

**LEWISTON CITY COUNCIL AGENDA  
CITY COUNCIL CHAMBERS  
AUGUST 14, 2012**

**6:00 p.m. Workshop**

- A. Update from Museum L-A - 30 minutes
- B. Discussion regarding City Hall Tower Lighting - 30 minutes

**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 7.

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

- \* 1. Amendment to the Traffic Schedule regarding loading zones on Ash Street and Lisbon Street and fire lanes on Ash Street.
- \* 2. Amendment to the Traffic Schedule to establish a portion of Vale Street as a single lane, one way street.
- \* 3. Approval to rename a portion of Marston Street as North Marston Street.

**REGULAR BUSINESS:**

- 4. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Carriage House Plus, 1119 Lisbon Street.
- 5. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Sparetime Recreation, 24 Mollison Way.
- 6. Public Hearing for approval of an Outdoor Entertainment Permit for the Twentieth Annual Great Falls Balloon Festival.
- 7. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding the City Council.
- 8. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding Ordinances.
- 9. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding City Administration.
- 10. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding Limitation of Terms for the Planning Board and Board of Appeals.

11. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding the School Committee.
12. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding Financial Procedures.
13. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding Nominations, Elections and Vacancies in Office.
14. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding General Provisions.
15. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding Compensation and Forfeiture of Office.
16. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding the Office of Mayor.
17. Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding Technical Housekeeping Changes.
18. Condemnation Hearing for the building located at 320 Bates Street.
19. Condemnation Hearing for the building located at 87 Birch Street.
20. Public Hearing and First Passage on amendments to Traffic and Vehicles Ordinance regarding winter nighttime parking.
21. Order Authorizing the City Administrator to enter into lease negotiations with Casella Waste Systems for the purpose of establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility.
22. To initiate a request to the Planning Board to review and study the proposed zoning district regarding Parks and Open Space.
23. Resolve calling upon the Maine Department of Transportation to perform maintenance and repairs on the Wisman Bridge.
24. Resolve supporting the Lewiston-Auburn Transit Committee's (LATC) Intercity Transit.
25. Reports and Updates.
26. Any other City Business Councilors or others may have relating to Lewiston City Government.
27. Executive Session to discuss Real Estate negotiations, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

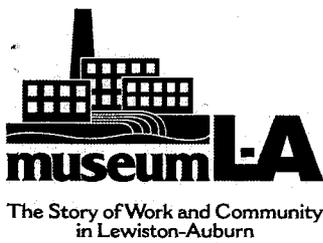
LEWISTON CITY COUNCIL  
WORKSHOP AGENDA  
AUGUST 14, 2012  
6:00 P.M.

1. Update from Museum LA – 30 minutes

Rachel Desgroseillers of Museum LA will be present to update the Council on the status of Museum LA and its planning efforts.

2. City Hall Tower Lighting – 30 minutes

Former Mayor Larry Gilbert has requested the opportunity to discuss a project that he would like to undertake to raise funds to light the City Hall tower. Please see the attached memo and information.



A  
35 Canal Street, Box A7  
Lewiston, Maine 04240  
207-333-3881  
rachel@museumla.org

## MUSEUM L-A LEGACY

We are

VALIDATING LIVES

CREATING ENGAGING LEARNING EXPERIENCES

CONNECTING GENERATIONS

RECORDING HISTORY

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STRENGTHENING COMMUNITY

CONTRIBUTING TO CIVIC, CULTURAL, AND  
ECONOMIC REVITALIZATION OF LEWISTON-AUBURN

### IMAGINE THE POSSIBILITIES!

If we believed in where we came from as a people and a community!

If we truly embraced and believed in our spirit of creativity and innovation again!

If we, once again, saw our community as a model for other communities!

If we took back our PRIDE OF PLACE and our SENSE OF PLACE as being unique  
and great!

Just IMAGINE – If we believed!  
THAT WE HAVE THE POWER TO CHANGE THINGS.

Join us as we say – WHY NOT!  
Create the best award-winning and must-see Museum around that will bring people from  
all over to learn who we are and be amazed by it.

They are coming and they are marveling!

## IMAGINE THE POSSIBILITIES!

The idea of a local industrial heritage Museum came from a group of local men spearheaded by Elliott Epstein to establish a museum of industrial history in the Twin Cities. "People will be able to say that (the development of Lewiston's mills) made a significant impact on the history of the country," says, Epstein. Museum L-A became its name. It was incorporated in 1994 and received its nonprofit status in 1996.

In April of 2004, its first Executive Director was hired to help organize and push forth the vision of a Museum for the Lewiston-Auburn area. Soon after, she organized a Mill Worker reunion to honor all millworkers for having been part of building the community. Machinery was nice to show, however, what was the story of the people who made everything happen? The Reunion led to a major Oral History Project that now has over 350 oral histories of mill workers, shoe workers and brick makers as well as leading and unknown community figures that had major impacts.

Through these oral histories, we looked into a very special lens of our community and our ancestors' lives. It also became clear that we couldn't just tell the story of work because their lives were so interwoven with community. Music was not only a huge industry in L-A, but a huge influence in individual, home and community life. We also saw that, many, despite very little education, were Creative and Innovative in everything they did.

During the past 5 years, we completed the trilogy exhibits of our past with textiles, shoes & bricks. We knew that we now needed to turn to other areas that made us great – Music and the spirit of Innovation. We understand that "we are not a mill town anymore," but, what we have found to be important is the **spirit** that always kept us in the forefront of all new movements. This is what we need to keep at the very top of our minds and remember that history repeats itself and **WE** are that history in the making.

I was born and raised here and I thought I knew the history of our community. I knew nothing. After spending these past years rubbing elbows with our elders and learning our history, I am even more of a believer in Lewiston-Auburn than before.

The **spirit** of our ancestors is our amazing legacy, not large brick buildings and a gone away era. We are talking about a spirit of – "We can do it"; a spirit of adapting to living with many cultures as immigration was key to economic vitality; an attitude of resiliency in very hard times; a love of family, music and play with a love for younger members; and, most of all, with so little to work with, an amazing spirit of creativity and innovation. And, that is what Museum L-A is all about. The Museum's future now leads us to focusing on the Spirit that made us and continues to lead us.

We are about the future development of L-A, not just about the past!

Rachel Desgrosseilliers, Executive Director

# MUSEUM L-A

## ECONOMIC IMPACT: 2004-2012

### BOLD - BIG - ACHIEVED

	<u>YEARS</u>	<u>OPERATIONS</u>			<u>BUILDING</u>		<u>Totals</u>
		<u>Grants</u>	<u>Donations</u> <u>Earned Inc.</u>	<u>In-K</u>	<u>Grants</u>	<u>Donations</u>	
Launch Dynamic Programs	2004-2008	\$549,000	\$474,000	\$150,000			\$1,173,000
Buy Bldg/Burn Mortgage	2009	\$199,300	\$168,000	\$80,500	\$199,000	\$106,500	\$ 753,300
EPA/DEP Cleanup	2010	\$354,000	\$191,500	\$110,500	\$199,000		\$ 855,000
Demo/Stabilization	2011	\$ 57,500	\$196,000	\$113,000	\$216,000		\$ 582,500
Demo/Stabilization	2012	<u>\$ 12,918</u>	<u>\$138,440</u>	<u>\$ 46,398</u>	<u>\$362,827</u>		<u>\$ 560,583</u>
<b>TOTALS</b>		\$1,172,718	\$1,167,940	\$500,398	\$976,827	\$106,500	\$3,924,383

TOTAL INVESTED IN COMMUNITY—June 30, 2012

Operations - \$2,841,056 + Building \$1,083,327

**ECONOMIC IMPACT = \$3,924,383**

### NEXT STEPS-2012/2013

**Schematic Design, Interpretive Story Plan, New Exhibits, Education Programs, Events.**

B



# City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



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August 7, 2012

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: City Hall Tower Lighting

Former mayor Larry Gilbert approached the Council several months ago with a proposal that he would raise funds for a project that would light the City Hall Tower. Since then, Public Works has revised earlier estimates for such a project and has modified its estimate to reflect the cost of installing LED lighting, an option which is both less expensive to install and operate.

Public Works has developed two options: simple white lighting and adjustable color lighting. The total estimated cost of installing white lighting is approximately \$35,500 including all materials and installation by City crews. Colored lighting would run about \$46,700. The complete estimates are attached.

Given the cost differential as well as the red brick color of the building, it appears that the simple white lighting might be the most appropriate option.

In discussions with Mr. Gilbert, I anticipate that he will ask for Council approval to raise the necessary funds for this project and will request that the Council contribute the Public Works labor. Under this proposal, the necessary funds to be raised would be \$26,292. Labor and benefit costs of \$9,254.56 would be absorbed by the City.

Also attached are some examples of a tower lit in a similar manner to what has been proposed for City Hall.

Mr. Gilbert will be present at Tuesday's meeting as will staff from Public Works.

# CITY HALL CLOCK TOWER LIGHTING PROJECT

**Labor:**

Estimated installation time 100 hrs. + 8hrs. O/T for final aiming.

	W/O Bene.	With Bene.
J. Bolduc: rate \$26.24 W/O. benefits, \$43.88 W. benefits.	2624.00	4388.00
N. Saindon: rate \$23.98 W/O benefits, \$43.43 W. benefits.	2398.00	4340.00
J. Bolduc: rate X 1.5 \$39.36 W/O. benefits, \$65.82 W. benefits-8 hrs.	314.88	526.56
Truck #40 rate: \$14.00-28 hrs	392.00	392.00
Crane Rental: 3 days @ \$2590.00	7700.00	7700.00
Hydraulic Lift: 3 days @ 900.00	2700.00	2700.00
Electrical and mounting hardware	2300.00	2300.00
Bell Tower White Lights 14 @ \$575.00	8050.00	8050.00
East and West Turrets 6 @ \$575.00	3450.00	3450.00
Contingency 5%	1700.00	1700.00
<b>Total</b>	<b>31628.88</b>	<b>35546.56</b>

**Operational Costs:**

- 20 - 50 Watt White LED Lighting Fixtures @ 4260 hrs. **\$640.00**
- 20 - 50 Watt White LED Lighting Fixtures @ 4260 hrs. **\$220.00**

# CITY HALL CLOCK TOWER LIGHTING PROJECT

**Labor:**

Estimated installation time 100 hrs. + 8hrs. O/T for final aiming.

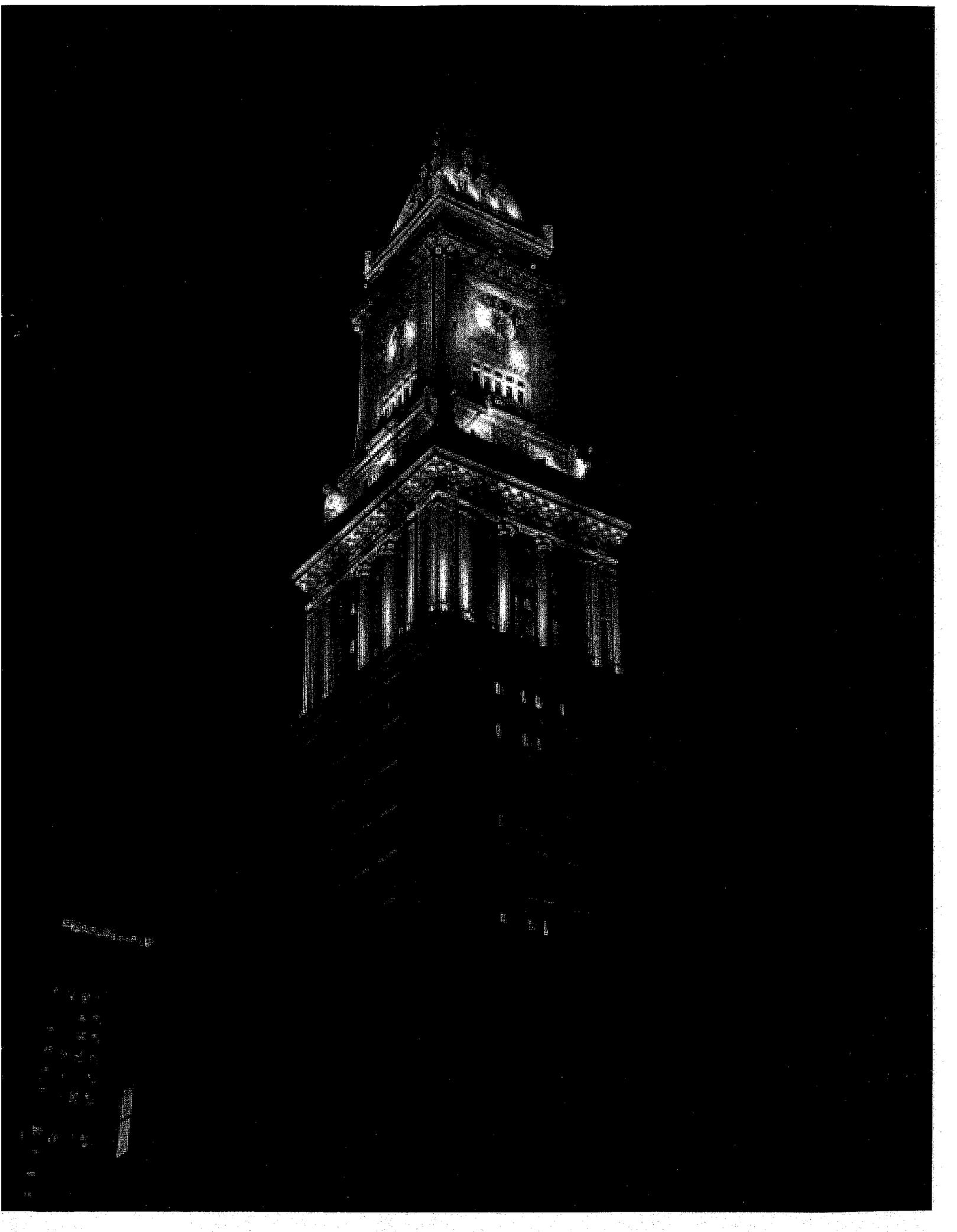
	W/O Bene.	With Bene.
J. Bolduc: rate \$26.24 W/O. benefits, \$43.88 W. benefits.	2,624.00	4,388.00
N. Saindon: rate \$23.98 W/O benefits, \$43.43 W. benefits.	2,398.00	4,340.00
J. Bolduc: rate X 1.5 \$38.78 W/O. benefits, \$63.48 W. benefits-8 hrs.	314.88	526.56
Truck #40 rate: \$14.00-28 hrs	392.00	392.00
Crane Rental: 3 days @ \$2,590.00	7,700.00	7,700.00
Hydraulic Lift: 3 days @ 900.00	2,700.00	2,700.00
Electrical and mounting hardware	2,300.00	2,300.00
Bell Tower Colored LED'S 14 @ \$1050.00	14,700.00	14,700.00
East and West Turrets Colored LED'S 6 @ \$1050.00	6,300.00	6,300.00
Color Controller	1,095.00	1,095.00
Contingency 5%	2,250.00	2,250.00
<b>Total</b>	<b>42773.88</b>	<b>46691.56</b>

**Operational Costs:**

- 20 - 50 Watt White LED Lighting Fixtures @ 4260 hrs. **\$640.00**
- 20 - 50 Watt White LED Lighting Fixtures @ 4260 hrs. **\$220.00**









# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Amendment to the Traffic Schedule regarding loading zones on Ash Street and Lisbon Street and fire lanes on Ash Street.

**INFORMATION:**

This item was postponed from the July City Council meeting to allow additional time for staff to review this item and determine the exact needs to the business located at this intersection. Councilors noted that parking in the downtown area is limited and they were not necessarily supportive of adding another loading zone without additional information.

The proposed traffic schedule amendments will add a loading zone area on Lisbon Street and one on Ash Street and remove a loading zone on Ash Street. It would also define fire lanes on Ash Street. These changes will help FISC Solutions which receives regular deliveries to their office. The Police Department and Public Works Department support the request and recommend Council action.

Representative of the Police Department and FISC will be present for the City Council meeting.

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

The City Administrator recommends approval of the requested action.

*EATS/kmm*

**REQUESTED ACTION:**

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To approve an amendment to the Traffic Schedule to regarding loading zone areas and fire lanes on Ash Street and Lisbon Street, as outlined in the attached memorandum.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



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August 8, 2012

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: Loading Zones – Lisbon and Ash Streets

This item was tabled at the last meeting due to confusion over the current location of loading zones in this area and a concern over adding a loading zone on Lisbon Street. Since then, we have reviewed the zones currently set in our traffic schedule, what is actually marked on these streets, and what the needs are in the area.

### **Current Situation**

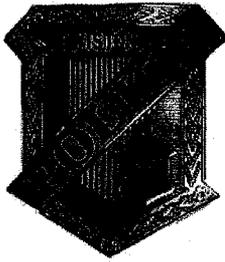
The traffic schedule currently designates the first several parking spaces on the east side of Lisbon Street south of the intersection with Ash Street as a loading zone. This zone is directly in front of the FISC building. It is currently not marked. A loading zone is marked up the street in the area of Forage market. This zone is not included in our traffic schedule. There are two loading zones on Ash – one at the intersection with Lisbon next to the FISC building (marked for courier use from 3 pm to 6 pm) which extends from Lisbon back to the mid-block alley; and a second on the other side of the street along the side of the violations bureau which runs from the intersection of Ash and Park to the mid-block alley. Effectively, therefore, half of both sides of Ash between Park and Lisbon are designated as loading zones for at least a portion of the work day.

### **Proposal**

Staff recommends moving the signage designating the loading zone in front of Forage (which is not in the traffic schedule) and using it to mark the zone near the Lisbon/Ash intersection (which is in the traffic schedule). It would be used by Forage and FISC as well as other business on that block. In discussions with FISC, the company also has frequent courier deliveries and pickups throughout the day with various vehicles at their location for as much as six or seven hours a day. The proposal would retain a loading zone on Ash adjacent to FISC but reduce its size to what is needed for only one such vehicle. The loading zone on Ash adjacent to the Violations Bureau would be eliminated.

The net result of these changes would increase parking availability on Ash between Lisbon and Park and have no impact on parking on Lisbon other than to move available parking from in front of FISC to the area of Forage market.

We believe that these changes will meet the needs of the businesses in the area and increase the number and usability of the public spaces.



# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police




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**DATE:** May 23, 2012

**TO:** Traffic Schedule Review

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

**Subject:** Traffic Schedule Amendment – Chapter 70 Section 177  
Loading Zones

Per request coming from FISC Solutions; seeking to confirm/correct/consolidate a situation where signs were no longer posted to indicate their (courier parking) “loading zones”. Site visit and interview was conducted to clarify the actual practiced use and requirement. The contested spaces were found to be recorded in the Traffic Schedule, but additional modifications could be made to limit the time restriction and return open spaces for public parking.

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

### Section 3 – Loading Zones

**ASH STREET** ~~Even numbered side, north side, beginning at a point 50' from the northeasterly corner of Ash Street & Lisbon Street and extending easterly on Ash St a distance of 60'. 30 Minutes (Courier Parking) Monday-Friday 3:00 PM to 6:00 PM~~  
**ADDED by City Council – 9/17/2002, Vote # 279**

**LISBON STREET** ~~Even numbered side, east side, beginning at a point 95' 75' from the southeasterly corner of Ash St. and Lisbon St. and extending southerly on Lisbon St. a distance of 68' 60'; or (2) delineated parking spaces and angle indent (Restricted to commercial vehicles 6:00 AM to 6:00 PM except Sundays and Holidays) Monday-Friday 6:00 AM to 3:00 PM) 30 Minutes – TOW AWAY ZONE.~~  
**ADDED by City Council – 12/11/2001, Vote # 18**

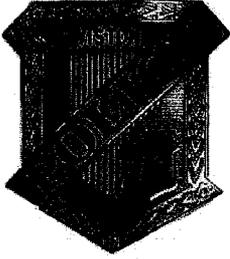
NOTE: (Additions are underlined; deletions are ~~struck out~~).

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended “Loading Zone” and time frame which it is in effect; as well as applying yellow paint to designate the 2-space area. The co-existing one-hour parking applies otherwise.



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[www.lewistonpd.org](http://www.lewistonpd.org)





# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police



*David Chick*

**David Chick**  
**Inspector of Police**

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



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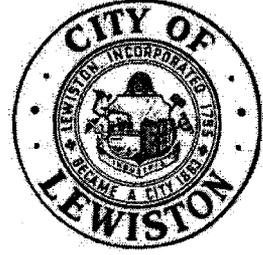


*Professionalism Integrity Compassion Dedication Pride Dependability*



# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police



**DATE:** August 8, 2012  
**TO:** Traffic Schedule Review  
**FROM:** Sgt. David Chick, Inspector of Police  
**Subject:** Ash Street

**Traffic Schedule Amendment – Chapter 70 Section 177  
Loading Zones (Section 3)**

**Traffic Schedule Amendment – Chapter 70 Section 156  
Parking Prohibited  
All Times – Fire Lanes (Section 9)**

**Traffic Schedule Amendment – Chapter 70 Section 158  
One (1) Hour Parking  
9:00 A.M. to 6:00 P.M. (Section 26)**

As part of the previously submitted Traffic Schedule changes relating to realignment of existing Lisbon St loading zone to be shared primarily by the businesses identified as FISC and Forage Market; this amendment is being submitted to return previously specified restricted areas back to general public parking use...

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

## Section 3 – Loading Zones

### ASH STREET

**Odd numbered side, south side, beginning at a point 50' 40' from the southeasterly corner of Ash St & Lisbon St and extending easterly on Ash St a distance of 60' 30' (1 delineated van accessible space). ~~30 Minutes (Courier Parking)~~ Monday-Friday 9:00 AM to 6:00 PM**

~~ADDED by City Council 9/17/2002, Vote # 279~~

~~Even numbered side north side beginning at a point 40' west of the northwest corner of Ash St & Park St and extending westerly on Ash St a distance of 62'. 30 Minutes 7:30 AM to 6:00 PM except Sundays & Holidays.~~

~~ADDED by City Council 2/2/1993, Vote # 5~~



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**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



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In conjunction with provisions made for a loading zone and enhancing the provisions of available on-street public parking, the following amendments are being forwarded for Council review...

**Section 9 – Parking Prohibited – All Times – Fire Lanes**

**ASH STREET**                      **Odd numbered side south side from Park St to ~~Lisbon St~~ Park St Alley.**

+

**Section 26 – Parking Time Regulated – 1 Hour – 09:00 AM to 06:00 PM**

**ASH STREET**                      **Even numbered side northerly side between Park St & Lisbon St in delineated parallel parking spaces.**

**Odd numbered side southerly side beginning at a point approximately 70’ from the southeasterly corner of Ash St & Lisbon St and extending easterly on Ash St a distance of 26’ in delineated parallel parking space.**

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

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended designations.

**David Chick**  
**Inspector of Police**

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



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**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Amendment to the Traffic Schedule to establish a portion of Vale Street as a single lane, one way street.

**INFORMATION:**

This amendment will change a portion of Vale Street, from Sabattus Street to Central Avenue, to a single lane, one way street. Public Works is recommending this change due to the recent renovations at the Lewiston Armory building for the Senior Citizens program. This amendment also defines a portion of Vale Street for no on-street parking.

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

The City Administrator recommends approval of the requested action.

*EPB/kmm*

**REQUESTED ACTION:**

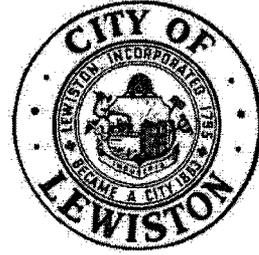
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To adopt the proposed amendment to the Traffic Schedule to establish a portion of Vale Street, from Sabattus Street to Central Avenue, as a one way street and a single lane street, plus to prohibit on street parking on a portion of the street, as outlined on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



**DATE:** August 3, 2012  
**TO:** Traffic Schedule Review  
**FROM:** Sgt. David Chick, Inspector of Police  
**Subject:** Vale Street

**Traffic Schedule Amendment – Chapter 70 Section 46  
One Way Streets (Section 4)**

**Traffic Schedule Amendment  
Single Lane Streets (Section 11)**

**Traffic Schedule Amendment – Chapter 70 Section 150  
Parking Restricted  
Hazardous or Congested Places (Section 44)**

In order to properly align the Traffic Schedule wording being incorporated with ongoing approved projects which are aimed at limiting traffic flow congestion and enhancing the provisions of on-street parking, the following amendments are being forwarded for Council review...

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

**Section 4 – One Way Streets**

**VALE STREET**                      **In a northerly direction between Sabattus St and Central Ave.**

+

**Section 11 – Single Lane Street**

**VALE STREET**                      **Vale St northerly from Sabattus St merging to a single lane of travel continuing until the intersection with Central Ave.**

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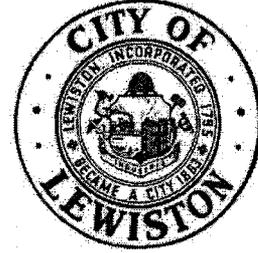


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# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police



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## Section 44 – Parking Restricted – No Parking Anytime – Hazardous or Congested Places

### VALE STREET

Odd numbered side, westerly side, beginning at the southwest corner of Vale Street and Central Avenue and extending southeasterly on Vale St a distance of 300' (opposite the angled parking spaces).

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

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended designations.

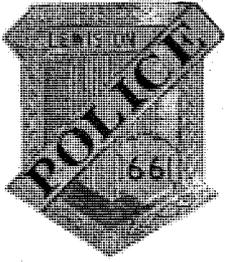


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# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police



*David Chick*

**David Chick**  
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**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 3**

**SUBJECT:**

Approval to rename a portion of Marston Street as North Marston Street.

**INFORMATION:**

Under the City Code, the City Council is authorized to name public and private ways for public safety/E911 purposes. The City Assessor is recommending the Council vote to rename the northerly portion of Marston Street as "North Marston Street". This suggested name change is supported by 911 and the Police and Fire Departments.

The street is now a divided street due to the construction of the Shaw's Plaza. In order to avoid confusion for emergency responders, the suggestion is being made to rename a portion of the street so each section of the street has a distinct name.

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

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the request to formally name the northerly portion of Marston Street as "North Marston Street".

# Memorandum

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**To:** Kathy Montejo, City Clerk

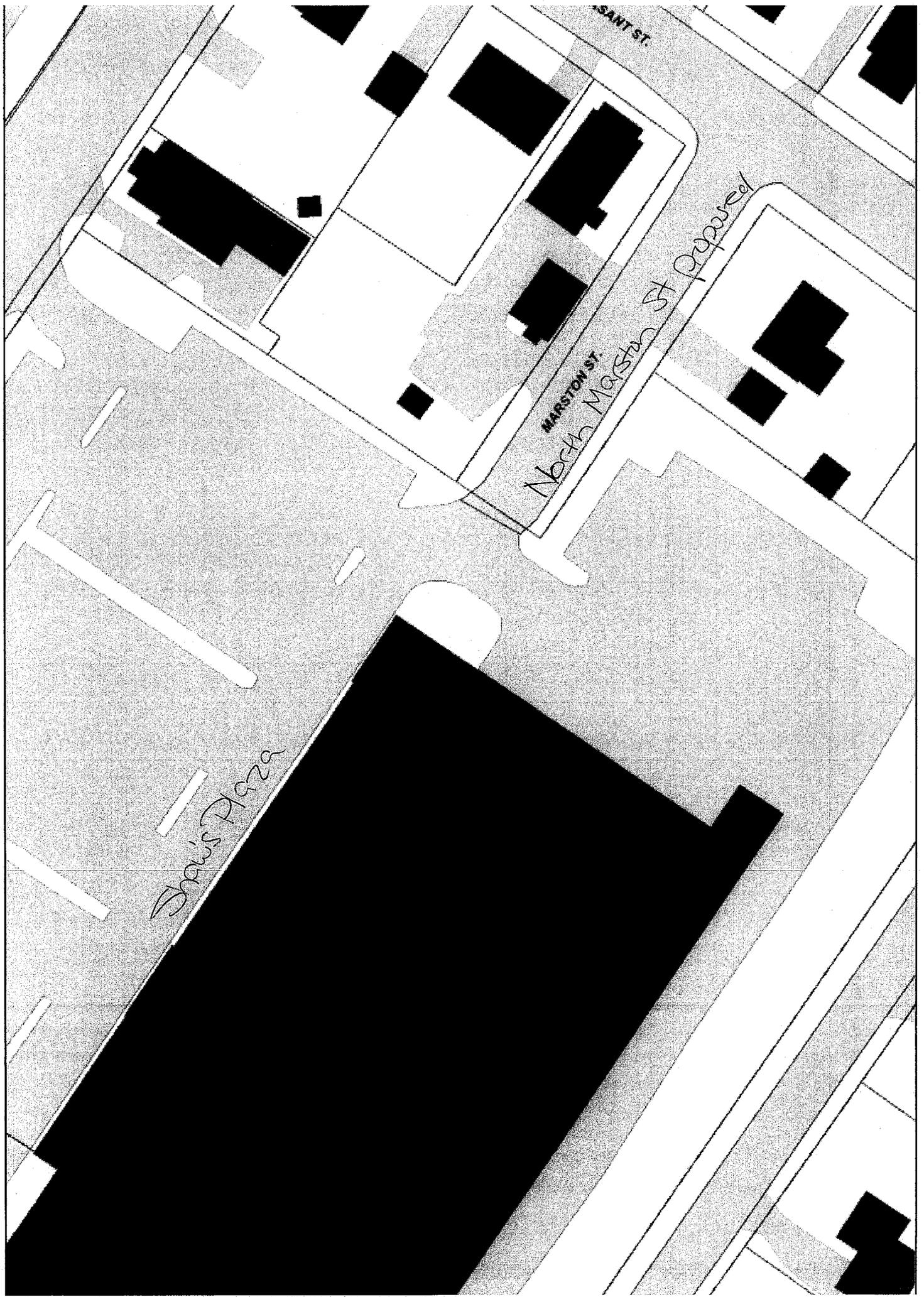
**From:** Joseph Grube, Chief Assessor

**Date:** 7/19/2012

**Re:** Proposed Council Action, Marston Street

---

The City Council is requested to rename a portion of Marston Street. The requested name change is North Marston Street and would rename the northerly portion of the now divided street (due to the construction of Shaws ) that serves as an entry way from Pleasant Street into the Shaw's Plaza. This request is made to avoid confusion for emergency responders due to the other unconnected portion of Marston Street being located off of Lisbon St. The suggested name change is supported by 911, Police, and Fire.



SANT ST.

MARSTON ST.

North Marston St  
Project HS

Shaw's Plaza

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 4**

**SUBJECT:**

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Carriage House Plus, 1119 Lisbon Street.

**INFORMATION:**

We have received a renewal application for a Special Amusement Permit for Live Entertainment from the Carriage House Plus, 1119 Lisbon Street.

The Police Department has reviewed and approved the application.

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

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

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

The City Administrator recommends approval of the requested action.

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to the Carriage House Plus, 1119 Lisbon Street.

CITY OF LEWISTON  
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 7/26/12 Expiration Date: 8-31-2013 License fee: \$116.00

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

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

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

Business Name: CARRIAGE HOUSE PLUS Business Phone: 344-6336

Location Address: 1119 LISBON ST., LEWISTON, ME, 04240

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

Mailing Address: 1119 LISBON ST, LEWISTON ME 04240

Contact Person: Donald or Jackie Rioux Home Phone: 576-8849 DON  
576-8843 JACKIE

Owner of Business: Donald + Jackie Rioux Date of Birth: 8-30-53 DON  
1-25-57 JACKIE

Address of Owner: 76 BISHOP Rd Poland Spring, Me 04274

Manager of Establishment: Don or Jackie Date of Birth: \_\_\_\_\_

Owner of Premises (landlord): SAME

Address of Premises Owner: 76 BISHOP Rd Poland Spring Me 04274

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

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

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

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

Corporation Name: Hi Style Caterers

Corporation Mailing Address: 1119 LISBON ST LEWISTON ME 04240

Contact Person: Don or Jackie Rioux Phone: 1-25-57  
18-30-53

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

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

Please describe the type of proposed entertainment:

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

If new applicant, what is your opening date?: \_\_\_\_\_

\*\*\*\*\*

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

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

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

Signature: Donald R Rioux Title: President Date: 7/26/12

Printed Name: Donald R. Rioux

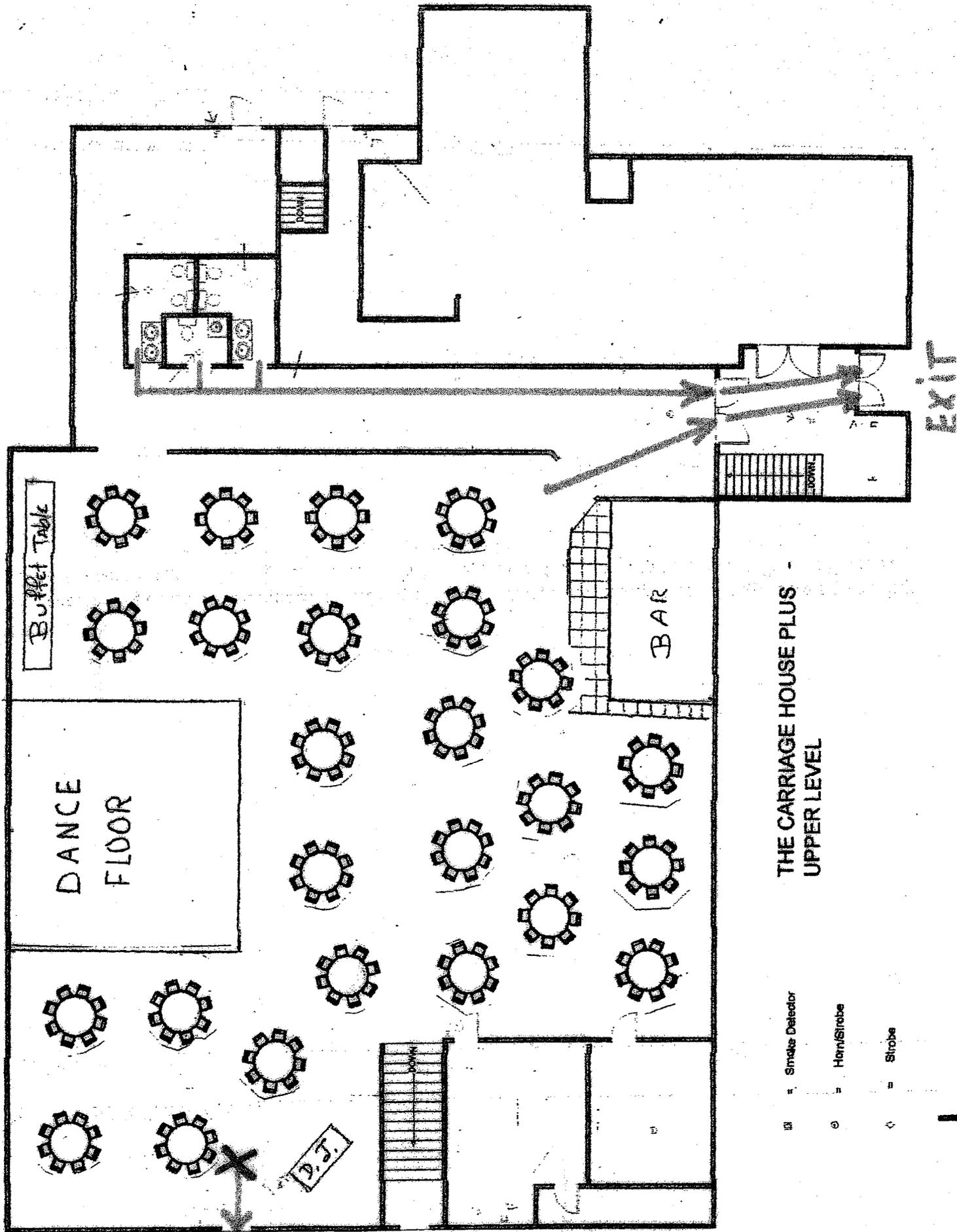
\*\*\*\*\*

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

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

\*\*\*\*\*

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



Buffer Table

DANCE FLOOR

BAR

D.J.

THE CARRIAGE HOUSE PLUS -  
UPPER LEVEL

- ☐ = Smoke Detector
- ⊙ = Horn/Strobe
- ◊ = Strobe

EXIT

CITY OF LEWISTON, MAINE

Department of City Clerk

Supplementary Questionnaire for Corporate Applicants

- 1. Exact corporate name: Hi Style Caterers
- 2. Date of incorporation: 01-01-2001
- 3. State in which you are incorporated: ME
- 4. If not a Maine corporation, date corporation was authorized to transact business within the State of Maine: —
- 5. List the names, addresses previous 5 years, birth dates, title of all officers, directors, and % of stock owned:

NAME	ADDRESS PREVIOUS 5 YEARS	BIRTH DATE	% OF STOCK	TITLE
Donald R. Rioux	Poland	8-30-53	50	Pres
Jacqueline A. Rioux	"	1-25-57	50	Sec/Treas.

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

Dated at LEWISTON on 7/26/12  
City or Town Date

Donald R Rioux  
SIGNATURE OF DULY AUTHORIZED OFFICER



## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: May 23, 2012

RE: Liquor License/Special Amusement Permit – **Carriage House Plus**

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

**Carriage House Plus**  
**1119 Lisbon Street**



---

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**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 5**

**SUBJECT:**

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Sparetime Recreation, 24 Mollison Way.

**INFORMATION:**

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Sparetime Recreation, 24 Mollison Way.

The Police Department has reviewed and approved the application.

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

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

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

The City Administrator recommends approval of the requested action.

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to Sparetime Recreation, 24 Mollison Way.

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

Date of Application: 7-31-12 Expiration Date: 08-10-12 License fee: \$116.00

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

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

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

Business Name: ENCORE BOWLING, INC - SPARETIME RECREATION Business Phone: 786-2695

Location Address: 24 MOLLISON WAY, LEWISTON, ME 04240

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

Mailing Address: P.O. BOX 426, HAUIDWELL, ME 04347

Contact Person: ALDY COULTURE Home Phone: 242-8161

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

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

Manager of Establishment: BILL BOARDMAN Date of Birth: 7/18/64

Owner of Premises (landlord): LEWISTON PROPERTIES, LLC

Address of Premises Owner: 76 MERRIMACK ST, STE 19, HAVERHILL, MA 01830

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

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

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

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

Corporation Name: ENCORE BOWLING, INC

Corporation Mailing Address: P.O. Box 426, HALLOWELL, ME 04347

Contact Person: ANDY COULTURE Phone: 242-8161

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

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 42 MILE

Please describe the type of proposed entertainment:

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

If new applicant, what is your opening date?: \_\_\_\_\_

\*\*\*\*\*

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

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

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

Signature: Andrew W. Coulture Title: OWNER/PRESIDENT Date 7-31-12

Printed Name: ANDREW W. COULTURE

\*\*\*\*\*

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

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

\*\*\*\*\*

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

CITY OF LEWISTON, MAINE

Department of City Clerk

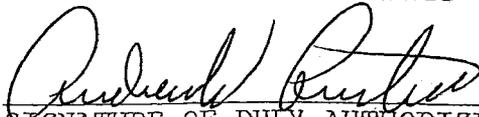
Supplementary Questionnaire for Corporate Applicants

- 1. Exact corporate name: ENCORE BOW LIDS, INC.
- 2. Date of incorporation: 10/93
- 3. State in which you are incorporated: MAINE
- 4. If not a Maine corporation, date corporation was authorized to transact business within the State of Maine: \_\_\_\_\_
- 5. List the names, addresses previous 5 years, birth dates, title of all officers, directors, and % of stock owned:

NAME	ADDRESS . PREVIOUS 5 YEARS	BIRTH DATE	% OF STOCK	TITLE
ANDREW W. CDULTURE	P.O. BOX 231, WHITEFIELD, ME 711 GARDNER RD, DRESDEN, ME	3/26/48	100%	OWNER/ PRESIDENT

- 6. What is the amount of authorized stock? 1000 Outstanding stock? 1000
- 7. Is any principal officer of the corporation a law enforcement official?  
NO

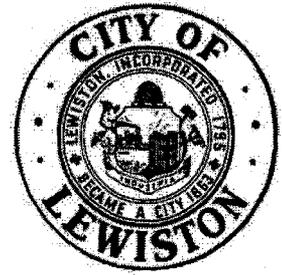
Dated at HAULDWELL, on 7-31-12  
City or Town Date

  
SIGNATURE OF DULY AUTHORIZED OFFICER  
ANDREW W. CDULTURE, OWNER/PRESIDENT



## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt Adam D. Higgins, Support Services

DT: May 23, 2012

RE: Liquor License/Special Amusement Permit – **Sparetime Recreation**

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

**Sparetime Recreation**  
**729 Main Street**



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# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6**

**SUBJECT:**

Public Hearing for approval of an Outdoor Entertainment Permit for the Twentieth Annual Great Falls Balloon Festival .

**INFORMATION:**

The Great Falls Balloon Festival, Inc., an independent non-profit organization, is planning to hold its twentieth annual festival on August 17, 18, and 19, 2012.

The focus of the festival is to provide a family oriented celebration, promote community pride, and provide an attraction for summer tourists and regional visitors to the Lewiston-Auburn area.

The Festival organizers are planning to hold outdoor music concerts as part of the Festival and are seeking permission for an Outdoor Entertainment permit.

**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 conduct a public hearing on an application for an outdoor entertainment event for the Great Falls Balloon Festival, 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 Great Falls Balloon Festival Committee for outdoor music concerts for the annual Festival to be held at Simard-Payne Memorial Park on August 17-19, 2012, 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: 3/11/12

**SPONSOR INFORMATION**

Name of Sponsoring Organization: Great Falls Balloon Festival

Name of Contact Person for Event: Mell Hamlyn

Title of Contact Person: Treasurer

Mailing Address: PO Box 304 Auburn, ME 04212

Day-time Telephone: 240-5931 Cell Phone: 240-5931

Email Address: hamlyn.3@aol.com

Contact Name and Cell Phone Number DURING the Event: same

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

Non-Profit Number: 01-0480485

**EVENT INFORMATION**

Name of Event: Great Falls Balloon Festival

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

Date of Event: 8/17-19, 2012 Rain Date: None

Times of Event: Start Time including set-up: 6am Ending time including clean up: 10pm  
Actual Event Start Time: 6am Actual Event End Time: 10pm

Estimated Attendance: 100,000

Location of Event: Simard Payne Police Memorial 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: 3/11/12

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: <u>See attached list</u> <small>Note: A food service license may be required</small>	✓		
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: <u>t-shirts, hats, sweatshirts</u> <small>Note: A retail permit may be required</small>	✓		
Nil	"LIVE MUSIC" - Will there be any outdoor musical performances? If yes, please describe:	✓		
Nil/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: <u>Court St, Auburn to Lincoln St lead</u> <small>Note: A permit from the Police Department is required</small>	✓		
N/A	RUN/WALK/CYCLE - Will event involve participants doing a walk-a-thon, road race, etc.? If yes, describe route.		✓	
Separate permit required	BURN PERMIT - Will there be any open flame such as a bon fire? If yes, describe activity. <small>Note: A permit from the Fire Department is required.</small>		✓	
N/A	TENT/CANOPY - Will you be setting up a tent or canopy? If yes, list number and sizes: <u>5 from 10x20 - 40x40 varying</u>	✓		
N/A	ROAD/INTERSECTION CLOSURE - Will any roads need to be closed to accommodate your event? If yes, please list: <u>Cross St, Oxford St to Chestnut St, Beech St</u>	✓		
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. <u>Exhibit 1</u>	✓		

N/A	PARKING ACCOMMODATIONS - What will be the anticipated need for parking and what is your parking plan? Use parking garages (Chestnut St + Main St) + private lots in area	✓		
N/A	TOILETS - Please list amount at event and/or nearest location. 37 Portable Restrooms	✓		
N/A	WASTE DISPOSAL - Please list process and location. Dumpsters on grounds	✓		
N/A	HAND WASHING FACILITIES - Please list amount at event and/or nearest location. Single Sinks + Sanitizers	✓		
N/A	POTABLE WATER - Please list amount at event and location. Organizations must bring their own	✓		
N/A	FIRST AID FACILITIES - Please list location at event. At Information Booth	✓		
\$	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

Hot Air Balloons - Craft + trade vendors  
Nonprofit orgs selling food music + entertainment

Signature of Applicant:

*Mell Hamlyn*

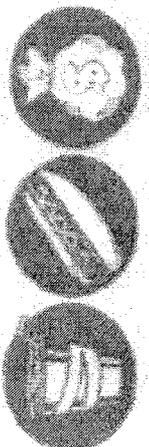
Printed Name:

Mell Hamlyn

Date Submitted:

3/1/12

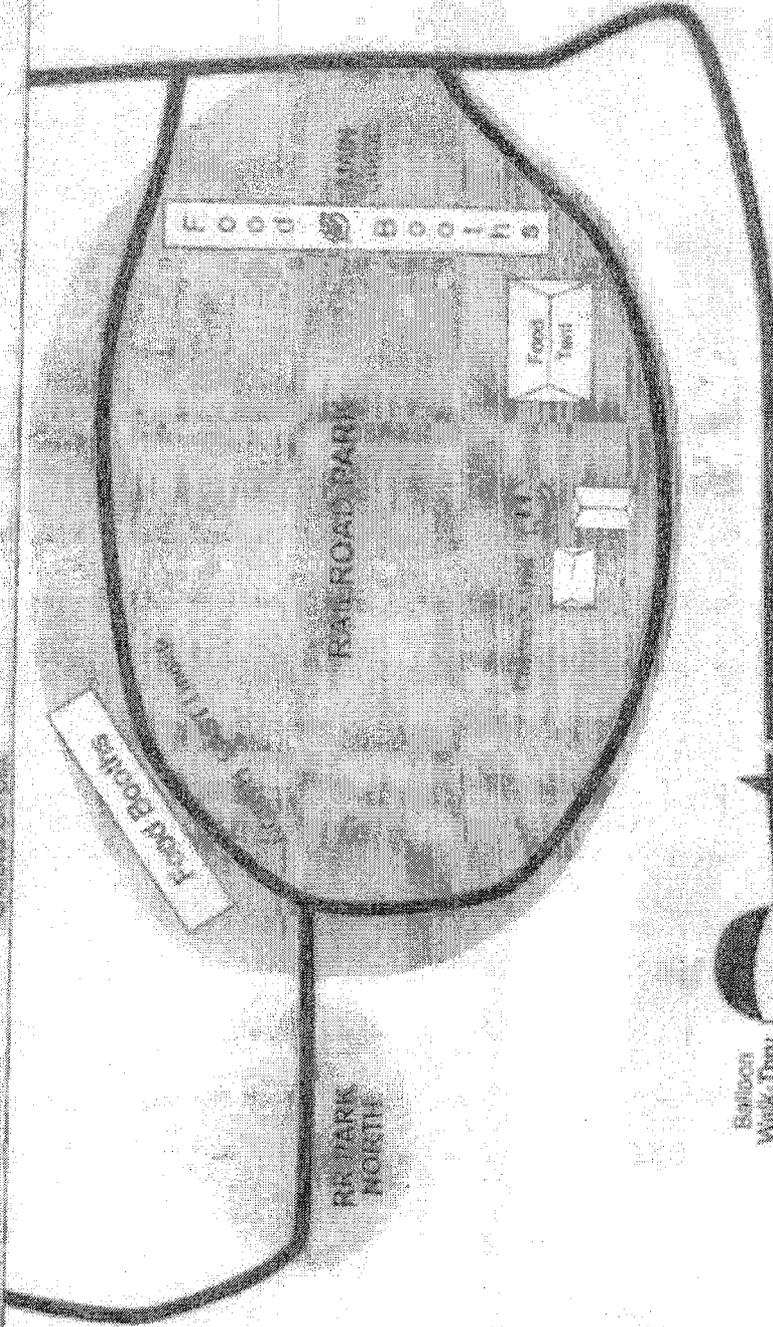
Please note that you will be contacted by City Staff if you require additional permitting.



# Festival Grounds/Food Booth Map

LEWISTON

Oxford Street



RS PARK NORTH

Balloon Walk-Thru

FESTIVAL PLAZA

Main Street

FF



AUBURN

Exhibit D

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 7**

**SUBJECT:**

Public Hearing and Adoption of Order regarding an amendment to the City Charter regarding the City Council.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 1 regarding the City Council and would:

- 1) authorize the Council President to make appointments during the temporary absence of the Mayor
- 2) authorize the Council to elect a temporary presiding officer if needed
- 3) authorize the Council to establish an alternative method of meeting notification
- 4) authorize Council to vote by motion.

This Order also formally sets the special municipal election for November 6, 2012.

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EA/B/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter, Article II City Council, which relates to: Sections 2.04 President of the Council; 2.08 Secretary to the Council; and Section 2.10 Procedure, be placed on the November 6, 2012 Municipal Ballot.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Directing that an Amendment to the Lewiston City Charter, Article II City Council, which relates to: Sections 2.04 President of the Council; 2.08 Secretary to the Council; and Section 2.10 Procedure be placed on the November 6, 2012 Municipal Ballot

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the City Council and Council Chair; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain provisions relating to the City Council and Council President should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment;

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval

G. The Proposed Amendment to the Charter is as shown below:

## ARTICLE II. CITY COUNCIL

### Sec. 2.04. President of the council.

The council shall elect for a two-year term, from among its members, a president who shall act as mayor during the temporary absence or temporary disability of the mayor, but the president ~~he~~ shall have ~~no~~ appointive powers only when the temporary absence or temporary disability of the mayor exceeds 45 consecutive calendar days. When the president of the council acts as presiding officer in the temporary absence of the mayor, ~~he~~ the president shall be entitled to vote only as a councilor. In the event of the absence of both the mayor and president of the council at any duly scheduled meeting, the council shall elect from its members a temporary presiding officer.

### Sec. 2.08. Secretary to the council.

The city clerk shall be the secretary of the council. The clerk shall keep the journal of proceedings and perform such other duties as are assigned to the clerk ~~him~~ by law, by this Charter, and by the city council. The clerk shall also give notice of council meetings to its members; and ~~he~~ shall post a notice of each meeting on a bulletin board in the city building and through such appropriate electronic means as the council may direct.

### Sec. 2.10. Procedure.

- (a) *Meetings.* The council shall meet regularly, at least once in every month at such times and places as the council may prescribe by order. Special meetings may be held on the call of the mayor or of four (4) members by causing a notification to be given in hand or left at the usual dwelling place of each council member or through such other method of notification that the council may establish by order. Such notice shall be given ~~in writing~~ not less than six (6) hours before the special meeting.
- (c) *Action by council.* The city council shall act only by ordinance, order, ~~or~~ resolve, or other decision based upon motion.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make a variety of changes to sections of the charter dealing with the city council by:

1. Authorizing the Council President to make appointments when acting as Mayor during a temporary absence or disability of the Mayor that exceeds 45 calendar days.
2. Authorizing the Council to elect a temporary presiding officer if both the Mayor and Council President are absent from any duly scheduled meeting.
3. Authorizing the Council to establish an alternative method of notifying members of a special meeting.
4. Authorizing the Council to act by motion in addition to order, resolve, and ordinance.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 8**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding Ordinances.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 2 regarding Ordinances and would:

- 1) eliminate the \$1,000 limit on penalties for violations of the ordinances
- 2) eliminate the requirement for amendments with underlines and strike out lines
- 3) change the adoption process if there are substantive amendments to a proposed ordinance
- 4) clarify that five or more votes are require to adopt an emergency ordinance

This Order also formally sets the special municipal election for November 6, 2012.

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EAS/kin*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter relating to Ordinances, which relates to: Section 1.01 and Article II City Council, Section 2.11 Ordinances in General; and Section 2.12 Emergency Ordinances, be placed on the November 6, 2012 Municipal Ballot.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Directing an Amendment to the Lewiston City Charter Relating to Ordinances, which relates to: Section 1.01 and Article II City Council, Section 2.11 Ordinances in General; and 2.12 Emergency Ordinances be placed on the November 6, 2012 Municipal Ballot.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the Ordinances adopted by the City; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

A. That an amendment to the City Charter that will modify certain provisions relating to Ordinances should be considered.

B. That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

C. That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

## ARTICLE I. GRANT OF POWERS TO THE CITY

### **Sec. 1.01. Corporate existence retained.**

The inhabitants of the City of Lewiston shall continue to be a body politic and corporate by the name of the City of Lewiston, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein or otherwise, pertaining to or incumbent upon said city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the constitution and laws of the State of Maine, and impose penalties for the breach thereof, ~~not exceeding one thousand dollars (\$1,000.00) in any one case to be recovered for such uses as said by-laws, regulations or ordinances shall provide.~~

### **Sec. 2.11. Ordinances in general.**

- (a) *Form.* Every proposed ordinance shall be introduced in writing. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Lewiston hereby ordains . . . ." Any ordinance which repeals or amends an existing ordinance shall set out ~~in full~~ the ordinance sections or subsections to be repealed or amended ~~and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underlining or by italics.~~
- (b) *Procedure.* A proposed ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to the mayor, each council member and to the city administrator; shall file a reasonable number of copies in the office of the clerk and such other public places as the council may designate; and shall publish the proposed ordinance, together with a notice, setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least four (4) days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment, or reject it; ~~but, if it is amended as to any matter of substance, the council may not adopt it until the ordinance and its amended sections have been subjected to all the procedure hereinbefore required in the case of a newly introduced ordinance.~~

### **Sec. 2.12. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one (1) or more emergency ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment at the meeting at which it is introduced, but at least five ~~the affirmative votes of at least five (5) councilors~~ shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall stand repealed as of the sixty-first (61st) day following the date on which it was adopted; but this shall not prevent re-enactment of the ordinance in the manner

specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. It shall not be necessary to publish the emergency ordinance prior to its enactment, but public hearing shall be had thereon.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make a variety of changes to sections of the charter dealing with the city council by:

1. Eliminating the \$1,000 limit on penalties that may be imposed for violating city ordinances.
2. Eliminating the current requirement that ordinances repealing or amending other ordinances set out in full the changes as illustrated by underlines for new material and strikeouts for old.
3. Eliminating the requirement that the ordinance adoption procedure begin over in instances of substantive amendment to a proposed ordinance.
4. Clarify that five or more affirmative votes of the municipal officers are required to adopt an emergency ordinance.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 9**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding City Administration.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 3 regarding City Administration and would:

- 1) eliminate the requirement for Council confirmation for all offices appointed by the city administrator other than chief financial officer
- 2) authorizes the city administrator to appoint an acting administrator during absences of 30 days or less

This Order also formally sets the special municipal election for November 6, 2012.

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EHS/Kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter which relates to: Article III Sections 3.02 and 3.03, Powers and Duties of the City Administrator and Acting City Administrator, be placed on the November 6, 2012 Municipal Ballot.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Directing that an Amendment to the Lewiston City Charter, which relates to: Article III Sections 3.02 and 3.03, Powers and Duties of the City Administrator and Acting City Administrator be placed on the November 6, 2012 Municipal Ballot.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the City Administrator; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

A. That an amendment to the City Charter that will modify certain provisions relating to the City Administrator should be considered.

B. That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

C. That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

### ARTICLE III. CITY ADMINISTRATOR

#### Sec. 3.02. Powers and duties of the city administrator.

The city administrator shall be the chief administrative officer of the city. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (a) Except as may otherwise be provided by this Charter, the city administrator shall appoint without confirmation by the city council, all department heads, and other officers and employees responsible directly to the city administrator. The chief financial officer of the city heads of departments, the primary function of which is financial, and financial officers such as auditor, treasurer, tax collector, controller and chief financial officer, should one (1) or more of those positions or similar positions be created by the city council, shall be appointed by the city administrator and confirmed by the city council. The city clerk shall be appointed by the city administrator and confirmed by the city council.

#### Sec. 3.03. Acting city administrator.

During any vacancy in the office of city administrator ~~and during the temporary absence or disability of the city administrator, as determined by vote of the council, and during any temporary absence or disability of the city administrator of more than thirty (30) consecutive calendar days,~~ the council may designate a properly qualified person to perform the duties of city administrator and fix such person's compensation. During a temporary absence of thirty calendar (30) days or less, the city administrator may designate a qualified person to perform the duties of administrator during such absence. While so acting, such person shall have the same powers and duties as those given to and imposed on the city administrator.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment eliminates the requirement for council confirmation for all offices appointed by the city administrator except for the chief financial officer and authorizes the administrator to appoint an acting administrator during absences of 30 days or less

**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 10**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding Limitation of Terms for the Planning Board and Board of Appeals.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 4 regarding Limitation of Terms and would:

1) increase the allowable number of terms an individual may serve on the Planning Board or Board of Appeal

This Order also formally sets the special municipal election for November 6, 2012.

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*ERB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to Article IV, Section 4.08 Limitation of Terms.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Directing an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Election Ballot, which relates to: Article IV, Section 4.08 Limitation of Terms.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify term limitations applicable to members of Boards created by the charter; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

A. That an amendment to the City Charter that will modify certain provisions relating to term limits applicable to members of Boards created by the Charter should be considered.

B. That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

C. That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

E. That, as a result of our finding in D above, the City Clerk is hereby instructed to

include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

Sec. 4.098. Limitation of terms.

No member of any board established by this article shall serve more than two consecutive ~~a full five-year terms~~ on the same board ~~within any ten-year period. Said period shall be deemed to commence at the time of his first appointment.~~

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

**ATTACHMENT TO ORDER**  
**SUMMARY OF THE PROPOSED AMENDMENT**

This amendment will increase the allowable number of terms an individual may serve on the Planning Board or Board of Appeals from one five year term within a ten year period to two consecutive full five year terms.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 11**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding the School Committee.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 5 regarding the School Committee and would:

- 1) authorize the Mayor to nominate and Council to appoint a member of the School Committee if not elected at the regular election
- 2) clarify the powers and duties of the School Committee
- 3) clarify items regarding personnel practices
- 4) establish items regarding School Committee meeting procedures

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot. Note - The original proposed amendment as advertised in the public hearing notice included language that was duplicated in proposed Amendment 7 as well. The recommendation is to adopt the Order with the recommended amendment to eliminate the duplicate language.

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

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Article V. School Committee, Section 5.03 Powers and Duties, and Adding New Sections: 5.05 Meetings; 5.06 Quorum; 5.07 Record; and 5.08 Voting.

REQUESTED AMENDMENT TO  
CHARTER AMENDMENT 5 – SCHOOL COMMITTEE

The requested amendment to Section 5.01 relating to election and appointment of school committee members was inadvertently included in both this amendment and Amendment 7 on nominations and elections. Given the subject matter, it most appropriately should be included in Amendment 7. This amendment would eliminate the duplicate language that now appears in Amendment 5.

I would request that the Council Amend the Order to substitute the amended version.

CHARTER



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**(As Amended)**

**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot, which relates to: Article V School Committee, Section 5.03 Powers and Duties and Adding New Sections; 5.05 Meetings; 5.06 Quorum; 5.07 Record; and 5.08 Voting

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the School Committee; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain provisions relating to the School Committee should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

## ARTICLE V. SCHOOL ADMINISTRATION

### Sec. 5.03. Powers and duties.

- (a) *General powers and duties.* The school committee shall have all the powers and shall perform all duties necessary for care and management of the city's public schools pursuant to prescribed for superintending school committees by the general laws of the State of Maine, which grant these powers and responsibilities to the school committee, except as otherwise provided by this Charter. The school committee shall accomplish its duties within the financial limitations established by the city council in its annual appropriation resolve and such supplemental appropriations voted by the city council, together with such other revenues it may receive from the federal or state governments, as well as gifts, grants, and payments from other sources. The school committee shall submit to the city council at least three (3) months prior to the end of the current fiscal year, for inclusion in the budget submitted to the city council under Article VI, budget estimates for the various sums required for the support of public schools for the ensuing uniform school fiscal year and shall thereafter provide the city council with such information relating to such estimates as the city council shall require. The school committee shall comply with all Charter provisions contained under Article VI.
- (b) *Employees.* All school department employees, including the superintendent of schools, shall be hired by the school committee. ~~Except when prohibited by state law, the school committee and the school department shall comply with all ordinances pertaining to personnel and shall follow the employment practices adopted by the city council.~~ The school committee shall choose a superintendent of schools solely on the basis of executive and administrative qualifications. The superintendent of schools need not be a resident of the city at the time of appointment, but shall be a resident of the city during tenure in office unless otherwise approved by the school committee.
- ~~(c) *Approval of labor contracts.* Any contract negotiated with any bargaining agent representing employees of the school department, pursuant to the Maine Public Employees Labor Relations Law, shall require approval by the city council.~~

### Sec. 5.05. Meetings

The school committee shall meet at such time and place as it determines by rule. Meetings of the school committee other than executive session shall be open to the public as required by state statute, and the school committee shall promote public participation in and public notice of its meetings in the contemporary means of information sharing. Agendas and supporting information for meetings shall be available to the public at the superintendent of schools' office at least two business days prior to the meeting as well as electronically through the city's or school's website, if available.

### Section 5.06. Quorum

A majority of the voting members of the school committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn or compel attendance of absent members.

### Section 5.07. Record

The school committee shall keep a record of its own proceedings which, except for

executive sessions, shall be available to the public.

Section 5.08. Voting.

A roll call vote shall be taken on the passage of any order or resolve when requested by any member. Any action by the school committee shall require at least five affirmative votes.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This Amendment will:

- Clarify the powers and duties of the school committee and require that these duties be accomplished within the financial limitations established by the city council together with other state or federal funds, gifts, grants, and payments from other sources
- Repeal the requirement that the school department comply with all city ordinances and practices relating to employees
- Require that the school superintendent be selected solely on the basis of executive and administrative qualifications and be a resident of the city while in office unless otherwise approved by the school committee
- Repeal the requirement that all school department labor contracts be approved by the city council
- Require that the school committee establish the times and places of its meetings by rule; that these meetings be open to the public; that public notice be given of such meetings and public participation in them be promoted; that agendas and supporting information be made publicly available at least two days prior to the meeting and through electronic means if available
- Establish that a majority of the school committee constitutes a quorum
- Require that records be kept of open school committee proceedings and be made available to the public
- Allow any member of the committee to request a roll call vote on any order or resolve;
- Require at least five affirmative votes for the school committee to take action

CHARTER



City of Lewiston Maine  
City Council Order  
August 14, 2012



**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot, which relates to: Article V School Committee, Section 5.01 Election and Appointment; 5.03 Powers and Duties and Adding New Sections; 5.05 Meetings; 5.06 Quorum; 5.07 Record; and 5.08 Voting

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the School Committee; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain provisions relating to the School Committee should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

## ARTICLE V. SCHOOL ADMINISTRATION

### Sec. 5.01. School committee.

- (a) *Election and appointment.* There shall be a school committee of nine (9) members, composed of one (1) qualified voter to be elected from each ward, one (1) at-large member to be elected from any ward, and one (1) city council member to be nominated by the mayor and appointed by the city council from any ward, all of whom shall serve two (2) year terms, as set forth herein, and until their successors are elected and/or appointed and qualified. The qualified voters of each of the seven (7) wards of the city shall nominate and elect a school committee member who shall be qualified to vote in his ward and the qualified voters of the entire city shall nominate and elect one (1) at-large school committee member who shall be qualified to vote in any ward. Nominations and elections shall be conducted as provided in Article VII. The mayor shall nominate one (1) councilor from any ward, who shall be appointed by the city council, at the first city council meeting in January after each biennial election. If an elective position on the school committee is not filled at a regular municipal election, the mayor shall nominate, subject to the consent of the city council, an eligible individual for appointment who shall be appointed by the city council to assume the vacant position. ~~The present members and their successors shall continue in office until their respective terms expire but no later than the first Monday of January, 1988. Successors are to be elected as provided herein beginning at the regular municipal election in 1987 and appointed as provided herein at the first meeting of the city council in 1988.~~

If any vacancy in office of any elected member occurs ~~thereafter less than one (1) year prior to the next regular municipal election~~, the vacancy shall be filled from the same ward for the remainder of the unexpired term by nomination of the mayor, subject to the consent of the city council, and appointment by the city council except that the at-large school committee member may be from any ward. ~~If any vacancy in the office of any elected member occurs one (1) year or more prior to the next regular municipal election, the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.~~ If there is any vacancy in the office of the city council member, it shall be filled by nomination of a councilor by the mayor and appointment by the city council.

### Sec. 5.03. Powers and duties.

- (a) *General powers and duties.* The school committee shall have all the powers and shall perform all duties necessary for care and management of the city's public schools pursuant to prescribed for superintending school committees by the general laws of the State of Maine, which grant these powers and responsibilities to the school committee, except as otherwise provided by this Charter. The school committee shall accomplish its duties within the financial limitations established by the city council in its annual appropriation resolve and such supplemental appropriations voted by the city council, together with such other revenues it may receive from the federal or state governments, as well as gifts, grants, and payments from other sources. The school committee shall submit to the city council at least three (3) months prior to the end of the current fiscal year, for inclusion in the budget submitted to the city council under Article VI, budget estimates for the various sums required for the support of public schools for the ensuing uniform school fiscal year and shall thereafter provide the city council with such information relating to such estimates as the city council shall require. The school

committee shall comply with all Charter provisions contained under Article VI.

- (b) *Employees.* All school department employees, including the superintendent of schools, shall be hired by the school committee. ~~Except when prohibited by state law, the school committee and the school department shall comply with all ordinances pertaining to personnel and shall follow the employment practices adopted by the city council.~~ The school committee shall choose a superintendent of schools solely on the basis of executive and administrative qualifications. The superintendent of schools need not be a resident of the city at the time of appointment, but shall be a resident of the city during tenure in office unless otherwise approved by the school committee.
- (c) ~~*Approval of labor contracts.* Any contract negotiated with any bargaining agent representing employees of the school department, pursuant to the Maine Public Employees Labor Relations Law, shall require approval by the city council.~~

#### Sec. 5.05. Meetings

The school committee shall meet at such time and place as it determines by rule. Meetings of the school committee other than executive session shall be open to the public as required by state statute, and the school committee shall promote public participation in and public notice of its meetings in the contemporary means of information sharing. Agendas and supporting information for meetings shall be available to the public at the superintendent of schools' office at least two business days prior to the meeting as well as electronically through the city's or school's website, if available.

#### Section 5.06. Quorum

A majority of the voting members of the school committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn or compel attendance of absent members.

#### Section 5.07. Record

The school committee shall keep a record of its own proceedings which, except for executive sessions, shall be available to the public.

#### Section 5.08. Voting.

A roll call vote shall be taken on the passage of any order or resolve when requested by any member. Any action by the school committee shall require at least five affirmative votes.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This Amendment will:

- Authorize the Mayor to nominate , subject to consent of the City Council, an eligible individual to fill a position on the School Committee where that position is not filled at a regular election
- Clarify the powers and duties of the school committee and require that these duties be accomplished within the financial limitations established by the city council together with other state or federal funds, gifts, grants, and payments from other sources
- Repeal the requirement that the school department comply with all city ordinances and practices relating to employees
- Require that the school superintendent be selected solely on the basis of executive and administrative qualifications and be a resident of the city while in office unless otherwise approved by the school committee
- Repeal the requirement that all school department labor contracts be approved by the city council
- Require that the school committee establish the times and places of its meetings by rule; that these meetings be open to the public; that public notice be given of such meetings and public participation in them be promoted; that agendas and supporting information be made publicly available at least two days prior to the meeting and through electronic means if available
- Establish that a majority of the school committee constitutes a quorum
- Require that records be kept of open school committee proceedings and be made available to the public
- Allow any member of the committee to request a roll call vote on any order or resolve;
- Require at least five affirmative votes for the school committee to take action

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 12**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding Financial Procedures.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 6 regarding Financial Procedures and would:

- 1) allow the Council to set the dates of the fiscal year
- 2) specify that 5 votes of the Council are required to override the budget appropriate limit
- 3) increase the length of time the Council can appoint an auditing firm
- 4) authorize the City to issue bond anticipation notes
- 5) clarify that employees can appeal actions of the Finance Committee to the City Council

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Article VI Financial Procedures Section 6.01 (a) Fiscal year; Section 6.07 Capital Plan; Section 6.06 Budget; Section 6.08 Public Records; Section 6.12 Annual Postaudit; Section 6.13 Temporary Borrowing; Section 6.14 Bond Issues; and Section 6.15 Finance Committee.



**City of Lewiston Maine**  
**City Council Order**

**August 14, 2012**

**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot, which relates to: Article VI Financial Procedures Section 6.01 (a) Fiscal Year; Section 6.07 Capital Plan; Section 6.06 Budget; Section 6.08 Public Records; Section 6.12 Annual Postaudit; Section 6.13 Temporary Borrowing; Section 6.14 Bond Issues; and Section 6.15 Finance Committee.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to Financial Procedures; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain provisions relating to financial procedures should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

"Shall the municipality approve the charter modifications as described in the summary below?"

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk's Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

## ARTICLE VI. FINANCIAL PROCEDURES

### Sec. 6.01. Fiscal year.

- (a) *Fiscal year.* The fiscal year of the city shall be established by ~~begin on the first day of January and end on the last day of December or be such other fiscal year as the council may by resolution adopt.~~

### Sec. 6.067. Council action on capital program.

- (a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city a general summary of the capital program and a notice stating:
- (1) The times and places where copies of the capital program are available for inspection by the public;
  - (2) The time and place, no less than seven (7) nor more than fifteen (15) calendar days after such publication, for a public hearing on the capital program.
- (b) *Copy at public library.* A copy of the capital program shall be filed in the Lewiston Public Library.
- (c) *Notice in city building.* Notice shall also be posted in the city building.
- ~~(d)~~ *Electronic Availability.* Notice of the plan or the plan itself shall be made available through the city web site or other current technologies as the city council deems appropriate.
- ~~(d)~~ *Adoption.* The council by resolution shall adopt the capital program with or without amendment after the public hearing and at least four (4) months prior to the end of the current fiscal year. Adoption as provided herein shall not constitute the appropriation of funds.

(Ord. No. C87-1, 11-3-87)

**Sec. 6.067. Council action on budget.**

- (d) Electronic Availability. Notice of the budget or the budget itself shall be made available through the city web site or other current technologies as the city council deems appropriate.
- (g) Exception: When deemed necessary by the city council, the provisions of subsection (f) of this section may be waived by five affirmative votes ~~a two-thirds vote~~ of the municipal officers ~~city council~~.

**Sec. 6.08. Public records.**

Copies of the budget and the capital program as adopted shall be public records and shall be made available for inspection by the public at the Lewiston Public Library, ~~and~~ at such other places as may be designated by the city council, and through appropriate electronic methods.

**Sec. 6.12. Annual postaudit.**

Council shall appoint an accounting firm, whose minimum qualification shall include certified public accountants on staff, for the purpose of conducting the annual postaudit of the current fiscal year's municipal finances, as required by law. The council may enter into multi-year contracts pursuant to the competitive bid process for terms not to exceed five ~~three~~ (35) consecutive fiscal years.

**Sec. 6.13. Temporary borrowing.**

Money may be borrowed temporarily in anticipation of taxes or of the issuance of bonds, in accordance with the provisions of 30-A M.R.S.A. § 5771, as amended.

**Sec. 6.14. Bond issues.**

The city may issue general obligation and revenue obligation securities for funding or refunding all or any part of its debt or for any purpose for which it may raise money in accordance with Maine Statutes. Before passage of an order or orders providing for the issuance of bonds, the city council shall hold a public hearing, notice of which shall be advertised at least once in one (1) or more newspapers of general circulation in Lewiston, such publication to be made not less than seven (7) days and no more than fifteen (15) days before the public hearing final action by the council. Final action on the order or orders must take place no later than sixty (60) calendar days following the public hearing. In addition to the public hearing required herein, where the amount of any single purpose bonds authorized for an individual project exceeds fifteen (15) percent of the property tax levy of the preceding fiscal year, such authorization must be approved by the voters at a regular or special election prior to issuance.

**Sec. 6.15. Finance committee.**

- (a) *Appointment.* There shall be a finance committee composed of five (5) members, who shall be appointed as follows: The president of the city council shall appoint two (2) members of the city council to serve two-year terms; the mayor shall appoint three (3) qualified voters of Lewiston to serve staggered three-year terms. ~~Following the adoption of this Charter, the mayor shall appoint one (1) member to serve one (1) year, one (1) member to serve two (2) years, one (1) member to~~

~~serve three (3) years. Thereafter a~~All terms shall be for three (3) years. No non-city-council member shall serve on the finance committee for more than six (6) consecutive years.

- (d) *Appeal.* Any party, including employees of the city, aggrieved by action of the finance committee taken under section 6.15(c), may appeal such action to the council within seven (7) days from the date of the action which is the subject of the appeal.
- (f) *Rules of procedure.* The finance committee shall adopt appropriate rules of procedure consistent with the provisions of this Charter and policies adopted by the city council, to enable it to carry out its functions.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make a variety of changes to sections of the charter dealing with financial procedures by:

1. Eliminating the reference to the City's Fiscal year as beginning on the first day of January and ending on the last day of December and empowering the city council to determine the dates of each fiscal year by resolution.
2. Relocating the section on the capital plan from 6.07 to 6.06 and renumbering the sections as appropriate.
3. Requiring that notice of the capital plan and budget be made available through the City's web site or by means of other appropriate electronic technologies.
4. Specifying that five affirmative votes of the municipal officers, as opposed to a two-thirds vote of the Council, is required to override the Charter's budget appropriation limit.
5. Increasing the length of time the Council may appoint an accounting firm to conduct the annual postaudit from three (3) to five (5) years.
6. Authorizing the City to issue bond anticipation notes.
7. Requiring that the final council action on bond orders must take place no later than sixty (60) days following the public hearing on such order rather than within seven (7) to fifteen (15) days of publication of notice of public hearing on the issuance of bonds.
8. Clarifying that employees of the City may appeal actions of the Finance Committee to the city council.
9. Requiring the Finance Committee's rules of procedure to be consistent with the policies adopted by the city council.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 13**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding Nominations, Elections and Vacancies in Office.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 7 regarding Nominations, Elections and Vacancies in Office and would:

- 1) allow a resident to run for elected office without having to resign from an appointed city position
- 2) if a council vacancy remains after a regular election, the council may appoint or call for a special election
- 3) authorize the mayor to nominate and council to appoint for school committee vacancies
- 4) require write-in candidates to register in advance of election day with the city clerk
- 5) require that write-in candidates receive a minimum number of votes to be elected

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

Note - an alternative version regarding proposed language for write-in candidates is included in the material.

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

The City Administrator recommends approval of the requested action.

*ERB/kmm*

**REQUESTED ACTION:**

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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Nominations, Elections, Vacancies in Office - Article II City Council - Prohibitions, Council Vacancies; Article V School Administration - School Committee Vacancies; and Article VII Nominations and Elections - Write-In Candidates.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**

**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot, which relates to: Nominations, Elections, Vacancies in Office -- Article II City Council – Prohibitions , Council Vacancies; Article V School Administration – School Committee Vacancies; and Article VII Nominations and Elections -- Write-In Candidates

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to Nominations, Elections, and Vacancies in Office; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

- A.** That an amendment to the City Charter that will modify certain provisions relating to Nominations, Elections, and Vacancies in Office should be considered.
- B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

"Shall the municipality approve the charter modifications as described in the summary below?"
- C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk's Office.

- D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.
- E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.
- F. The Charter Amendment shall become effective thirty (30) days after approval.
- G. The Proposed Amendment to the Charter is as shown below:

## ARTICLE II. CITY COUNCIL

### Sec. 2.05. Prohibition.

Except as otherwise provided by law, no person who holds an appointive office in the city government or is an employee of the city shall ~~be eligible to be a candidate for or~~ hold an elective office in the city government. However, a person holding an elective office shall be eligible, during his term of office, to become a candidate for the same or another elective office. In the event such person is elected to the second office, a vacancy shall exist in the first office when such person qualifies for the second office. No person shall be a candidate for more than one (1) city elective office in the same city election.

### Sec. 2.06. Forfeiture of office of councilor.

- (b) In the event that a vacancy in the office occurs as a result of the failure to elect a candidate at the regular city election, the remaining members of the council shall, within thirty (30) calendar days after the vacancy exists, either appoint an eligible person to fill the term or order that a special election be held.
- (bc) If a vacancy in the office occurs one (1) year or more prior to the next regular municipal election for reasons other than that set forth in section 2.06(b), the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.

## ARTICLE V. SCHOOL ADMINISTRATION

### Sec. 5.01. School committee.

- (a.) *Election and appointment.*

If an elective position on the school committee is not filled at a regular municipal election, the mayor shall nominate, subject to the consent of the city council, an eligible individual who shall be appointed by the city council to assume the vacant position.

If any vacancy in office of any elected member occurs thereafter less than one (1) year

~~prior to the next regular municipal election, the vacancy shall be filled from the same ward for the remainder of the unexpired term by nomination of the mayor, subject to the consent of and appointment by the city council except that the at-large school committee member may be from any ward. If any vacancy in the office of any elected member occurs one (1) year or more prior to the next regular municipal election, the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.~~ If there is any vacancy in the office of the city council member, it shall be filled by nomination of a councilor by the mayor subject to consent and appointment by the city council.

## ARTICLE VII. NOMINATIONS AND ELECTIONS

### Sec. 7.05 Write-In Candidates.

In order for ballots cast for a write-in candidate to be counted, such candidate must (a) register his or her candidacy with the City Clerk at least 30 calendar days prior to the date of the election and (b) be eligible for the office for which he or she wishes to become a candidate.

### Sec. 7.067. Determination of election results.

(e) Write-In Candidates. In order to be eligible to be elected, a write-in candidate must receive at least the same number of votes as are required for nomination for the position for which the write-in candidate is competing.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This proposed amendment would make the following changes to the charter in regard to Nominations, Elections, and Appointments:

1. An individual who holds an appointive office in city government would be permitted to run for an elective office without resigning the appointed position until that individual assumes the elective office.
2. If a council vacancy results from failure to elect someone at a regular election, the remaining councilors may either appoint an eligible person to fill the term or call a special election to fill the vacancy.
3. If a school committee vacancy results from failure to elect someone at a regular election, the mayor shall nominate an eligible individual who shall be appointed by the city council.
4. Currently, school committee vacancies of greater than one year are filled through a special election. This amendment would eliminate the need for an election and authorize the mayor to nominate an eligible person and the council to appoint that person.
5. In order for ballots for a write-in candidate to be counted, such candidate must register with the City Clerk at least 30 calendar days prior to the date of the election.
6. In order to be elected, a write-in candidate must receive at least the same number of votes as are required for nomination for the position for which the write-in candidate is competing.

ALTERNATE VERSION  
CHARTER AMENDMENT 7 – NOMINATIONS AND ELECTIONS  
WRITE-IN CANDIDATES

There has been considerable discussion of the proposed change found in Section 7.06 of Charter Amendment 7:

“In order to be eligible to be elected, a write-in candidate must receive at least the same number of votes as are required for nomination for the position for which the write-in candidate is competing.”

This language was originally proposed by the Charter Committee. During workshop session, it was removed. When the order calling the public hearing was debated, the language was reinserted on a 4 to 3 vote, which allowed the proposal to go forward to a public hearing.

After the public hearing has been held, the Council may not add additional changes. It can, however, remove a proposed change that has been included in the public hearing notice and included in the public hearing. Should the Council wish to eliminate that provision, it could be done by amendment at Tuesday’s meeting. The revision is reflected in the amended version that is attached.



**City of Lewiston Maine  
City Council Order  
August 14, 2012  
(As Amended)**

**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot, which relates to: Nominations, Elections, Vacancies in Office -- Article II City Council – Prohibitions , Council Vacancies; Article V School Administration – School Committee Vacancies; and Article VII Nominations and Elections -- Write-In Candidates

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to Nominations, Elections, and Vacancies in Office; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

- A.** That an amendment to the City Charter that will modify certain provisions relating to Nominations, Elections, and Vacancies in Office should be considered.
- B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

"Shall the municipality approve the charter modifications as described in the summary below?"

- C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk's Office.

- D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.
- E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.
- F. The Charter Amendment shall become effective thirty (30) days after approval.
- G. The Proposed Amendment to the Charter is as shown below:

## ARTICLE II. CITY COUNCIL

### Sec. 2.05. Prohibition.

Except as otherwise provided by law, no person who holds an appointive office in the city government or is an employee of the city shall ~~be eligible to be a candidate for or~~ hold an elective office in the city government. However, a person holding an elective office shall be eligible, during his term of office, to become a candidate for the same or another elective office. In the event such person is elected to the second office, a vacancy shall exist in the first office when such person qualifies for the second office. No person shall be a candidate for more than one (1) city elective office in the same city election.

### Sec. 2.06. Forfeiture of office of councilor.

(b) In the event that a vacancy in the office occurs as a result of the failure to elect a candidate at the regular city election, the remaining members of the council shall, within thirty (30) calendar days after the vacancy exists, either appoint an eligible person to fill the term or order that a special election be held.

(~~b~~c) If a vacancy in the office occurs one (1) year or more prior to the next regular municipal election for reasons other than that set forth in section 2.06(b), the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.

## ARTICLE V. SCHOOL ADMINISTRATION

### Sec. 5.01. School committee.

(a.) *Election and appointment.*

If an elective position on the school committee is not filled at a regular municipal election, the mayor shall nominate, subject to the consent of the city council, an eligible individual who shall be appointed by the city council to assume the vacant position.

If any vacancy in office of any elected member occurs thereafter less than one (1) year

~~prior to the next regular municipal election, the vacancy shall be filled from the same ward for the remainder of the unexpired term by nomination of the mayor, subject to the consent of and appointment by the city council except that the at-large school committee member may be from any ward. If any vacancy in the office of any elected member occurs one (1) year or more prior to the next regular municipal election, the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.~~ If there is any vacancy in the office of the city council member, it shall be filled by nomination of a councilor by the mayor subject to consent and appointment by the city council.

## ARTICLE VII. NOMINATIONS AND ELECTIONS

### Sec. 7.05 Write-In Candidates.

In order for ballots cast for a write-in candidate to be counted, such candidate must (a) register his or her candidacy with the City Clerk at least 30 calendar days prior to the date of the election and (b) be eligible for the office for which he or she wishes to become a candidate.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This proposed amendment would make the following changes to the charter in regard to Nominations, Elections, and Appointments:

1. An individual who holds an appointive office in city government would be permitted to run for an elective office without resigning the appointed position until that individual assumes the elective office.
2. If a council vacancy results from failure to elect someone at a regular election, the remaining councilors may either appoint an eligible person to fill the term or call a special election to fill the vacancy.
3. If a school committee vacancy results from failure to elect someone at a regular election, the mayor shall nominate an eligible individual who shall be appointed by the city council.
4. Currently, school committee vacancies of greater than one year are filled through a special election. This amendment would eliminate the need for an election and authorize the mayor to nominate an eligible person and the council to appoint that person.
5. In order for ballots for a write-in candidate to be counted, such candidate must register with the City Clerk at least 30 calendar days prior to the date of the election.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 14**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding General Provisions.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 8 regarding General Provisions and would:

- 1) specify when the terms of newly elected officials begin if the date falls on a holiday
- 2) require the Mayor to appoint a charter review committee every 10 years

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*ERAB/kmm*

**REQUESTED ACTION:**

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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Article VIII General Provisions, Section 8.01 Term; Section 8.02 First Council Meeting and Adding a New Section - Periodic Charter Review .



**City of Lewiston Maine  
City Council Order  
August 14, 2012**

**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the Ballot for the November 6, 2012 Municipal Election, which relates to: Article VIII General Provisions, Section 8.01 Term; Section 8.02 First Council Meeting and Adding a New Section -- Periodic Charter Review.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain General Provisions relating to terms, date of first council meeting, and requiring periodic review of the charter; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain General Provisions relating to terms, date of first council meeting, and requiring periodic review of the charter should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

"Shall the municipality approve the charter modifications as described in the summary below?"

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk's Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

#### ARTICLE VIII. GENERAL PROVISIONS

##### **Sec. 8.01. Terms of officers and employees.**

- (a) *Elected officers.* The term of any elected officer shall date from the first Monday in January next following his election, except that in the event the first Monday shall fall on a holiday or the day following a holiday, then on the following Tuesday, ~~then on the next day following.~~ If a person is elected to fill a vacancy in office, ~~his~~ that person's term shall begin immediately upon taking the oath of office.

##### **Sec. 8.02. First council meeting.**

The city council shall convene on the first Monday in January next following its election; except that in the event the first Monday shall fall on a holiday or the day following a holiday, then on the following Tuesday, ~~the city council shall convene the next day following.~~

##### **Sec. 8.09. Periodic Charter Review.**

In calendar years ending in 1, the Mayor shall appoint a charter review committee composed of seven members who shall be residents of the city and who the Mayor determines to have a background in or understanding of city government and its operations. The committee shall undertake a comprehensive review of this charter and shall recommend to the city council amendments to the charter designed to improve the operations of city government, such recommendations to be made no later than the date established by the Mayor at the time the committee is established.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO COUNCIL ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This proposed amendment will:

- Specify that the terms of newly elected officials will begin on the first Tuesday in January if the first Monday falls on a holiday or the day after a holiday.
- Establish a new Section 8.09 requiring the Mayor to appoint a charter review committee in every calendar year ending in 1 to undertake a comprehensive review of the charter and recommend amendments.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 15**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding Compensation and Forfeiture of Office.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 9 regarding Compensation and Forfeiture of Office and would:

- 1) replace the dollar amounts specified for compensation for elected and appointed officials with compensation set by ordinance
- 2) authorize per diem compensation for councilors appointed to serve on governing bodies of various agencies
- 3) specify that elected and some appointed officials shall forfeiture their office if convicted of certain crimes or failure to attend three consecutive meetings without being excused

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EARL/KMM*

**REQUESTED ACTION:**

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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Compensation and Forfeiture of Office - Section 2.02 Compensation, Expenses; Section 2.06 Forfeiture of office of councilor; Section. 2.07 Forfeiture of office of mayor; Section 4.05(b) Planning Board Compensation; Section 4.06 (b) Board of Appeals Compensation; Section 4.08 Forfeiture of Office, Planning Board and Board of Appeals; Section 5.01 (b) School Committee Compensation; Section 5.01( c) School Committee Forfeiture of Office; Section 6.15 (b) Finance Committee Compensation; and Section 6.15 (g) (1) and (2) Finance Committee Forfeiture of Office.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Directing that an Amendment to the Charter of the City of Lewiston be placed on the Ballot for the Municipal Election to be Held on November 6, 2012, which relates to: Compensation and Forfeiture of Office – Section 2.02 Compensation, Expenses; Section 2.06 Forfeiture of office of councilor; Section 2.07 Forfeiture of office of mayor; Section 4.05 (b) Planning Board Compensation; Section 4.06 (b) Board of Appeals Compensation; Section 4.08 Forfeiture of Office, Planning Board and Board of Appeals; Section 5.01 (b) School Committee Compensation; Section 5.01 (c) School Committee Forfeiture of Office; Section 6.15 (b) Finance Committee Compensation; and Section 6.15 (g) (1) and (2) Finance Committee Forfeiture of Office.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to compensation and forfeiture of office; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain provisions relating to compensation and forfeiture of office should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

Sec. 2.02. Compensation, expenses.

The mayor shall receive an annual salary of three thousand six hundred dollars (~~\$3,600.00~~), payable monthly; and Each of the councilors shall receive an annual salary as set by ordinance of one thousand eight hundred dollars (~~\$1,800.00~~), payable monthly. The council may also, by ordinance, provide for compensation for elected officials who are appointed by the council, the mayor, or the council president to represent the city on the governing bodies of any joint agency, quasi-governmental organization or non-profit organization. Such compensation shall be on a per diem basis for any day on which the elected official attends a meeting of such governing body. No ordinance increasing such salaries shall take effect during the term for which the mayor or the councilors were elected. The mayor and members of the council shall receive their actual and necessary expenses incurred in the performance of their duties of office. During the term of office for which they have been elected, neither the mayor nor any councilor shall hold the office of city administrator, acting city administrator or any other office or employment, compensation for which is payable by the city. No former mayor or councilor shall hold employment in any position created during his term or terms of office until one (1) year after the termination of his last term of office. ~~The city council may, by ordinance, establish the amount that the mayor and members of the council shall be entitled to receive as salary, but no such ordinance increasing such salaries shall take effect during the term for which the mayor or the councilors were elected.~~ Nothing herein shall prevent a councilor serving on the finance committee from receiving as additional compensation the salary authorized by section 6.15(b) or a councilor serving on the school committee from receiving as additional compensation the salary authorized by section 5.01(b).

Sec. 2.06. Forfeiture of office of councilor.

- (a) A vacancy in the office of councilor shall exist if he:
- (1) Dies;
  - (2) Resigns;
  - (3) Moves from the ward from which he was elected or appointed;
  - (4) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment or offense involving moral turpitude-while in office; or
  - (5) Is found in violation of section 8.04 of this Charter.
  - (6) Fails to attend three consecutive regular meetings of the city council without being excused by the mayor or president of the council, such excuse to be documented with the city clerk.

Sec. 2.07. Forfeiture of office of mayor.

- (a) A vacancy in the office of mayor shall exist if he:
- (1) Dies;
  - (2) Resigns;
  - (3) Moves from the city;
  - (4) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment or offense involving moral turpitude-while in office; or
  - (5) Is found to be in violation of section 8.04 of this Charter.

- (6) Fails to attend three consecutive regular meetings of the city council without being excused by the council president or city council.

Sec. 4.05. Planning board.

- (b) *Compensation.* Each member shall receive compensation salary at the rate established by ordinance by the city council of three hundred sixty dollars (\$360.00) per year, payable monthly.

Sec. 4.06. Board of appeals.

- (b) *Compensation.* Each member shall receive compensation salary at the rate established by ordinance by the city council of three hundred sixty dollars (\$360.00) per year, payable monthly.

Sec. 4.07. Compensation.

~~Compensation paid to members of the planning board and board of appeals may be changed by ordinance.~~

(Amend. eff. 1-1-07)

Sec. 4.078. Forfeiture of office.

A member of the planning board or board of appeals shall forfeit his office and a vacancy therein shall exist, if he:

- (1) Dies;
- (2) Resigns;
- (3) Moves from the city;
- (4) In the case of the planning board and board of appeals if he moves from his ward into a ward in which there are currently two (2) members of the same board;
- (5) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;
- (6) Is found to be in violation of section 8.04 of this Charter; or
- (7) Exceeds the tenure authorized for the office.
- (8) Fails to attend three consecutive regular meetings of the board without being excused by the chair or, in the case of the chair, by the board.

Sec. 5.01. School committee.

- (b) *Compensation.* Each member shall receive compensation salary at the rate set by ordinance by the city council of six hundred dollars (\$600.00) per year, payable monthly. Such compensation may be changed by ordinance.
- (c) *Forfeiture of office.* A member of the school committee shall forfeit his office and a vacancy therein shall exist if he:
- (1) Dies;
  - (2) Resigns;
  - (3) For the seven (7) members elected by ward, moves from the ward in which he was elected;
  - (4) For the one (1) at-large member, moves from the city;
  - (5) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;
  - (6) Is found to be in violation of section 8.04 of this Charter; or
  - (7) For the councilor member, is no longer a member of the city council.

- (8) Fails to attend three consecutive regular meetings of the school committee without being excused by the chair or, in the case of the chair, by the school committee.

Sec. 6.15. Finance committee.

- (b) *Compensation.* The members of the finance committee shall receive compensation salary at the rate established by ordinance by the city council ~~of four hundred eighty dollars (\$480.00) per year, payable monthly.~~ Compensation paid to members of the finance committee may be changed by ordinance, but no such ordinance increasing compensation for a member of the finance committee who is a member of the city council shall take effect during the term for which the councilor was elected.
- (g) *Forfeiture.*
- (1) A member of the finance committee appointed by the mayor shall forfeit his office and a vacancy therein shall exist if he:
- a. Dies;
  - b. Resigns;
  - c. Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;
  - d. Is found to be in violation of section 8.04 of this Charter; or
  - e. Exceeds the tenure authorized for the office.
- (2) A member of the finance committee who is a member of the city council shall forfeit his office and a vacancy therein shall exist if he:
- a. ~~Dies;~~
  - b. ~~Resigns;~~
  - c. ~~Is convicted of a crime punishable by imprisonment of one year or more or a crime of dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;~~
  - d. ~~Is found to be in violation of section 8.04 of this Charter; or~~
  - e. ~~I is no longer a member of the city council.~~

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment would:

- Replace the dollar amounts specified as compensation for the Mayor, Council, School Committee, Finance Committee, Planning Board, and Board of Appeals with compensation set by city council ordinance;
- Authorize compensation on a per diem basis to councilors appointed to represent the city on governing bodies of various organizations and agencies;
- Specify that the Mayor, councilors, school committee, finance committee, planning board, and board of appeals members shall forfeit their office if convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement regardless of the punishment or fails to attend three consecutive meetings without being excused.

# LEWISTON CITY COUNCIL

MEETING OF AUGUST 14, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 16

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding the Office of Mayor.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 10 regarding the Office of Mayor and would:

- 1) expanding the authority of the Mayor to vote as a municipal officer if there is a council vacancy, absence or conflict of interest
- 2) increasing the number of terms an individual can serve as Mayor from two to three
- 3) increasing the time the Council President can serve as Mayor during a vacancy from nine months to twelve months

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EAB/Kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Office of the Mayor, Article I, section 1.02 Powers and Duties; Article II, Sections 2.01 ( c) Term Limits; Sections 2.03 and 2.10 (d) Authority of Mayor to Vote; and Section 2.07 Forfeiture of the Office of Mayor.



**City of Lewiston Maine**  
**City Council Order**  
**August 14, 2012**

**Order,** Directing that an Amendment to the Lewiston City Charter be placed on the Ballot for the November 6, 2012 Municipal Election, which relates to: Office of the Mayor, Article I, Section 1.02 Powers and Duties; Article II, Sections 2.01 (c) Term Limits; Sections 2.03 and 2.10 (d) Authority of Mayor to Vote; and Section 2.07 Forfeiture of the Office of Mayor.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the Office of the Mayor; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

**A.** That an amendment to the City Charter that will modify certain provisions relating to the Office of the Mayor should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

"Shall the municipality approve the charter modifications as described in the summary below?"

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk's Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G. The Proposed Amendment to the Charter is as shown below:**

**Sec. 1.02. Powers and duties.**

- (b) The mayor and members of the city council shall be and constitute the municipal officers of the City of Lewiston for all purposes required by statute and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state. The mayor, when ~~he acts~~ acting as a municipal officer, shall be entitled to vote ~~only~~ to break a tie, when a council vacancy exists, when in the absence of a councilor, when a councilor is absent from a meeting, or when a councilor has been recused due to a conflict of interest.

**Sec. 2.01. Composition, eligibility, wards, elections and terms.**

- (c) *Elections and terms.* The mayor and the ward councilors shall be elected at each regular election to serve two-year terms. The mayor shall not be eligible to serve for more than ~~two~~ three (23) full successive terms.

**Sec. 2.03. Mayor.**

The mayor shall be the presiding officer of the council and shall be entitled to vote only to break a tie, when a council vacancy exists, in the absence of a councilor, or when a councilor has been recused due to a conflict of interest. The mayor shall be recognized as the head of the city government for all ceremonial purposes. He shall solely make appointments to committees and boards created under this Charter, to statutory boards and commissions as are required by the Statutes of the State of Maine to be made by the municipal officers and shall solely appoint citizens to ad hoc advisory committees.

**Sec. 2.07. Forfeiture of office of mayor.**

- (b) If a vacancy in the office occurs ~~nine (9)~~ twelve (12) months or more prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired term. Such election shall be called and held and nominations made as in other elections.
- (c) If a vacancy in the office occurs less than ~~nine (9)~~ twelve (12) months prior to the next regular municipal election, the president of the council shall serve the remainder of the unexpired term as the mayor of the city with all the powers, privileges and authority of the mayor. In such event, the vacancy in the city council caused by the president of the council becoming the mayor shall not be filled.

**Sec. 2.10. Procedure.**

- (d) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the council, except as provided in the preceding sentence and in section 2.06(e) shall be binding or valid unless adopted by the affirmative vote of four (4) or more members of the council, including the mayor, if voting ~~to break a tie~~ under section 2.03.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

**ATTACHMENT TO ORDER**  
**SUMMARY OF THE PROPOSED AMENDMENT**

This amendment will make a variety of changes to sections of the charter dealing with the mayor by:

1. Expanding the authority of the Mayor to vote as a municipal officer to situations where there is a council vacancy or when a councilor is absent or recused due to a conflict of interest.
2. Increasing the number of full consecutive terms an individual could serve as Mayor from two to three.
3. Increasing the period during which the Council President serves as Mayor when the office of Mayor is vacant from nine to twelve months. Vacancies of twelve months or more would be filled by a special election.

**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 17**

**SUBJECT:**

Public Hearing and Adoption of an Order regarding an amendment to the City Charter regarding Technical Housekeeping Changes.

**INFORMATION:**

In July, the Council discussed the idea of setting a special municipal election for Tuesday, November 6, 2012 (to be held in conjunction with the state election) to allow for voter consideration of proposed amendments to the City Charter as recommended by the Charter Review Committee.

This is proposed Amendment 11 regarding Technical Housekeeping Changes and would include making the charter gender neutral, correcting punctuation and grammar, specifying that days means calendar days, repealing unnecessary transitional language and renumbering sections as appropriate.

This public hearing is an opportunity for the voters to ask questions about this issue prior to voting on the November ballot.

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

The City Administrator recommends approval of the requested action.

*EABIKMM*

**REQUESTED ACTION:**

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To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Technical Housekeeping Changes including making the charter gender neutral, specifying that references to days means calendar days, repealing unnecessary transitional language and renumbering sections as appropriate.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Directing that an Amendment to the Lewiston City Charter Be placed on the Ballot for the Municipal Election to be Held on November 6, 2012, which relates to: Technical Housekeeping Changes including Making the Charter Gender Neutral, Specifying that References to Days Means Calendar Days, Repealing Unnecessary Transitional Language, and Renumbering Sections as Appropriate.

**WHEREAS,** on July 17, 2012, a proposed charter amendment was presented to the City Council that would make certain technical and housekeeping changes; and

**WHEREAS,** on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

**WHEREAS,** notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

**WHEREAS,** a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

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

- A.** That an amendment to the City Charter that will make certain technical and housekeeping changes should be considered.
- B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

"Shall the municipality approve the charter modifications as described in the summary below?"
- C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk's Office.
- D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.
- E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.
- F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

**ARTICLE VIII. GENERAL PROVISIONS**

**~~Sec. 8.09. Gender.~~**

~~Words of the masculine gender may include the feminine.~~

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make technical housekeeping changes to the charter including making the charter gender neutral, correcting punctuation and grammar, specifying that days means calendar days, repealing unnecessary transitional language, and renumbering sections as appropriate.

The following no longer necessary transitional provisions would be repealed:

- Section 2.01 (b) reference to ward lines as they exist as of the date of the adoption of this Charter
- Section 4.05 (a) specifying the terms of the members of the planning board initially appointed after the adoption of the Charter
- Section 4.06 (a) specifying the terms of the members of the board of appeals initially appointed after the adoption of the Charter
- Section 5.01 (a) specifying that members of the school committee and their successors continued in office until their respective terms expired but no later than the first Monday of January 1988.
- Section 5.01 (d) specifying that the terms of the school committee members shall terminate immediately upon the election, appointment, and qualification of members of the committee under the provisions of this Charter
- Section 6.15 (a) specifying the terms of members of the Finance Committee initially appointed after the adoption of the charter.
- Section 9.01 First Elections
- Section 9.02 Termination of office
- Section 9.03 Officers and Employees
- Section 9.04 Boards and commissions, transfer of power
- Section 9.05 Existing departments, offices and agencies
- Section 9.09 Property and records.

In addition, Section 8.09 Gender would be deleted as the Charter would be made gender neutral.

# LEWISTON CITY COUNCIL

MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 18**

**SUBJECT:**

Condemnation Hearing for the building located at 320 Bates Street.

**INFORMATION:**

The City has begun the process for condemnation of the property at 320 Bates 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.

*EAS/ksm*

**REQUESTED ACTION:**

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1) To conduct a hearing to determine if the building located at 320 Bates 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 320 Bates 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.

320 Bates Street

# Ownership Documents

**WARRANTY DEED**

**KNOW ALL PERSONS BY THESE PRESENTS**, That **CHOYCE PROPERTIES, LLC**, of South Portland, in the County of Androscoggin and State of Maine, in consideration of One Dollar (\$1.00) and other valuable consideration paid by **GABRIEL J. REDMOND** and **MICHAEL P. FARLEY**, both of Cumberland, in the County of Cumberland, and State of Maine, with a mailing address of 15 Shirley Lane, Cumberland Center, Maine 04021, with **WARRANTY COVENANTS**, the receipt whereof is hereby acknowledged, does hereby give, grant, bargain, sell and convey unto the said **GABRIEL J. REDMOND** and **MICHAEL P. FARLEY**, as tenants-in-common and not as joint tenants, their heirs and assigns forever, the land in Lewiston, County of Androscoggin, State of Maine, and being more particularly described as follows:

A certain lot or parcel of land with the buildings thereon, lying on the easterly side of Bates Street in Lewiston, Androscoggin County, State of Maine, bounded and described as follows:

Commencing at the northwesterly corner of a lot of land deeded by the Bates Manufacturing Company to N.W. Farwell by deed dated December 4, 1863, recorded in the Androscoggin County Registry of Deeds in Book 32, Page 454; thence running easterly on the northerly line of said land one hundred (100) feet; thence at right angles northerly ninety-three and three-fourths (93 ¾) feet; thence at right angles westerly one hundred (100) feet to said easterly line of Bates Street; thence southerly on said line of Bates Street ninety-three and three-fourths (93 ¾) feet to the point of beginning.

Also conveyed are all rights and easements reserved by the Bates Manufacturing Company in the above-mentioned deed to N.W. Farwell.

Being the same premises as conveyed to Choyce Properties, LLC, a Maine limited liability company by warranty deed of Beddington Associates, LLC dated December 30, 2004, recorded in the Androscoggin County Registry of Deeds in Book 6195, Page 336.

**TO HAVE AND TO HOLD** the aforementioned and bargained premises, with all of the privileges and appurtenances thereof, to the said Gabriel J. Redmond and Michael P. Farley, their heirs and assigns, to their use and behoof forever.

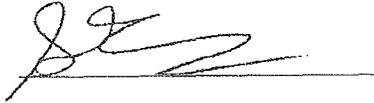
**AND CHOYCE PROPERTIES, LLC DOES COVENANT** with said Gabriel J. Redmond and Michael P. Farley, their heirs and assigns, that it is lawfully seized in fee of the premises, that it is free of all encumbrances and that it has good right and title to sell and convey the same to the said Gabriel J. Redmond and Michael P. Farley to hold as aforesaid; and that it and its successors shall and will warrant and defend the same to the said Gabriel J. Redmond and Michael P. Farley, their heirs and assigns forever, against the lawful claims and demands of all persons.

MAINE REAL ESTATE  
TRANSFER TAX PAID

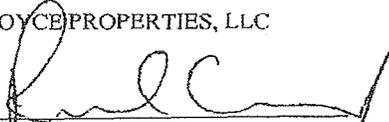
EXHIBIT A

IN WITNESS WHEREOF, the said Richard C. Choyce, Member of CHOYCE PROPERTIES, LLC has hereunto set his hand and seal this 11 day of October 2006.

Signed, Sealed and Delivered  
In the Presence of:



CHOYCE PROPERTIES, LLC

By   
Richard C. Choyce  
Its: Member

STATE OF MAINE  
Cumberland, ss.:

October 11, 2006

Then personally appeared before me the above-named Richard C. Choyce, Member of Choyce Properties, LLC and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said limited liability company.



Notary Public/Attorney at Law

Scott E Hennich  
Printed Name

031105\Kane\spay\Chet\chert\J. Bolowol and Mac\fed\F. Palky\WARRANTY DEED.dwg

ANDROSCOGGIN COUNTY  
Tina K. Charnock  
REGISTER OF DEEDS

Notice of Hearing  
Certificates of Service

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

Gabriel J. Redmond  
15 Shirley Lane  
Cumberland, Maine

Michael P. Farley  
15 Shirley Lane  
Cumberland, Maine

Bayview Loan Servicing, LLC  
c/o CT Corporation System  
One Portland Square  
Portland, Maine 04101

Choyce Properties, LLC  
c/o Richard Choyce  
121 High Street  
South Portland, Maine 04106

**320 BATES STREET, LEWISTON, MAINE**

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

August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 320 Bates Street, Lewiston, Maine, identified as Lot 235 on Tax Map 196, and further described in a Warranty Deed recorded in the Androscoggin County Registry of Deeds at Book 6934, Page 5, 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: July 2, 2012

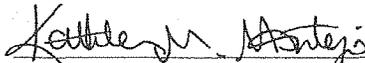
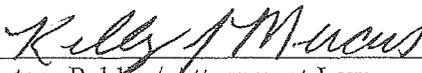
  
Kathleen M. Montejo, City Clerk

EXHIBIT B

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

ANDROSCOGGIN COUNTY  
TINA M CHOUINARD  
REGISTER OF DEEDS

CITY OF LEWISTON  
CITY COUNCIL

RETURN OF SERVICE

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

On July 18, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Gabriel J. Redman, as follows:

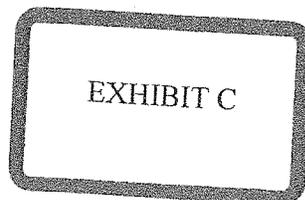
Gabriel J. Redmond  
32 Spring Valley Road  
Raymond, ME 04071

Costs of Service:

Service:	\$	_____
Travel:	\$	_____
Postage:	\$	_____
Other:	\$	_____
 TOTAL:	\$	<u>80.77</u>

*Gabriel J. Redman*  
Signature

*C.C.S.A.*  
Agency



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

Gabriel J. Redmond  
15 Shirley Lane  
Cumberland, Maine

Michael P. Farley  
15 Shirley Lane  
Cumberland, Maine

Bayview Loan Servicing, LLC  
c/o CT Corporation System  
One Portland Square  
Portland, Maine 04101

Choyce Properties, LLC  
c/o Richard Choyce  
121 High Street  
South Portland, Maine 04106

**320 BATES STREET, LEWISTON, MAINE**

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

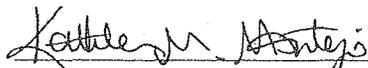
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 320 Bates Street, Lewiston, Maine, identified as Lot 235 on Tax Map 196, and further described in a Warranty Deed recorded in the Androscoggin County Registry of Deeds at Book 6934, Page 5, 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.

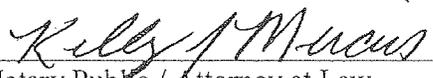
Dated: July 2, 2012

  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

CITY OF LEWISTON  
CITY COUNCIL

**RETURN OF SERVICE**

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

On July 10, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Michael P. Farley, as follows:

Michael P. Farley  
15 Shirley Lane  
Cumberland, Maine

Costs of Service:

Service: \$ \_\_\_\_\_  
Travel: \$ \_\_\_\_\_  
Postage: \$ \_\_\_\_\_  
Other: \$ \_\_\_\_\_  
TOTAL: \$ 42.45

Constance  
Signature

Deputy Sheriff  
Agency

EXHIBIT D

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

Gabriel J. Redmond  
15 Shirley Lane  
Cumberland, Maine

Michael P. Farley  
15 Shirley Lane  
Cumberland, Maine

Bayview Loan Servicing, LLC  
c/o CT Corporation System  
One Portland Square  
Portland, Maine 04101

Choyce Properties, LLC  
c/o Richard Choyce  
121 High Street  
South Portland, Maine 04106

**320 BATES STREET, LEWISTON, MAINE**

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

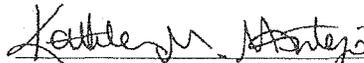
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 320 Bates Street, Lewiston, Maine, identified as Lot 235 on Tax Map 196, and further described in a Warranty Deed recorded in the Androscoggin County Registry of Deeds at Book 6934, Page 5, 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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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: July 2, 2012

  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

CITY OF LEWISTON  
CITY COUNCIL

RETURN OF SERVICE

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

On July 9, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on CT Corporation, Agent for Bayview Loan Servicing, LLC as follows:

Bayview Loan Servicing, LLC  
c/o CT Corporation System  
One Portland Square  
Portland, Maine 04101

*yo* **WILLIAM RICHARDSON**  
**ADMIN. ASST.**

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>

*William Richardson*  
Signature

*D Skiff*  
Agency

EXHIBIT E

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

Gabriel J. Redmond  
15 Shirley Lane  
Cumberland, Maine

Michael P. Farley  
15 Shirley Lane  
Cumberland, Maine

Bayview Loan Servicing, LLC  
c/o CT Corporation System  
One Portland Square  
Portland, Maine 04101

Choyce Properties, LLC  
c/o Richard Choyce  
121 High Street  
South Portland, Maine 04106

**320 BATES STREET, LEWISTON, MAINE**

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

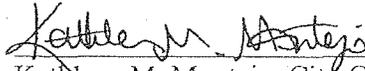
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 320 Bates Street, Lewiston, Maine, identified as Lot 235 on Tax Map 196, and further described in a Warranty Deed recorded in the Androscoggin County Registry of Deeds at Book 6934, Page 5, 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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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.

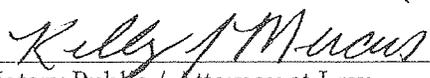
Dated: July 2, 2012

  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

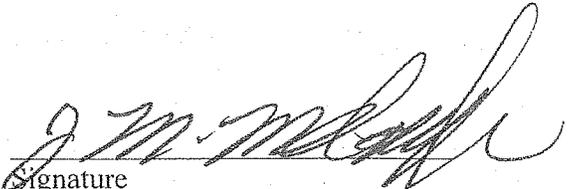
NOTICE OF HEARING  
Pursuant to 17 M.R.S. §§ 2851-59  
Dangerous Buildings

On July 10, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Richard Choyce for Choyce Properties, LLC as follows:

Choyce Properties, LLC  
c/o Richard Choyce  
121 High Street  
South Portland, Maine 04106

Costs of Service:

Service:	\$	_____
Travel:	\$	<u>16.00</u>
Postage:	\$	<u>9.70</u>
Other:	\$	<u>60</u>
TOTAL:	\$	<u>5.00</u> <u>31.30</u>

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Agency



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

Gabriel J. Redmond  
15 Shirley Lane  
Cumberland, Maine

Michael P. Farley  
15 Shirley Lane  
Cumberland, Maine

Bayview Loan Servicing, LLC  
c/o CT Corporation System  
One Portland Square  
Portland, Maine 04101

Choyce Properties, LLC  
c/o Richard Choyce  
121 High Street  
South Portland, Maine 04106

**320 BATES STREET, LEWISTON, MAINE**

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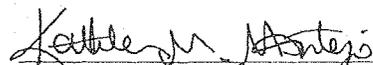
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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Dated: July 2, 2012

  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

City  
Correspondence

**CITY OF LEWISTON  
CODE ENFORCEMENT  
CITY BUILDING  
27 PINE STREET  
LEWISTON, MAINE 04240  
(207) 513-3125 EXT. 3224  
TTY/TDD (207) 513-3007**

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

November 1, 2011

Gabriel Redmond and Michael Farley  
P.O. box 11511  
Portland, ME 04104

RE: 320-322 Bates Street, Lewiston, ME 04240

Dear Mr. Redmond and Mr. Farley,

On November 1, 2011, I inspected the building at 320-322 Bates Street, Lewiston and have found several property maintenance code violations and have determined that this building is unfit for human habitation or occupancy due to violations of the following provisions of Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52 as per The Code of Ordinances of the City of Lewiston hereafter referred to as the (Code). This building has no heat and no hot water, the building has an accumulation of trash through-out, there is sewer in the basement, the supporting interior wall driveway side is deteriorating and the building is infested with pigeons.

- IPMC-602.2 Residential occupancies: Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 66 degrees F in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International plumbing code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
- IPMC-603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating system appliances shall be properly installed and maintained in a safe working condition and shall be capable of performing the intended function.
- IPMC-305.2 Structural members. All structural members shall be maintained structurally sound, and capable of supporting the imposed loads.
- IPMC-305.5 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of a structure and exterior property

As per the above mentioned violations I hereby condemn and placard the building at 320-322 Bates St. 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, IPMC 108.1 IPMC108.2, IPMC108.1.1-IPMC-108.1.2, IPMC 108.1.3, IPMC108.1.5 IPMC-108.1.4,IPMC 108.3 IPMC 108.4.IPMC 108.4.1 IPMC 108.6, of the Code of Ordinances of the City of Lewiston. **Due to the threat to public safety to you, and/or other tenants, you are hereby ordered vacate this building and you and/or the owner maintain it secure from unauthorized entry in accordance with IPMC-108.5 of the Code.** In accordance with PM-105.6, the City of Lewiston cause this apartment to be secured, if found open, by public agency, contract, or by private persons and the cost shall be charged to the owner.

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 above referenced Code Section IPMC108.4.1 stating "the code official shall remove the condemnation and placarding whenever the defect or defects upon which the Condemnation and Placarding were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code."

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

In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 50, Article II, and Section 50-36 thru 50-51 of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred 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-107.6 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,

Jeff Baril  
Code Enforcement Officer



cc: Gil Arsenault, Director Planning and Code

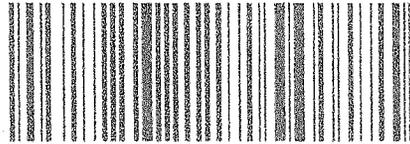
The City of Lewiston is an EOE. For more information, please visit our website @ [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy

PLANNING & CODE ENFORCEMENT

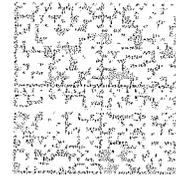
City of **LEWISTON** Maine

27 Fine Street, City Hall  
Lewiston, Maine 04240

**VERIFIED MAIL**



7010 3090 0000 0593 9640



MAIL

11/12/2011

\$05.590

Mailed From: 04240  
US POSTAGE

DEC 12 2011

UNDELIVERABLE

GABRIEL REDMOND AND  
MICHAEL FARLEY  
PO BOX 11511  
PORTLAND ME 04104

NAME

1st Notice

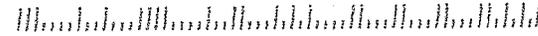
2nd Notice

Return

11/3  
11/5  
11/25

UNC

0410487511 B405



# Photographs

1



2  
Rear



320 Bates St 6-19-12 11:00AM R - Edmond

EXHIBIT H

Front wall between 2nd & 3rd floors bulging.

3



4



320 Bates st. 6-19-12 11:00AM R E Meyer

Reveal produced by movement of front wall,



320 Bates St 6-19-12 11:00 AM  
C. E. Miller

Spalding and delamination of Plaster and lathing

7



8



3rd Floor Kitchen where wall is moving outward.  
Trim installed to hide reveal.

320 Bates St. 6-19-12 11:00 AM *E. Meyers*

Buckled wainscoting

9



Buckling Hardwood Flooring

10



320 Bates St. 6-19-12 11:00 AM E. E. Myer

Pigeon Guano



Porch Separation from building  
due to structural movement.

3d0 Bates St 6-19-12 11:00AM *E. M. [Signature]*

Stairs out of level due to structural shifting and collapse.

12



13



Evidence of attempts to cover the reveals/gaps produced by structural movement.  
320 Bates St. 6-19-12 @ 11:00 AM R. J. Alford

14



15



Primary means of egress stair way widths 33"  
 320 Bates St. 6-19-12 11:00 AM R. E. Meyer



17



16

18  
Stairway  
Riser  
heights



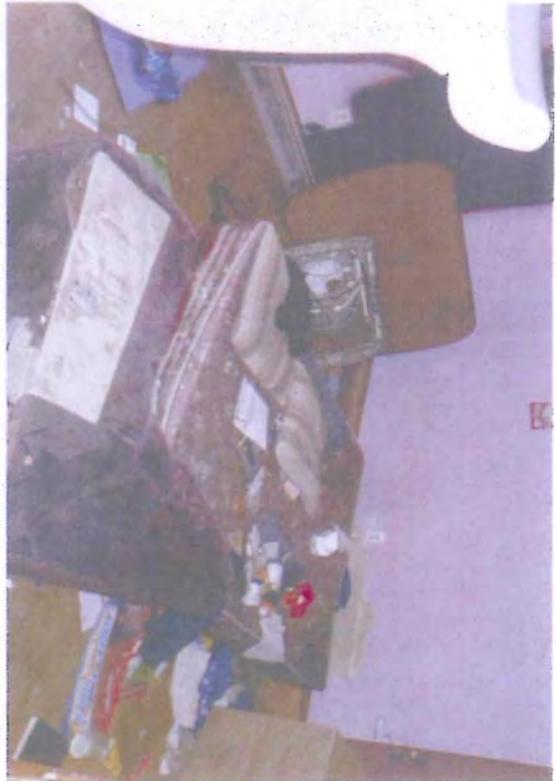
320 Bates St 6-19-12 11:00 R. E. Kendall



9



10



22



21

Garbage and debris about the building, Stripped heating pipes  
320 Bates Street 6-19-12 11:00 AM. P. S.M...

Possible Vermiculite.



23



26



24



25

Garbage and debris about the buildings. 380 Bates St 6-10-12 (Boston) *R. Shady*



27



29



28



29

Bar bage and debris about the building / possible Vermiculite.



31



34



32



33

Garbage and debris about buildings 320 Bates st 6-19-12 Mark E. Edmund

Over flowing Sewage from failing waste  
Drain system

35



36



320 Bates St. 11-1-2011 11:00 AM  
while still occupied  
L. E. Reynolds

37



38



Mold, effluent, and damage.  
320 BATES ST 6-19-2012

39



40



Mold, effluent and damage.

320 BATES ST 6-19-2012

41



42



Mold, effluent and damage

320 BATES ST 6-19-2012

43



44



mold, effluent and damage  
320 BATES ST 6-19-12

Boiler and associated equipment damaged

45



46



320 BATES ST 6-19-2012

Damage from Roof leak

47



48



Child's Wading Pool

320 Bates St.

6/19/12 11:00AM

R. E. Maguire

Stain and a plastic bag from root leak

49



50



Collapsed plaster and ceiling material from  
Root leak.  
320 Bates St. 6-19-12 11:00am R E Munn

Holes in the ceiling from roof leaks

51



52



320 Bates St. 11:00AM 6-11-12 D. E. Nye

Deteriorated Ceilings and walls from roof leaks

53



54



320 Bates St. 6-19-12 11:00 AM by E. Maynard

55



56



Pigeon Guard  
320 BATES ST

6-19-2012

Dead Pigeon  
↑

57



58



Pigeon Guano

320 BATES ST 6-19-2012

59



Dead  
Pigeon

60



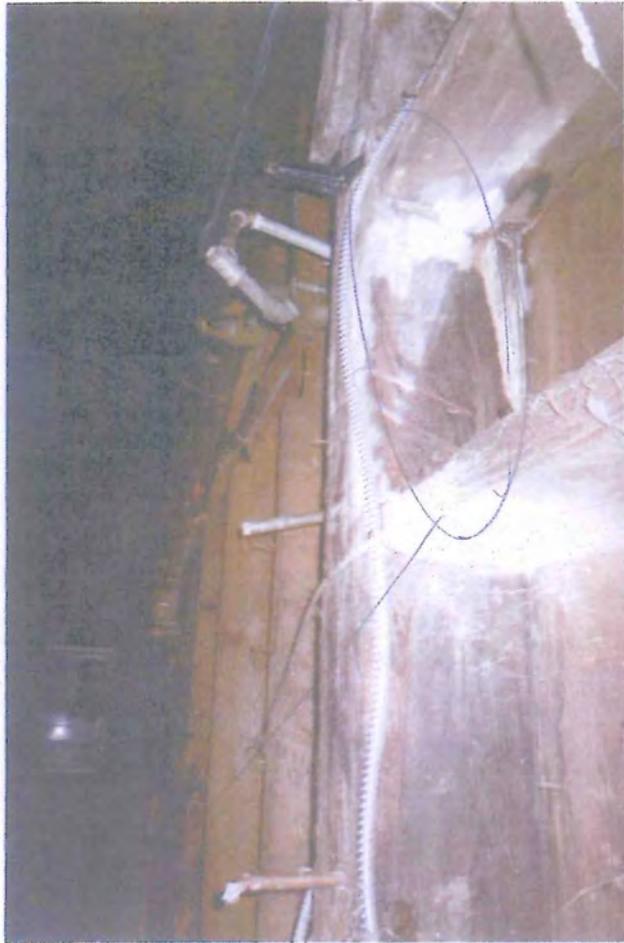
Pigeon Guano  
320 Bates St. 6/19/12 11:00 AM R E Myers

61



OIL LEAK

320 BATES ST 6-19-2012



63



62

Dry Rot  
of beam  
& joists

Cracked  
Beam



64

320 Bates St. 6-19-12 @ 11:00AM R P. Mans

# Other Documentary Evidence

Lewiston



## Department of Public Works

Michael Bernier  
District Manager  
103 Adams Ave  
Lewiston, Me. 04240  
207-513-3003



Date: 12-8-11  
To: Jeff Baril  
Subject: 320-322 Bates St. Waste removal costs.  
From: Michael Bernier

Labor:

Two employee's x 5hrs.	\$148.60
One Workfare Supervisor x 1hr.	\$19.19
5 Workfare participants x 1 hr.	\$37.50

Equipment rental:

1 Skid steer loader x 5 hrs.	\$60.00
1-1 ton dump truck x 5 hrs.	\$32.50
1 10 passenger van x 1 hr.	\$19.00

Tipping fees:

20 tires @ \$3 ea.	\$60.00
3 tons of waste @\$95 per ton.	\$285.00

Total:	<u>\$661.79</u>
--------	-----------------

322 bates inspection  
November 1st 10 am 513 3125 or 3224

This is a list of things that im aware of that are in need of serious attention. Im sorry about how scattered this list is,, Im just putting everything down as I remember it.

Brown water pipe down the 322 side is completly rotted. Started leaking into kitchen attempted to alert landlords with no answer. Had 5 kids in the apartment so I accessed the pipe and tried to patch over it. No use the pipe crumbles to the touch. From what we could tell pipe has many fractures in it when attempted the patch we dried the pipe best we could and water kept seeping out of the rust above and below the hole. A crack in the y section was also spotted behind wall. No attempmts from landlord to replace pipe.

Black Mold in several units bathrooms and the basement. Mentioned some straight bleach to attempt to cure the problem as well as killz paint. No attempt from landlords to address the problem.

Dumpster was rarely emptied forcing tenants to stockpile trash in hallways and around dumpster section to points where its was way out of control and a health hazzard.

Bathroom pipes above bathroom in 1st floor rear (Floor of 2nd floor rear) Freeze and burst every winter. An electric heater has to be run in the bathroom of both apartments for the whole season to attept to avoid this. which does not always work. Repairs to pipe generally have to be done by Jesse and myself to get the leak under control.This took out the bathroom ceiling more than once.

Almost every window in building needs to be replaced. Some fall out, some fall in, some dont stay up, and most don't keep the cold out.

The attic way and the attic is completly drenched in pigeon crap and there had been some dead maggot casings spotted dropping through the cieling of 4th floor front. Dead Pigeons??? The attic is full of blown insultaion which im sure needs replacing at this time due to the situation. This is due to the roof access cap being blown away a few years ago and landlords have yet to higher roofers to do the repairs.

The building gets serious leaks during such times as January thaw for instance. It flows through the hallway walls and down the stairs clear to the basement causing the basement to flood. New roof ? last winter 4th floor rear Sarah Ramsy was stating that she had to dump a 5 gallon bucket about once every half hour.Gabe and mike sued Richard for the roof leaking and from what I understand they won, that was a couple years ago why was roof not repaired?

The roof drain was rerouted by prior landlord Richard which drains off back porch now,, great for the summer but the pillar of ice during the winter is an extreme hazzard. It forms and builds all the way down and across the porch breaking off and dropping on neighbors vehicles .. The building in rear obviously has children that play outside. How long before someone gets hurt or killed from a chunk of ice. Mind you this piller is not small it gets massive accumulating sizes up to 6 feet around. We tried using heat tape to help keep it down but didnt do any good. The heat tape and extension cord used to operate it was paid for by me I would run the tape off my electricity. Fire escape in the winter, forget it.Would be safer to bail out a window and break a leg than for anyone upstairs to risk breaking their neck falling down the back porch. And thats even if you make it without the porch collapsing.

stand in driveway outside kitchen windows of 322 1r and look up building. The

Page 1

EXHIBIT J

### 322 bates inspection

structure is beginning to push outwards and has been for the past couple of years. It has become even more obvious. Each winter the kitchen window near the living room likes to crack and or shatter from the stress of the shifting. Landlords would not replace broken glass. The upper panes have been replaced with plexiglass. The walls in 2r are leaking the saw dust insulation into the apartment especially during the winter near this bow in the building.

The building runs out of oil on a regular basis. They put oil in and your next delivery? who knows. Sometimes the next day sometimes a week depending on if they answer the phone. Everyone in the building had to get together on many occasions to pool together oil money. Then I would transport Kerosene from the gas station on sabattus street to the building so we would have hot showers. We were heating our apartments with electric space heaters and saving the oil for showers. Winter is upon us and that building is NOT able to keep a family warm or safe from the elements. With your heat set on 70 in almost any apartment the apartment can hardly hold 50. The building is in such bad shape that the furnace will fire up to try to heat the apartments for the cold season and it almost never shuts off. In other words the builing leaks heat so bad that the furnace cannot keep up.

Yes I moved out of this building a few months ago. I am on section 8 which had cut off their end of the rent almost 2 years ago. I tried numerous times as well as the rest of the tenants to convince the landlords work must be done. I at one point was the building manager I took care of it for Larry Tetreault which was a great landlord, Had no part when Richard was there and was reappointed by Gabe and Mike. As people Gabe and Mike are very nice people but when it comes to being landlords they do a poor job. They dont even do their job. Would attemp to mention work that needed to be done and they expected the person doing the work to fork the money on repairs. They would collect the rent and leave no money for materials. They did it to me a few times and I stopped trying. They then tried moving on to Jesse 2r and Pam 3r and pams daughter Jolene 3r to do building work in return for rent but still showed up asking them for rent as well. Then for the past 2 years we would see them once every 2-3 months asking for rent. After half the tenents didnt have it due to buying oil and paying massive power bills. Many of the tenants lost their power due to astronomical bills From heating thier apartments with space heaters and the kitchen stove, they couldn't afford to pay! We were trying to stay warm. then you spend all summer catching up on thousand dollar power bills. The landlords would eventually put the power in their names which seemed to be unreliable at times because tenents would be shut off at random times.

Clearing of the driveway during the winter is done or covered by the tenants. We would have to get up for work early and shovel our own way out so we could make it to work on time.

Gabe lost his rights to the building a few months ago for his own private financial issues.

Mike has taken full responsibility of the building since then.

Since I moved out a few months ago they seem to have hired someone to try to take care of property.

He went through the building and made everyone sign a lease. A few days later he went back through and served eviction notices for none payment of rent. Its obvius why nobody is paying rent. The building is a crap hole and the landlords don't pay attention to them or the building at all. It appears as if they are trying to empty the building, cover up its issues, and move new tenants in. This does not solve any problems at all. The whole situation will just repeat itself as far as not getting rent. Nobody in the world will pay rent for a place in such a condition. Sure maybe looks pretty when you first step foot after everything is covered up but the problems WILL show quickly.

Its nice to see a guy step in that wants to make things better but I honestly dont think he even knows what he is in for.

322 bates inspection

Im sure this property will be shut down after you inspect it, I hope you can help these tenant find a new place to go there are 2 of them one fourth floor front with an infant and one on fourth floor rear has a child and is expecting. there is also a 9-10 yr old girl on 3rd floor rear.

p.s. I was informed that the building has no oil **\*\*Heat \* Hot Water\*\*** whatsoever.....

# LEWISTON CITY COUNCIL

MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 19**

**SUBJECT:**

Condemnation Hearing for the building located at 87 Birch Street.

**INFORMATION:**

The City has begun the process for condemnation of the property at 87 Birch 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.

*ERAB/kmm*

**REQUESTED ACTION:**

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

1) To conduct a hearing to determine if the building located at 87 Birch 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 87 Birch 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.

87 Birch Street

# Ownership Documents

WARRANTY DEED

MICHAEL J. HASKELL, of Lewiston, Androscoggin County, Maine, for consideration paid, grants to SEAN WATKINS, of Auburn, Androscoggin County, Maine, with a mailing address of 172 Fairway Drive, Auburn, ME 04210, with Warranty Covenants, the land in Lewiston, Androscoggin County, Maine, bounded and described as follows:

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

Commencing at the intersection of the easterly line of 158 Pierce Street with the southerly line of 87 Birch Street; thence running easterly by the southerly line of said Birch Street forty-six feet four inches (46'4"); thence southerly at a right angle one hundred (100) feet; thence westerly at right angles forty-six feet four inches (46'4") to Pierce Street; thence northerly by the easterly line of Pierce Street one hundred (100) feet to Birch Street and the point of beginning.

Specifically excepting from the above described premises a triangular parcel of land described in a quitclaim deed from Alfred J. Plourde et al. to A.J. Depres et al. dated November 30, 1965 and recorded in the Androscoggin County Registry of Deeds in Book 963, Page 459, reference for which can be had for a more particular description of the premises hereby excepted.

Meaning and intending to convey all and the same premises described in deed of Theberge Realty to Michael J. Haskell dated April 4, 2003 and recorded in the Androscoggin County Registry of Deeds at Book 5362, Page 269.

Witness my hand and seal this 21<sup>st</sup> day of October, 2005.

Witness

*Michael J. Haskell*  
Michael J. Haskell

State of Maine

County of Androscoggin

October 21, 2005

Then personally appeared the above named Michael J. Haskell and acknowledged the foregoing instrument to be his free act and deed.

Before me,

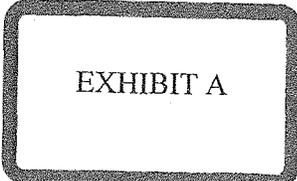
ANDROSCOGGIN COUNTY  
*Eva M. Chouard*  
REGISTER OF DEEDS

*[Signature]*  
Notary Public

Print or type name:

BETTY T. WILLS  
Notary Public, Maine

My commission expires ~~My~~ Commission Expires September 13, 2008



MAINE REAL ESTATE  
TRANSFER TAX PAID

Notice of Hearing  
Certificates of Service

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

Sean M. Watkins  
172 Fairway Drive  
Auburn, Maine 04210

Nationstar Mortgage, LLC  
c/o Corporation Service Co.  
45 Memorial Circle  
Augusta, Maine 04330

SunTrust Mortgage, Inc.  
Corporation Service Company  
45 Memorial Circle  
Augusta, Maine 04330

**87 BIRCH STREET, LEWISTON, MAINE**

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

August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 87 Birch Street, Lewiston, Maine, identified as Lot 198 on Tax Map 196, and further described in a Warranty Deed recorded in the Androscoggin County Registry of Deeds at Book 6552, Page 34, 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: July 2, 2012

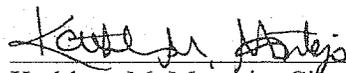
  
Kathleen M. Montejo, City Clerk

EXHIBIT B

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

ANDROSCOGGIN COUNTY  
TINA M. CHOUINARD  
REGISTER OF DEEDS

R

CITY OF LEWISTON  
CITY COUNCIL

RETURN OF SERVICE

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

On July 19<sup>th</sup>, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Sean M. Watkins as follows:

Sean M. Watkins  
172 Fairway Drive  
Auburn, Maine

Costs of Service:

Service:	\$	<u>21.00</u>
Travel:	\$	<u>7.04</u>
Postage:	\$	<u>1.00</u>
Other:	\$	<u>CP 2.00</u>
TOTAL:	\$	<u>31.04</u>

*[Handwritten Signature]*  
Signature

*[Handwritten Agency Name]*  
Agency

EXHIBIT C

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

Sean M. Watkins  
172 Fairway Drive  
Auburn, Maine 04210

Nationstar Mortgage, LLC  
c/o Corporation Service Co.  
45 Memorial Circle  
Augusta, Maine 04330

SunTrust Mortgage, Inc.  
Corporation Service Company  
45 Memorial Circle  
Augusta, Maine 04330

**87 BIRCH STREET, LEWISTON, MAINE**

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

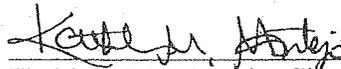
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The 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: July 2, 2012

  
\_\_\_\_\_  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

CITY OF LEWISTON  
CITY COUNCIL

**RETURN OF SERVICE**

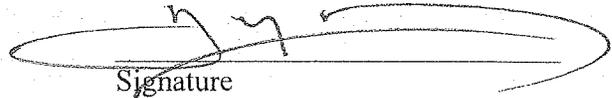
NOTICE OF HEARING  
Pursuant to 17 M.R.S. §§ 2851-59  
Dangerous Buildings

On July 5, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Corporation Service Co., Agent for Nationstar Mortgage, LLC as follows:

Nationstar Mortgage, LLC  
c/o Corporation Service Co.  
45 Memorial Circle  
Augusta, Maine

Costs of Service:

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



Signature

HARRY MCKENNEY  
Chief Civil Deputy  
Agency KENNEBEC COUNTY  
SHERIFF'S OFFICE

EXHIBIT D

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

Sean M. Watkins  
172 Fairway Drive  
Auburn, Maine 04210

Nationstar Mortgage, LLC  
c/o Corporation Service Co.  
45 Memorial Circle  
Augusta, Maine 04330

SunTrust Mortgage, Inc.  
Corporation Service Company  
45 Memorial Circle  
Augusta, Maine 04330

**87 BIRCH STREET, LEWISTON, MAINE**

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

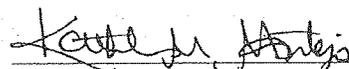
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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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: July 2, 2012

  
\_\_\_\_\_  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

CITY OF LEWISTON  
CITY COUNCIL

RETURN OF SERVICE

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

On July 5, 2012, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Corporation Service Co., Agent for SunTrust Mortgage, Inc. as follows:

SunTrust Mortgage, Inc.  
c/o Corporation Service Co.  
45 Memorial Circle  
Augusta, Maine

Costs of Service:

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

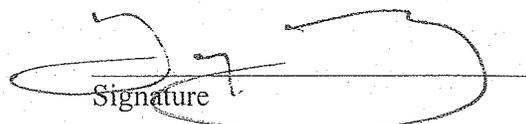
  
Signature  
  
\_\_\_\_\_  
Agency  
HARRY MCKENNEY  
Chief Civil Deputy  
KENNEBEC COUNTY  
SHERIFF'S OFFICE

EXHIBIT E

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

Sean M. Watkins  
172 Fairway Drive  
Auburn, Maine 04210

Nationstar Mortgage, LLC  
c/o Corporation Service Co.  
45 Memorial Circle  
Augusta, Maine 04330

SunTrust Mortgage, Inc.  
Corporation Service Company  
45 Memorial Circle  
Augusta, Maine 04330

**87 BIRCH STREET, LEWISTON, MAINE**

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

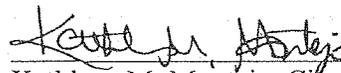
August 14, 2012  
7:00 pm  
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

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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.

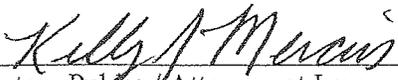
Dated: July 2, 2012

  
\_\_\_\_\_  
Kathleen M. Montejo, City Clerk

STATE OF MAINE  
ANDROSCOGGIN, ss

July 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

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

May 4, 2012

Sean Watkins  
172 Fairway Drive  
Auburn, Maine 04210

RE: 87 Birch Street

Map 196 Parcel 198

Dear Sean Watkins:

An inspection conducted on May 3, 2012 by myself and Corporal Jeffrey Baril found that the building at 87 Birch Street is vacant and has suffered severe deterioration making it unfit for occupancy due to violation(s) of the provisions of Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, as per The Code of Ordinances of the City of Lewiston hereafter referred to as the (Code). The violations include but are not limited to the following: A fire at the primary means of egress entry has damaged the flooring and subsequent structural elements within its proximity. The foundation is unstable and progressively failing causing the building to lean. Part of the heating system has been removed leaving incomplete and inoperative. The building is without required utilities and facilities for habitation.

I hereby condemn and placard the building and property at 73 Bartlett 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, IPMC-108.1 et seq, IPMC-109.1 et seq, IPMC-110.1 et seq, , IPMC-302.1 et seq, IPMC-304.1 et seq, IPMC-305.1 et seq, IPMC-306.1 et seq, IPMC-402.2 et seq, IPMC-504.1 et seq, IPMC-505.1 et seq,, IPMC-506.1 et seq, IPMC-602.1 et seq, IPMC-603.1 et seq, IPMC-604.1 et seq, IPMC-605.1 et seq, IPMC-703.1 et seq and PMC-704.1 et seq 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 15, 2012.**

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 IPMC-108.4.1 stating "the code official shall remove the condemnation and placarding whenever the defect or defects upon which the Condemnation and Placarding were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code."

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

In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 50, Article II, and Section 50-36 thru 50-51 of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred and ten dollars (\$110.00) for the first citation and you will be reordered to abate the outstanding violations in the previous Notices and Orders. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred and 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 fifty dollar (\$150.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section IPMC-107.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,

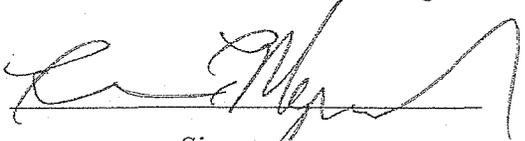
Thomas E Maynard  
Code Enforcement Officer/Constable

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

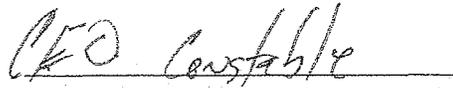
The City of Lewiston is an EOE. For more information, please visit our website @ [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy

# RECORD OF SERVICE

On the 4 day of May, 2012, I, a duly appointed municipal officer/  
law enforcement officer of the City of Lewiston, Maine, made service of a notice of violation dated  
5-4-2012 upon Sean Watkins Owner,  
regarding a condemnation at/on  
the property located at 87 Birch St, by delivering a copy of said  
notice to him/her in hand or a recognized agent.



Signature



Title

# Photographs

①



②



87 Birch St 5-3-12 1:30 PM A E. Mann

EXHIBIT G

Fire Damage

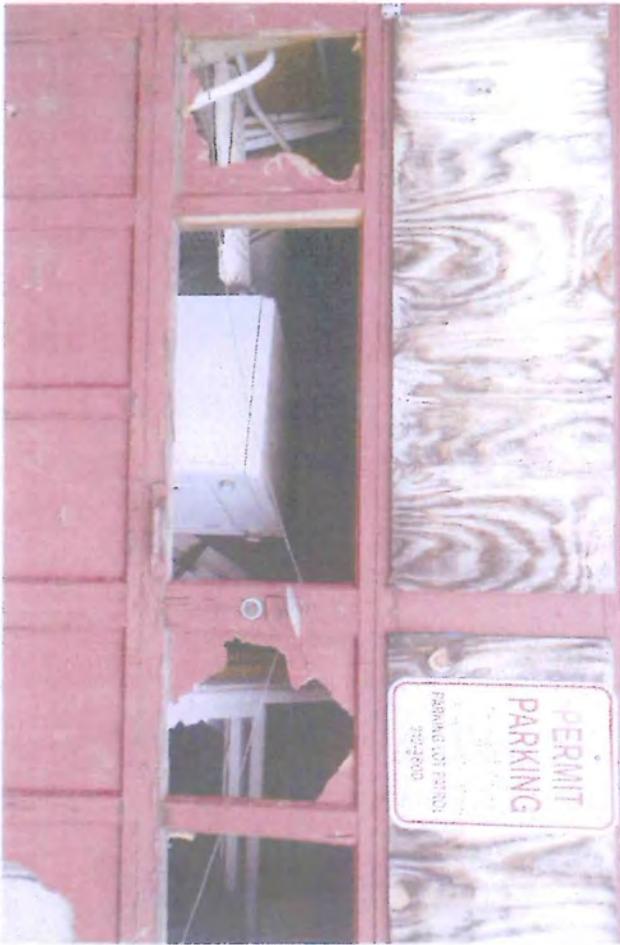
3



4



87 Birch St 5-3-12 1:30 PM



6



5



7  
Damage  
to block  
wall due  
to water,  
frost thaw  
cycles

87 Birch St 5-3-12 1:30 PM

Pat J. Mans

Damaged Walls and Debris



8



11



9



10

87 Birch St 5-3-12 1:30 pm R. S. M. G. H.

Damaged Walls



12



15



13



14

87 Birch St 5B-12 1:30 PM R. F. Maynard

Damaged Ceiling

Removed heat pipes and fins



16



19

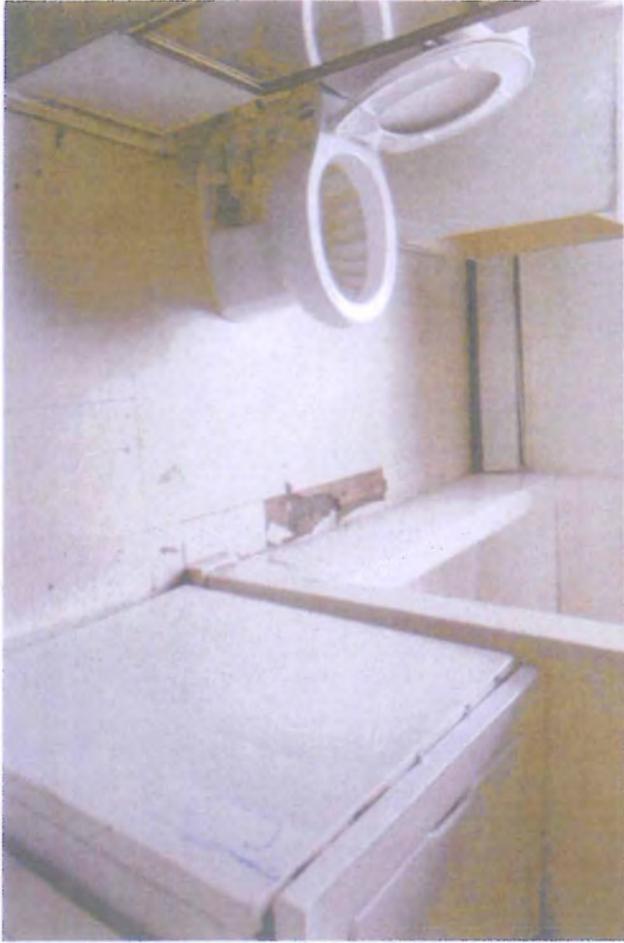


17



18

87 Birch St. 5-3-12 1:30 PM R. E. Mearns



21



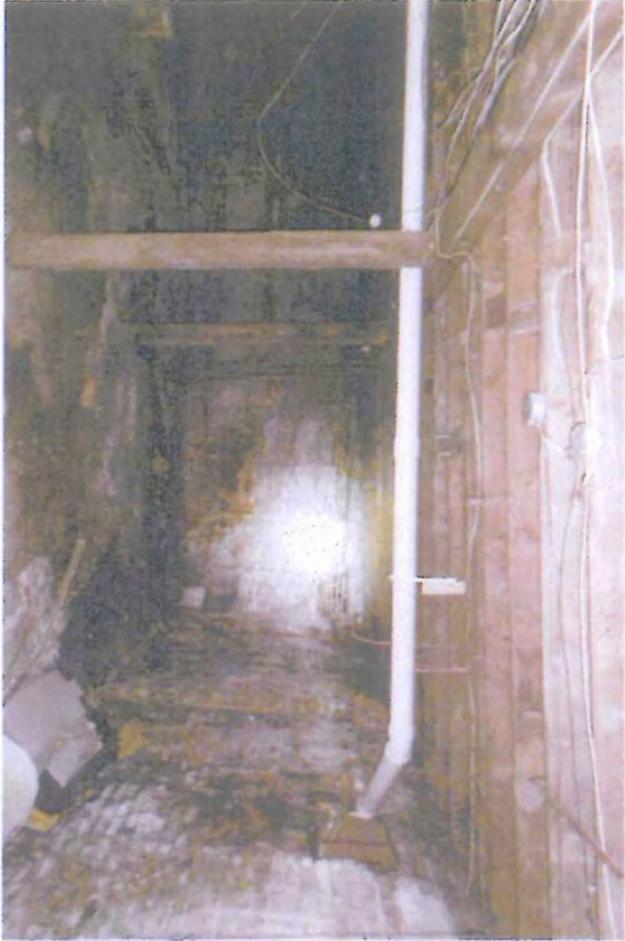
20



Wall and  
door lewin

22

87 Birch 5-3-12 1:30 PM A - C. K. ...



Sloping brick due to settlement.



Leaving walls.

87 Birch St C-3-12 1:30pm R. F. Merrill

Gaps showing exterior wall and original wall-



16



17



18



19

87 Birch St. 7-3-12 e photo re-filled

Charring in chase

30



31



87 Birch St. 5-3-12 1:30pm. R. E. Myrdal

Original Floor



32

Added Floor level



32



31

Original Floor level with plate added to joists



33

87 Birch St. 5-3-12 1:30 PM R. E. N. [Signature]

36



32



Broken Windows.

87 Birch St 7-3-12 10:00 AM R. S. Myer

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 20**

**SUBJECT:**

Public Hearing and First Passage on amendments to the Traffic and Vehicles Ordinance regarding winter nighttime parking

**INFORMATION:**

This proposed ordinance amendment would eliminate the winter nighttime parking ban. During a recent Council workshop, this issue was discussed and the idea of the creation of a central parking lot was also reviewed. However, recent discussions with the tow truck operators has indicated this will not work. Lewiston staff have also reviewed Auburn's procedures for winter night time parking issues and is recommending the elimination of the winter parking ban without the creation of a central parking lot.

Please see the attached memorandum from Deputy City Administrator Phil Nadeau for additional information on this issue.

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

The City Administrator recommends approval of the requested action.

*EA/B/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 70 "Traffic and Vehicles", Section 70-2 "Emergency or temporary regulations", Section 70-158 "Parking time limited on streets; winter nighttime parking" and Section 70-178 "Interference with snow removal", receive first passage by a roll call vote and the public hearing on said ordinance be continued to the next regular City Council meeting..

## AN ORDINANCE PERTAINING TO WINTER NIGHTTIME PARKING

### THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 70 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

#### CHAPTER 70

#### TRAFFIC AND VEHICLES

#### ARTICLE I. IN GENERAL

##### Sec. 70-3. Emergency or temporary regulations.

Whenever the chief of police and public works director, or their designees, shall deem it advisable during an emergency, and only for such a period of time as is necessitated ~~thereby~~ for public safety or convenience, they shall have the power and authority to temporarily impose a ~~no~~ parking ban on any and all streets within the city. The chief of police shall notify the public through any means reasonably available, at least four hours prior to when the ban is to take effect, in addition to. ~~Notwithstanding~~ the imposition of a fine, the chief of police may ~~also~~ cause any vehicle parked in violation of this section to be removed and stored at the owner's expense. The chief of police, ~~or~~ the director of the department of public works, or their designees ~~is~~ are empowered and authorized to temporarily close Lisbon Street, between Chestnut and Main Streets, to vehicular traffic for the purpose of removing snow ~~therefrom~~.

Any vehicle of any kind or description parked upon a public street of the city at any place or in any manner during any emergency parking ban declared under this chapter may be removed by, or under the direction of or at the request of, any police officer of the city to an authorized wrecker impound lot until all the requirements of this chapter are met. Such police officer may use such force as may be necessary to enter the vehicle and cause the same to be placed in a condition to be moved and may summon a licensed tow operator pursuant to the provisions of article IV of this chapter for such purpose.

##### Sec. 70-158. Parking time limited on streets; ~~winter nighttime parking.~~

- (a) ~~When signs are erected in each block giving notice thereof, no~~ No person shall park a vehicle on streets or sections of streets for longer than the period of time specified by the city council and identified by signs erected in each block. ~~thereon between the hours prescribed thereon, upon any of the streets or parts of streets specified by the city council.~~
- (b) ~~Parking vehicles upon any street in the city for more than one hour between the hours of 12:00 midnight and 6:00 a.m. each day during the period commencing December 1 of each year and ending March 31 of the following year is hereby prohibited, except in cases of emergency. Provided, however, that this section shall not apply to such streets as are specified by the city council. No person shall park a~~ vehicle on streets or sections of streets between dates or during times specified by the city council and identified by signs erected in each block.
- (c) ~~The foregoing provisions shall not apply to automobiles belonging to or used by the~~

~~following; physicians, nurses, persons employed in night work and using such automobiles in their business or as a means of conveyance; taxicabs in their regular stands; municipal employees or officers of the city engaged in public business; persons attending a house or establishment where a deceased is being prepared or kept for burial; police or fire departments.~~

**Sec. 70-178. Interference with snow removal.**

No vehicle shall be parked at any time on any public street or way so as to interfere with or hinder the removal of snow from the street or way by the city by plowing, loading, and hauling, and any person parking a vehicle in violation of a parking ban or no parking sign placed on any street or way because of snow plowing, loading, or hauling operations shall be guilty of an offense. Notwithstanding the imposition of a fine, the chief of police or his or her designee may also cause any vehicle so parked to be removed from such street in accordance with the provisions of this chapter.

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



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



## MEMORANDUM

<b>TO:</b>	<b>Mayor and City Council</b>
<b>FROM:</b>	Phil Nadeau, Deputy City Administrator
<b>DATE:</b>	August 6, 2012
<b>RE:</b>	<b>Downtown Neighborhood Action Committee Proposal to Eliminate the Overnight Winter Parking Ban – UPDATE ON CENTRAL PARKING WRECKER LIABILITY</b>

### 1. BACKGROUND

Following the last Council workshop on the winter parking ban issue, questions were raised regarding the cost of liability insurance for wrecking companies in the event that the city chose to utilize a central impound lot.

The Downtown Neighborhood Advisory Board (DNAC ) has advocated for the elimination of the overnight winter parking ban but has not formally endorsed a proposal for the elimination of the ban conditional upon the acceptance of a central lot.

It should also be noted that of the largest cities in Maine, Lewiston is the only city that continues to enforce an overnight winter parking ban. Auburn eliminated the overnight winter parking ban three years ago and has encountered no public sentiment supporting the reintroduction of the ban.

I met with Lewiston wrecker representatives on June 27<sup>th</sup> and followed up that meeting with a telephone conference with Lewiston wrecker representatives and Portland PD parking enforcement. The results of those conversations regarding the costs of liability coverage and other related issues are listed below:

## 2. COST INFO

- Portland officials have reported that all aspects of vehicle management at the lot, which include the unhooking and re-hooking the vehicle, are supervised by city personnel at the lot. This would mean that Lewiston would need to cover the lot during every hour of operation with one additional staff position (no less than three people to cover multiple shifts) in addition to the police officer, raising the labor cost for the city.
- Portland police also make a point of inspecting every vehicle before it is hooked by the wrecker. All visible damage on the vehicle is recorded on a written report by Portland PD on every vehicle towed to the central lot.
- The combination of the Portland PD vehicle inspection and the supervision of the towed vehicle, both when it is delivered and when it is picked up, provides ample protection from false damage accusations for Portland wreckers and significantly reduces their liability exposure.
- The City of Portland pays for additional central lot liability insurance coverage in the event that personal effects are stolen from the vehicle while in the possession of the city. Given that this has rarely occurred with the level of supervision at the Portland central lot, the cost is nominal for the city.
- The car remains the property of the wrecker once they hook up on the street.
- Though not many cars remain after most storms, the "retow" from the central parking lot to the wrecker company lot is paid for by the City of Portland (no figures available on this cost). The \$25 cost for the retow is regulated by city ordinance as is the cost for the initial tow of \$70. The Lewiston wrecking companies have shared that the Portland wrecking companies are approaching the City of Portland to increase both fees.
- It was very difficult for the local wrecking companies to get a specific dollar amount, but Maine Municipal Association agreed that Portland's staff coverage at their central lot operation most likely reduces the liability cost to nominal levels for the Portland wrecking companies.
- For the record, Public Works Director Dave Jones has publicly stated on several occasions that it is likely that the elimination of the overnight ban will result in increased staff and plowing time in those instances where cars are not removed quickly enough by wrecking companies. Wrecking companies believe that they have the capacity to meet the demand but acknowledge that, depending on the severity of the storm, there may be instances where tow trucks may not be able to stay ahead of PW plowing needs.
- We will amend Section 42 of the Policy Manual and add a new line in the "Parking Violation Payment Schedule" as follows: Emergency Parking Ban Violation: \$30. Currently, violators pay \$24 for violation of the existing overnight parking ban and \$29 for violation of the overnight parking ban during snow plowing operations. This new violation fee will be consistent with both Auburn and Portland.

## 3. OPTIONS

- A. Approve the elimination of the winter ban without the central lot. This will require a minimum number of code changes. If the Council consensus is to move forward with a formal vote, city staff will conduct a full review of roads with a focus on

- reviewing what additional streets should be designated with restricted parking on one side of street, prohibiting overnight parking year round, etc.).
- B. Approve the elimination of the winter parking ban with a central lot (will also involve same staff street review mentioned above).
  - C. Keep the existing ban.

#### 4. RECOMMENDATION

Given the costs associated with a central impound lot and the concerns expressed about it by representatives of Lewiston's wrecker community, and the successful implementation of a declared emergency parking ban system (without a central impound lot) in Auburn, I would recommend that we move forward the elimination of the parking ban as outline in Option A above.

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 21**

**SUBJECT:**

Order authorizing the City Administrator to enter into lease negotiations with Casella Waste Systems for the purpose of establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility.

**INFORMATION:**

Casella Waste Systems has made a proposal to the City regarding the establishment of a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility. The attached material from the City Administrator provides additional background on this issue.

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

The City Administrator recommends approval of the requested action.

*EATSKmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order authorizing the City Administrator to enter into lease negotiations with Casella Waste Systems for the purpose of establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility.



**City of Lewiston Maine  
City Council Order  
August 14, 2012**



**Order,** Authorizing the City Administrator to Enter into Lease Negotiations with Casella Waste Systems for the Purpose of Establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility.

Whereas, Casella Resource Solutions has approached the City with a proposal to establish a Zero-Sort materials recovery facility at the City's solid waste facility; and

Whereas, this would involve an investment of \$4 million to retrofit and add a 15,000 square foot expansion to the existing transfer station; and

Whereas, the proposal presents a number of potential advantages to the City including enhanced use of the currently underutilized transfer station, additional employment, new real and personal property taxes, annual lease payments, reduced costs associated with our own recycling program, and the potential growth and expansion of recycling programs in Lewiston and throughout the region; and

Whereas, this proposal would not affect the City's landfill which will continue to be owned and operated directly by the City;

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

the City Administrator is authorized to enter into lease negotiations with Casella Waste Systems for the Purpose of Establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility, such lease to be subject to final review and approval by the City Council.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



---

August 8, 2012

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: Proposed Materials Recovery Facility, City Solid Waste Facility

The City has been approached by Casella Resource Solutions about potentially establishing a single-sort recycling processing facility at our solid waste complex on River Road. The city currently contracts with Casella to transport our recyclables to its facility in Charlestown, Massachusetts, which also handles materials from other Casella customers in Maine. At Charlestown, recyclables are sorted, separated, and shipped to customers to be used in new products.

Under this proposal, a similar operation would be established in Lewiston. Casella estimates that this would involve an investment of \$4 million to retrofit and add a 15,000 square foot expansion to our existing transfer station. Materials would be received from customers throughout Maine. Casella estimates that about 25 jobs would be created with an annual payroll of \$1 million.

The City's current facility is primarily used to transfer zero sort materials from Lewiston and a number of surrounding communities. Materials are brought to the station, transferred into larger vehicles, and shipped to Charleston. Given the size of our facility, it is significantly underutilized.

This proposal would not include the City's landfill which will continue to be owned, operated, and overseen by the City and our employees.

This proposal presents a number of potential advantages to the City including:

- Enhanced use of our currently underutilized transfer station building
- Additional employment
- Enhanced real and personal property taxes
- Annual lease payments
- Reduced costs associated with our zero-sort recycling program since material will no longer need to be shipped to Massachusetts
- Potential growth in the acceptance of zero-sort recycling by other communities due to a reduction in shipping costs.

This proposal was recently reviewed by the Council in a workshop where it appeared to be well received. This order will authorize the City Administrator to begin negotiations with Casella.

# City of Lewiston Zero-Sort® Recycling Facility

Council Workshop

August 7, 2012



# Table of Contents

<u>Description</u>	<u>Page #</u>
Casella's Philosophy	3
Leader in Zero-Sort® Recycling	4-5
Recycling/Diversion Rates	6
Our Facilities	7
Why Lewiston	8
Proposed Lewiston Zero-Sort® Facility	9
Lewiston's Zero-Sort® Facility	10
Proposed Site layout	11
Conceptual Zero-Sort® Design	12
Summary	13

# Casella's Philosophy

- *To Casella, green is much more than an empty promise or marketing tactic...*
  - *It's our livelihood.*
- *We work closely with our customers to recover resources by diverting more and more material from the waste stream.*
  - *For whatever is left over, we provide safe and responsible disposal solutions.*
- *Casella's commitment to our customers and to resource management earned Casella the recognition as a Climate Leader by the Environmental Protection Agency (EPA).*
- *Casella is the largest recycler in the State of Maine.*
- *In short, Casella's goal is to transform everything we touch in to something reusable to create a better tomorrow.*

Zero-Sort® is how recycling gets done...

# Leader in Zero-Sort® Recycling



- Casella operates 5 state-of-the-art Zero-Sort® recycling facilities across the Northeast, processing and marketing 500,000 tons annually
  - *Charlestown, MA (Lewiston tons are shipped to Charlestown, MA)*
  - *Auburn, MA*
  - *Ontario County, NY*
  - *Rutland, VT*
  - *Tompkins County, NY ( Joint Venture Facility)*
- Zero-Sort maximizes collection efficiency and increases participation and recovery
- Zero-Sort puts more of your stuff back out into the world as a resource and less of it into the landfill
- Cans become new cans, paper becomes insulation, recycled steel takes families on vacation
- Zero-Sort® Recycling results in a reduction in our greenhouse gas emissions

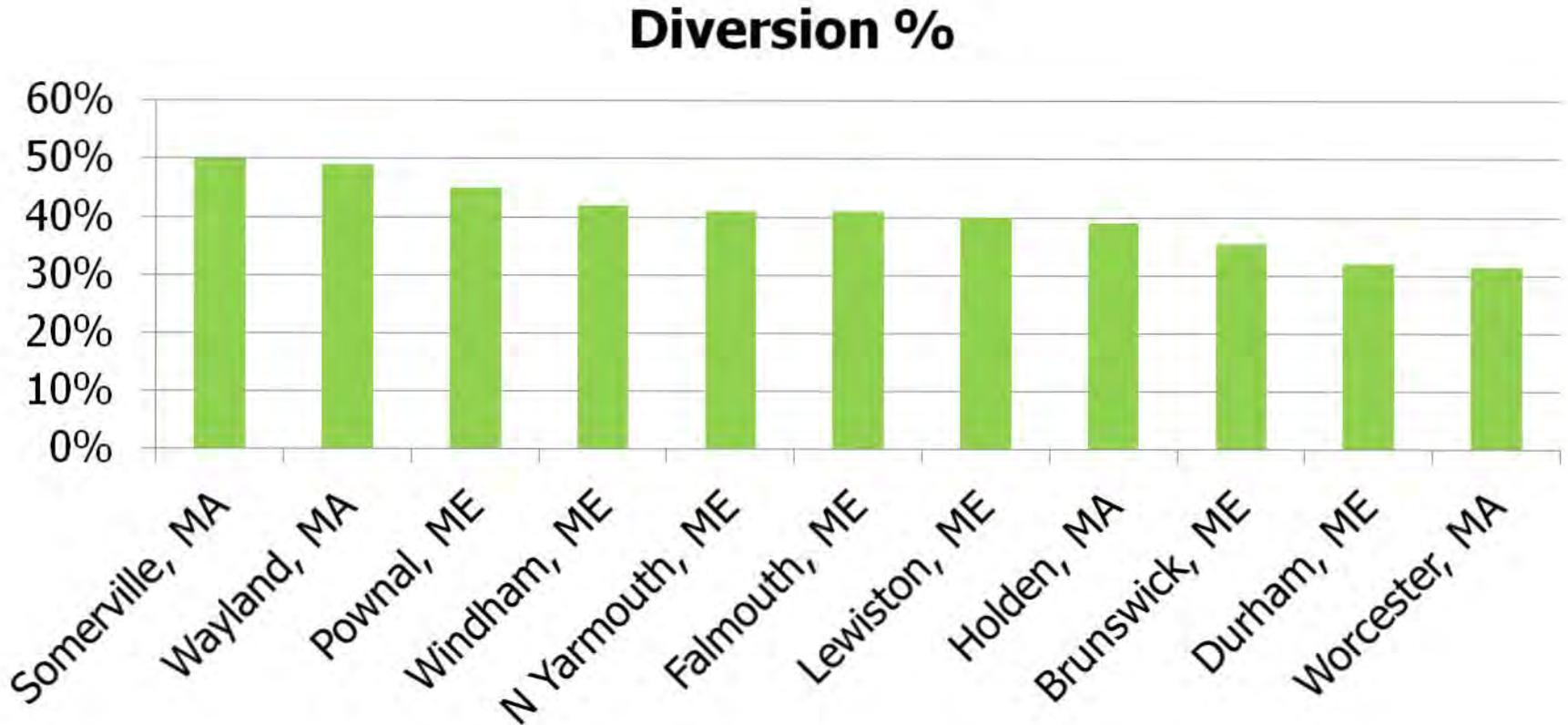


# Leader in Zero-Sort<sup>®</sup> Recycling

- **In 2011 Casella Handled 109,532 Tons of Recyclable Materials in the State of Maine**
- **What does Zero Sort<sup>®</sup> mean to our customers?**
  - Increases Landfill Life
    - Brunswick: 30% reduction in disposal volumes or 1,500 tons per year not entering the landfill
  - Significant disposal savings through increased recycling rates
  - Zero Sort Recycling<sup>™</sup> makes education and implementation easier
  - Customers Love the program , it's easy and it makes them feel good about doing the right thing
  - Zero-Sort<sup>®</sup> is about going **GREEN**

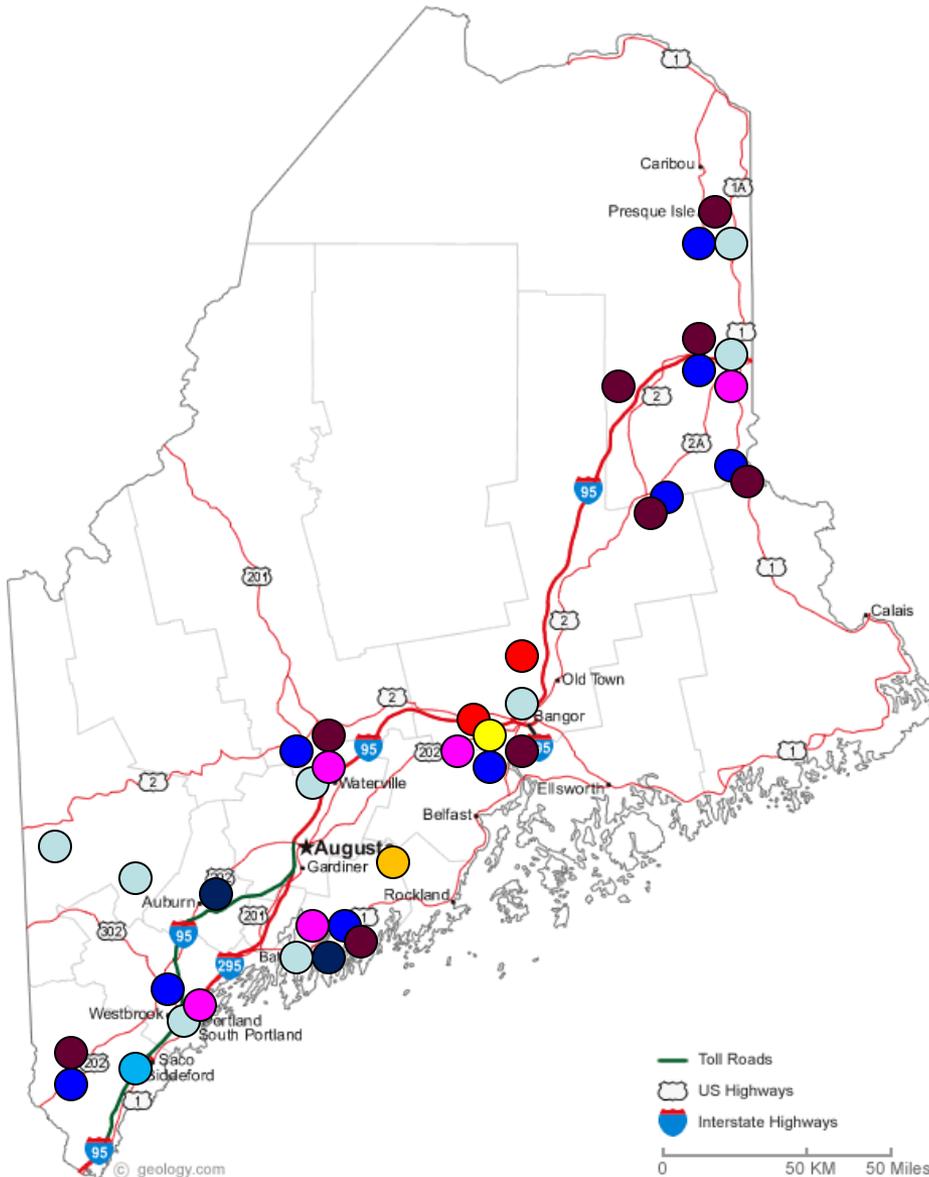


# Examples of Recycling Rates



Recycling has reduced the overall disposal costs of solid waste management in all the communities we serve.

# Our Facilities in Maine



## Casella Facilities\* in Maine 2011

•Owned or Operated

- |   |  |   |                        |
|---|--|---|------------------------|
| 8 | HAULING COMPANIES                            | 9 | TRANSFER STATIONS      |
| 5 | RECYCLING FACILITIES                         | 2 | LANDFILLS              |
| 9 | UNIVERSAL & E-WASTE CONSOLIDATION FACILITIES | 1 | ORGANICS FACILITY      |
| 1 | WASTE-TO-ENERGY                              | 1 | GAS-TO-ENERGY FACILITY |
| 2 | C&D PROCESSING FACILITIES                    |   |                        |

# Why Lewiston

- For the very same reasons Lewiston has become the Distribution Center for many companies in Maine!
  - Lewiston values corporate partnerships and the need for job creation
  - Lewiston is an excellent geographic and logistic location to minimize trucking and fuel usage. Less Greenhouse Gas emissions.
  - Lewiston encourages innovation, creativity and is committed to the future of sustainability
  - The Lewiston area offers significant recycling growth as well as being a recycling hub for other Maine communities.
  - Proposed site is perfect for access and is under utilized
  - Casella has over 25 years of history working cooperatively with Lewiston
- Lewiston is ideal for showcasing a Casella Zero-Sort® Facility



# Proposed Lewiston Zero-Sort® Facility

- Casella's estimated investment would be approximately \$4 million to retro-fit the existing Lewiston Transfer Station
- The proposed facility would create **25** new good paying jobs to Lewiston's economy
  - \$1M in annual payroll at full facility capacity
- Financial Benefits for the City of Lewiston
  - Real Estate Taxes
  - Personal Property Taxes
  - 30 year lease agreement
  - Savings in operating costs at existing facility
  - Job creation results in higher spending in the community
- Locating a Zero-Sort® Recycling facility at Lewiston's solid waste facility would reduce the cost of Zero-Sort® recycling and make it more affordable for and accessible to Maine's communities.



# Lewiston's Zero-Sort<sup>®</sup> Facility

- Hours of Operation
  - M-F - 7am – 5pm, Sat 8am – 12pm
- Inbound Volume
  - Beginning volume is approximately 20K tons per year
  - Expected growth will maximize the facility at approximately 45K tons per year
- Traffic
  - 10 trucks initially and 20 trucks at full capacity per day of inbound volume
  - 5 trucks initially and 10 trucks at full capacity per day of marketed volume outbound
  - 25 employees initially and 35 employees at full capacity
- Average % of materials recycled is 92.5%
- Average % of residue from processing is currently 7.5%
- Casella will assume all operating costs associated with the facility including the operation of the scale, utilities, site maintenance, etc...

# Proposed Site Layout





# Summary

- Partnership with Maine's largest recycler to increase recycling and save valuable landfill space across the State of Maine
- Financial benefits for the City of Lewiston and putting to work an underutilized transfer station in an excellent geographic/logistic location
- Lewiston would be the showcase for Zero-Sort® in Maine
- Lewiston would be the recycling hub for Maine communities
- 25 new full-time jobs
- Real Estate & Personal Property Tax benefits
- Zero-Sort® is how recycling gets done...



casella  
waste systems, inc.



# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 22**

**SUBJECT:**

To initiate a request to the Planning Board to review and study the proposed zoning district regarding Parks and Open Space.

**INFORMATION:**

City staff is recommending the creation of a new zoning district regarding parks and open space. The staff has drafted proposed language regarding this issue and is presenting it to the City Council for their review and consideration. If the City Council feels this topic is worthwhile, they are asked to vote to formally request that the Planning Board review this issue and report back to the Council with their recommendations regarding the Land Use Code amendment to incorporate this new zoning district.

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

The City Administrator recommends the requested action.



**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To initiate a request to the Planning Board to review and study the proposed zoning district regarding Parks and Open Space and to make a recommendation back to the City Council regarding an amendment to the Land Use Code for this new proposed district.

# MEMORANDUM

TO: Mayor Robert E. Macdonald  
Members of the City Council

FR: Gildace J. Arsenault, Director of Planning and Code Enforcement

RE: Parks and Open Space District – City Council Meeting of August 14, 2012

DT: August 9, 2012

Included with your materials for the Council meeting of August 14<sup>th</sup> is a proposed amendment to the Zoning and Land Use Code for the creation of a Parks and Recreation District.

Staff has taken the initiative to draft an amendment to the Zoning and Land Use Code to create a Parks and Recreation district. This proposed new district is in part driven by the recently adopted *Riverfront Island Master Plan*. The purpose for the creation of this new district is to ensure that our parks and open spaces are preserved for the public while at the same time ensuring that they will support appropriate uses such as those identified in the new Master Plan for Simard-Payne Park. This new district will likely encompass all City owned parks and open space.

I encourage you to send this proposed Parks and Open Space District to Planning Board for their review and recommendation. If you elect to forward this matter to the Planning Board the following motion or a motion to such effect should be made: **In accordance with Appendix A, Article XVII., Amendments and Other Legal Provisions, Section 5(b), I move to refer to the Planning Board a proposal to amend Appendix A, Article XI to make a recommendation on the creation of a Parks and Open Space District.**

I plan to attend your meeting of August 14<sup>th</sup> to assist in any way possible with respect to this initiative.

Thank you.

**AN ORDINANCE PERTAINING TO THE OFFICIAL ZONING BOUNDARIES AND  
PARKS AND RECREATION DISTRICT**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

**APPENDIX A**

**ZONING AND LAND USE CODE**

**ARTICLE XI. DISTRICT REGULATIONS**

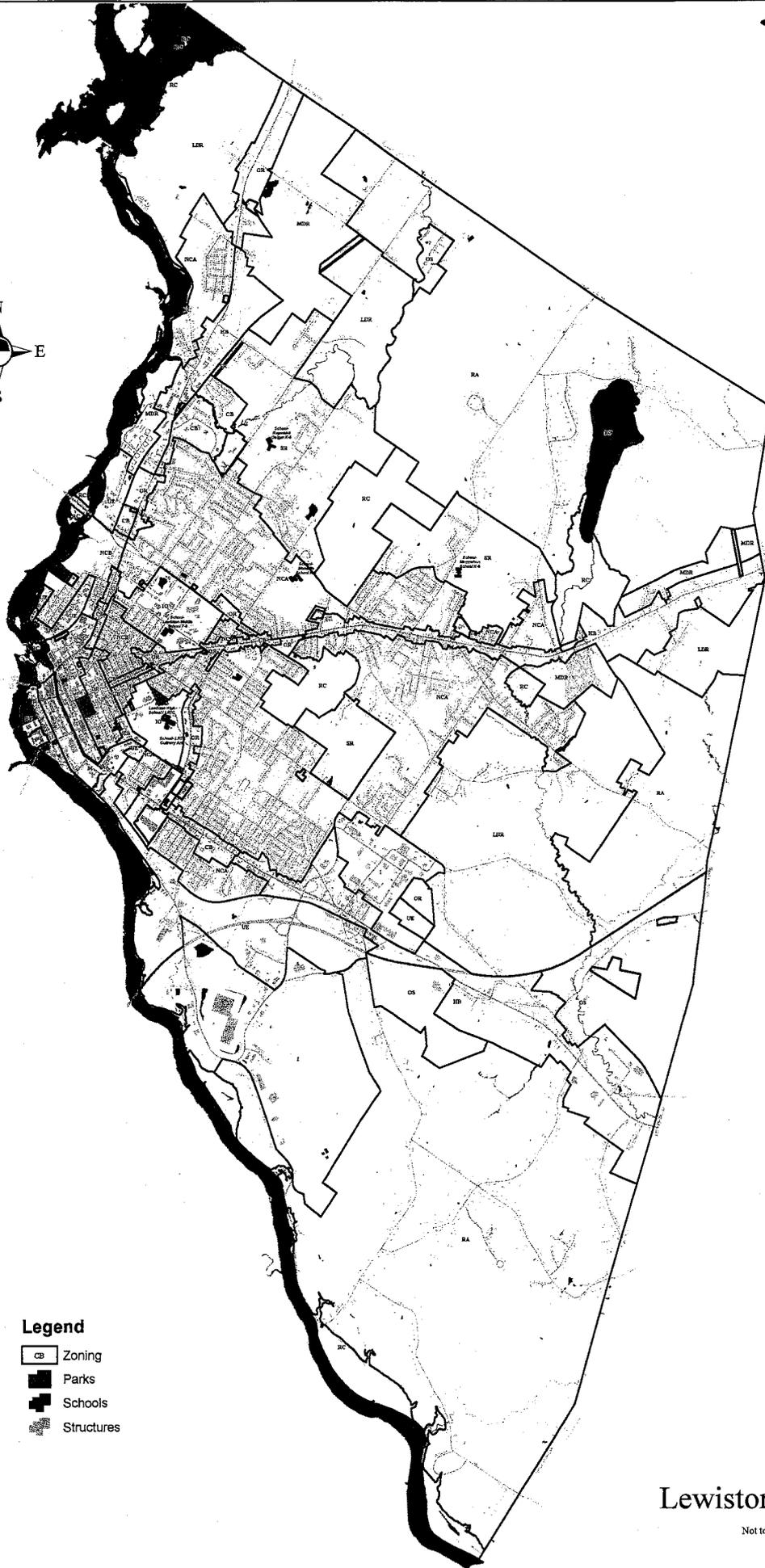
**Sec. 22. Parks and Recreation District (PR).**

1. *Statement of purpose.* The purpose of the parks and recreation district is to govern land uses for those properties managed or owned by the City of Lewiston for park and recreation purposes; to preserve and protect open space as a limited and valuable resource; and, to permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area.

2. *Applicability.* The standards of the parks and recreation district shall apply to all land shown on the "Official Zoning Map, City of Lewiston, as being located within the parks and recreation district.

3. *Permitted Uses.* In a parks and recreation district, any new building or structure which is constructed, any existing building or structure or part thereof which is used, altered or enlarged and any parcel of land, whether in whole or in part, may be used for one or more of the following:

- (1) Open space uses, which include the retention of land in its natural state or the provision of such uses which are compatible with the natural state and the natural environment, including but not limited to walking and hiking trails, nature trails and rehabilitating land to its natural state;
- (2) Municipal parks, public open spaces, picnic areas;
- (3) Facilities, structures and uses that are designed for park, outdoor recreation, educational and sport activities;
- (4) Park infrastructure including but not limited to parking, access roads, utilities, sanitary dump stations, restrooms, showers, vault toilets, safety and security lighting, fee stations, park offices, park residential units for caretakers, park manager and other;
- (5) Outdoor courts without night play lighting for soccer, football, baseball, softball, lacrosse, field hockey, rugby, etc.
- (6) Playgrounds;
- (7) Water front uses, which include but are not limited to, walking and hiking trails, boat ramps, pedestrian bridges, beaches, and marinas for public uses;



**Legend**

-  Zoning
-  Parks
-  Schools
-  Structures

Lewiston, Maine

Not to Scale

# LEWISTON CITY COUNCIL

## MEETING OF AUGUST 14, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 23**

**SUBJECT:**

Resolve calling upon the Maine Department of Transportation to perform maintenance and repairs on the Wiseman Bridge.

**INFORMATION:**

The City Administrator has prepared a Resolve for Council consideration which requests the Maine Department of Transportation to make the necessary repairs to the Wiseman Bridge. Please see the attached material for additional details.

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

The City Administrator recommends the requested action.

*EATSKmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve calling upon the Maine Department of Transportation to perform maintenance and repairs on the Wiseman Bridge.



**City of Lewiston Maine  
City Council Resolve  
August 14, 2012**



**Resolve,** Calling Upon the Maine Department of Transportation to Perform Maintenance and Repairs on the Wiseman Bridge

Whereas, the Wiseman Bridge was constructed in 1927 to carry vehicle and pedestrian traffic over the Lewiston Canal system adjacent to the Bates and Hill Mills; and

Whereas, the Bates Mill Complex and associated canal system were placed on the National Register of Historic Places in 2010; and

Whereas, the unique construction and appearance of the Wiseman bridge contributes to the historic character of the City's mill district; and

Whereas, the bridge is visibly deteriorating as shown by spalling concrete, exposed and rusting rebar, and curb and sidewalk deficiencies; and

Whereas, these conditions have been repeatedly brought to the attention of the Maine Department of Transportation, the entity responsible for maintaining this bridge; and

Whereas, while we have been assured that the bridge remains structurally sound, the Department's failure to address these maintenance issues is likely, over time, to negatively impact the future of this structure; and

Whereas, the bridge's appearance detracts from the efforts of the City and private developers to renovate and reuse the adjacent historic mill structures; and

Whereas, its appearance also detracts from the City's efforts to implement the recently adopted Riverfront Island Master Plan;

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

We call upon the Maine Department of Transportation to undertake maintenance activities on the Wiseman Bridge that will improve its appearance and extend the useful life of this historic and icon structure.

06/25/2012 07:39 AM

06/25/2012 07:41 AM

06/25/2012 07:42 AM

06/25/2012 07:43 AM

06/25/2012 07:44 AM

**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 24**

**SUBJECT:**

Resolve supporting the Lewiston-Auburn Transit Committee's (LATC) Intercity Transit.

**INFORMATION:**

The Deputy City Administrator has prepared a Resolve for Council consideration supporting the Lewiston-Auburn Transit Committee's Intercity Transit planning efforts.. Please see the attached memorandum for additional details.

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

The City Administrator recommends the requested action.

*ETAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve supporting the Lewiston-Auburn Transit Committee's Intercity Transit.



**City of Lewiston Maine  
City Council Resolve  
August 14, 2012**



**Resolve,** Supporting the Lewiston-Auburn Transit Committee's (LATC) Intercity Transit.

Whereas, an interlocal agreement between the cities of Lewiston and Auburn has designated the LATC to oversee and manage fixed public transit in the Lewiston-Auburn area; and

Whereas, the LATC believes that this vital intercity service could be enhanced with an affordable fixed public commuter service that would connect residents with more opportunities to work and travel to communities outside of Lewiston and Auburn; and

Whereas, the LATC also recognizes that any short or long term planning for extending fixed commuter service must involve the transportation planning organizations of the Androscoggin Transportation Resource Center and the Metropolitan Planning Organization; and

Whereas, the LATC understands that any proposal to extend fixed transit operations beyond Lewiston-Auburn must be supported by the City Councils of Lewiston and Auburn;

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

The City supports the resolution approved by the Lewiston-Auburn Transit Committee which reads as follows:

The Lewiston-Auburn Transit Committee hereby supports transit planning efforts conducted by the Androscoggin Transportation Resource Center and other such planning agencies, to improve transit services into and out of the Lewiston-Auburn area, and will incorporate new services that are feasible and financially viable into the Lewiston-Auburn Transit Committee's public transit system.



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



## MEMORANDUM

<b>TO:</b>	<b>Mayor and City Council</b>
<b>FROM:</b>	Phil Nadeau, Deputy City Administrator
<b>DATE:</b>	August 14, 2012
<b>RE:</b>	<b>Lewiston-Auburn Transit Committee (LATC) Resolution</b>

### 1. BACKGROUND

Mayor Labonte and I have had multiple discussions on the matter of commuter services for Lewiston-Auburn residents who want to access daily travel outside of L-A for work or play. Mayor Labonte and I have also discussed the LATC's mission to provide fixed transit services within Lewiston-Auburn as defined within its interlocal agreement and how our local transit planning for the system must also work as part of the transportation planning process overseen by the Androscoggin Transportation Resource Center and our Metropolitan Planning Organization.

The results of those discussions, and the work of Councilor Saddemire have produced a resolution which articulates the LATC's support for enhancing its local fixed transit system with a fixed commuter service to connect people with communities outside of L-A. The resolution also makes clear that any proposal for services outside of L-A will involve its transportation planning agencies and must, in the end, be supported by both city councils. The resolution was approved by the LATC.

### 2. RECOMMENDATION

To support the LATC resolution.

RESOLVE

A RESOLUTION OF THE LEWISTON-AUBURN TRANSIT COMMITTEE AS IT  
RELATES TO INTERCITY TRANSIT

WHEREAS, the Lewiston-Auburn Transit Committee was established by the City of Lewiston and the City of Auburn to maintain public transit in the Lewiston and Auburn area through securing financial assistance and implementing a short- and long-range bus transit development program on behalf of the Cities of Lewiston and Auburn; and,

WHEREAS, the Lewiston-Auburn Transit Committee recognizes that affordable public intercity transit and/or commuter service between Lewiston and Auburn and other communities does not exist; and,

WHEREAS, the Lewiston-Auburn Transit Committee relies on the Androscoggin Transportation Resource Center, the Metropolitan Planning Organization for the greater Lewiston-Auburn area, to perform long range and regional transit planning; and,

WHEREAS, the Lewiston-Auburn Transit Committee established by the cities of Lewiston and Auburn, will change its purpose and service area only if both the City of Lewiston and the City of Auburn authorizes such a change.

NOW, THEREFORE, BE IT RESOLVED BY THE LEWISTON-AUBURN TRANSIT COMMITTEE, THAT:

The Lewiston-Auburn Transit Committee hereby supports transit planning efforts conducted by the Androscoggin Transportation Resource Center and other such planning agencies, to improve transit services into and out of the Lewiston-Auburn area, and will incorporate new services that are feasible and financially viable into the Lewiston-Auburn Transit Committee's public transit system.

**LEWISTON CITY COUNCIL**  
**MEETING OF AUGUST 14, 2012**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 27**

**SUBJECT:**

Executive Session to discuss Real Estate negotiations, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**INFORMATION:**

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

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

The City Administrator recommends approval of the requested action.

**REQUESTED ACTION:**

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