographs of the unsecured Premises as Exhibit B.
6. Mr. Baumer was not present at the Premises at the time of my inspection.
7. The Premises remains unsecured and is a dangerous nuisance.

4-27-2012
Date

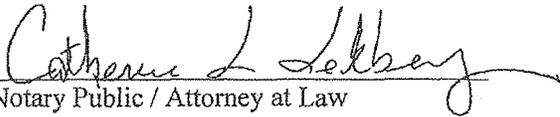


Gary Campbell

STATE OF MAINE
ANDROSCOGGIN, SS.

April 27, 2012

Gary Campbell appeared personally before me on this day, being duly sworn, and deposes and says under oath that the statements made in the above affidavit are true based upon his personal knowledge.


Notary Public / Attorney at Law

CATHERINE L. LEKBERG
Notary Public, Maine
My Commission Expires February 5, 2018

STATE OF MAINE
ANDROSCOGGIN, ss

DISTRICT COURT
Docket No. LEW-CV-2012-310

CITY OF LEWISTON,)
)
Plaintiff,)
)
v.)
)
JEFFREY BAUMER,)
)
Defendant.)

**CONSENTED TO
PRELIMINARY INJUNCTION**

Title to Real Estate Involved

Upon request by the Plaintiff, the City of Lewiston, and with the consent of the Defendant, Jeffrey Baumer, this Court finds that the City of Lewiston is entitled to a preliminary injunction against the Defendant pursuant to M.R. Civ. P.65.

Therefore, it is hereby ORDERED that the Defendant is restrained from:

1. Occupying or otherwise residing in or around the structure or grounds at 72 Wellman Street in Lewiston, Maine (the "Premises");
2. Allowing any other person to occupy or reside in or around the structure or grounds at the Premises;
3. Allowing the structure at the Premises to remain unsecured when he personally is not present;
4. Being present on the Premises unless actively engaged in repair work on the structure at the Premises;
5. Performing any repair work on the Premises without first obtaining ~~a portable toilet~~ ^{sufficient toilet} ~~facilities~~ ^{facilities} for the Premises; and
6. Being present on the Premises for any reason between the hours of ~~7:00~~ ³⁰ PM and 7:00 AM.

**EXHIBIT
N**

SEEN AND AGREED TO:

Dated: April 30, 2012

Gary Campbell
City of Lewiston
By: Gary Campbell
Its: Building Inspector

Dated: April 30, 2012

Jeffrey Baumer
Jeffrey Baumer

SO ORDERED

Date: 4/30/12

[Signature]
Judge, District Court

Parties agree motion for Contempt
may be heard on June 27, 2012 @ 9:00 am.
Att. Klon Golden will enter the appearance.

DATE 5.11.12
A TRUE COPY
ATTEST: Quasia Bennett
(DEPUTY) CLERK OF COURTS

STATE OF MAINE
ANDROSCOGGIN, ss

DISTRICT COURT
Docket No. LEW-CV-2012-310

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER,)
)
 Defendant.)

SECOND MOTION FOR CONTEMPT

Title to Real Estate Involved

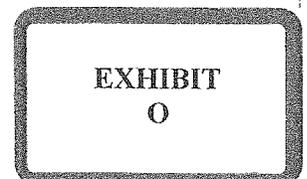
The Plaintiff, the City of Lewiston (“Lewiston” or the “City”), hereby requests that this Court initiate contempt proceedings against the Defendant, Jeffrey Baumer, pursuant to M.R. Civ. P. 66(d) for violating this Court’s April 30, 2012 Preliminary Injunction (the “PI Order”).

1. On April 30, 2012, with the consent of the parties, this Court issued the PI Order, in part prohibiting Mr. Baumer from “Being present on the Premises unless actively engaged in repair work on the structure at the Premises,” and from “Being present on the Premises for any reason between the hours of 7:30 PM and 7:00 AM.” The PI Order ¶¶ 4, 6.

2. A few days later, on May 4, 2012, the Lewiston Police Department found Mr. Baumer sleeping in the garage at the Premises at 5:45 in the morning. Second Affidavit of Cpl. Jeffrey Baril ¶¶ 5-7.

3. Less than one week after this Court’s PI Order, Mr. Baumer has violated its provisions by being present at the Premises when not actively engaged in work and by being present on the Premises during prohibited hours. M.R. Civ. P. 66(a)(2)(A)(ii) (defining contempt as the “failure to comply with a lawful . . . order . . . of the court.”).

4. It is clear that the existing TRO is not sufficient to keep Mr. Baumer from occupying the Premises or to protect the public from the danger that the Premises presents.



5. Given that this is the second violation of this Court's orders in the span of one week, the City requests an expedited hearing on this matter.

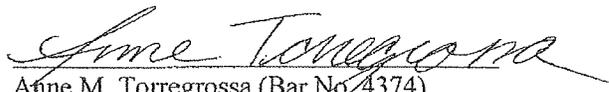
6. Given the enforcement problems, the City further requests that this Court order that Mr. Baumer be subject to immediate arrest upon further violation of the PI Order.

WHEREFORE, the City of Lewiston requests that this Court:

- A. Initiate contempt proceedings against Mr. Baumer pursuant to M.R. Civ. P. 66(d) and issue a contempt subpoena;
- B. Schedule a contempt hearing on this matter on an expedited basis; and
- C. Order that Mr. Baumer is subject to immediate arrest upon further violation of the PI Order.

Date: May 4, 2012

BRANN & ISAACSON


Anne M. Torregrossa (Bar No. 4374)
184 Main Street, P.O. Box 3070
Lewiston, ME 04243-3070
(207) 786-3566

Attorney for the Plaintiff

IMPORTANT NOTICE

PURSUANT TO RULE 7(c) OF THE MAINE RULES OF CIVIL PROCEDURE, YOU ARE REQUIRED TO FILE A MEMORANDUM AND ANY SUPPORTING AFFIDAVITS OR OTHER DOCUMENTS IN OPPOSITION TO THIS MOTION WITHIN **TWENTY-ONE (21) DAYS** AFTER THE FILING OF THE MOTION UNLESS ANOTHER TIME IS SET BY THE COURT. FAILURE TO FILE A TIMELY OPPOSITION TO THIS MOTION WILL BE DEEMED TO BE A WAIVER OF ALL OBJECTIONS TO THE MOTION, WHICH MAY BE GRANTED WITHOUT FURTHER NOTICE OR HEARING.

STATE OF MAINE
ANDROSCOGGIN, ss

DISTRICT COURT
Docket No. LEW-CV-2012-310

CITY OF LEWISTON,)
)
 Plaintiff,)
)
 v.)
)
 JEFFREY BAUMER)
)
 Defendant.)

**SECOND AFFIDAVIT OF
CPL. JEFFREY BARIL**

Title to Real Estate Involved

I, Corporal Jeffrey Baril, having been sworn according to law, do hereby depose and say:

1. I make the statements in this affidavit based upon my own personal knowledge.
2. I am a Corporal with the Lewiston Police Department, where I have worked for 23 years. I am currently assigned to assist the Lewiston Planning Department and am serving as a Property Maintenance Inspector.
3. In connection with my position as a Property Maintenance Inspector, I am familiar with the property at 72 Wellman Street in Lewiston (the "Premises") and its owner, Jeffrey Baumer.
4. I am also familiar with this Court's April 30, 2012 Preliminary Injunction and was present for the hearing on that matter on the same date.
5. On Friday morning, May 4, 2012, I stopped by the Premises around 5:45 in the morning.
6. The breezeway door to the house was unsecured.
7. I shined my flashlight into the garage and saw Mr. Baumer sleeping on the couch in the garage. He did not wake up, even when I shined my flashlight on him.

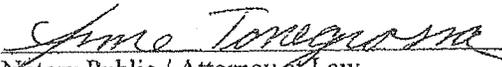
5-4-2012
Date


Cpl. Jeffrey Baril

STATE OF MAINE
ANDROSCOGGIN, SS.

May 4, 2012

Cpl. Jeffrey Baril appeared personally before me on this day, being duly sworn, and deposes and says under oath that the statements made in the above affidavit are true based upon his personal knowledge.


~~Notary Public / Attorney at Law~~

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 16

SUBJECT:

Condemnation Hearing for the building located at 220 Park Street.

INFORMATION:

The City has begun the process for condemnation of the property at 220 Park 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. At the April 3, 2012 meeting, the Council was asked to continue the hearing on this matter because the City was working with the mortgage holder regarding the condition of the property. Due to limited communication and response from the company, the City is proceeding with the hearing.

The agenda background material pertains to the condition of this property. The City Attorney will be present on Tuesday evening to assist the City Council with the condemnation hearing and to advise accordingly.

PLEASE NOTE - The background material for this agenda item is included in a separate binder that was distributed with the meeting agenda binder.

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
---	---	---	---	---	---	---	---

1) To conduct a hearing to determine if the building located at 220 Park 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) With regard to the property at 220 Park Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action.

220 Park Street

Ownership Documents

Recording requested by:
And when recorded return to:
Benjamin Alfaro
Michaelson, Connor & Boul
5312 Bolsa Ave., Suite 200
Huntington Beach, CA 92649
(714) 230.3600
FHA #231-086890

For recorder's use

QUITCLAIM DEED

This transfer is exempt from the documentary transfer tax (Title 36 §4641-C-1)
This transfer is exempt from the Declaration of Value (Title 36 §4641-D-1)

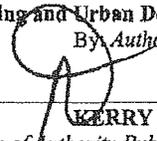
The Secretary of Housing and Urban Development, with a business address of 451 7th Street S.W., Washington D.C., 20410, for no consideration paid, grant, convey and forever quitclaims to TD Bank, N.A., his successors and/or assigns, with a business address of 32 Chestnut Street, Lewiston, ME 04240, the following described property located in the County of Androscoggin, State of Maine, to-wit:

See EXHIBIT A, Attached Hereto

Commonly Known As: 220 Park Street, Lewiston, ME 04240

IN WITNESS WHEREOF, GRANTORS signed and sealed this deed on the 21st day of MARCH, 2012.

Secretary of Housing and Urban Development
By Authorized Agent



KERRY NETERER
By Delegation of Authority Published in the
Federal Register, Doc. No.: FR-4837-D-57

ACKNOWLEDGEMENT

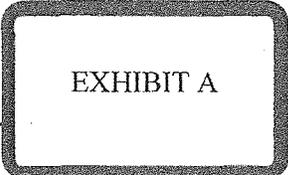
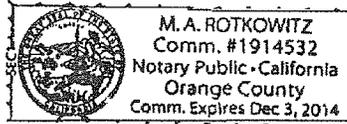
State of CALIFORNIA) ss

County of ORANGE)

On this 21st day of MARCH, 2012, before me M.A. ROTKOWITZ, the undersigned Notary Public, personally appeared KERRY NETERER, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument

WITNESS my hand and official seal

Signature M.A. Rotkowitz (seal)



MAINE REAL ESTATE
TRANSFER TAX PAID

EXHIBIT A

COMMENCING at the northeasterly corner of Park and Birch Street; thence running northerly on the easterly line of Park Street fifty (50) feet; thence at a right angle easterly fifty (50) feet; thence southerly at a right angle and by the westerly line of land of J.M. Marston fifty (50) feet to Birch Street; thence by said street westerly fifty (50) feet to the point of beginning.

For title see deed recorded in Book 8268, page(s) 1661 filed for record on October 31, 2011

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

Notice of Hearing
Certificates of Service

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

TD Bank
c/o Stephanie Williams, Esq.
Perkins Thompson
One Canal Plaza, Ninth Floor
P.O. Box 426
Portland, Maine 04112

U.S. Department of Housing and Urban Development
c/o Thomas E. Delahanty II
United States Attorney for the District of Maine
100 Middle Street, East Tower, 6th Floor
Portland, Maine 04101

U.S. Department of Housing and Urban Development
c/o Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

U.S. Department of Housing and Urban Development
One Merchants Plaza, Suite 601
Bangor, ME 04401-8302

220 PARK 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 220 Park Street, Lewiston, Maine, identified as Lot 47 on Tax Map 196, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 8268, Page 166, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

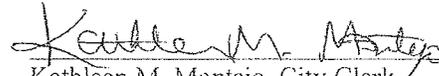
If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal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

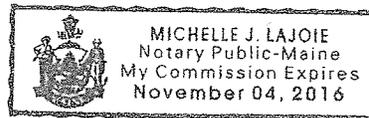

Kathleen M. Montejo, City Clerk

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



SEAL

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

CITY OF LEWISTON
CITY COUNCIL

ACKNOWLEDGMENT OF SERVICE

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

Due and sufficient service of the Notice of Hearing is hereby acknowledged for and on behalf of TD Bank by Stephanie Williams, Esq. All formal service of process is hereby waived.

Dated: 2/13, 2012.

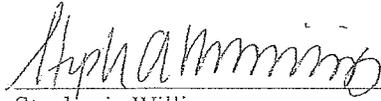

Stephanie Williams #10012

EXHIBIT C

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

TD Bank
c/o Stephanie Williams, Esq.
Perkins Thompson
One Canal Plaza, Ninth Floor
P.O. Box 426
Portland, Maine 04112

U.S. Department of Housing and Urban Development
c/o Thomas E. Delahanty II
United States Attorney for the District of Maine
100 Middle Street, East Tower, 6th Floor
Portland, Maine 04101

U.S. Department of Housing and Urban Development
c/o Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

U.S. Department of Housing and Urban Development
One Merchants Plaza, Suite 601
Bangor, ME 04401-8302

220 PARK 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

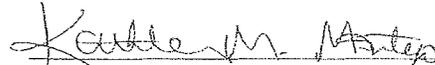
This hearing is to determine whether the residential structure at 220 Park Street, Lewiston, Maine, identified as Lot 47 on Tax Map 196, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 8268, Page 166, is a dangerous building or nuisance within the meaning 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.

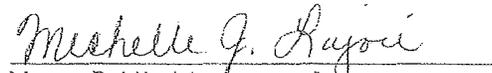
Dated: February 9, 2012

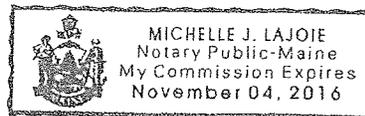

Kathleen M. Montejo, City Clerk

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.


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 a person authorized to accept service on U.S.

Department of Housing and Urban Development as follows:
50 LISA Martorelle Admin. Asst
c/o Hon. Thomas E. Delahanty, II
U.S. Attorney
100 Middle Street, East Tower, 6th Floor
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>

Erin A. Perkins
Signature

D. Sturiff
Agency

EXHIBIT D

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

TD Bank
c/o Stephanie Williams, Esq.
Perkins Thompson
One Canal Plaza, Ninth Floor
P.O. Box 426
Portland, Maine 04112

U.S. Department of Housing and Urban Development
c/o Thomas E. Delahanty II
United States Attorney for the District of Maine
100 Middle Street, East Tower, 6th Floor
Portland, Maine 04101

U.S. Department of Housing and Urban Development
c/o Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

U.S. Department of Housing and Urban Development
One Merchants Plaza, Suite 601
Bangor, ME 04401-8302

220 PARK 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

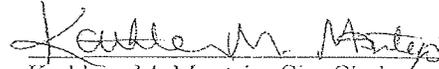
This hearing is to determine whether the residential structure at 220 Park Street, Lewiston, Maine, identified as Lot 47 on Tax Map 196, and further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 8268, Page 166, is a dangerous building or nuisance within the meaning 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.

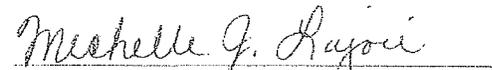
Dated: February 9, 2012

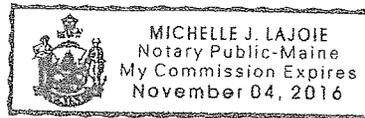

Kathleen M. Montejo, City Clerk

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.


Notary Public / Attorney at Law



BRANN & ISAACSON

ATTORNEYS AND COUNSELORS AT LAW

IRVING ISAACSON
GEORGE S. ISAACSON
MARTIN I. EISENSTEIN
MARTHA E. GREENE
DAVID W. BERTONI
PETER D. LOWE
BENJAMIN W. LUND
DANIEL C. STOCKFORD
PETER J. BRANN
KEVIN R. HALEY

DANIEL A. MUZZI
MATHEW P. SCHAEFER
DAVID SWENHAM-BURLAND
STACY O. STIHAM
LYNN B. GELINAS
DAVID T. SLATTERY
BARBARA J. SLOTE
KENLEIGH A. NICCOLETTA
ANNE M. TORREGROSSA
HEATHER B. SANBORN

184 MAIN STREET
P.O. BOX 3070
LEWISTON, MAINE 04243-3070
(207) 786-3566
TELECOPIER (207) 783-9325
WEB PAGE: <http://www.brannlaw.com>

Portland Conference Office
148 MIDDLE STREET
SUITE 502
PORTLAND, MAINE

LOUIS J. BRANN 1948
PETER A. ISAACSON 1980

February 10, 2012

U.S. Dept of Housing and Urban Development
c/o Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

U.S. Dept of Housing and Urban Development
One Merchants Plaza, Suite 601
Bangor, ME 04401-8302

RE: City of Lewiston—Notice of Hearing
220 Park Street, Lewiston, ME

Dear Sirs or Madams:

Enclosed please find Notice of Hearing from the City of Lewiston regarding property located at 220 Park Street, Lewiston Maine which your office has an interest in.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BRANN & ISAACSON

Anne M. Torregrossa (cm)

Anne M. Torregrossa

AMT/clm

Enclosures

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

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

TD Bank
c/o Stephanie Williams, Esq.
Perkins Thompson
One Canal Plaza, Ninth Floor
P.O. Box 426
Portland, Maine 04112

U.S. Department of Housing and Urban Development
c/o Thomas E. Delahanty II
United States Attorney for the District of Maine
100 Middle Street, East Tower, 6th Floor
Portland, Maine 04101

U.S. Department of Housing and Urban Development
c/o Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

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One Merchants Plaza, Suite 601
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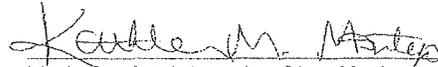
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Dated: February 9, 2012

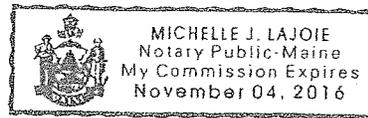

Kathleen M. Montejo, City Clerk

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



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

U.S. Dept. of Housing & Urban
Development
One Merchants Plaza
Suite 601
Bangor, Me 04401-8302

2. Article Number

(Transfer from service label)

7010 1870 0000 9154 4111

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1541

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Ann Marten

- Agent
- Addressee

B. Received by (Printed Name)

Ann Marten

C. Date of Delivery

2-13

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

- Yes

7010 1870 0000 9154 4111

U.S. Postal Service
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$.45
Certified Fee	2.95
Return Receipt Fee (Endorsement Required)	2.35
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.75

Postmark Here
BANGOR ME FEB 10 2012
USPS

Sent To
U.S. Dept. of Housing & Urban Develop
Street, Apt. No. or PO Box No. One Merchants Plaza Suite 601
City, State, ZIP+4
Bangor, Me 04401-8302

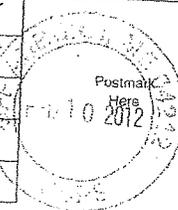
PS Form 3806, August 2005 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>
<p>1. Article Addressed to:</p> <p>U.S. Dept of Housing & Urban Development c/o Eric H. Holder Jr. Alt. Sen. U.S. Dept of Justice 950 Pennsylvania Ave NW Washington D.C. 20530-0001</p>	<p>D. Delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7010 1870 0000 9154 4104</p>
<p>PS Form 3811, February 2004</p>	<p>Domestic Return Receipt 102595-02-M-1540</p>

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	1.75	
Certified Fee		2.95	
Return Receipt Fee (Endorsement Required)		2.30	
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$		

Annex

Sent to	U.S. Dept of Housing & Urban Development
Street, Apt. No., or PO Box No.	c/o Eric Holder Jr.
City, State, ZIP+4	950 Pennsylvania Ave NW Washington DC 20530-0001

PS Form 3800, August 2005 See Reverse for Instructions

City
Correspondence

CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, MAINE 04240
(207) 513-3125 EXT. 3224

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

July 2, 2010

John Egan
Mailing /address: 220 Park Street
Lewiston, ME 04240

TD BankNorth
One Portland Square
Portland, ME 04112

RE: 220 Park Street, Lewiston ME 04240.

Dear Owner(s):

It has come to the attention of this office that the building at 220 Park Street Lewiston, Maine is vacant and is unfit for human habitation or 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, and electricity. Accumulation of trash and debris is all around the property.

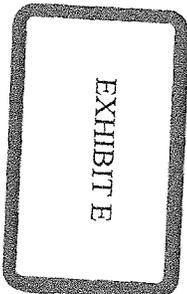
As per the above mentioned violations I hereby condemn and placard the building at 220 Park Street, Lewiston Maine as being unfit for human habitation and occupancy pursuant to and in accordance with Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, PM 105.1, PM-105.2, PM 105.3, PM 105.4, PM-105.6, PM 107.1, PM 107.2, PM-107.3, PM-504.1 et seq, PM903.1 of the Code of Ordinances of the City of Lewiston. Due to the threat to public safety you are hereby ordered to maintain this building secure from unauthorized entry in accordance with PM-105.6 and PM-903.1 of the Code. In accordance with PM-105.6, the City of Lewiston may cause the building to be secured by public agency, contract, or by private persons and the cost shall be charged to the owner. If such costs to the City are not reimbursed, the City shall initiate legal action to recover its expenses and any legal fees incurred. The City of Lewiston may take legal action to order the demolition of this building pursuant to provisions of the Maine Revised Statutes, Title 17, Chapter 91 Subchapter 4, Dangerous Buildings, Section 2851.

The above-mentioned property will be placarded and may not be re-occupied until proper abatement of all applicable violations have been completed. An inspection shall be conducted to confirm compliance. At such time the condemnation order and placarding shall be discontinued pursuant to the

*Contract Person
8/5/10
Liz Henrich
TD Bank North
1-800-742-2651
EXT 8839*

Wesley

*Inspection
Building
with notes
PAO ROB STALFORD
Remove TRASH
& DEBRIS*



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. Please secure the building immediately.

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 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 dollars (\$225.00), the third is four hundred dollars (\$425.00), the fourth and subsequent citations are eight hundred 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 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,



Susan R. Reny
Code Enforcement Officer

CC: Andrew Cadot, of Perkins & Thompson PA,

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

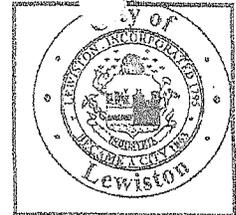


DEPARTMENT OF PLANNING & CODE ENFORCEMENT

CITY OF LEWISTON
27 PINE STREET
LEWISTON, MAINE 04240
(207) 513-3125

GIL ARSENAULT, DIRECTOR OF PLANNING & CODE ENFORCEMENT

220 Park Street Lewiston, ME



CONDEMNED

AS UNFIT FOR HUMAN OCCUPANCY OR USE

YOU ARE HEREBY ORDERED TO VACATE

PURSUANT TO AN ORDER DATED July 2, 2010 BY Susan R. Reny, CODE ENFORCEMENT OFFICER

AND CHAPTER 18, ARTICLE III, PROPERTY MAINTENANCE CODE SECTIONS 18-51 AND 18-52, PMC SECTIONS 105.1, 105.2, 105.4, 107.01, 107.3 AS PER THE CODE OF ORDINANCES OF THE CITY OF LEWISTON

OFFICIAL NOTICE—DO NOT REMOVE

REMOVAL OF PLACARD: THE CODE OFFICIAL SHALL REMOVE THE CONDEMNATION PLACARD WHENEVER THE DEFECTS UPON WHICH THE CONDEMNATION AND PLACARDING ACTION WERE BASED HAVE BEEN ELIMINATED. ANY PERSON WHO DEFACES OR REMOVES A CONDEMNATION PLACARD WITHOUT APPROVAL OF THE CODE OFFICIAL SHALL BE SUBJECT TO THE PENALTIES PROVIDED BY THIS CODE.

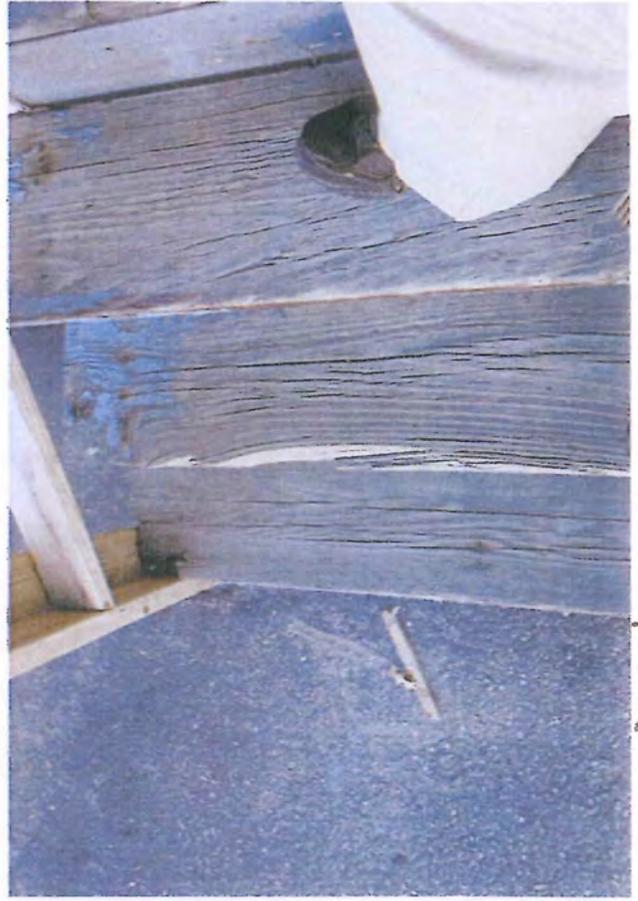
POSTED BY: _____ DATE/TIME: _____
CEO: Susan R. Reny TELEPHONE: 207-513-3125 ext 3224

Photographs

19/2



7



8

Deteriorated Porches



2



3

3-21-2012 @ 3:23-2012 12:30 km @ 5:00k-
2700 m.k.t R. 7-11



Out of Level Stairs

3-21-2012 12:30pm
220 Park at R. Shmuel

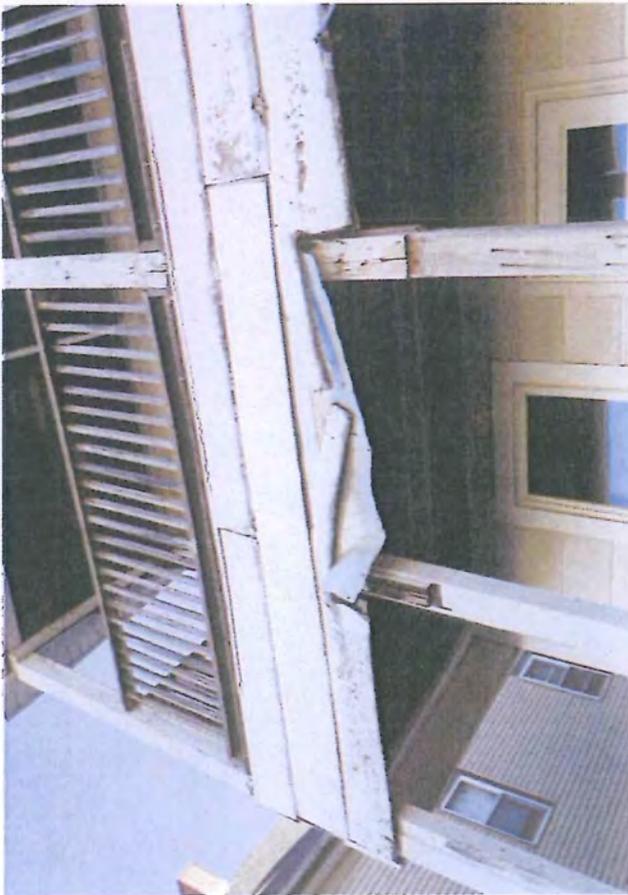
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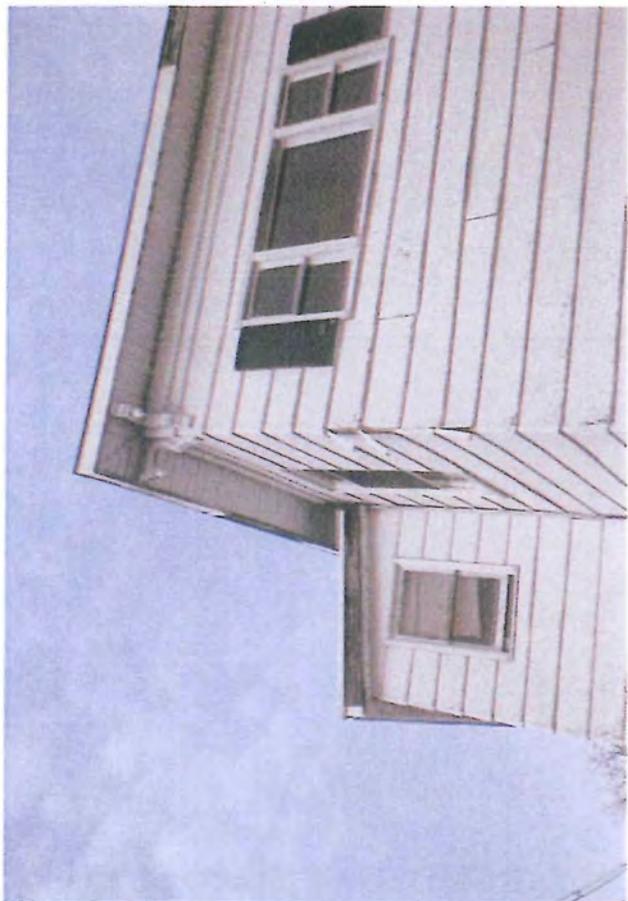


11

Damage and deterioration to the exterior
and ceiling/kant of the porch.

3-21-2012 J 323-2012
220 Park St
Edmond

105



11



Weteriorated Exterior



14



15

3-31-2012
220 Park St
B. Skand

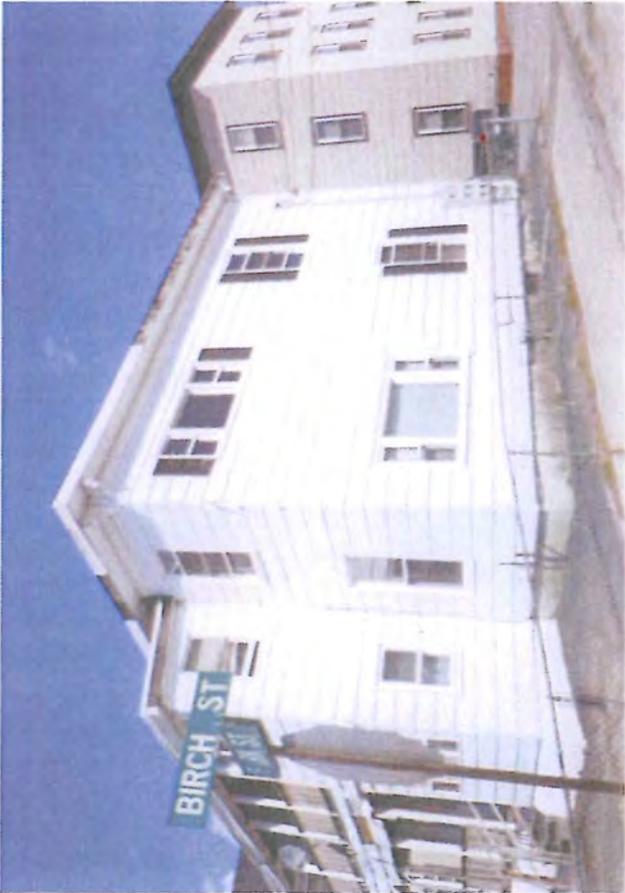
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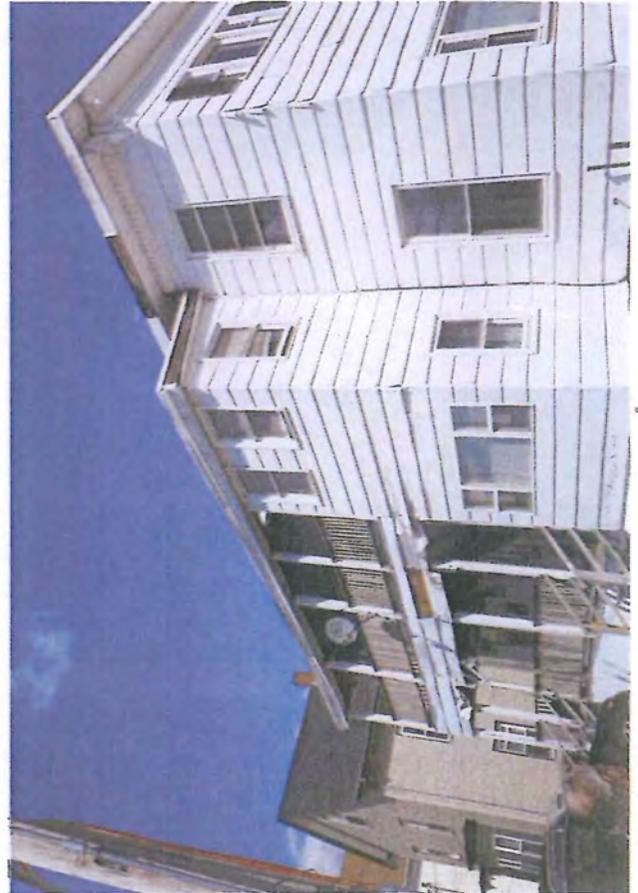
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21



18



19

De teriorated Exterior

R. E. Elmer

3-21-201
220 Park st

Pg 7



Insufficient Room sizes and dimensions

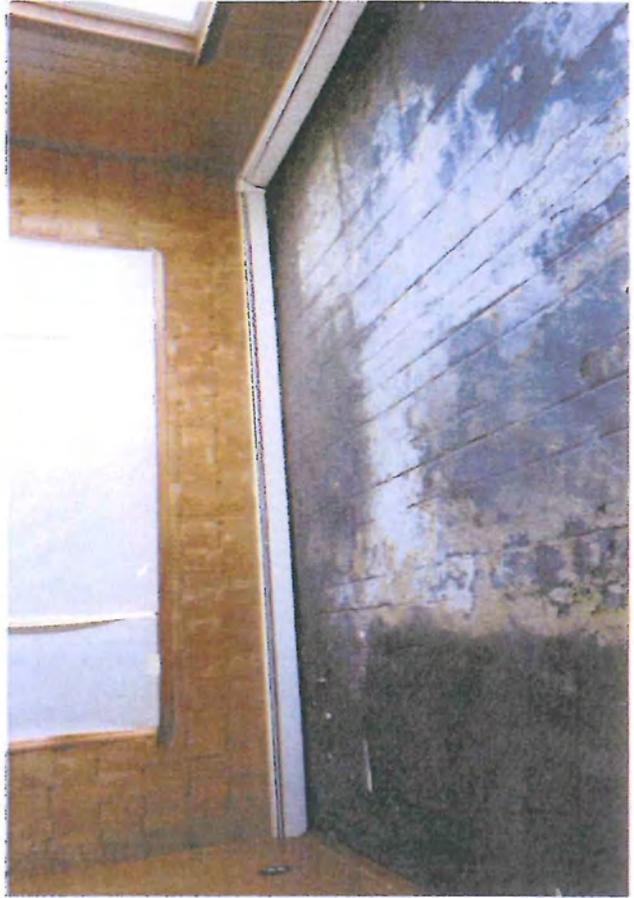
Room dimension width less than 6'

3-21-2012 ; 3-23-2012
220 Park St R - Falmer

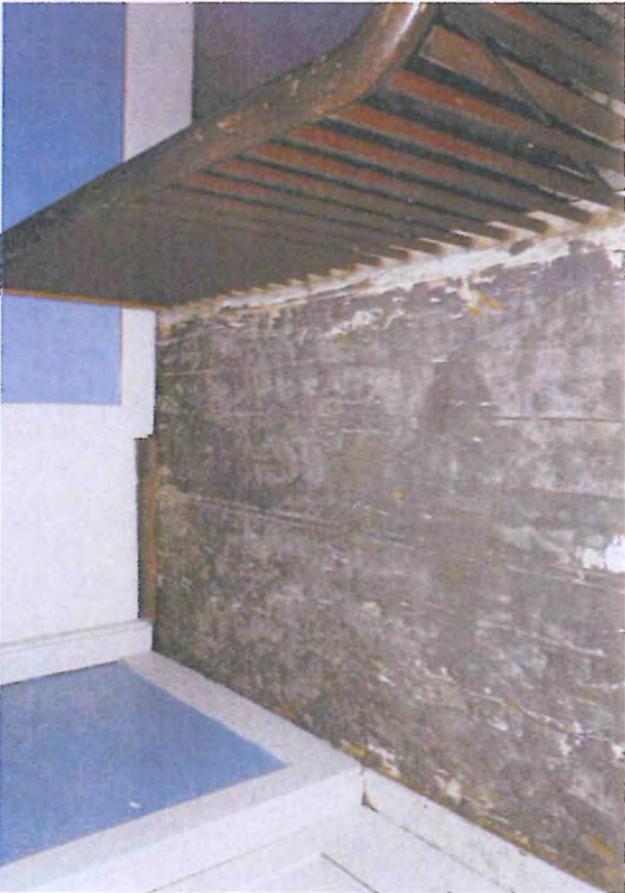
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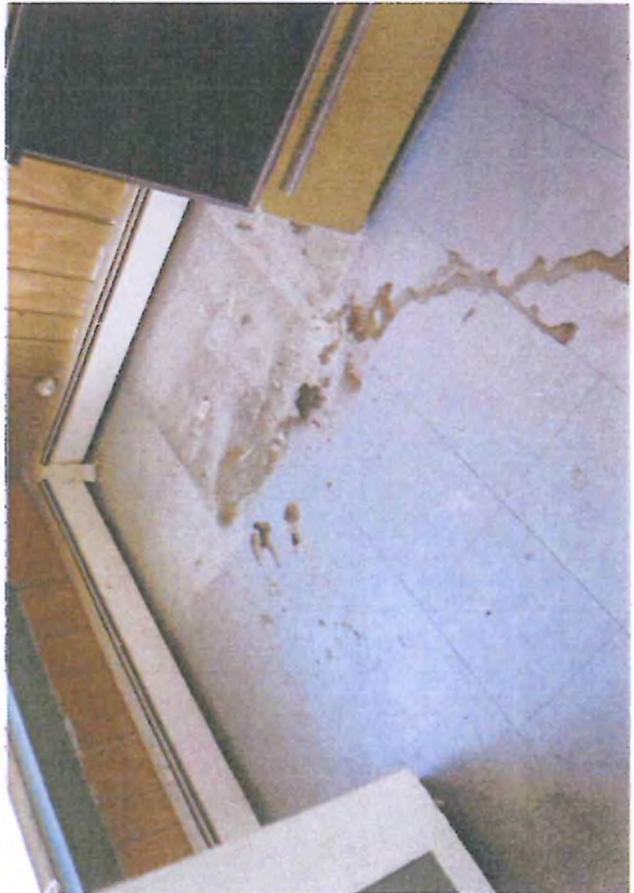
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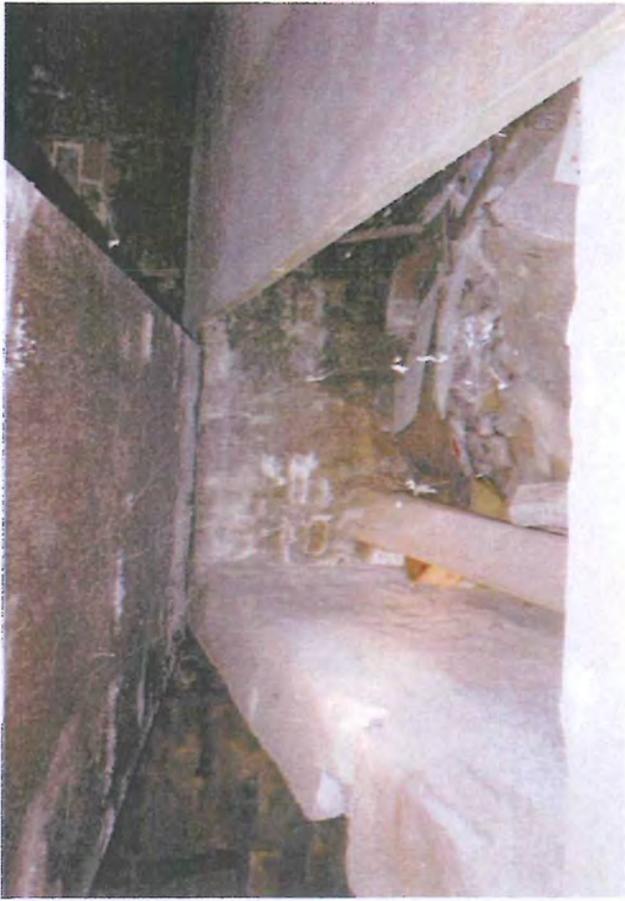


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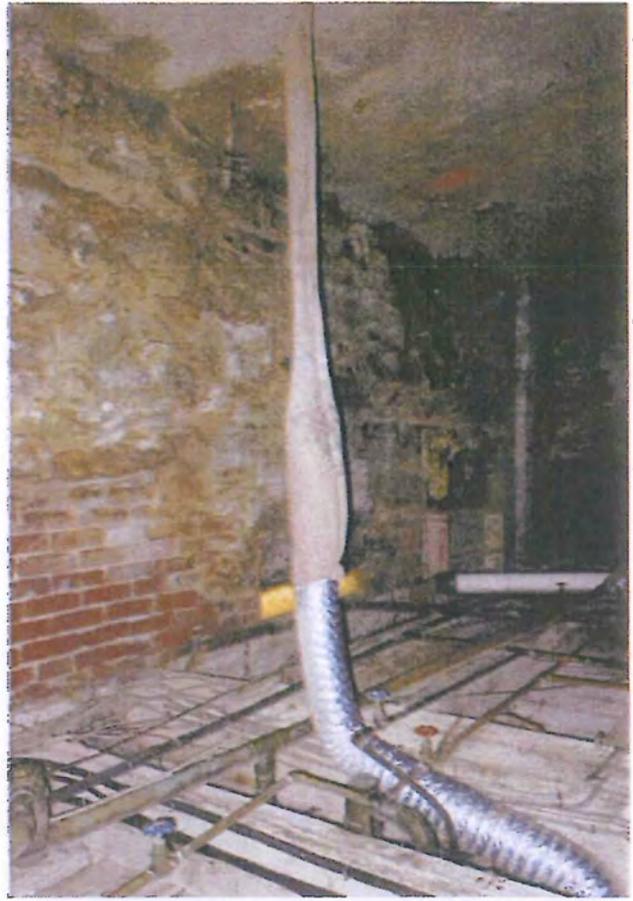
Damaged Flooring.

3-21-2012
220 Parkkat P. E. Mendenhall

Page



29



30

Deteriorated Boiler and Vent / Dry Vent in to the
Parkside in all pictures



30



31

Damaged
R...
R...
3-21-2012
220 Park St.
R...
F...
M...

8/10



32



33



34



35

3-21-2012
22 Park St
Th. E. McLeod



37



38

poor construction methods, inadequate maintenance,
and obsolescence.



38



39

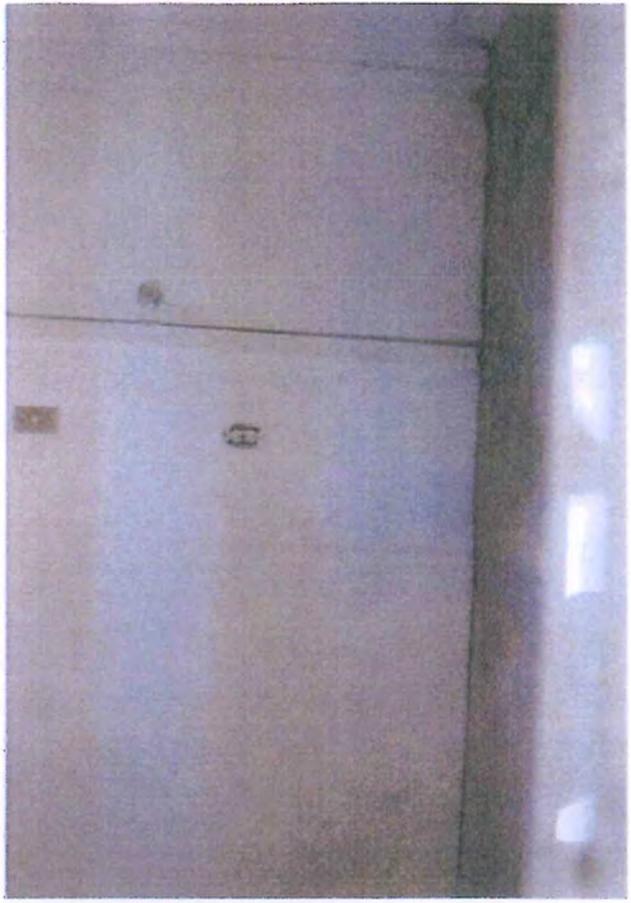
3-21-2012
220 Park St
E. Edward

Roof 1/2



1/2

2



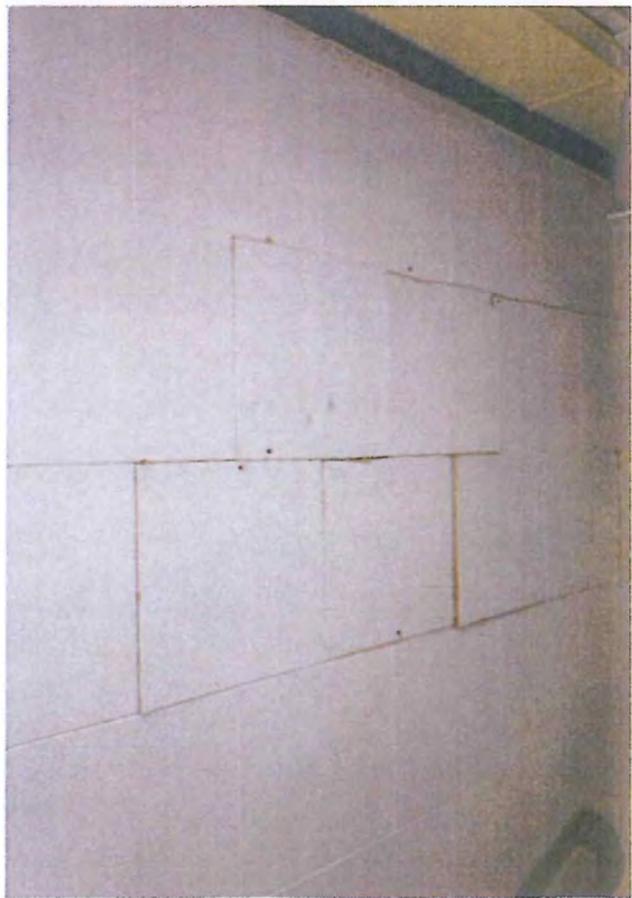
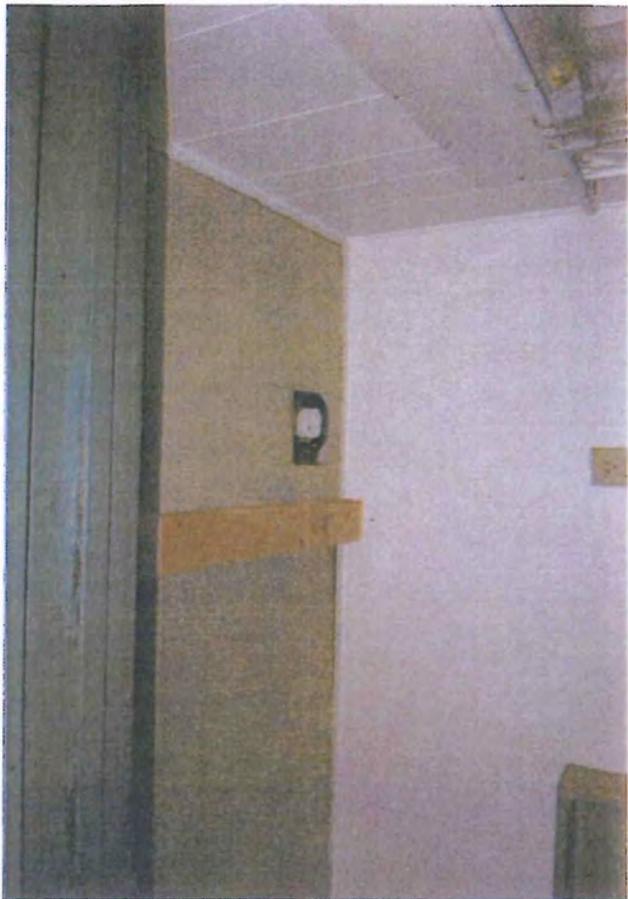
42



43

8-21-2012
220 Park St E - PM

Pg. 13.



2-21-2012
 220 Park st
 K. E. McLeod

46

47

Other Documentary Evidence



Bank

America's Most Convenient Bank®

TD Bank, N.A.
P.O. Box 9547
Portland, ME 04112-9547
Toll Free: 800 742-2651

March 29, 2012

Re: 220 Park St
Lewiston, ME 04240

To Whom It May Concern:

TD Bank, N.A. anticipates to be in possession of the property located at 220 Park St, Lewiston, ME "the property" within 60 days of the date of this letter. Within that timeframe, TD Bank, N.A. will assess the status of the Property, and will propose a plan to the city of Lewiston, which may include tearing down the Property or rehabbing and rebuilding the property.

Please feel free to contact our counsel, Stephanie Williams at Perkins-Thompson with any further questions or concerns.

Sincerely,

Erika MacGregor, AVP
TD Bank, N.A.
207-317-4907

⊕

EXHIBIT G

CITY OF LEWISTON

EXHIBIT H

CITY COUNCIL

APRIL 3, 2012

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00 P.M.

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Butler, D'Auteuil, Libby, Christ, Saddlemire, Cayer and Desjardins, City Administrator Edward Barrett, and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.

Moment of Silence.

PUBLIC COMMENT PERIOD

No members of the public offered comments at this time period.

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL
AMUSEMENT PERMIT FOR DAVINCI'S 150 MILL STREET**

Mayor Macdonald opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this issue. Mayor Macdonald then closed the hearing.

VOTE (92-2012)

Motion by Councilor Butler, seconded by Councilor Christ:

To grant a special amusement permit for live entertainment to Davinci's, 150 Mill Street.

Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS
CONCERNING THE PLACEMENT OF POLITICAL CAMPAIGN SIGNS**

Mayor Macdonald opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this issue. Mayor Macdonald then closed the hearing.

VOTE (93-2012)

Motion by Councilor Cayer, seconded by Councilor Butler:

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. Passed - Vote 7-0

**CONTINUATION OF CONDEMNATION HEARING FOR THE BUILDING LOCATED
AT 220 PARK STREET**

VOTE (94-2012)

Motion by Councilor Butler, seconded by Councilor Cayer:

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. Passed - Vote 7-0

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 17

SUBJECT:

College Street Speed Hump Alternatives.

INFORMATION:

The City Council asked the Public Works Department to review the College Street speed bump issue and to present a list of options regarding the speed bump. Some area residents are in favor of keeping the speed bump in place as a traffic calming measure and others would like to see it removed and feel it is a nuisance and no longer needed since Pettingill School is no longer located in this area.

The Council is asked to review the list of proposed options and to determine a course of action on this item. The Public Works Department is recommending Options 1 and 2 - Remove the Speed Hump and Install Revised Pavement Markings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

This is a policy decision of the City Council.

EAB/kmm

REQUESTED ACTION:

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

To review the proposed list of alternatives regarding the College Street Speed Hump and to determine a course of action.



Department of Public Works

David A. Jones, P.E.
Director



May 30, 2012

To: City Administrator Ed Barrett
Re: College St Speed Hump Alternatives

Ed,

At the City Council workshop held on May 24th, we were asked to identify alternative options and costs for the speed hump installed in front of the former Pettingill School. The Council asked we provide this for their June 5 meeting. The following are examples and information about some of these alternatives:

(1) Remove the Speed Hump

The Public Works Department supports removal of the speed hump. About half of the speed hump was removed last summer when the City was paving the portion of College St between Pettingill School and Montello St. The cost to remove the remaining part of the speed hump would be minimal and would be part of the overall cost to pave this section of College St (Pettingill School to Russell St).

(2) Install Revised Pavement Markings

We checked the current pavement markings, and the width of the travel lanes along College St between Russell and Montello varies from just over 11 ft to more than 12 ft. By just reducing the width between the center line and the edge line (travel lane) on East Ave, we found it reduced speeds by between 4 & 6 miles per hour. I would recommend that could reduce the College St. travel lane width to 10 ½ feet, and I expect this will reduce speed in the area. If approved at the June 5 meeting, we could likely get it done when the painting company returns to finish the spring painting. Estimated cost \approx \$400. This could be further supplemented by Transverse Markings – a pattern of transverse stripes across the travel lane spaced at decreasing intervals. One study showed an impact on speed given the pattern creates the illusion of increasing speed. We could apply this treatment to the approaches to all the intersections at an estimated cost of \$200.

(3) Reinstall the Speed Hump

This would involve reinstalling the speed hump to what it was before we did the work last summer. The cost to do this would be added to the cost for the planned paving between Pettingill School and Russell St. Estimated cost \approx \$3,500.

(4) Install Radar Speed Signs

There are signs available on the market to provide instant driver feedback to identify the speed limit and the actual speed of the vehicle. These radar signs are powered via a solar powered battery and indicate something like "Your Speed is XX" with the speed identified. If this was to be done, we would recommend two of these signs (1 for inbound and 1 for outbound traffic). Each sign is \approx \$6,000. Estimated cost \approx \$12,000.

(5) Install an Intersection Speed Table

A speed table is larger than a speed hump in that the elevated portion of the "hump" is extended to cover an entire intersection similar to what Bates College installed on College at Mountain Ave. In this case, the speed table would cover the entire intersection with Little Street and have a length of \approx 60 feet. This will require relocation of the existing signs and installation of more pavement. Estimated cost \approx \$18,000.

(6) Intersection medians (mini-roundabouts)

This option would involve installation of a raised median at the intersections of some or all of the cross streets along College between Russell and Montello. These raised medians could be sloped such that tractor trailer trucks using this route could go up and over the median, but passenger vehicles would be discouraged to do so and would slow down to go around the medians. This would involve major reconstruction of the intersections involved and could potentially require additional property acquisition if insufficient right-of-way exists. This is not an option which could be implemented quickly. Estimated costs – a detailed design would be needed before we could estimate the costs for this option, but it would likely be on the order of \$100,000±.

(7) Curb Bump-Outs

This option would involve installation of bump-outs of the curb at the intersections along College Street. This is similar to what the City installed on Lisbon St between Adams Ave and Chestnut St when we did the Southern Gateway project. The bike lane along College St makes this option impractical as bump-outs would not work well with the bike lane. As a result, no cost estimate was prepared.

- Options (1), (2) or (3) could be implemented quickly and would likely be able to be funded without impacting other street paving planned for this construction season.
- Options (4) or (5) could be implemented during this construction season; however, the costs would likely impact our ability to do all of the streets previously identified in our paving plan. There is a possibility the lowest priority street in the current plan (Olive St) may have to be delayed to a future year.
- Options (6) & (7) are not recommended.

Attached is some other information you may find useful:

- ❖ A chart compiled by the Institute of Traffic Engineers and Federal Highway Administration showing the impact of various traffic calming options on traffic speed.
- ❖ Accident history on College from Russell to Montello
- ❖ A 2010 Traffic Study of East Avenue with speed data from College Street

A note for your consideration. Traffic calming installations can have an effect on speed. Appropriate installations reduce speed as drivers approach and retard speed for some distance after they are passed. Generally, these effects are most noticeable within relatively short distances ahead of and behind the installation. After a motorist has progressed by 500 or 600 feet, speeds are normally fully restored absent any additional calming installations. The stretch of College from Russell to Montello is roughly 4,200 feet long. To calm speeds along this entire stretch, multiple installations in intervals of 1,000 to 1,200 feet would likely be required. If a speed table of some sort is the selected alternative, consideration might be given to a second installation at Manning. This would result in spacing from Russell of about 1200 feet to Pettingill School, 1200 feet to Manning, and 1900 to Montello with this later section benefiting from speed reductions associated with multiple intersections and the stop sign at Montello. This would add to the costs mentioned above.

Finally, there is evidence that portable speed trailers can reduce vehicle speeds when in operation at a given location. Once removed, there appears to be little long-term effect on speed. A similar impact can result from permanently mounted speed signs as suggested in number 4 above. We have not been able, however, to locate any information on whether the slowing effect wears off as motorists become used to the installation.

The Public Works Department recommends the Council approve proceeding with Options (1) and (2).

Sincerely,

David A. Jones, P.E.
Director

Accidents on College St. – From Russell St. to Fair St. – July 01, 2006 – Present.

College St. @	January	February	March	April	May	June	July	August	September	October	November	December	Total
Pettingill St.	0	0	1	1	1	0	1	0	0	1	0	0	5
Manning Ave.	0	0	0	0	0	0	0	1	0	0	0	1	2
Fortin Way	0	1	0	0	0	1	0	0	0	0	0	0	2
Champlain Ave.	0	0	0	0	0	0	0	0	0	0	0	0	0
Surry Lane	0	0	0	1	0	0	0	0	0	0	0	0	1
Ventura St.	0	0	0	0	0	0	0	0	0	0	0	0	0
Windsor Place	0	0	0	0	0	0	0	0	0	0	0	0	0
Fair St.	0	0	0	1	0	1	0	0	0	0	2	1	5
Total	0	1	1	3	1	2	1	1	0	1	2	2	15

College St. @	2006	2007	2008	2009	2010	2011	2012	Total
Pettingill St.	0	0	2	0	0	1	2	5
Manning Ave.	1	0	0	1	0	0	0	2
Fortin Way	0	0	0	0	0	1	1	2
Champlain Ave.	0	0	0	0	0	0	0	0
Surry Lane	0	0	0	1	0	0	0	1
Ventura St.	0	0	0	0	0	0	0	0
Windsor Place	0	0	0	0	0	0	0	0
Fair St.	0	1	0	0	2	1	1	5
Total	1	1	2	2	2	3	4	15



POLICE DEPARTMENT

Sgt. David K. Chick
Inspector of Police



Traffic Counter Data (10/06/2010 – 10/13/2010): pertaining to a review of request for raised table crosswalks to be installed on East Ave.



The area in question on East Ave is in between Russell St and Montello St; particularly focused on a knoll where Leavitt Ave and Lemont Ave crosswalks to access the sidewalk. Montello School is in nearby proximity, and was stated as a reason for concern relating to this request.



Rather than situate the traffic counter on the knoll in question. The largest straight-away span was selected, as this might indicate more accurately excessive speeds occurring.



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Sgt. David K. Chick
Inspector of Police



The traffic counter was set-up at a pole which also displayed the yellow cautionary lights which flash at times when pedestrian activity is expected in association with the school.

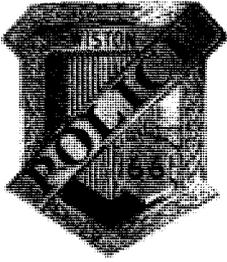
A similar style raised table crosswalk currently exists on College St in the vicinity of the former Pettingill School building; which was decommissioned for use in that purpose a little over a year ago. A second Traffic Survey Device was installed in the vicinity of this location to act as a “control” to assist in determining the overall effectiveness of the raised table crosswalk as a traffic speed deterrent; with the data being taken for comparison.



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Inspector of Police



This area runs parallel with East Ave, and represents a very similar style neighborhood.



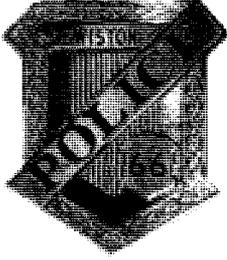
The traffic counter (indicated by red line) was situated roughly a block distance away from the raised table crosswalk (visible in lower left corner) in order to obtain a “normalized” reading; not actively braking or accelerating.



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Inspector of Police



The actual location was set up on an area of roadway which was deteriorating on the inbound approach to create an actual “collapsed” portion of roadway; which should have further served as a deterrent to slow traffic speeds.

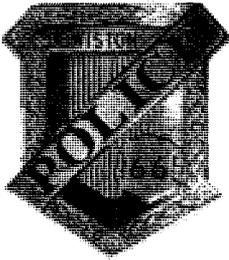
The data obtained from these devices will be compared to determine what if any impact these traffic controlling measures are actually having to influence motorists, and whether the raised speed table has any extended bearing beyond its fixed geographic position to result in a lower of vehicle speeds in that neighborhood.



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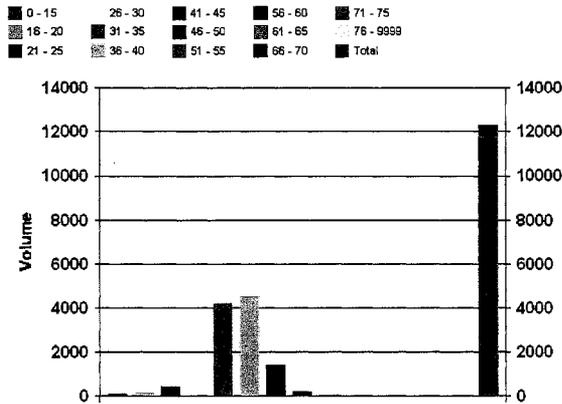


POLICE DEPARTMENT
Sgt. David K. Chick
Inspector of Police



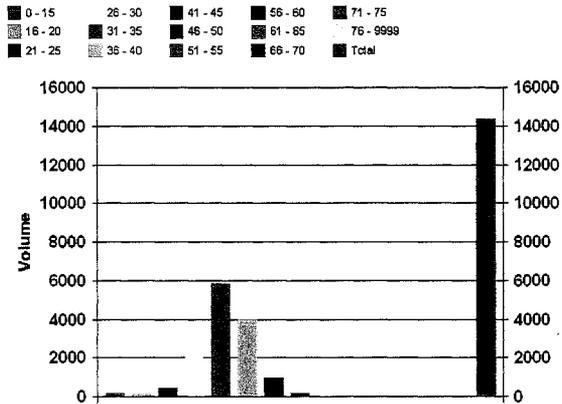
Comparative Statistical Speed Data

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Outbound East Ave

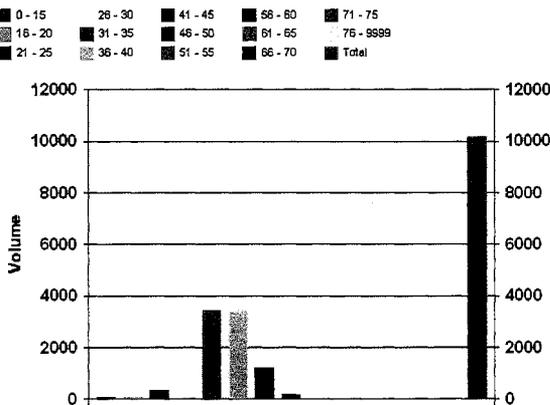
C:\CALEA\Resource\City Files\Traffic Studies\College St\SPEED.TWF



Outbound College St

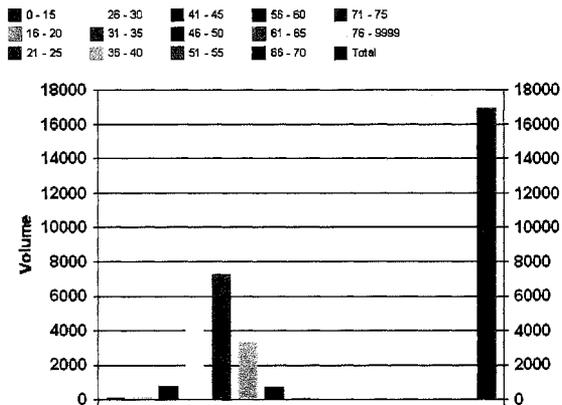
The percentage of vehicles traveling at slightly higher speeds was greater on East Ave, but the overall reflection of speeding vehicles was comparatively the same.

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Inbound East Ave

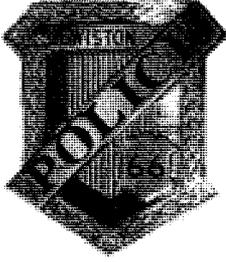
C:\CALEA\Resource\City Files\Traffic Studies\College St\SPEED.TWF



Inbound College St

That trend was representatively the same for inbound traffic; however, a slightly lower percentage in the 36-40 mph range was likely due to the very poor condition of the roadway, and although the percentages varied the actual number of vehicles traveling at those accelerated speeds was essentially the same on either street. The presence of the raised table crosswalk in the College St neighborhood did not effectively deter the speeding behavior of motorists.





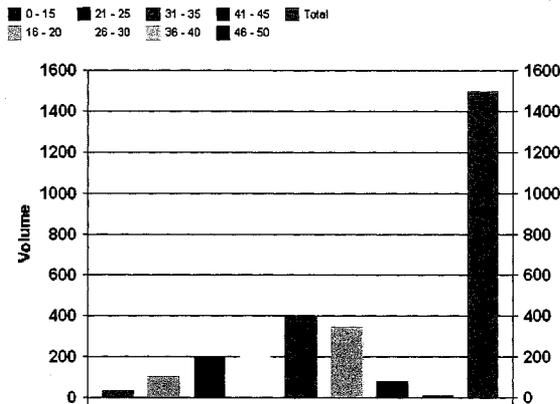
POLICE DEPARTMENT

Sgt. David K. Chick
Inspector of Police

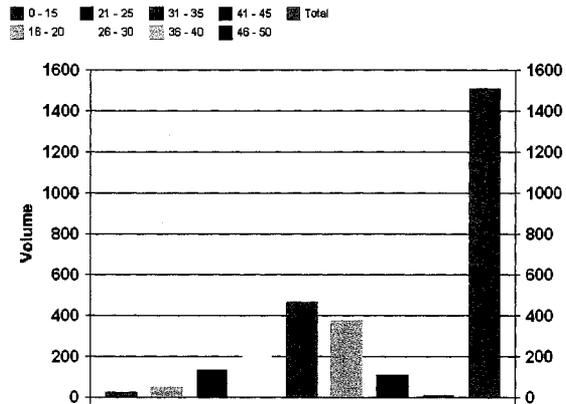


Another concerning factor was observed in this study which bears noting. The Traffic Survey Device was actually installed on the same pole which mounts the flashing yellow cautionary lights to alert motorists of the posting for "Speed Limit 15 MPH School Zone" when flashing. The data was reviewed to determine the traffic patterns which exist exclusively within the time frame in which this additional traffic control device is activated.

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The far left red column indicates those vehicles which are operating within the legally posted speed limit; the remaining columns, which by far make up the majority of the vehicles, are exceeding the speed limit. The fuchsia colored column (5th from left), and those to the right of it, represent vehicles which are traveling at a prosecutorial "criminal" speed, and these being totaled in tally are nearly half of all the vehicles traveling on this stretch of road during school session times when children are coming and going.

Conclusion:

Neither the raised table crosswalk such as that currently situated on College St, nor the augmented flashing caution lights such as installed on East Ave, prove to be effective deterrents to slowing motorists. This data has been provided to patrol units in order to step up the enforcement action of officer presence with citations being issued to speeding violators.



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LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 18

SUBJECT:

Amendments to the General Assistance Policy.

INFORMATION:

Per the General Assistance Policy and State Statutes, the City Council shall set the maximum amounts of assistance issued by the City for residents in need.

Director of Social Services Sue Charron is recommending amendments to the GA Policy and these changes are connected with the amendments to the General Assistance ordinance the Council addressed in agenda item number 7.

Recommended changes include changing the maximum amount the City will pay for a cremation from \$750 to \$785 and clarifying the city will not pay for a lot if one is available in a city owned cemetery or in a cemetery that donates a lot to the city for this purpose.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAS/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the proposed amendments, regarding burials and cremations, to the General Assistance Policy, Policy Manual Number 31, as recommended by the Social Services Director and the City Administrator.

(NOTE: New items in the attached Policy are underlined, deleted items have ~~strikeouts~~.)



Social Services Department
Sue Charron
Social Services Director



GENERAL ASSISTANCE POLICY

BURIAL

The maximum amount of general assistance granted for the purposes of burial is \$1,000.00, with additional payments, where there is an actual cost, for the wholesale cost of a liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

CREMATION

The maximum amount of assistance granted for a cremation shall be \$7850.00, with additional payments where there is an actual cost, for the wholesale cost of a liner if the cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality. ~~Additional payments for the actual cremation shall be paid directly to the cremation facility. The maximum amount of assistance granted directly to the crematory shall be \$300.00.~~

Additional Crematory Fees:

Oversized 1 (person and container weighing 300 to 399 pounds)	\$ 50.00
Oversized 2 (person and container weighing 400 to 499 pounds)	100.00
Oversized 3 (person and container weighing 500 pounds or more)	150.00

PENALTY - Confidentiality of information

A civil penalty of not less than \$30.00 nor more than \$105.00. Note: This penalty is outlined in the City Code of Ordinances Chapter 46 General Assistance, Article I In General.

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• TTY/TDD 207 784-5999 • Email: scharron@ci.lewiston.me.us

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities, and/or in the delivery of its programs, activities and services based on an individual person's race, ancestry, color, religion, gender, age, physical or mental disability, veteran status, or limited English speaking ability. For more information about this policy, contact or call Compliance Officer Mike Paradis at (V) 207-513-3140, (TTY) 207-784-5999, or email mparadis@ci.lewiston.me.us.

GENERAL ASSISTANCE POLICY

BURIAL

The maximum amount of general assistance granted for the purposes of burial is \$1,000.00, with additional payments, where there is an actual cost, for the wholesale cost of a liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

CREMATION

The maximum amount of assistance granted for a cremation shall be ~~\$750.00~~ 785.00, with additional payments where there is an actual cost, for the wholesale cost of a liner if the cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality. ~~Additional payments for the actual cremation shall be paid directly to the cremation facility. The maximum amount of assistance granted directly to the crematory shall be \$300.00.~~

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Oversized 3 (person and container weighing 500 pounds or more)	150.00

PENALTY - Confidentiality of information

A civil penalty of not less than \$30.00 nor more than \$105.00. Note: This penalty is outlined in the City Code of Ordinances Chapter 46 General Assistance, Article I In General.

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

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 19

SUBJECT:

Order Authorizing the City Administrator to execute an amendment to the Letter of Agreement with FPL Energy Maine Hydro, LLC - Extension of Due Diligence Period - Canal Acquisition.

INFORMATION:

In April, the Council authorized entering into a Letter of Agreement with FPL Energy Maine Hydro, LLC regarding the transfer of ownership of the canal system. The Letter of Agreement included a 60 day due diligence period which the City would evaluate the water rights, cost estimate for repairs, environmental conditions, a TIF and joint development agreement, title and legal issues, and other associated issues. Initial reports from consultants during the due diligence period indicate that more time is needed to fully review and research all of the aspects of this agreement.

The requested action is for the Council to approve an extension of the due diligence period for an additional 45 days to allow time for the city and its consultants to fully review the related aspects of the transfer.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EPB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To adopt the Order authorizing the City Administrator to execute an amendment to the Letter of Agreement with FPL Energy Maine Hydro, LLC - Extension of due diligence period - Canal Acquisition.



**City of Lewiston, Maine
City Council Order
June 5, 2012**



ORDER, Authorizing the City Administrator to Execute an Amendment to the Letter of Agreement with FPL Energy Maine Hydro, LLC – Extension of Due Diligence Period – Canal Acquisition.

Whereas, At its April 3, 2012 meeting, the City Council authorized entering into a Letter of Agreement with FPL Energy Maine Hydro, LLC regarding the transfer of ownership of the Lewiston Canal system and associated generating assets located below the gate house; and

Whereas, That Letter of Agreement included a 60 day due diligence period within which the City of Lewiston would evaluate whether the water rights to be retained would be adequate to keep the canals full, whether the cost estimates for repairs were consistent with initial projections, more fully evaluate the environmental conditions and indemnities to be provided, negotiate a joint development and tax increment financing agreement, and evaluate title and other legal issues associated with the transfer; and

Whereas, If notice is not given by June 9, 2012 by the city that it will not go forward with the Letter of Agreement as drafted, the city will be bound by the terms of that agreement; and

Whereas, Initial reports from consultants during the due diligence period indicate more time is needed to adequately address the questions of concern;

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

The City Administrator is authorized to execute an *Amendment to Letter Agreement Regarding the Purchase and Sale of Lewiston Canal* with FPL Energy Maine Hydro to extend the due diligence period under the Letter of Agreement for an additional 45 days, such amendment to be substantially in the form as attached hereto.

Amendment to Letter Agreement Regarding the Purchase and Sale of Lewiston Canal

This Amendment (“**Amendment**”) to the Letter Agreement (the “**Agreement**”) between the City of Lewiston (“**City**”), and FPL Energy Maine Hydro LLC (“**FPLE**”), (collectively the “**Parties**” and individually as a “**Party**”) dated April 10, 2012, is entered into by the Parties as of this ___ day of June, 2012

BACKGROUND

WHEREAS, as set forth in the Agreement, City has expressed interest in acquiring the Lewiston Canal System 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; and

WHEREAS, City and FPLE have determined that the Parties require additional time to conduct due diligence with respect to such transaction and have agreed to extend the “Approval Period” under the Agreement by an additional forty-five (45) days to July 24, 2012.

NOW THEREFORE, The Parties agree as follows:

1. Paragraph 1(d) of the Agreement is hereby amended to read as follows:

“(d) certain limited personal property of FPLE to be identified by notice from FPLE to City by July 24, 2012, which notice shall be attached to this Agreement as **Exhibit 1(d).**”
2. The first sentence of Paragraph 7 of the Agreement is hereby amended to read as follows:

“Each party has from the Effective Date until July 24, 2012 (“**Approval Period**”) for due diligence.”
3. Paragraph 9(g) of the Agreement is hereby amended to read as follows:

“(g) By no later than July 24, 2012, 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 by July 24, 2012, this Agreement shall terminate and the Parties shall have no further obligations or liability to each other under this Agreement.”

4. Except as amended by this Amendment, the Agreement shall remain in full force and effect.

[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**

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 20

SUBJECT:

Approval of the Election Warrant calling for a Special Municipal Election to be held on Tuesday, July 10, 2012 for a Referendum for a School Construction Project and Recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct said election.

INFORMATION: Under the Maine State Statutes, the municipal officers shall issue an election warrant calling for a municipal election. The City Clerk will be conducting a special city election on July 10, 2012 for the purpose of voting in the School Budget Validation Referendum.

Recommendations on election related issues:

- A. That the hours for acceptance of registrations in person only, prior to the July 10th election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:00am to 4:30pm, June 19 through July 9, 2012.
- B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B.
- C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the polling place at 7:00am, 6:00pm and any and all remaining shall be processed at 8:00pm, if necessary.
- D. To appoint the City Clerk as the City's Election Warden and the Deputy Registrar of Voters as the City's Ward Clerk, for the July 10 election.

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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Be It Ordered by the City Council that the Election Warrant be issued for the Special Municipal Election to be held on Tuesday, July 10, 2012 for the purpose of voting for the Referendum on a School Construction Project and to approve the following recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct the Special Municipal Election:

- A. That the hours for acceptance of registrations in person only, prior to the July 10th election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:00am to 4:30pm, June 19 through July 9, 2012.
- B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B.
- C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the polling place at 7:00am, 6:00pm and any and all remaining shall be processed at 8:00pm, if necessary.
- D. To appoint the City Clerk as the City's Election Warden and the Deputy Registrar of Voters as the City's Ward Clerk, for the July 10 election.

**WARRANT FOR SPECIAL MUNICIPAL ELECTION
CITY OF LEWISTON**

County of Androscoggin, SS.

To Michael Bussiere, a constable of Lewiston, Maine: You are hereby required in the name of the State of Maine to notify the voters of the City of Lewiston of the election described in this warrant.

To all voters of the City of Lewiston: You are hereby notified that a Special Municipal Election in this municipality will be held on Tuesday, July 10, 2012, at the Multi-Purpose Center, 145 Birch Street.

Said election being held for the purpose of voting on a Referendum regarding a School Construction Project.

Ballot Question:

Question 1: Shall the City of Lewiston, through its school department, be authorized to renovate and expand the Lewiston Middle School, and shall the Lewiston City Council be authorized to issue general obligation bonds and notes for that purpose in an amount not to exceed \$9,165,000?

See TREASURER'S CERTIFICATE FOR QUESTION 1 below for Treasurer's estimate of the debt service authorized by this Question 1.

YES - For the Question
NO - Against the Question

TREASURER'S CERTIFICATE FOR QUESTION 1

The undersigned Treasurer of the City of Lewiston hereby certifies that as of June 30, 2012:

1. The total amount of general obligation bonds of the City of Lewiston contemplated to be issued if Question 1 is approved by the voters of the City of Lewiston is \$9,165,000. The City, each year, will raise that amount required to satisfy the annual debt service requirements through its property tax levy. It is estimated that the debt service on these bonds paid over a twenty year term, at an average interest rate of 3.25%, will be as follows:

Principal	\$9,165,000
Interest	\$1,563,778
Total	\$10,728,778

2. The total amount of general obligation bonded indebtedness of the City of Lewiston currently outstanding is \$148,280,620.

3. The total amount of general obligation bonds of the City of Lewiston authorized but unissued is \$27,440,400, including the \$9,165,000 for the Lewiston Middle School Project.

The foregoing represents an estimate of costs associated with the financing and such estimates will change due to market conditions. The validity of the bonds and of the voters' ratification of the bonds shall not be affected by any errors in the foregoing estimates. Notwithstanding any variance of actual debt service costs from the estimates provided hereinabove, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by the reason of such variance.

Heather A. Hunter, Treasurer, City of Lewiston

The polls shall be opened at 7:00 a.m. and closed at 8:00 p.m.. Absentee ballots will be processed at the polls at 7:00 A.M., 6:00 P.M., and 8:00 P.M., if necessary.

Dated at Lewiston, Maine on June 5, 2012.

ATTEST: _____
Kathleen M. Montejo, MMC
City Clerk

LEWISTON CITY COUNCIL

MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 21

SUBJECT:

Appointment of the City Council's representative to the Lewiston Auburn Public Health Committee and City Council's representative to the City's Loan Qualification Committee.

INFORMATION:

1) In 2008, the City of Lewiston and the City of Auburn jointly created a Public Health Committee to monitor and address issues related to community public health. The LAPHC played a key role two years ago in educating the residents of the Twin Cities about the H1N1 flu virus. An upcoming program that the Committee is involved with is regarding the relatively new public health issue of Baths Salts. There is a seat on the Committee for a City Councilor from each city. Lewiston is asked to appoint a City Council representative to the Committee. Deputy City Administrator Phil Nadeau is the City's administrative staff representative to the Committee.

2) The Loan Qualification Committee (LQC) reviews all completed applications for assistance submitted through the Commercial Loan and/or Grant Program to assess the compatibility of projects with the overall objectives of the City's Revitalization Program. Lincoln Jeffers staffs this committee.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The Council shall select their representatives to various boards and committees.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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1) To review and discuss the City Council's representative to Lewiston Auburn Public Health Committee and to select one City Councilor to serve on the committee.

2) To review and discuss the City Council's representative to the Loan Qualification Committee and to select one City Councilor to serve on the Committee.

LEWISTON CITY COUNCIL
MEETING OF JUNE 5, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 22

SUBJECT:

Order Authorizing the City Administrator to execute a new Collective Bargaining Agreement with the Maine Association of Police, Lewiston Patrol Unit.

INFORMATION:

The City Council is requested to approve a three year agreement with the Maine Association of Police which represents the Lewiston Police Officers. This agreement is for the period of July 1, 2010 to June 30, 2013.

The attached memorandum from Deputy City Administrator Phil Nadeau outlines the highlights of the contract.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/km

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To adopt the Order authorizing the City Administrator to execute a new Collective Bargaining Agreement with the Maine Association of Police, Lewiston Patrol Unit.



**City of Lewiston Maine
City Council Order
June 5, 2012**



Order, Authorizing the City Administrator to Execute a New Collective Bargaining Agreement with the Maine Association of Police, Lewiston Patrol Unit.

Whereas, the City and the Patrol 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 Patrol 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 Patrol 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 Maine Association of Police, Lewiston Patrol 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:	June 1, 2012
RE:	Proposed Lewiston Police Patrol Unit Contract

1. BACKGROUND

The city has been working for the last two years with the Police Patrol negotiating team to develop the enclosed proposed contract. The Police Patrol 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 1/1/13); FY2013 – 2.0% (effective 7/1/13)
- Offset for FY2013 COLA will impact FY12 Retirement Health Savings with RHS contributions to be deposited July 2012 (and go forward) being reduced from 6 to 3 sick days; and the Flexible Spending Account city contribution reduced from \$200 to \$100.
- Sick time retirement cash out: Increase from 80 to 87.5 days effective 6/30/13
- Adjust Patrol Division work hours from 39.67 to 40.00 hours per week beginning 1/1/13

2. RECOMMENDED ACTION

To approve the proposed contract.