

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
MAY 21, 2013**

- 6:30 p.m. Workshop** A. Overview of LCIP Bond Issue Projects (15 minutes)
 B. Review of draft ordinance regarding synthetic drugs (15 minutes)

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag.
Moment of Silence.

Lewiston Youth Advisory Council Update

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 5.

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 to designate two “police vehicle only” parking spaces on Bates Street.
- * 2. Amendment to the Traffic Schedule regarding parking prohibited on a portion of Strawberry Avenue and Tall Pines Drive.
- * 3. Authorization to accept transfer of forfeiture funds.

REGULAR BUSINESS:

- 4. Public Hearing on a new liquor license application for Bua Thai & Sushi, 703 Sabattus Street.
- 5. Public Hearing for approval of an Outdoor Entertainment Permit for an outdoor music concert event to be held at the Simard-Payne Park and request for use of city services for the event.
- 6. Public Hearing & Final Passage for Land Use Code Amendments concerning floodplain administration and management.
- 7. Public Hearing and First & Final Passage regarding an Emergency Ordinance for amendments to the Buildings and Building Regulations ordinance regarding dangerous structures and removal of debris and materials.
- 8. Condemnation Hearing for the building located at 5 Peter Boulevard.
- 9. Public Hearing on a proposed increase in Water Rates and approval of amendments to Policy Manual 69 regarding the water rates and charges.
- 10. Resolve approving a capital project to improve safety at Montello Elementary School and transferring various bond proceeds for this purpose.
- 11. Order authorizing the City Administrator to enter into an Agreement with St. Mary’s Health System for the use of the Municipal Surface Parking Lot and Adjacent Properties at the corner of Main and Lincoln Streets for a Sunday Farmer’s Market.
- 12. Reports and Updates.
- 13. Any other City Business Councilors or others may have relating to Lewiston City Government.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
MAY 21, 2013
6:30 P.M.

1. Overview of LCIP Bond Projects (15 minutes)

The City Council will be asked to take action on a bond order at its June 4, 2013 meeting. Prior to finalizing that order and placing the public notice, we would like to review the anticipated projects with you. A listing of the proposed projects is attached that shows the original amount requested in the LCIP and those projects that we are actually recommending for LCIP funding. If approved, these would total \$5,421,625 for the City's General Fund. This is below the 80% policy limit of \$5,873,672. As you review these projects, please also keep in mind that some capital funding is also provided within the CDBG and General Fund budget. In particular, just under \$400,000 will be available from these sources for acquisition and demolition projects.

2. Ordinance Regulating the Sale and Possession of Synthetic Drugs (15 minutes)

The Police Department is requesting that the City Council consider adopting a new ordinance regulating the sale and possession of synthetic drugs. This ordinance is addressed at a class of drugs known initially as bath salts. As regulations have been placed on these substances, manufacturers have slightly modified them to sidestep the regulations. This ordinance would address that issue and is modeled after ordinances adopted in several other communities, most notably Bangor which has experienced significant problems associated with these drugs. We would like to review the proposed ordinance with you prior to introducing it for formal consideration.

City of Lewiston
2014 LCIP Projects List

Department	Request	Requested Amount	CA Recom.	Amount Eliminated	Amortization
911	911 Server Virtualization Phase III	49,500	49,500		5
Economic Dev.	Wayfinding Signs	50,000	50,000		5
Economic Dev.	Demolition Bates Mill #5	2,500,000	2,500,000		20
Economic Dev.	Demolition Pettingill School	130,000	130,000		7
MIS	Hardware Replacement	132,600	132,600		7
MIS	Software Replacement	221,225	221,225		10
PW Buildings	Parking Garage Signs	100,000	-	100,000	
PW Buildings	PW Wash Facility	450,000	-	450,000	
Armory	Exterior Energy Improvements	200,000	200,000		10
Highway	Road Construction	350,000	350,000		10
Highway	Road Rehab	630,000	630,000		15
Highway	Walnut Street	360,000	360,000		15
Highway	PW Storage & Improvements	310,000	310,000		15
Highway	Main St. Traffic Imp. - Local	176,300	176,300		10
Landscape	Don Rioux Field - Art. Turf	187,000	187,000		10
Landscape	Track Resurfacing	50,000	50,000		5
Landscape	Marcotte Playground Imp.	75,000	75,000		5
Municipal Garage	Vehicles - 18	1,348,750	-	1,348,750	
	Total General Fund Requests	7,320,375	5,421,625	1,898,750	
School	Martel Site Work - 2 Portables	50,000		50,000	5
School	Geiger Site Work - 4 Portables	55,000		55,000	5
School	Don Rioux Field - Art. Turf	187,000	187,000		10
School	Track Resurfacing	50,000	50,000		5
School	LHS Waterproof Exterior Walls	69,000	69,000		5
School	District Classroom Door Locks	104,000	104,000		10
	Total School Requests	515,000	410,000	105,000	
Water	LA Treatment Program	250,000	250,000		15
Water	Distribution Main Replacement	1,713,000	1,713,000		15
Water	Tank Mixing System	100,000	100,000		10
	Total Water Fund Requests	2,063,000	2,063,000		
Sewer	Sanitary Sewer Main Rehabilitation	556,000	556,000		15
Sewer	Interceptor Inspection & Rehabilitation	200,000	200,000		15
Sewer	Inflow/Infiltration Removal Program	450,000	450,000		20
Sewer	Jepson Brook Drainage Area	1,000,000	1,000,000		20
Sewer	Oak Street Sewer Separation	200,000	200,000		15
Sewer	CSO 15 Year Master Plan	75,000	75,000		5
	Total Sewer Fund Requests	2,481,000	2,481,000		
Stormwater	Hart Brook Water Quality Restoration	150,000	150,000		10
Stormwater	Storm Drain for Road Rehab. Projects	282,000	282,000		15
Stormwater	Belleview Ave. Drainage Improvements	75,000	75,000		5
Stormwater	Gould Road Storm Drain Repair	150,000	150,000		10
Stormwater	Jepson Brook Channel Study	100,000	100,000		10
Stormwater	Jepson Brook Drainage Area	1,000,000	1,000,000		20
Stormwater	Oak Street Sewer Separation	200,000	200,000		15
Stormwater	CSO 15 Year Master Plan	75,000	75,000		5
	Total Stormwater Fund Requests	2,032,000	2,032,000		
	Total 2014 LCIP Requests	14,411,375	12,407,625	2,003,750	

ORDINANCE, Establishing New Chapter, Synthetic Drugs, of the Code of the City of Lewiston

WHEREAS, new herbal and/or chemical mixtures are being marketed and sold in the City which are not necessarily controlled by federal or state law but which are designed and marketed to mimic the effects of controlled substances;

WHEREAS, according to the Drug Enforcement Administration (DEA), synthetic cannabinoids, also known as "Spice" or "K2," are mixtures of herbs and spices that are typically sprayed with a synthetic compound chemically similar to THC, the psychoactive ingredients in marijuana. These products are available for purchase in various retail outlets, tobacco shops, head shops, and over the internet. The products are often marketed as "incense" that can be smoked. The product sometimes resembles potpourri, but can also be found in liquid form to be smoked in electronic cigarettes, or as a food "additive." These products produce psychological effects similar to those of marijuana, which include, but are not limited to, paranoia, panic attacks, and giddiness. The short term physiological effects include increased heart rate and increased blood pressure, and the long term physiological effects are unknown. The DEA has placed a number of synthetic cannabinoids into Schedule I (the class of substances that carry a high potential for abuse and have no currently accepted medical use) of the Controlled Substances Act (CSA), 21 USC §§ 81 et seq.), finding that placement into Schedule I was necessary to prevent an imminent hazard to the public safety;

WHEREAS, according to the DEA, synthetic cathinones, also known as "Bath Salts," are chemicals that are synthetic derivatives of cathinones, a central nervous system stimulant. These products are available for purchase in various retail outlets, tobacco shops, head shops, and over the internet. The products are sold in powder, tablet, and capsule form, and are usually ingested by sniffing/snorting but can also be taken orally, smoked, or put into a solution and injected. These products can produce agitation, insomnia, irritability, dizziness, depression, paranoia, delusions, suicidal thoughts, seizures, and panic attacks. Users have also reported effects such as impaired perception of reality, reduced motor control, and decreased ability to think clearly. Cathinone derivatives act as central nervous system stimulants causing rapid heart rate, which may lead to heart attacks and strokes, chest pains, nosebleeds, sweating, nausea and vomiting. Drugs that have similar effects include amphetamines, cocaine, Khat, LSD and MDMA. The DEA has placed a number of chemicals used to make bath salts into Schedule I of the CSA, finding that an order making possession or sale of these chemicals, or the products that contain them, was necessary to prevent an imminent hazard to the public safety;

WHEREAS, in response to the efforts by federal and state legislators to outlaw the chemicals in synthetic cannabinoids and synthetic cathinones, chemists have reconfigured the specific substances that were prohibited to produce "new" versions of these synthetic drugs. This was accomplished by altering the molecular architecture of the chemicals used in the products to produce a series of different compounds which are closely structurally related to the prohibited substances, but which are not listed in the state or federal controlled substance laws. In some cases, these manufacturers and/or distributors of these new products went so far as to claim on the packaging that the products contained no prohibited chemicals, or were in accordance with state and federal laws;

WHEREAS, manufacturers of these products are unknown to the consumer because the packaging does not reveal the name and location of the manufacturer or distributor, which is required by federal laws regulating the labelling of consumer commodities. Manufacturers and distributors have not obtained FDA approval of these products as a food product, drug, dietary supplement, or other approved substance. Consumers suffering a reaction to or injury from these products have little chance of obtaining information concerning the contents of the product because the identity and locations of the manufacturers are unknown;

WHEREAS, although often marked "not for human consumption," or being labelled as otherwise innocuous products (i.e., plant food, incense, potpourri, iPod cleaner, etc.), these products are in fact designed and marketed to the buyer as products that act upon and effect the human body and its systems as a legal method to get high or achieve the effects of illicit drugs;

WHEREAS, products containing synthetic stimulants are available and, by the design and appearance of the names and packaging of these substances, appear to be marketed to young adults and children. Increased usage among high school youths is a concern for both law enforcement and the medical community. The University of Michigan Institute for Social Research in "Monitoring the Future, National Results on Adolescent Drug Use, Overview of Key Findings 2011" found that 11.4% of high school seniors indicated use of synthetic marijuana; and

WHEREAS, the Police Chief has advised that the Police Department is concerned that the proliferation and availability of these substances presents a threat to public safety, and is attempting to address the provision and marketing of these products through application of current state laws. However, enforcement of current state regulations is not effective due to the chemical variation of the products, and the difficulty in quickly analyzing the specific chemical makeup of the products. It takes several months to obtain the results of tests to determine the specific chemical makeup of the products. The Police Department has verified the availability of a significant number of these products in the City, and supports the adoption of an ordinance that would allow its officers to identify prohibited products through examination of the packaging and/or statements made at the point of sale; and

WHEREAS, the City Council finds that illicit synthetic drugs are distributed, labelled, and marketed in a way that poses dangerous consequences to the consumer; and

WHEREAS, the City Council deems it to be in the best interests of the citizens and residents to prohibit the possession, sale, and distribution of illicit synthetic drugs and misbranded drugs.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEWISTON AS FOLLOWS, THAT

A new chapter of the Code of the City of Lewiston be created as follows:

Chapter XXX. SYNTHETIC DRUGS

§ XXX-1. Purpose.

The purpose of this chapter is to regulate the availability of products which are enhanced with synthetic chemicals, which chemicals mimic the effects of controlled substances on users, because these products are a danger to the public health, safety and welfare.

§ XXX-2. Definitions.

For purposes of interpreting this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein unless the context clearly indicates or requires a different meaning:

SPICE, SYNTHETIC CANNABINOIDS, SYNTHETIC MARIJUANA

Any aromatic plant material in granular, loose leaf or powder form, or in liquid or as a food additive, or any herbal-incense-type stimulant or hallucinogen product, when the label is in any way false or misleading, or which does not contain a label specifying (1) the identity of the commodity and (2) the name and place of business of the manufacturer, packer, or distributor. Street names for these products include, but are not limited to: Bliss, Black Mamba, Bombay Blue, Fake Weed, Genie, Spice, Zohai, K2, K3, Smoke, Pot-Pourri, Buzz, Spice 99, Voodoo, Pulse, Hush, Mystery, Earthquake, Stinger, Ocean Blue, Serenity, Chronic Spice, Spice Gold, Spice Silver, Skunk, Mr. Nice Guy, Mr. Happy, K3 Legal, Sence, Smoke, Chill X, Earth Impact, Galaxy Gold, Space Truckin, Solar Flare, Moon Rocks, Aroma, Scope, Sky High, Atomic, G-20, Guerrilla Warfare, Makes Scents, g-13, Tiger Shark, California Dreams, Dank, Bullet, Mind Trip, Voodoo Child, Jazz, Nightlights, Matrix, Hypnotiq, AK47, Maui Wowie, Cloud 9, Daylights, Joker, Dead Man Walking, Brain Storm, Soul Sence, Kush, Kush Mania, Dragons Fire, Lucid, Mad Hatter, Scooby Snax, D-ZL, OMG, Demon, Barely In, Pineapple Express, Hayze. This definition shall include any plant material to which any Synthetic Chemical or Synthetic Chemical Compound has been added which has no legitimate relation to the advertised use of the product whether or not the label meets the requirements herein.

BATH SALTS, SYNTHETIC CATHINONES, SYNTHETIC STIMULANTS

Any crystalline or powder product in crystalline, loose-powder, block, tablet, or capsule form, or any stimulant-type product, when the label is in any way false or misleading, or which does not contain a label specifying (1) the identity of the commodity, and (2) the name and place of business of the manufacturer, packer, or distributor. Street names for these products include, but are not limited to: Bliss, Blue Silk, Cloud Nine, Drone, Energy-1, Ivory Wave, Lunar Wave, Meow Meow, Ocean Burst, Pure Ivory, Purple Wave, Red Dove, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Knight, White Lightening, Blizzard, Bonzai Grow, Charge Plus, Charlie, Euphoria, Hurricane, Lunar Wave, Ocean, Pixie Dust, Posh, Scarface, Lovely Dovey, Aura, MDPV, MDPK, MTV, Maddie, Hurricane Charlie, Black Rob, Super Coke, PV, Peeve, Meph, Drone, MCAT. This definition shall include any product to which any Synthetic Chemical or Synthetic Chemical Compound has been added which has no legitimate relation to the advertised use of the product whether or not the label meets the requirements herein.

DRUG

An article that is intended to affect the function of the body of humans.

MISBRANDED DRUG

Any drug for which (1) the label is in any way false or misleading; (2) the label does not bear the name and place of business of the manufacturer, repackager, or distributor of the finished form of the drug; (3) the label does not bear adequate directions for use; or (4) the label does not bear adequate warnings against use.

ILLCIT SYNTHETIC DRUGS

Spice, synthetic cannabinoids, synthetic marijuana, bath salts, synthetic cathinones, synthetic stimulants, and misbranded drugs as defined herein.

SYNTHETIC CHEMICAL OR SYNTHETIC CHEMICAL COMPOUND

Any chemical or chemical compound whose molecular make up is similar to those substances listed as controlled substances in 17-A M.R.S. § 1101(16-A) (including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of such substances) or to those substances listed in 17-A M.R.S. § 1102(4) (F) and whose intended use when introduced into the human body is to mimic or simulate the effects of a controlled substance.

§ XXX-3. Prohibition of Illicit Synthetic Drugs.

A. It is unlawful for any person to possess, use, provide, sell, produce, manufacture, or distribute, or to offer, display, market, or advertise for sale, any illicit synthetic drug.

B. In determining whether a product is prohibited by this chapter, statements on package labelling such as "not for human consumption" may be disregarded when other relevant factors (viewed alone or in totality) indicate that the product is intended to be consumed or ingested by humans, or is a product regulated by this chapter. Other relevant factors that may be used to determine whether a product or sale is prohibited by this chapter include, but are not limited to: verbal or written representations at the point of sale regarding the purpose, methods, use, or effect of the product; aspects of the packaging or labelling suggesting that the user will achieve a "high," euphoria, relaxation, mood enhancement, or that the product has other effects on the body; the cost of the product is disproportionately higher than other products marketed for the same use; the product contains a warning label stating or suggesting that the product is in compliance with state laws regulating controlled substances; the product's name or packaging uses images or slang referencing an illicit street drug; illicit or underground methods of sale or delivery are employed by the seller or provider; the product resembles an illicit street drug such as cocaine, methamphetamine, or marijuana.

C. Defence. It shall be a defence to the prosecution of a violation of this chapter that a product is specifically excepted by, or regulated within and in compliance with, state or federal law. For the purposes of this section, it shall not be a defence that a product is not subject to regulation unless the product is specifically exempt from regulation; mere "non-regulation" by these acts without a specific regulatory exemption does not render a product exempt under this section.

§ XXX-4. Sale of Certain Products for Human Consumption Prohibited.

It is unlawful for any person to provide, sell, or offer for sale a product for human consumption when the product is labelled "not for human consumption" or contains similar warnings.

§ XXX-5. Violation and Seizure.

A. Each package shall be a separate violation. The fine for each violation shall be \$500.

B. Any products found in violation of this section may be seized and held as evidence to be used in any future proceeding and may be disposed of as appropriate after their use for evidentiary purposes is no longer required.

LEWISTON CITY COUNCIL
MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Amendment to the Traffic Schedule to designate two "police vehicle only" parking spaces on Bates Street.

INFORMATION:

The following amendment for the Traffic Schedule is proposed by the Police Department to allow designated officer parking at the LPD Community Resource Office at the B Street Community Center. Presently the officers park in the parking lot but are taking up spaces that could be better utilized by customers of the Center. The police vehicle parking will be on the street where few members of the public park so customers should be not inconvenienced.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

FABIKmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the proposed amendment to the Traffic Schedule for 292 Bates Street to designate two "police vehicle only" parking spaces, as outlined on the attached vote sheet.



POLICE DEPARTMENT

Sgt. David K. Chick
Inspector of Police



DATE: April 1, 2013
TO: Traffic Schedule Review
FROM: Sgt. David Chick, Inspector of Police
Subject: Park St

**Traffic Schedule Amendment – Chapter 70 Section 176
Parking Reserved
City Officers And Employees (Section 34)**

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 underlined; deletions are ~~struck-out~~).

Section 34 – Parking Reserved – City Officers & Employees

BATES STREET

Beginning at a point 200’ measured from the southeast corner of the intersection of Bates St & Birch St and traveling southerly on Bates St for a distance of roughly 40’ (up to the entrance for the lot of 292 Bates St). 2 delineated parallel parking spaces designated for “Police Vehicles Only”.

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended designations. Request the spaces be painted outlined in blue colored paint to differentiate.

**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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POLICE DEPARTMENT

Sgt. David K. Chick
Inspector of Police



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LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Amendment to the Traffic Schedule regarding parking prohibited on a portion of Strawberry Avenue and Tall Pines Drive.

INFORMATION:

This request is submitted by the Public Works Department and is supported by Police Department and the River View housing development management. Vehicles parking around the cul-de-sac turnaround on Strawberry Avenue are damaging the pavement edges and restricting proper access for emergency vehicles. For the amendment for Tall Pines Drive - signs are already in place regarding warnings for sharp curves and this restriction just needs to be incorporated into the Traffic Schedule.

Please see the attached memorandum and map for additional information. Passage is recommended.

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 proposed amendments to the Traffic Schedule for a portion of Strawberry Avenue and Tall Pines Drive, as outlined on the attached vote sheet.



POLICE DEPARTMENT

Sgt. David K. Chick
Inspector of Police



DATE: February 27, 2013
TO: Traffic Schedule Review
FROM: Sgt. David Chick, Inspector of Police
Subject: Tall Pines Drive and Strawberry Avenue

**Traffic Schedule Amendment – Chapter 70 Section 140
Parking Prohibited – All Times – ~~Tow Away Zone~~ Intersections / Specified Places
(Section 50)**

Request received from Public Works: Vehicles being parked around the cul-de-sac turn-around where Strawberry Ave comes to an end in River Valley Apartments are causing excessive wear and a deteriorating undermining of the pavement edges which creates hazardous pot holes and a situation restricting emergency and service vehicles proper ability to access. Also, signs currently erected on Tall Pines Dr were not supported by the Traffic Schedule, but are in place due to an area of sharp curves and are deemed to be a necessary restriction. River Valley management was consulted and concurs with this assessment...

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

Section 50 – Parking Prohibited – All Times – Specified Places

STRAWBERRY AVENUE The cul-de-sac area, around the traffic island.

TALL PINES DRIVE Beginning at a point 445’ from the northwest corner of Tall Pines Dr. and Strawberry Ave. and extending northwesterly on Tall Pines Dr. for a distance of 800’ (through the curves portion).

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

Sgt. 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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POLICE DEPARTMENT

Sgt. David K. Chick
Inspector of Police



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LEWISTON CITY COUNCIL
MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Authorization to accept transfer of forfeiture funds.

INFORMATION:

The Lewiston Police Department is requesting that the City Council authorize the acceptance of funds, in the amounts outlined below, as reimbursement for costs associated with assisting in a criminal investigation. The funds are available to the Lewiston Police Department due to its substantial contribution to the investigation of this or a related criminal case.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/10mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That pursuant to Title 15, Maine Revised Statutes Annotated, Section 5824(3) and Section 5822(4)(A), the City Council hereby acknowledges and approves of the transfer of \$1,011.00, or any portion thereof, in the case of the State of Maine vs. Downen Phillips, CR-13-237 Court Records, being funds forfeited pursuant to court process. It is further acknowledged that these funds shall be credited to the 'City of Lewiston Drug Enforcement Program' account .

STATE OF MAINE
Androscoggin, ss

SUPERIOR COURT
Criminal Action
Docket No. CR-13-237

State of Maine	}	
	}	Municipality of Lewiston
v.	}	Approval of Transfer
	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Dowen Phillips	}	
Defendant;	}	
	}	
And	}	
	}	
\$1,011.00 U.S. Currency	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of Lewiston, Maine, by and through its municipal officers, and does hereby grant approval pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) to the transfer of the above captioned Defendant(s) in Rem, (\$505.50 in U.S. Currency) or any portion thereof, on the grounds that the Lewiston Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the municipality of Lewiston, Maine does hereby approve of the transfer of the Defendant(s) In Rem, or any portion thereof, pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) by vote of the Lewiston municipal legislative body on or about

Dated: _____

Municipal Officer
Lewiston, Maine
(Impress municipal legislative body seal here)

LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Public Hearing on a new liquor license application for Bua Thai & Sushi, 703 Sabattus Street.

INFORMATION:

We have received an application for a liquor license for Bua Thai & Sushi, 703 Sabattus Street. The liquor license application is for malt & vinous.

The police department has reviewed and approved the application.

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To authorize the City Clerk's Office to approve a new liquor license application for Bua Thai & Sushi, 703 Sabattus Street.

**Department of Public Safety
Division**



Liquor Licensing & Inspection

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

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

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: MALT SPIRITUOUS VINOUS

INDICATE TYPE OF LICENSE:

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

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) SAISONNEE APPLE MICHAEL EDNE DOB: _____			2. Business Name (D/B/A) BVA THAI SUSHI		
DOB: _____			Location (Street Address) 703 Sabattus St.		
Address 703 Sabattus St.			City/Town Lewiston	State ME	Zip Code 04240
City/Town Lewiston			Mailing Address 703 Sabattus St.		
State ME			City/Town Lewiston	State ME	Zip Code 04240
Zip Code 04240			City/Town Lewiston		
Telephone Number		Fax Number	Business Telephone Number		Fax Number
Federal I.D. # 26-1124451 SSN 333-82-0419			Seller Certificate # Applied For 1162598		

3. If premises are a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
5. Is applicant a corporation, limited liability company or limited partnership? YES NO

complete Supplementary Questionnaire ,If YES

6. Do you permit dancing or entertainment on the licensed premises? YES NO
7. If manager is to be employed, give name: _____
8. If business is NEW or under new ownership, indicate starting date: _____
Requested inspection date: _____ Business hours: _____
9. Business records are located at: _____
10. Is/are applicants(s) citizens of the United States? YES NO

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

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

Name in Full (Print Clearly)	DOB	Place of Birth
Saisonee Apple Michareune	5-22-63	Phichit, Thailand

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

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

Name: _____ Date of Conviction: _____
Offense: _____ Location: _____
Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes No If Yes, give name: _____

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

16. Does/do applicant(s) own the premises? Yes No If No give name and address of owner:
Daniel Conliffe Center St Auburn, ME

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required)
Single Story Restaurant

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES NO Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1000' Which of the above is nearest? Church

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

If YES, give details: _____

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

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

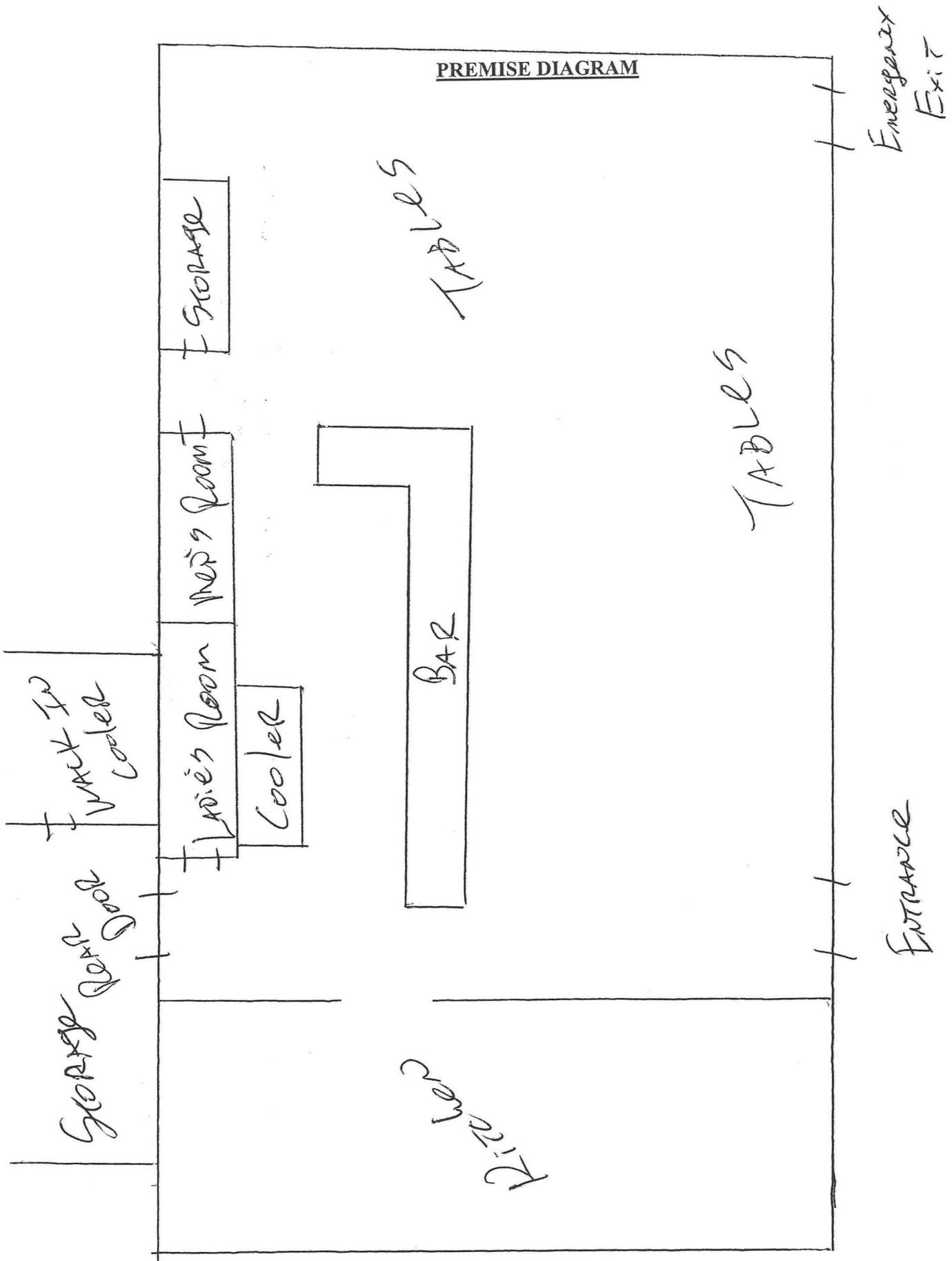
Dated at: _____ on _____, 20____
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

PREMISE DIAGRAM



CITY OF LEWISTON

PUBLIC NOTICE

A hearing on the following liquor license application will be held by the Lewiston City Council in the Council Chambers, City Hall on **Tuesday, May 21, 2013, at 7:00 p.m.**, or as soon thereafter as they may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said application.

Bua Thai & Sushi
703 Sabattus Street
Saisunee Apple Michareune, owner

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

Kathleen Montejo, MMC
City Clerk
Lewiston, Maine

PUBLISH ON: May 15, 16 & 17, 2013

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



POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: May 13, 2013

RE: Liquor License/Special Amusement Permit – **Bua Thai & Sushi**

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

Bua Thai & Sushi
703 Sabattus St.



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



Professionalism

Integrity

Compassion

Dedication

Pride

Dependability

LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Public Hearing for approval of an Outdoor Entertainment Permit for an outdoor music concert event to be held at the Simard-Payne Park and request for use of city services for the event.

INFORMATION:

The United Way of Androscoggin County is seeking an Outdoor Entertainment permit for their outdoor music concert event to be held on Sunday, June 2, 2013. The concert is called Giving Hearts - Fire Relief Benefit Show and is a fundraiser for the Lewiston fire victims. Applicable city departments are still meeting with the applicant to work through all of the logistical details of the event.

In addition, they are seeking use of some city services for their event, as outlined in their attached request, including waiver of fees and use of some city equipment.

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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1) To conduct a public hearing on an application for an outdoor entertainment event for the Giving Hearts-Fire Relief Benefit concert event, 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 United Way of Androscoggin County for the event to be held at the Simard-Payne Park on Sunday, June 2, 2013, 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.

2) To review the request for the use of city services for the outdoor music concert event and to determine a course of action.

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 5/15/13

SPONSOR INFORMATION

Name of Sponsoring Organization: United Way of Androscoggin

Name of Contact Person for Event: GALE HART

Title of Contact Person: Director of Finance & Administration

Mailing Address: PO Box 888 Lewiston ME 04243

Daytime Telephone: 795-4000 Cell Phone: 576-3223

Email Address: ghart@UNITEDWAYANDRO.ORG

Contact Name and Cell Phone Number DURING the Event: _____

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

Non-Profit Number: 01-0211564

EVENT INFORMATION

Name of Event: Giving Hearts Fire Relief Benefit Show

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

Date of Event: 6/2/13 Rain Date: _____

Times of Event: Start Time including set-up: 8am Ending time including clean up: 11pm
Actual Event Start Time: 1pm Actual Event End Time: 7pm

Estimated Attendance: 1K+

Location of Event: Samard Payne Park

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

Date request submitted to the Recreation Department: 5/8/13

Initial contact will be with Giving Hearts promoters.

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

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

N/A	PARKING ACCOMODATIONS – What will be the anticipated need for parking and what is your parking plan? <i>expect for Chestnut / Lincoln parking garage</i>	✓		
N/A	TOILETS – Please list amount at event and/or nearest location: <i>6</i>	✓		
N/A	WASTE DISPOSAL – Please list process and location: <i>dumpster</i>	✓		
N/A	HAND WASHING FACILITIES – Please list amount at event and/or nearest location:	✓		
N/A	POTABLE WATER – Please list amount at event and location:	✓		
N/A	FIRST AID FACILITIES – Please list location at event:	✓		
\$	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

We would like to put on a Benefit Concert for the Lewiston fire victims - very family orientated uo-donation for Lewiston Fire Relief fund

Signature of Applicant:

Gale Hart for United Way

Printed Name:

GALE HART

Date Submitted:

5-15-13

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

Giving Hearts: Benefit Lewiston Fire Relief
June 2, 2013 // Simard-Paine Park

City Services Waiver Request

Parks Application Fee

-\$50

Parks Use Fee

-\$200

Permit Fees

-Live Music - \$11

-Sound Amplification - \$16

-Peddler permit to be able to sell/give away shirts and other non-food items \$37

Police

-Minimum of 2-4 Officers. \$800-\$1600

-Barricades and cones for blocking off Oxford St

Waste Removal

-Minimum of 15-20 trash barrels

-(1) Dumpster to be placed on site at 8am on 6/2 and removed after 10pm or the following morning

Parking Garages

-Gates to remain open at nearby garages

-Emergency Shelter signs

Giving Hearts: Benefit Concert for Lewiston Fire Relief

The Lewiston community has been rocked by 3 separate multiple apartment building fires this past week in the downtown area. The fires have left nearly 200 people displaced and a city scrambling to provide the relief needed to help those effected. In response to these devastating fires, we propose a multi act benefit concert to be held in Simard-Paine Park(Formerly Railroad Park) on Sunday, June 2nd. We are currently organizing local, regional, and possibly some national talent to perform at the benefit which will be held during the day, from 1pm-7pm. 100% of proceeds will be given directly to the Lewiston Fire Relief effort.

Security Plan: 1-2k expected attendees(We will increase security presence for more than 2k expected attendees)

- 2 Entrances, each being operated by at least 4 Volunteers, 1-2 security guards, and 1 Police Officer.
- 2 Security guards and 4 volunteers in front of the stage.
- 2-4 Security guards roaming the grounds
- 2-4 Police Officers stationed in certain areas and/or roaming the grounds.
- Dig Safe will be called in prior to any tent/canopy set ups or any other necessary ground intrusions.
- Fire retardant certificates will be presented for any tent or canopies used during the event.
- Due to the recent events in Boston we will have a high alert for any bags left unattended nearby or inside the event. Large bags and backpacks will be searched by security upon entrance. No re-entry for the event.
- No Pets
- Designated Smoking area w/ butt cans do to No Re-Entry Policy
- Vehicle Entry Reserved for Authorized Artist and Staffing ONLY

4 Police @ 8hr = \$1600 (\$50/hr)
10 Security @ 8hr = \$1280 (\$16/hr + 1 man Free - 11 total)
Total = \$2880

Security Provided by Northern Security Concepts

-Will provide 2 way radios for all security as well as key volunteers and staff

Upwards of 100 volunteers working with security to provide a clean, safe, and family oriented event.

8am expected set up time. Clear the venue by 10pm after cleanup

Disbursement and Handling of Funds:

-Craft - \$100min

Vendors must show up between 10am and 12noon depending on set-up time. No vendors will be allowed entry 1hr prior to gates opening

*This is expected to be a non profit event. If vendors are able to make an additional donation after the event, it will be more than welcomed.

For more information please contact: GivingHearts.BenefitShow@gmail.com

LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing & Final Passage for Land Use Code Amendments concerning floodplain administration and management.

INFORMATION:

The proposed amendments are to make the City Code consistent with State and FEMA guidelines regarding floodplain administration and management. Lewiston is required to maintain a modern floodplain ordinance so that residents can purchase flood insurance. On April 22, 2013, the Planning Board voted unanimously (6-0) to send a favorable recommendation to the City Council for the adoption of the proposed amendment.

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to Appendix A, Article II "Definitions", Article V "Administration and Enforcement", Article IX "Appeals", Article XIV "Floodplain Administration and Management", of the City Zoning and Land Use Code, receive final passage by a roll call vote.



CITY OF LEWISTON



Department of Planning & Code Enforcement

TO: City Council
Mayor

FROM: David Hediger, City Planner

DATE: April 29, 2013

RE: Amendment to the Floodplain Administration and Management Ordinance,
of the Zoning and Land Use Code to remain compliant with the National
Flood Insurance Program.

Pursuant to Article VII, Section 4(c) and Article XVII, Section 5(b)(1)(c) of the Zoning and Land Use Code, staff has prepared an amendment to update Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code.

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation of flood hazards in Lewiston. This has resulted in revised Flood Insurance Rate Maps (FIRM), Base Flood Elevations (BFE), and a new Flood Insurance Study (FIS). The new FIS has established revised BFE's for Lewiston.

The National Flood Insurance Act of 1968 requires Lewiston to update its Flood Management Ordinances prior to July 8, 2013 to reference the newest FIRM's and FIS. Communities that fail to revise their ordinances will be suspended from participating in the National Flood Insurance Program (NFIP). Participation in the NFIP provides Lewiston a number of benefits including eligibility for disaster funding when the community is declared a disaster area and the availability of flood insurance to those who have federally backed mortgages in the floodplain. In addition, since 1993 Lewiston has participated in the NFIP's Community Rating System (CRS), providing flood insurance holders a 10% discount on flood insurance policies.

Updating the Floodplain Ordinance will ensure Lewiston remains in good standing with FEMA as a community participating in the NFIP and the CRS. The proposed amendment has been reviewed by the States' Floodplain Management Program, which is satisfied with the proposed changes. The proposed amendment includes a number of housekeeping changes to Article II, Section 2, Definitions; Article V, Section 4, Administration and Enforcement; and, Article IX, Appeals. None of the changes are substantive in nature other than to provide additional clarification in administering the ordinance and to reference the most recent FIS.

On April 22, 2013, the Planning Board voted unanimously (6-0) to send a favorable recommendation for the City Council's consideration to adopt the proposed amendments to Article II, Section 2 Definitions; Article V, Section 4, Administration and Enforcement; Article IX, Appeals; and Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code to remain compliant with the National Flood Insurance.

**AN ORDINANCE PERTAINING TO ZONING AND LAND USE:
FLOODPLAIN ADMINISTRATION AND
MANAGEMENT**

THE CITY OF LEWISTON HEREBY ORDAINS:

**APPENDIX A – ZONING AND LAND USE CODE
ARTICLE II. DEFINITIONS**

Sec. 2. Definitions.

Unless otherwise expressly stated, the following words shall, for the purpose of this Code, have the meaning herein indicated:

~~Area of shallow flooding means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels. For floodplain purposes, see Structure.

Code enforcement officer means a person certified under Title 30-A MRSA, Section 4451 (including exception in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances, including Lewiston's Zoning and Land Use Code.

Elevated building means a nonbasement building (a) built, in the case of a building in Zones ~~A1-30 or A~~ or AE, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one (1) foot above the magnitude of the base flood. In the case of Zones ~~A1-30 or A~~ or AE, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls ~~less than three (3) feet in height~~ with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article XIV, Section 6(1).

Elevation certificate means an official form (FEMA Form 81-31, ~~07/00, as amended~~) that (a) is used to verify compliance with the flood plain management regulations of the national flood insurance program; and, (b) is required as a condition for purchasing flood insurance.

~~Flood boundary and floodway map means the official map delineating floodway and flood hazard boundaries as determined by the Federal Insurance Administration.~~

Historic structure means any structure that is:

(1) Designated as historic and on the local register as provided under article XV;

(2) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

(3) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the interior to qualify as a registered historic district.

(4) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(5) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

Locally established datum means for purposes of this Code, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Minor development/improvement means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article XIV, Section 6(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

North American Vertical Datum (NAVD) means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earths crust, glacial rebound, and subsidence and the increasing use

of satellite technology.

Regulatory floodway means (1) the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot, and (2) ~~in Zone A riverine areas~~ when not designated on the community's Flood Insurance Rate Map is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the flood plain as measured from the normal high water mark to the upland limit of the flood plain.

Variance means a relaxation of the terms of this Code where such variance will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship. As used in this Code, a variance is authorized only for the space and bulk requirements of Article XI, ~~and the performance standards of Article XII, and the floodplain management ordinance of Article XIV.~~

Violation means the failure to comply with applicable provisions of the Zoning and Land Use Code.

APPENDIX A – ZONING AND LAND USE CODE ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Sec. 4. Administrative official.

Unless otherwise specifically stated, the director of code enforcement and the code enforcement officers and inspectors under his supervision (hereinafter code enforcement official) shall administer and enforce this Code and shall have all the powers and duties provided for in ~~30 M.R.S.A. Section 4966~~ Title 30-A MRSA, Section 4451, as amended.

APPENDIX A – ZONING AND LAND USE CODE ARTICLE IX. APPEALS

Sec. 3. Standards for the granting of appeals.

The Board of appeals shall grant an appeal only when it finds that the following standards have been met:

- (1) Administrative appeals. That the code enforcement official erred in either his interpretation of the Code or in the application of the Code to the particular circumstances of the application. If the board of appeals finds that the code enforcement official correctly interpreted and applied the provisions of this Code, the board shall affirm his decision. If the board finds that the code enforcement official erred in the interpretation or application of the Code, the decision of the code enforcement official shall be reversed and the board shall make an

official interpretation of the Code to be used by the code enforcement official.

(2) Variances.

c. Variance from the floodplain management standards of article XIV.

1. The board of appeals shall grant a variance from the floodplain management standards of article XIV only when it finds that the granting of the variance:

a. Within any designated regulatory floodway will not result in an increase in flood levels during the base flood discharge;

b. Is supported by good and sufficient cause;

c. Will not result, should a flood comparable to the base flood occur, in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances;

d. Will not cause a conflict with other state, federal or local laws or ordinances; ~~and~~

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the board of appeals may impose such conditions to a variance as it deems necessary; ~~and,~~

f. Would result in "undue hardship," which in this subsection means:

i. a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

iii. that the granting of a variance will not alter the essential character of the locality; and,

iv. that the hardship is not the result of action taken by the applicant or a prior owner.

2. The board of appeals shall grant a variance for new construction, substantial improvements, or other development for the conduct of a functionally dependent use only when it finds that:

a. Other criteria of article IX and article XIV, subsection 6(k) are met; and

b. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

3. The board of appeals may grant a variance for the

reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places. upon the determination that:

- a. The development meets the criteria of subsections 3(2)(a) through(d) above; and
 - b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
4. Any applicant who meets the criteria of article IX, subsections (a) through (e) shall be notified by the board of appeals in writing over the signature of the chairman of the board of appeals that:
- a. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage;
 - b. Such construction below the base flood level increases risks to life and property; and,
 - c. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain; and,
5. The board of appeals shall submit to the code enforcement official a report of all variance actions, including justification for the granting of the variance and an authorization for the code enforcement official to issue a flood hazard development permit, which includes any conditions to be attached to said permit.
6. Any aggrieved party who participated as a party during the proceeding before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

APPENDIX A – ZONING AND LAND USE CODE
ARTICLE XIV. FLOODPLAIN ADMINISTRATION AND MANAGEMENT*

*Editor's note: Retitled

Sec. 1. Applicability.

Certain areas of the City of Lewiston, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

The City of Lewiston, Maine is a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance. It is the intent of the City of Lewiston, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Lewiston has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., §§ 3001--3007, 4352 and 4401—4407, and Title 38 MRSA, Section 440. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Lewiston having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the City of Lewiston, Maine.

~~The areas of special flood hazard, Zones A and A1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study—City of Lewiston, Maine, Androscoggin County," dated March 1979 with accompanying "Flood Insurance Rate Map" dated September 28, 1979 and "Flood Boundary and Floodway Map" dated September 28, 1979, which are hereby adopted by reference and declared to be a part of this Article.~~

The areas of special flood hazard, Zones A and AE for the City of Lewiston, Androscoggin County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Androscoggin County" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 212D, 214D, 216D, 218D, 219D, 238D, 326D, 327D, 328D, 329D, 331D, 332D, 333D, 334D, 337D, 341D, 342D, 343D, 344D, 351D, 353D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County," are hereby adopted by reference and declared to be a part of this Ordinance.

(Ord. No. 06-05, 4-20-06)

Sec. 2. Permit required.

Before any construction or other development, including the placement of manufactured homes, begins within any areas of special flood hazard established in Article XIV, Section 1, a flood hazard development permit shall be obtained from the code enforcement official. This permit shall be in addition to any other permits which may be required pursuant to the Code of Ordinances of the City of Lewiston, Maine.

(Ord. No. 06-05, 4-20-06)

Sec. 3. Application for permit.

The application for a flood hazard development permit shall be submitted to the planning and code enforcement office and shall include:

- (1) The name, address and phone number of the applicant, owner, and contractor;
- (2) An address and a map indicating the location of the construction site;
- (3) A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- (4) A statement of the intended use of the structure and/or development;
- (5) A statement of the cost of the development including all materials and labor;
- (6) A statement as to the type of sewage system proposed;
- (7) Specification of dimensions of the proposed structure and/or development; [Items (8)--(11)b. apply only to new construction and substantial improvements.]
- (8) The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - a. Base flood at the proposed site of all new or substantially improved structures, which is determined:
 1. In ~~Zones A1-30~~ Zone AE, from data contained in the "Flood Insurance Study--~~City of Lewiston~~ Androscoggin County, Maine," as identified in Section 1; or
 2. In Zone A:
 - (a) From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 6(k). and Section 8(d);
 - (b) From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS quadrangle map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (c) To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - b. Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - c. Lowest floor, including basement; and whether or not such

- structures contain a basement; and
 - d. Level, in the case of non-residential structures only, to which the structure will be floodproofed;
 - (9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6;
 - (10) A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
 - (11) The following certifications as required in Section 6 by a registered professional engineer or architect:
 - a. A floodproofing certificate (FEMA Form 81-65, ~~08/99, as amended~~), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3(8)d; Section 6(g); and other applicable standards in Section 6;
 - b. A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6(l)2;
 - c. A certified statement that bridges will meet the standards of Section 6(m);
 - d. A certified statement that containment walls will meet the standards of Section 6(n);
 - (12) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
 - (13) A statement of construction plans describing in detail how each applicable development standard in Section 6 will be met.
- (Ord. No. 06-05, 4-20-06)

Sec. 4. Application fee and experts fees.

A fee may be charged if the code enforcement official and/or reviewing board needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten (10) days after the City of Lewiston submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the city at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the board of appeals.

(Ord. No. 06-05, 4-20-06)

Sec. 5. Review standards for flood hazard development permit applications.

The code enforcement official shall:

- (1) Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine

that all pertinent requirements of Article XIV, Section 6, have been, or will be met;

- (2) Utilize, in the review of all flood hazard development permit applications:
 - a. The base flood data contained in the "Flood Insurance Study--~~City of Lewiston~~ Androscoggin County, Maine," as described in Article XIV, Section 1;
 - b. In special flood hazard areas where base flood elevation and floodway data are not provided, the code enforcement official shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3(8)a.2.; Section 6(k); and Section 8(d), in order to administer Section 6 of this Article; and
 - c. When the community establishes a base flood elevation in a Zone A by methods outlined in Section 3(8)a.2, the community shall submit that data to the Maine Floodplain Management Program. ~~in the state planning office.~~
- (3) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1 of this Article;
- (4) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- (5) Notify adjacent municipalities, the department of environmental protection, and the Maine Floodplain Management Program ~~in the state planning office~~ prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- (6) If the application satisfies the requirements of this Article, approve the issuance of one (1) of the following flood hazard development permits based on the type of development:
 - a. A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the code enforcement official with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 6(f), (g), or (h). Following review of the elevation certificate data, which shall take place within seven (7) days of receipt of the application, the code enforcement official shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or
 - b. A flood hazard development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6(g)1.a., b. and c. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or
 - c. A flood hazard development permit for minor improvement for all

development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. Minor improvement also includes, but is not limited to: accessory structures as provided for in Section 6(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non- structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

- (7) Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the board of appeals on variances granted under the provisions of Article IX, Section 3 of this Article, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of Section 3, 6 and 7 of this Article.

(Ord. No. 06-05, 4-20-06)

Sec. 6. Development standards.

All developments in areas of special flood hazard shall meet the following applicable standards:

- (a) All development--All development shall:
 - (1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Use construction materials that are resistant to flood damage;
 - (3) Use construction methods and practices that will minimize flood damage; and
 - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (b) Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (c) Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) On-site waste disposal systems. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- (e) Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- (f) Residential. New construction or substantial improvement of any

residential structure located within:

- (1) Zone ~~AE1-30~~ shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation.
 - (2) Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(8)a.2; Section 5.2; or Section 8(d).
- (g) Non-residential. New construction or substantial improvement of any non-residential structure located within:
- (1) Zone ~~AE1-30~~ shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. Be floodproofed to at least one (1) foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Section 3(11) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 - (2) Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(8)a.2; Section 5.2; or Section 8(d)., or
 - a. Together with attendant utility and sanitary facilities meet the floodproofing standards of Section 6(g)1.
- (h) Manufactured homes. New or substantially improved manufactured homes located within:
- (1) Zone ~~A1-30~~ AE shall:
 - a. Be elevated such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation;
 - b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and
 - c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 1. Over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long

2. require one (1) additional tie per side); or by
 2. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four (4) additional ties per side.
 3. All components of the anchoring system described in Section 6(h)1.c.(1) and (2) shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (2) Zone A shall:
- a. Be elevated on a permanent foundation, as described in Section 6(h).1.b., such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(h).1.b; Section 5.2; or Section 8.d; and
 - b. Meet the anchoring requirements of Section 6(h)1.c.
- (i) Recreational vehicles. Recreational vehicles located within:
- (1) Zones ~~A1-30~~ A and AE shall either:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days,
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6(h)1.
- (j) Accessory structures. Accessory structures, as defined in Article II, Section 2 of this Article, located within ~~Zones A1-30 and A~~ and AE, shall be exempt from the elevation criteria required in Section 6(f) and (g). above, if all other requirements of Section 6 and all the following requirements are met. Accessory structures shall:
- (1) Be five hundred (500) square feet or less and have a value less than three thousand dollars (\$3,000.00);
 - (2) Have unfinished interiors and not be used for human habitation;
 - (3) Have hydraulic openings, as specified in Section 6(1)2., in at least two (2) different walls of the accessory structure;
 - (4) Be located outside the floodway;
 - (5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
 - (6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.
- (k) Floodways.
- (1) In Zones ~~AE1-30~~ riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not

- be permitted within a regulatory floodway which is designated on the community's "~~Flood Boundary and Floodway Map,~~" Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) In Zones ~~A1-30 and A~~ and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6(k)3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
- a. Will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community; and
 - b. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study-- Guidelines and Specifications for Study Contractors, (FEMA 37, January 1995, as amended).
- (3) In Zones ~~A1-30 and A~~ and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half (1/2) the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- (I) Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones ~~A1-30 and A~~ and AE that meets the development standards of Section 6, including the elevation requirements of Section 6(f), (g), or (h) and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
- (1) Enclosed areas are not "basements" as defined in Section 8;
 - (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. Be engineered and certified by a registered professional engineer or architect; or
 - b. Meet or exceed the following minimum criteria:
 1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area;
 2. The bottom of all openings shall be below the base flood elevation and no higher than one (1) foot above the lowest grade; and
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

- (3) The enclosed area shall not be used for human habitation; and
 - (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- (m) Bridges. New construction or substantial improvement of any bridge in Zones ~~A1-30~~ and AE shall be designed such that:
- (1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one (1) foot above the base flood elevation; and
 - (2) A registered professional engineer shall certify that:
 - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6(k); and
 - b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- (n) Containment walls. New construction or substantial improvement of any containment wall located within:
- (1) Zones ~~A1-30 and A~~ and AE shall:
 - a. Have the containment wall elevated to at least one (1) foot above the base flood elevation;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Section 3(8).
- (o) Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in zones ~~A1-30 and A~~ and AE, in and over water and seaward of the mean high tide if the following requirements are met:
- (1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 - (2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

(Ord. No. 06-05, 4-20-06)

Sec. 7. Certificate of compliance.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the code enforcement official subject to the following provisions:

- a. For New construction or substantial improvement of any elevated structure

the applicant shall submit to the code enforcement official, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with Section 6(f), (g), or (h).

- b. The applicant shall submit written notification to the code enforcement official that the development is complete and complies with the provisions of this ordinance.
- c. Within ten (10) working days, the code enforcement official shall:
 - 1. Review the elevation certificate and the applicant's written notification; and
 - 2. Upon determination that the development conforms with the provisions of this ordinance, shall issue a certificate of compliance.

(Ord. No. 06-05, 4-20-06)

Sec. 8. Review of subdivisions and development proposals

The planning board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five (5) or more disturbed acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:

- (a) All such proposals are consistent with the need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with Section 6 of this Article. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the planning board or local reviewing authority as part of the approval process.

(Ord. No. 06-05, 4-20-06)

Sec. 9. Enforcement and penalties

- (a) It shall be the duty of the code enforcement official to enforce the provisions of this Article pursuant to Title 30-A M.R.S.A. § 4452.
- (b) The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this Article.

- (c) In addition to any other actions, the code enforcement official, upon determination that a violation exists, ~~shall~~may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
- (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
 - (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 - (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
 - (5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- (Ord. No. 06-05, 4-20-06)

Sec. 10. Validity and severability.

If any section or provision of this Article is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Article.
(Ord. No. 06-05, 4-20-06)

Sec. 11. Conflict with other ordinances.

This Article shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Article shall control.
(Ord. No. 06-05, 4-20-06)

Sec. 12. Abrogation.

This Article repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).
(Ord. No. 06-05, 4-20-06)

Reason For Proposed Amendment

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation of flood hazards in Lewiston. Said re-evaluation has resulted in revised Flood Insurance Rate Maps (FIRM), Base Flood Elevations (BFE), and a new Flood Insurance Study (FIS). Because the FIS establishing revised BFE's for Lewiston has been completed, the National Flood Insurance Act of 1968 requires Lewiston to update their Flood Management Ordinances prior to July 8, 2013 to reference the newest FIRM's and FIS. Communities that fail to revise their ordinances will be suspended from participating in the National Flood Insurance Program (NFIP). Participation in the NFIP provides Lewiston a number of benefits including eligibility for disaster funding when the community is declared a disaster area and the availability of flood insurance to those who have federally backed mortgages in the floodplain. In addition, since 1993 Lewiston has participated in the NFIP's Community Rating System (CRS) providing flood insurance holders a 10% discount on flood insurance policies.

Updating the Floodplain Ordinance will ensure Lewiston remains in good standing with FEMA as a community participating in the NFIP and the CRS.

Conformance with the Comprehensive Plan

- Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community. . . (see Economy, Policy 1, Strategy C, p 39).
- Avoid the problems associated with floodplain development and use by continuing to regulate land use through provision of the City's floodplain management standards including restrictive rezoning and continuing to work with FEMA's CRS program.

Lewiston



2007

City of Lewiston
Planning & Code Enforcement
Gil Arsenault, Director
MEMORANDUM



To: City Council Members

From: David Hediger

Date: April 22, 2013

Subject: Planning Board Action

The Planning Board took the following actions at their meeting held on April 22, 2013 regarding a proposed amendment impacting Lewiston's Floodplain Administration and Management Ordinance.

The following motion was made:

MOTION: by **Walter Hill** pursuant to Article VII, Section 4(c) and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration to adopt the proposed amendments to Article II, Section 2 Definitions; Article V, Section 4, Administration and Enforcement; Article IX, Appeals; and Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code to remain compliant with the National Flood Insurance. Second by **Sandra Marquis**.

VOTED: 6-0 (Passed)

c: Ed Barrett, City Administrator
Planning Board Members



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

DAVID H.

93 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0093

WALTER E. WHITCOMB
COMMISSIONER

January 10, 2013

Mr. Edward Barrett, City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240-7298

[Certified Mail]

RE: Updated ordinance requirement for compliance with the National Flood Insurance Program (NFIP)

Dear Mr. Barrett:

Your community should have recently received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new digital flood maps for all of Androscoggin County for July 8, 2013. This letter marks the beginning of a six month time period for communities to update their Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before July 8, 2013 in order to avoid being immediately suspended from the NFIP.**

Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. Participation in the NFIP provides protection to those members of your community who may be affected by flooding. One of the most important benefits is your town's eligibility for disaster funding to repair roads damaged by flooding when your county is in a declared disaster area. In addition, flood insurance is available to those who have federally backed mortgages in the floodplain. This is all possible by way of your community's commitment to adopt, administer and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Also enclosed is an instruction sheet that explains the ordinance adoption process. Since FEMA has very specific requirements regarding ordinance language we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. This is to ensure that the ordinance remains compliant.

Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.

We filled in the application fee (in Article III) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

PHONE: (207) 287-2801

17 ELKINS LANE, WILLIAMS PAVILION
www.maine.gov/acf

FAX: (207) 287-2353

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. Please note that is acceptable for the community to set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted, and certified by the Town Clerk, please send this office an electronic copy (if possible) and two (2) certified printed copies. We will forward one copy each to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

Please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for all of Androscoggin County. Please contact Janet Parker at 287-9981 or janet.parker@maine.gov as soon as this information is available.

Over the next few months we expect to host at least two outreach meetings in Androscoggin County. Usually one is scheduled for the afternoon and one in the early evening. These will be public informational sessions so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll spread the word so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or sue.baker@maine.gov), Joe (287-8051 or joseph.young@maine.gov), or Janet (298-9981 or janet.parker@maine.gov) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM
State NFIP Coordinator

Enclosures: Customized 2013 Model Ordinance
Adoption Instructions

Cc: Gil Arsenault, Code Enforcement Officer
David Hediger, City Planner



David H

Federal Emergency Management Agency
Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

January 8, 2013

The Honorable Robert E. Macdonald
Mayor, City of Lewiston
City Hall
27 Pine Street
Lewiston, Maine 04240

Community: City of Lewiston,
Androscoggin County, Maine
Community No.: 230004
Map Panels Affected: See FIRM Index

Dear Mayor Macdonald:

This is to formally notify you of the final flood elevation determination for the City of Lewiston, Androscoggin County, Maine (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood elevations shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

On September 28, 1979, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood, in your community. Recently, FEMA completed a re-evaluation of flood hazards in your community. On May 2, 2011, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community, including Base Flood Elevations (BFEs). The proposed BFEs for your community were published in the *Sun Journal* on May 31, 2012, and June 7, 2012 and in the *Federal Register*, at Part 67, Volume 75, Pages 25495 and 25496, on April 30, 2012.

The statutory 90-day appeal period, which was initiated on the second newspaper publication date cited above, has ended. FEMA did not receive any appeals of the proposed BFEs during that time. Accordingly, the BFEs for your community are considered final. The final rule for BFEs will be published in the *Federal Register* as soon as possible. The FIRM for your community will become effective on July 8, 2013. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS report establishing the BFEs for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to July 8, 2013, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report and FIRM to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the BFEs established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based are being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIS report and FIRM for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions has been combined into one FIS report and FIRM. When the FIS report and FIRM are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA MAP (1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures required to continue participation in the NFIP, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA Region I, in Boston, Massachusetts, at (617) 956-7506 for assistance. If you have any questions concerning mapping issues in general, or the enclosed Summary of Map Actions, please call FMIX at the telephone number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the NFIP*, *Frequently Asked Questions Regarding the Effect that Revised Flood Hazards have on Existing Structures*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling FMIX.

Sincerely,



Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository
Gildace J. Arsenault, Planning and Code Enforcement Director, City of Lewiston

FINAL SUMMARY OF MAP ACTIONS

Community: LEWISTON, CITY OF

Community No: 230004

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 8, 2013.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	02-01-1048A	06/12/2002	332 RUSSELL STREET EXT.	2300040010B	23001C0331E
LOMA	04-01-0446A	02/26/2004	1222 SABATTUS STREET	2300040010B	23001C0332E
LOMA	08-01-1025A	07/24/2008	COLLEGE GREEN, LOT 4 - 9 BOWDOIN DRIVE	2300040005B	23001C0218E
LOMA	10-01-0806A	03/04/2010	10 Tall Pines Road	2300040005B	23001C0214E

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

FINAL SUMMARY OF MAP ACTIONS

Community: LEWISTON, CITY OF

Community No: 230004

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	199500243R01	03/29/1995	UNAVAIABLE	1
LMMP-L	95-01-075P	08/30/1995	JEPSON BROOK	4
LOMA	00-01-0406A	03/03/2000	10 FALCON ROAD	2
LOMA	12-01-1159A	03/15/2012	TAX MAP 190, LOT 5 - 20 TALL PINES DRIVE	2

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Public Hearing and First & Final Passage regarding an Emergency Ordinance for amendments to the Buildings and Building Regulations ordinance regarding dangerous structures and removal of debris and materials.

INFORMATION:

Given recent events, we are undertaking a concerted effort to ensure that vacant and abandoned properties are being secured and that trash, debris, and discarded items are being removed from both within and around such structures. In doing so, we have reviewed both state law and our local ordinances and have determined that additional ordinance language is required to more clearly authorize and govern such work and to provide clear recourse for the City to attempt to recover its expenses. The attached ordinance amendment has been drafted by the City Attorney for these purposes.

Given recent extraordinary events and the threat to public health and safety posed by existing conditions, this ordinance amendment comes forward as an emergency ordinance. As such, it will require five affirmative votes. In addition, an emergency ordinance remains in effect for only sixty days. As a result, if approved, an identical version of this ordinance will reappear shortly before the Council to be enacted through our normal ordinance adoption procedures.

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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- 1) That the proposed emergency ordinance for the City Code of Ordinances, Chapter 18 "Buildings and Building Regulations", Article III "Property Maintenance Code", Section 18-52, Emergency Measures, PM-109.2 and adding a new section, PM-109.2.1, receive first passage by a roll call vote.
- 2) To waive Section 7c of the Rules Governing the City Council and to allow for final reading at this time.
- 3) That the proposed emergency ordinance for the City Code of Ordinances, Chapter 18 "Buildings and Building Regulations", Article III "Property Maintenance Code", Section 18-52, Emergency Measures, PM-109.2 and adding a new section, PM-109.2.1,, receive final passage by a roll call vote.

Ordinance, Amending Chapter 18, Article III, Section 18-52, Emergency Measures, PM-109.2 and Adding a New Section, PM-109.2.1, an Emergency Ordinance.

Whereas, the City of Lewiston has recently experienced three major arson fires, all of which spread to a number of structures; and

Whereas, the presence of a significant number of vacant and abandoned buildings and the presence of exterior debris, garbage, and trash in the immediate vicinity of both vacant and occupied buildings poses a serious risk of additional fires that may spread to multiple buildings; and

Whereas, unsecured vacant buildings pose a special hazard as potential sites for arson which, due to the absence of tenants or security, can easily spread to adjacent properties; and

Whereas, the presence of abandoned personal belongings, garbage, trash, and debris within and surrounding such structures contributes to the fire load and severity of fires involving such properties increasing the hazards faced by emergency personnel responding to the scene; and

Whereas, fires which rapidly expand to multiple structures represent a significant threat to the lives and properties of those residing or visiting surrounding structures; and

Whereas, recent events have proven that vacant and unsecured structures, such structures containing abandoned belongings, trash, and debris, and the presence of trash and debris in the immediate vicinity of both abandoned and occupied structure represents an unacceptable threat to public health and safety;

Now, therefore, the City of Lewiston hereby ordains the following emergency ordinance to become effective immediately:

DECLARATION OF EMERGENCY

The City Council of the City of Lewiston hereby declares that an emergency exists due to the large number of vacant and abandoned buildings within the City; the lack of security at certain of these structures which allows for unauthorized entry and increases the potential for arson related fires that can easily expand and spread to surrounding properties; the presence of abandoned personal property, trash, garbage, and debris within these structures which adds to the fire load and contributes to rapid growth and expansion of fires; and the presence of trash, garbage and debris adjacent to unoccupied and occupied structures which can contribute to the expansion of fires to adjacent buildings; all of which circumstances constitute an immediate threat to public health and safety.

[REPLACE EXISTING PMC § 109.2]

109.2 Temporary safeguards. ~~Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code~~

~~official may order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and may cause such other action to be taken as the code official deems necessary to meet such emergency.~~

109.2 Securing dangerous structures. When, in the determination of the City Administrator, the Director of the Planning & Code Enforcement Department, the Chief of Police, or the Fire Chief, a structure poses a serious threat to the public health and safety, a code official may secure the structure and/or the premises pursuant to 17 M.R.S. § 2856. The code official shall cause notice, as required by 17 M.R.S. § 2851(1), to be given before securing the structure unless the threat requires prompt action, in which case notice may be given after the premises are secured. The City is entitled to recover its expenses of securing the structure. Expenses shall include, but not by way of limitation, the costs of title searches, location reports, service of process, and all costs reasonably related to the securing of the structure. The City may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner or by a special tax pursuant to 17 M.R.S. § 2853.

ADD NEW PMC §109.2.1

Removal of trash, debris, or other discarded materials. When, in the determination of the City Administrator, the Director of the Planning & Code Enforcement Department, the Chief of Police, or the Fire Chief, a structure or property poses a serious threat to the public health and safety as a result of the accumulation of trash, debris, or other discarded materials, the code official may:

1. Order that the trash, debris, or other discarded materials be removed.
 - a. The code official must cause to be served with the order each owner of the structure or property i) in person, ii) in accordance with the Maine Rules of Civil Procedure, or iii) when the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, by publication once a week for three (3) successive weeks in a newspaper generally circulated in the area.
 - b. Appeals from an order may be made to the Board of Appeals within ten days of service.
 - c. If, within ten days of service, the owner fails to comply with the order or to appeal the order to the Board of Appeals, the code official may remove the trash debris, and other discarded materials.
2. Removal of the trash, debris and other discarded materials if the threat to public health and safety requires prompt action.
 - a. The code official must cause to be served each owner of the structure or property with a notice of the action taken i) in person, ii) in accordance with the Maine Rules of Civil Procedure, or iii) when the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, by publication once a week for three (3) successive weeks in a newspaper generally circulated in the area.
 - b. The owner may challenge the removal and/or petition for the return of the trash, debris, or other discarded materials to the City Administrator, or the Director of

the Planning & Code Enforcement Department, within ten days of service of the notice.

- c. Appeals from the decision of the City Administrator or Director of the Planning & Code Enforcement Department may be taken to the Board of Appeals within ten days of the decision.
- d. The trash, debris or other discarded materials removed shall be stored at a secure location until i) the expiration of ten days after service of the notice on all owners, if no appeal is taken, ii) if an appeal is taken, the later to occur of a (x) decision by the City Administrator or Director of the Planning and Code Enforcement Department upholding the decision of the code official; or (y) a decision by the Board of Appeals upholding the prior decision. After the expiration of the period described above, and absent a decision requiring return of the waste, debris, or other discarded materials, such waste, debris, and other discarded materials may be disposed of by the City.

The City is entitled to recoup any expenses incurred under this section from the owner.

Expenses shall include, but not by way of limitation, the costs of title searches, location reports, service or process, costs of removing, storing and/or disposing of the trash, debris, and other discarded materials, and all other costs incurred by the municipality that are reasonably related to the removal and disposal of the trash, debris, and other discarded materials. The City may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner.

LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Condemnation Hearing for the building located at 5 Peter Boulevard.

INFORMATION:

The City has begun the process for condemnation of the property at 5 Peter Boulevard 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.

EARL/KRM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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1) To conduct a hearing to determine if the building located at 5 Peter Boulevard 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 5 Peter Boulevard, 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.

MEMORANDUM

To: Mayor McDonald; Lewiston City Council
From: Gildace Arsenault, Director, Lewiston Planning Department
Date: May 14, 2013
RE: Dangerous Building Hearing for 5 Peter Boulevard

Dear Mayor and City Council,

At the Council meeting on May 21, the Planning Department will be presenting evidence as to why 5 Peter Boulevard is a dangerous building within the meaning of 17 M.R.S. § 2851. We will be requesting that the Council find that this property is a dangerous building and order that it be demolished.

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

- Documents establishing the identity of the current owner;
- The Notice of Hearing and proof of service on the owners and any party in interest;
- Previous correspondence, notices, or citations to the owner, if any; and
- Photographs depicting the dilapidation at the property.

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

LEWISTON CITY COUNCIL
MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Public Hearing on a proposed increase in Water Rates and approval of amendments to Policy Manual 69 regarding the water rates and charges.

INFORMATION:

As discussed during recent budget workshops, the Public Works Director and the City Administrator are recommending an increase in the Water Rates. It is recommended that the rates be increased by an average of 20%, effective July 1, 2013. The increase will bring the rate for the first 1,200 cubic feet per quarter from \$38.40 to \$45.60.

Please see the background material provided with this item for additional information and cost projections.

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 proposed amendments to Policy Manual 69, Water Rates, as outlined in the attached vote sheet, as recommended of the Public Works Director and the City Administrator.

WATER RATES & METER INSTALLATION CHARGES

In accordance with Maine Revised Statutes Annotated, Title 35A, Section 6104, the following rates are hereby established, effective ~~July 1, 2010~~ July 1, 2013:

For the first 1,200 cu. ft. per quarter ~~\$38.40~~ 45.60
 For the next 9,000 cu. ft. per quarter ~~\$2.48~~ 2.95 per 100 cu. ft.
 For all over 10,200 cu. ft. per quarter ~~\$2.17~~ 2.65 per 100 cu. ft.

QUARTERLY MINIMUM CHARGES

5/8" Meter	\$	38.40	<u>45.60</u>
3/4" Meter		60.72	<u>72.15</u>
1" Meter		97.92	<u>116.40</u>
1 1/2" Meter		187.20	<u>222.60</u>
2" Meter		300.66	<u>358.80</u>
3" Meter		561.06	<u>676.80</u>
4" Meter		821.46	<u>994.80</u>
6" Meter		1,602.66	<u>1,948.80</u>
8" Meter		3,165.06	<u>3,856.80</u>

SPRINKLERS	\$120.00 <u>144.00</u> per inch per year
PRIVATE HYDRANTS	\$958.00 <u>1,150.00</u> each per year
PUBLIC HYDRANTS	\$593,200.00 <u>738,000.00</u> per year plus cost for each additional hydrant installed after December 31, 2010 <u>2013</u>

The following meter installation charges are hereby established:

METER INSTALLATION CHARGES

5/8"	\$	150.00
3/4"		210.00
1"		260.00
1 1/2"		590.00
2"		800.00
3"		1,290.00
4" & Larger		Cost of meter plus installation charge and appropriate overhead

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



Department of Public Services

David A. Jones, P.E.

Director

Deputy Director

Kevin A. Gagne



TO: Mayor and Members of the City Council

FROM: David A. Jones, Director 

SUBJECT: FY2014 Water Rate Increase

DATE: May 15, 2013

As discussed with the City Council during budget deliberations, the FY 2014 Water Division budget will require a 20% overall increase in order to meet the cost of the current operations. In accordance with Public Utilities Commission regulations, a public hearing has been scheduled before the City Council on May 21, 2013 and notice of this hearing was mailed to all of the rate payers.

The proposed Water Division budget for FY 2014 is \$5,171,379 an increase of \$406,050 above the current year budget. The Water Division revenue, based on existing rates, is projected to generate \$4,527,585 which would create a balance of \$80,937 for the year. In addition, the projected cash deficit at the end of next year (FY 2014) is just over \$825,000.

Although the overall rate increase amounts to 20%, the increase has been designed to minimize the impacts on the low end user and to reduce the discounts which are built into the rate structure for users who consume more water.

The increase will bring the rate for first 1,200 cubic feet per quarter from \$38.40 to \$45.60; for the next 9,000 cubic feet per quarter from \$2.48 to \$2.95 per 100 cubic feet; and for 10,200 cubic feet and over from \$2.17 to \$2.65 per 100 cubic feet.

- The minimum users of 1,200 cubic feet per quarter would have an increase of 18.8%, which amounts to \$2.40 per month.
- A 5,000 cubic foot user would have an increase of 18.9% or \$8.35 per month
- The higher end users who consume in excess of 100,000 cubic feet would have an increase of approximately 22%.

The comparative breakdown of the new rate structure with the current rate structure is attached and labeled Water Rates & Meter Installation Charges.

A comparative chart on how the City of Lewiston rates compare with other utilities is also enclosed for your review. As you can see, Lewiston's rates continue to be ranked in the lower end of the scale.

The City Chief Accountant, Ralph Lenfesty has prepared a report for the PUC which is also included as part of this package. Once the rates have been approved by the City Council, they will be submitted to the PUC and are scheduled to be implemented on July 1, 2013.

The last water rate increase of 15% overall was implemented on July 1, 2010. That increase was largely driven by increased capital investment for water main replacement/rehabilitation and increased operation/maintenance cost.

We recommend the water rate increase be approved, as recommended, to become effective July 1, 2013.

Water Utility Budget Increase

FY 2014 budget is \$406,050 more than FY 2013 (8.5%)

- Other Expenses Budget up \$94,212 (4%)
 - + \$33,000 increase for equipment replacement
 - + \$61,212 increase for Debt Service for projects
 - UV Treatment Facility (Regulatory Rqmt)
- Operations Budget up \$35,541 (4%)
 - + \$26,879 increase supplies & materials costs to reflect historical trends
 - + \$14,262 increase for Personnel Services as a result of MSRS costs
- Source of Supply Budget up \$147,451 (47%)
 - + \$167,000 increase due to CMP Purchased Power agreement
 - \$20,038 decrease for Personal Services
- Admin & Genl Exp Budget up \$36,365 (6%)
 - + \$36,896 increase for salaries, Health insurance, MSRS costs
 - + \$775 increase for Supplies & Materials
 - \$1,306 decrease for Contractual Services and Fixed Charges
- Water Treatment Budget up \$80,442 (16%)
 - + \$96,981 for LAWPC efforts and shared Treatment Plant Operator position
 - \$14,688 decrease in projected chemical treatment costs
- Customer Accounts Budget up \$12,224 (9%)
 - + \$3,066 increase personnel budget as a result of CBAs
 - + \$9,158 increase Contractual Services
 - Printing costs
 - MIS costs

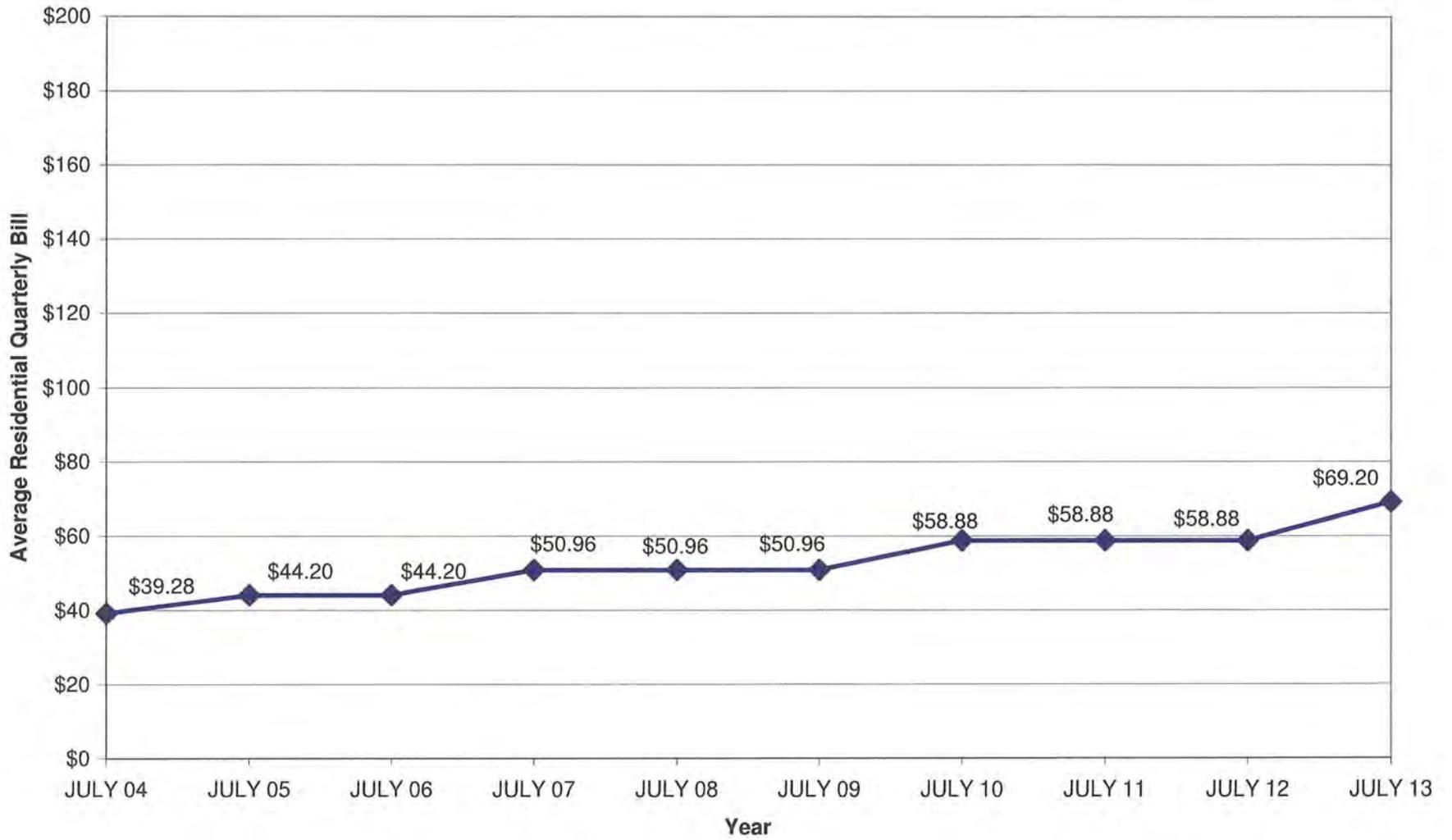
Typical Rate Increases

- Minimum users of 1,200 Cubic Feet (≈9,000 gallons) per quarter
 - 18.8% increase which amounts to \$2.40 per month

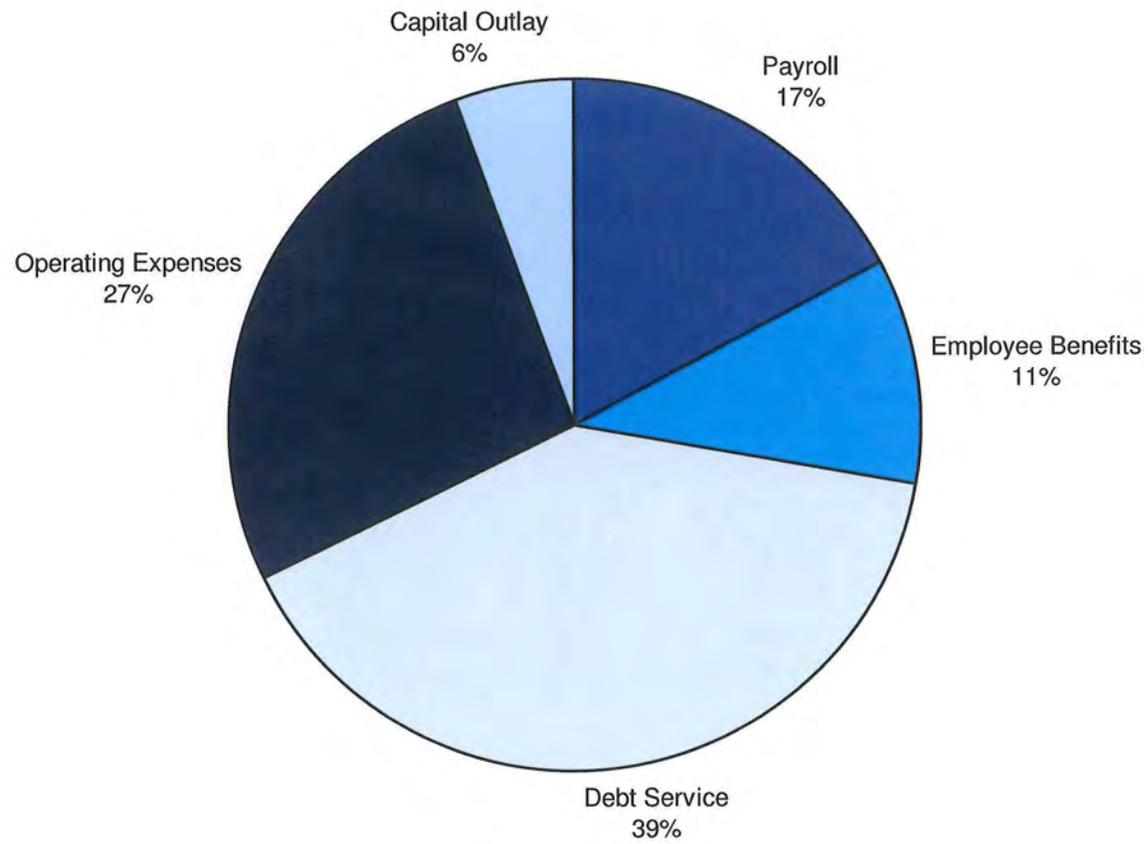
- Average Family home uses ~2,000 Cubic Feet (~15,000 gallons) per quarter
 - 18.8% increase which amounts to \$3.65 per month

- Jim Beam Brands Co (Formerly White Rock Distilleries) is a large water user
 - Averages ~398,800 Cubic Feet (~2,983,024 gallons) per quarter
 - Increase will be ~\$602.03 per month

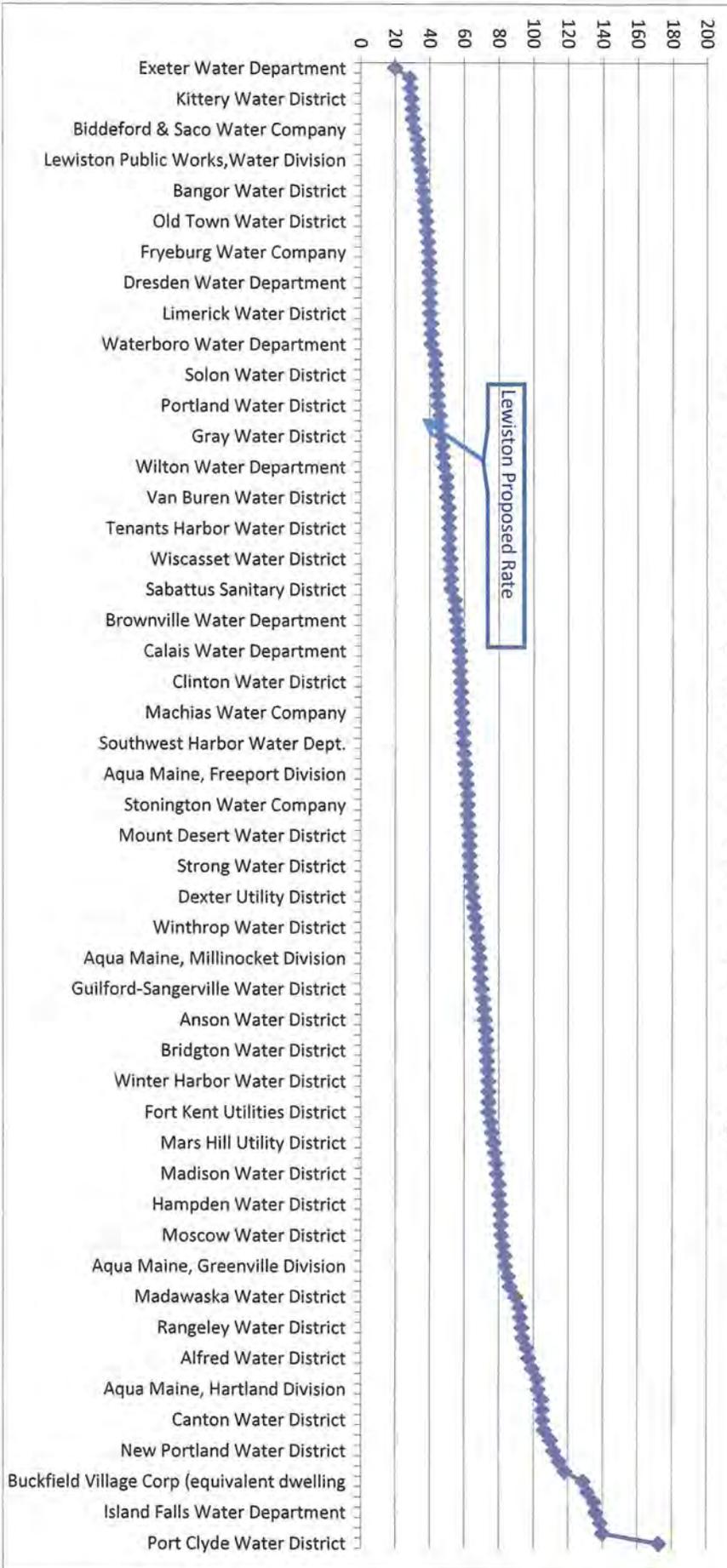
Lewiston Water Division Ten Year Rate History



2014 Water Division Expenses



State Water Quarterly Rates for 1200 cu. ft. of Drinking Water



**LEWISTON WATER DIVISION
RATE REVISIONS
JULY 1, 2013**

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Estimated Meter Revenue - Proposed Rates	Exhibit 7
Fire Protection	Exhibit 8

**LEWISTON WATER DIVISION
INCOME STATEMENTS
2012 ACTUAL, 2010 AND 2013 PRO FORMA**

EXHIBIT 1

	2010 Pro Forma	2012 Actual	2013 Pro Forma
Operating Revenue:			
Meter Sales	3,617,637	3,437,715	4,111,247
Public Fire Protection	593,200	593,200	738,000
Private Fire Protection	351,654	351,328	421,593
	<u>4,562,491</u>	<u>4,382,243</u>	<u>5,270,840</u>
Operating Expenses:			
Operation and Maintenance	2,298,048	2,275,790	2,601,586
Depreciation	668,352	874,432	874,432
Amortization	8,943	4,472	-
	<u>2,975,343</u>	<u>3,154,693</u>	<u>3,476,018</u>
Operating Income	<u>1,587,148</u>	<u>1,227,549</u>	<u>1,794,822</u>
Other Revenue	<u>241,632</u>	<u>230,342</u>	<u>230,342</u>
Net Operating Revenue Before Debt Service	<u>1,828,780</u>	<u>1,457,891</u>	<u>2,025,164</u>
Interest on Long-Term Debt	528,244	565,132	524,374
Amortization of Debt Discounts	20,752	12,484	12,484
Amortization of Premium on Debt	-	-	(27,280)
Debt Retirement	1,277,461	1,371,600	1,497,655
	<u>1,826,457</u>	<u>1,949,217</u>	<u>2,007,233</u>
Net Income(Loss) After Debt Service	<u>2,323</u>	<u>(491,326)</u>	<u>17,931</u>

**LEWISTON WATER DIVISION
OPERATION AND MAINTENANCE
2012 ACTUAL, 2010 AND 2013 PRO FORMA**

EXHIBIT 2

	2010 Pro Forma	2012 Actual	2013 Pro Forma
Salaries and Wages	873,262	867,715	897,122
Employee Pensions and Benefits	386,447	453,088	532,015
Purchased Power	(85,912)	(235,438)	(105,000)
Chemicals	152,328	121,667	159,000
Materials and Supplies	339,290	400,253	382,415
Contractual Services - Accounting	26,000	23,100	24,700
Contractual Services - Legal	1,500	455	1,000
Contractual Services - Management Fees	108,434	133,330	188,928
Contractual Services - Other	265,220	270,585	296,513
Rental of Building/Real Property	49,410	49,410	49,410
Rental of Equipment	9,900	1,390	4,300
Trench Paving Expenses	54,000	76,499	60,674
Insurances	73,928	71,537	70,334
Regulatory Commission Expenses - Normalization of Rate Case Expense	3,000		3,000
Regulatory Commission Expenses - Other	30,770	25,293	31,000
Bad Debt Expense	-	7,354	-
Miscellaneous Expenses	10,471	9,553	6,175
	<u>2,298,048</u>	<u>2,275,790</u>	<u>2,601,586</u>
Total Water Utility Expenses	<u>2,298,048</u>	<u>2,275,790</u>	<u>2,601,586</u>

City of Lewiston
 FY2014 Debt Payments
 Water Division

EXHIBIT 4

Bond #	Description	2013-2014	
		Principal	Interest
33N	Small Water Main Replacemnt	10,824.74	175.90
33O	Lisbon St Water Main Reloc	3,463.92	56.29
33P	Safe Drinking Water Act	27,711.34	450.31
34Z	Lake Auburn Intake Ext.	15,437.50	362.78
34AA	Small Main Replacement	12,350.00	290.23
36Q	Lake Auburn Intake Extension	7,500.00	574.46
36R	Small Main Replacement	12,500.00	957.42
36S	Lisbon St. Main: Willow to Chestnut	10,000.00	765.94
37O	Lake Auburn Intake Extension	6,908.32	864.34
37P	Lead & Copper - ph adjustments	5,183.07	648.48
37Q	Small Main Replacements	12,434.34	1,555.74
37R	Transmission Main-Clean & Cement	6,908.32	864.34
37S	Sabattus St. Main - Campus to Russell	1,727.34	216.12
37T	Pleasant St. Main - Lisbon to Mitchell	10,363.00	1,296.58
38R	Small Main Replacements	5,000.00	1,250.00
38S	Sabattus St. Main	12,500.00	3,125.00
39Y	Small Main Replacement	15,625.00	2,477.82
39Z	Chestnut & Cedar - Main Rep.	10,416.67	1,651.88
40AA	Small Main Replacement	5,243.90	1,111.66
41CC	Small Main Replacement	8,454.55	1,274.78
41DD	High Service Area Reservoir	845.45	127.48
41EE	Trans. Main - Clean & Cement Line	4,227.27	637.38
43CC	Lewiston-Auburn Treatment Plant	2,803.64	372.60
43DD	Transmission Main Replacement	5,607.27	745.18
43EE	Reservoir Replacement	5,607.27	745.18
43FF	Small Main Replacement	5,607.27	745.18
43GG	Crowley Rd Asbestos Water Line Replacement	5,607.27	745.18
43HH	Large Water Main Replacement	14,585.45	1,937.54
44U	Water Storage Facility	216,346.15	66,845.56
44V	Small Main Replacement	14,423.08	4,456.38
51R	Large & Small Main Replacement	1,478.62	7,625.68
51S	Main St. & Central Ave. Pump Station Improvement	73.93	381.28
52R	Main St.-Central Ave. Pump Stations	12,713.47	4,322.12
52S	Large Main Replacements	25,681.20	8,730.68
52T	Water Storage Facility	228,842.40	77,798.20
54BB	L/A Water Treatment	2,558.59	1,007.70
54CC	Pumping Station Equipment	6,140.63	2,418.46
54DD	Large Main Replacements	11,464.84	3,798.16
54EE	Small Main Replacements	2,302.73	906.92
56Z	Water Treatment Program	16,250.00	10,217.18
56AA	Main & Central Pump Station Pump Upgrades	7,000.00	4,401.26
56BB	Large Water Main Replacement	13,500.00	8,488.12
56CC	Small Main Replacement	33,250.00	20,905.94
61CC	L/A Water Treatment Program	2,500.00	1,896.88
61DD	Large Water Main Replacement	26,250.00	19,917.18
61EE	Small Water Main Replacement	25,000.00	18,968.76
63	Ultra Violet Light Facility	135,481.50	6,774.08
65T	L/A Water Treatment Program	15,000.00	8,587.50
65U	Distribution Water Main Replacement	48,600.00	28,838.00
67M	Water Main Distribution Rehab	55,100.00	25,853.72
68	Main Replacement & Chloramination Facility	63,637.50	14,875.36
71J	Lake Auburn Treatment Project	100,800.00	54,009.50
71K	Transmission Main Replacement	10,000.00	3,575.00
72I	Transmission Main Replacement	6,667.00	1,708.32
72J	Distribution Main Replacement	56,150.00	21,126.44
73Q	L/A Water Treatment Program	26,500.00	16,257.76
73R	Distribution Main Replacement	88,500.00	53,656.07
Total Water		1,497,654.54	524,374.00

**LEWISTON WATER DIVISION
COMPARISON OF METER RATES - PRESENT AND PROPOSED**

EXHIBIT 5

	First 1,200 Cu. Ft.	Next 9,000 Cu. Ft.	For 10,200 Cu. Ft.	Excess of 10,200 Cu. Ft.
<i>Present Rates</i>				
Rate per 100 cubic feet	3.20	2.48		2.17
Billing	38.40	223.20	261.60	
Average per 100 cubic feet	3.20	2.48	2.56	
<i>Proposed Rates</i>				
Rate per 100 cubic feet	3.80	2.95		2.65
Billing	45.60	265.50	311.10	
Average per 100 cubic feet	3.80	2.95	3.05	
Increase in Block	7.20	42.30	49.50	0.48
% Increase	18.8%	19.0%	18.9%	22.1%

**LEWISTON WATER DIVISION
ESTIMATED BILLING AT PRESENT RATES
METERED**

EXHIBIT 6

Minimum	No. of Bills	Meter Size	At Min	Min to 10,200	Over 10,200
12	31,520	5/8"	15,205	16,179	136
21	3,385	3/4"	773	2,170	442
36	1,408	1"	388	581	439
72	494	1 1/2"	223	56	215
120	566	2"	224		342
240	48	3"	11		37
360	68	4"	21		47
720	4	6"			4
1440	-	8"			
Total Bills	37,493		16,845	18,986	1,662
Cubic Feet (100's)			139,956	526,071	507,638

Minimum Billing		Rate	Billing
5/8"	15,205	38.40	583,872
3/4"	773	60.72	46,937
1"	388	97.92	37,993
1 1/2"	223	187.20	41,746
2"	224	300.66	67,348
3"	11	561.06	6,172
4"	21	821.46	17,251
6"	-	1,602.66	-
8"	-	3,165.06	-

Consumption Billing

Block Rate	3.20	8.64	40.26
Bills @ Block Rate		164,039	66,912
Cubic Feet @ Block Rate	2.48	1,304,656	
	2.17		1,101,574
		801,319	1,468,695
			1,168,486
			3,438,500

**LEWISTON WATER DIVISION
ESTIMATED BILLING AT PROPOSED RATES
METERED**

EXHIBIT 7

Minimum	No. of Bills	Meter Size	At Min	Min to 10,200	Over 10,200
12	31,520	5/8"	15,205	16,179	136
21	3,385	3/4"	773	2,170	442
36	1,408	1"	388	581	439
72	494	1 1/2"	223	56	215
120	566	2"	224		342
240	48	3"	11		37
360	68	4"	21		47
720	4	6"			4
1440	-	8"			
Total Bills			16,845	18,986	1,662
Cubic Feet (100's)			139,956	526,071	507,638

Minimum Billing		Rate	Billing
5/8"	15,205	45.60	693,348
3/4"	773	72.15	55,772
1"	388	116.40	45,163
1 1/2"	223	222.60	49,640
2"	224	358.80	80,371
3"	11	676.80	7,445
4"	21	994.80	20,891
6"	-	1,948.80	-
8"	-	3,856.80	-

Consumption Billing

Block Rate	3.80	10.20	40.80
Bills @ Block Rate		193,657	67,810
Cubic Feet @ Block Rate	2.95	1,551,909	
	2.65		1,345,241
		952,630	1,745,566
Estimated Revenue at Proposed Rates			4,111,247
Estimated Revenue at Present Rates			3,438,500
Increase			672,747
% Increase			20%

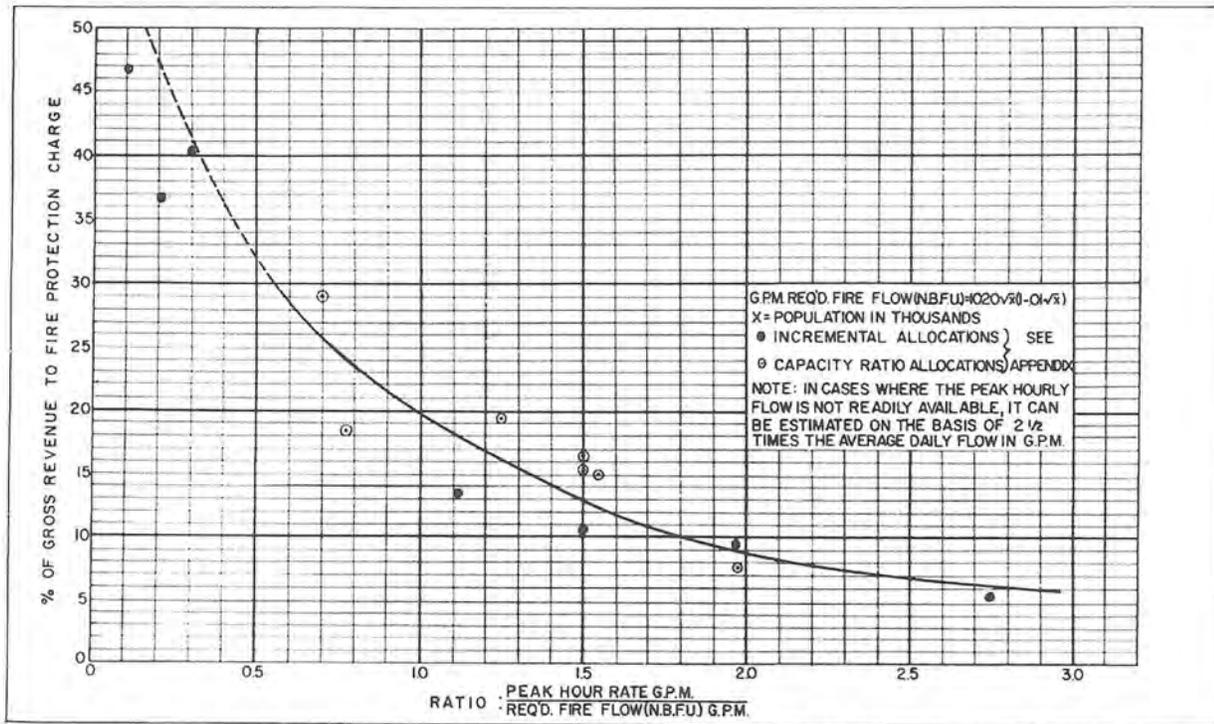


FIG. 1 DETERMINATION OF PERCENTAGE OF GROSS REVENUE FOR PUBLIC FIRE PROTECTION CHARGE

Population 36,592
 Required Fire Flow = $1020\sqrt{36.6 \times (1-0.01\sqrt{36.6})} = 5,797$ GPM
 Average Flow 3,252 GPM
 Peak Flow = $3,252 \text{ GPM} \times 2.5 = 8,130$ GPM
 Ratio $8,130/5,797 = 1.40 = 14\%$ on Curve

STATE OF MAINE
PUBLIC UTILITIES COMMISSION
SCHEDULE OF RATES
OF
CITY OF LEWISTON WATER DIVISION

Proposed Effective Date: July 1, 2013

Effective:

Director of Public Works

**QUARTERLY RATES OF WATER
TO METERED CUSTOMERS**

Quarterly Rate:

For the first	1,200	cu. ft. per quarter	\$45.60	
For the next	9,000	cu. ft. per quarter	\$2.95 per 100 cu. ft.	
For all in excess of	10,200	cu. ft. per quarter	\$2.65 per 100 cu. ft.	

Minimum Charge:

Meter Size	Minimum Charge Quarterly	Allowance Cubic Feet Quarterly	
5/8"	45.60	1,200	
3/4"	72.15	2,100	
1"	116.40	3,600	
1 1/2"	222.60	7,200	
2"	358.80	12,000	
3"	676.80	24,000	
4"	994.80	36,000	
6"	1,948.80	72,000	
8"	3,856.80	144,000	

Terms of Payments:

Bills under this rate are net and will be due and payable upon presentation.
Bills will be rendered quarterly by the Utility.

Proposed Effective Date: July 1, 2013

Effective:

Director of Public Works

PRIVATE FIRE PROTECTION

Available:

To customers using the District's service for private fire protection.
The following rates apply to fire protection only and include no allowance for water for other than fire fighting purposes.

Rate:

Each private hydrant furnished, installed and maintained by the user for private fire protection, per year \$1,150.00 |

Private fire service rate for automatic sprinklers, standpipes, or hose connections to be used only for fire protection inside of buildings a charge per inch of service pipe diameter per year. \$144.00 |

Proposed Effective Date: July 1, 2013

Effective:

Director of Public Works

PUBLIC FIRE PROTECTION

Available:

This schedule is applicable to the City of Lewiston for public fire hydrant service.

Rate:

For the 743 hydrants located on the system at December 31, 2012. **Per Annum**
\$738,000 I

For any additional hydrants installed after December 31, 2012, the rate shall be determined in accordance with Public Utilities Commission Rules and Regulations Chapter 690.

Conditions of Service Under This Rate

The above total annual fire protection charge for the existing hydrants shall not be reduced should the City order one or more hydrants removed.

Proposed Effective Date: July 1, 2013

Effective:

Director of Public Works

LEWISTON CITY COUNCIL
MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Resolve approving a capital project to improve safety at Montello Elementary School and transferring various bond proceeds for this purpose.

INFORMATION:

It has been recently identified by the School Department that improvements need to be made to the front entrance of Montello Elementary School. These upgrades are for safety improvements. The School Department is seeking permission from the Council to transfer funds from other projects to allow for the completion of this needed project.

Please refer to the memorandums from the Finance Director and the School Superintendent for additional background on this item.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve approving a capital project to improve safety at Montello Elementary School and transferring various bond proceeds for this purpose.



**City of Lewiston Maine
City Council Resolve
May 21, 2013**



Resolve, Approving a Capital Project to Improve Safety at Montello Elementary School and Transferring Various Bond Proceeds for this Purpose.

Whereas, the School Department has identified a need for certain safety improvements involving the main entrance to Montello Elementary School; and

Whereas, these improvements will enhance school security and the ability of school staff to monitor those who enter the facility; and

Whereas, the estimated cost of this project is \$275,000, and the School Department has recommended that bond proceeds from completed or pending projects be transferred for this project; and

Whereas, although this project was not included in the recently adopted Lewiston Capital Improvement Plan, a recent review of security issues at all city schools has indicated a need for this work; and

Whereas, in accordance with city ordinance, this request has been reviewed by the Planning Board, which recommends your approval;

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

There is hereby approved a capital project to enhance security for the entrance at Montello Elementary School. Funding for this project shall be transferred from the following capital projects:

Project	Amount	Account
Transfer from New School Bond:	\$20,000	(710-7107101)
Transfer unused Longley bond funds:	\$22,842	(710-7107301)
Transfer unused contingency McMahon*:	\$126,667	(713-7137201*)
Re-purpose Montello Locker bond funds:	<u>\$105,491</u>	(713-7137301)
TOTAL	<u>\$275,000</u>	

* This contingency amount includes residual McMahon construction funds from the previous phase, originating in Bond 722-7227201.



Finance Department

Heather Hunter
Director of Finance/Treasurer
hhunter@lewistonmaine.gov



TO: Mayor Robert E. Macdonald
And Members of the City Council

FROM: Heather Hunter, Finance Director

SUBJECT: **Project Budget Transfer Request**

DATE: May 14, 2013

The City Council has received information in the attached memo regarding the School Department's request to transfer surplus funds to improve and provide greater security to the Montello School entrance. The School Committee approved this transfer on April 22, 2013 and the Planning Board approved the project concept on May 20, 2013.

In order to move their plans forward, the School Superintendent is requesting to transfer a total of \$275,000 for this project. The proposed funding sources for this project are as follows:

- New School Planning (funding created from a transfer dated 9/12/11) - \$20,000 – 710-7107101
- Longley School Improvements & Natural Gas Conversion (funding created from a transfer dated 9/12/11) - \$22,842 – 710-7107301
- McMahon Addition Contingency - \$126,667 – 713-7137201
- Montello Locker Replacement (they are re-purposing these funds for this project) - \$105,491 – 713-7137301

After reviewing the accounting and based upon the information the school provided on the contingency balance, I am recommending that \$275,000 be transferred from the projects outlined above to the Montello School Entrance project.

Additionally, by reallocating these funds, especially the funds issued for the 2010 LCIP projects, the City is in a better position to meet the IRS Arbitrage Spend-down Requirements.

The requested action is to approve the \$275,000 transfer from the New School Planning Project (\$20,000), the Longley School Improvements & Natural Gas Conversion Project (\$22,842), the McMahon Addition Project (\$126,667), and the Montello Locker Replacement Project (\$105,491) to the Montello Entrance Project.

I would be happy to address any questions or concerns you may have about this transfer.

LEWISTON PUBLIC SCHOOLS



36 Oak Street
Lewiston, ME 04240
www.lewistonpublicschools.org
TDD: 207-795-4100
FAX: 207-795-4177

Administration: 207-795-4100
Business: 207-795-4104
Curriculum: 207-795-4103
ELL Program: 207-795-4105
Maintenance: 207-795-4107
Nutrition: 207-795-4106
Payroll: 207-795-4109
Special Education: 207-795-4108
Technology: 207-753-6416

May 6, 2013

David Hediger
City Planner/Deputy Director Planning and Code Enforcement
City of Lewiston
27 Pine Street
Lewiston, ME 04240-7201

Dear David:

The School Department is seeking approval to fund a capital project that will establish baseline safety features for the entrance at Montello Elementary. We understand a Planning Board recommendation for the City Council's consideration is required for capital improvements of \$100,000 or more not included in the LCIP.

A general project overview follows:

Today, entering the school building requires passing through an open, dimly lit space and walking through a second door to ascend the stairway before seeing the school secretary. This entrance prevents any ability to monitor or contain visitors in the lobby, away from most students. The project will renovate the main entrance of Montello Elementary, creating an entrance similar to those at Geiger and Farwell schools. The design will raise the existing roof of the entrance area, enabling installation of a ramp that meets current codes for ADA and a new set of stairs from the Main Office level to the lower entrance level. This design relocates the school secretary and assistant to the main level, where they will be able to greet and monitor the safe movement of students, staff, parents and visitors.

Along with the above changes, this renovation will allow us to widen an existing ramp from approximately 4' wide to roughly 9'. Currently the ramp creates a pedestrian bottleneck in the school, undermining safety in a setting with over 700 children passing through at least 3 times each school day. There will be no change in the building footprint or square footage.

We have obtained a construction estimate of \$275,000 for the project. In order to meet this budget without added soft costs, we will manage it as a design-build project using both internal and external resources. We propose the following funding sources for approval by City Council:

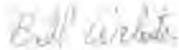
David Hediger
City Planner/Deputy Director Planning and Code Enforcement
May 6, 2013
Page Two

Transfer from New School Bond:	\$20,000	(710-7107101)
Transfer unused Longley bond funds:	\$22,842	(710-7107301)
Transfer unused contingency McMahon*:	\$126,667	(713-7137201*)
Re-purpose Montello Locker bond funds:	<u>\$105,491</u>	(713-7137301)
TOTAL	<u>\$275,000</u>	

* This contingency amount includes residual McMahon construction funds from the previous phase, originating in Bond 722-7227201.

The School Committee approved this request at its meeting held April 22, 2013.
We thank you and the Planning Board for consideration of this request.

Sincerely,



William Webster, Jr.
Superintendent of Schools

c: Elaine Runyon, Controller
Joe Perryman, Facilities Director



CITY OF LEWISTON



Department of Planning & Code Enforcement

TO: Planning Board
FROM: David Hediger, City Planner
DATE: May 10 2013
RE: May 13, 2013 Planning Board Agenda Item IV(b)

Request by the Lewiston School Department for a capital expenditure not included in Lewiston's annual capital program to make baseline safety improvements for the school entrance of Montello Elementary School.

As the Board will recall, a favorable recommendation was provided to the City Council in February to adopt to FY2014 Lewiston Capital Improvement Plan (LCIP). This recommendation is required by Charter and the Zoning and Land Use Code.

The Lewiston School Department is now making a request for a capital expenditure that was not included in the adopted LCIP. Article VII, Section 4(f) of the Zoning and Land Use Code requires that the Board review and make a recommendation to the City Council with regard to all capital expenditures costing \$100,000 or more which are not included in the LCIP. This is the case with respect to the School Department's request to make baseline safety improvements for the school entrance of Montello Elementary School. Reference should be made the School Department's letter dated May 6, 2013.

At this time, the Board is being asked to provide a favorable recommendation to the City Council for the Lewiston School Department's capital expenditure not included in Lewiston's annual capital program to make baseline safety improvements for the school entrance of Montello Elementary School.

ACTIONS NECESSARY:

1. Make a motion to consider a request by the Lewiston School Department for a capital expenditure not included in Lewiston's annual capital program.
2. Obtain input on the proposed amendment.
3. Make a motion pursuant to Article VII, Section 4(f) of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration the Lewiston School Department's capital expenditure not included in Lewiston's annual capital program to make baseline safety improvements for the school entrance of Montello Elementary School.



City of Lewiston
Planning & Code Enforcement
Gil Arsenault, Director
MEMORANDUM



To: City Council Members
From: David Hediger
Date: May 14, 2013
Subject: Planning Board Action: Montello School

The Planning Board took the following action at their meeting held on May 13, 2013 regarding the request by the Lewiston School Department for a capital expenditure not included in Lewiston's annual capital program to make baseline safety improvements for the school entrance of Montello Elementary School.

The following motion was made:

MOTION: by **Walter Hill** pursuant to Article VII, Section 4(f) of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration the Lewiston School Department's capital expenditure not included in Lewiston's annual capital program to make baseline safety improvements for the school entrance of Montello Elementary School. Second by **Paul Robinson**.

VOTED: 7-0 (Passed)

Note: Article VII, Section 4(f) of the Zoning and Land Use Code requires that the Planning Board review and make a recommendation to the City Council with regard to all capital expenditures costing \$100,000 or more which are not included in the LCIP.

c: Ed Barrett, City Administrator
Planning Board Members

LEWISTON CITY COUNCIL

MEETING OF MAY 21, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

Order authorizing the City Administrator to enter into an Agreement with St. Mary's Health System for the use of the Municipal Surface Parking Lot and Adjacent Properties at the corner of Main and Lincoln Streets for a Sunday Farmer's Market.

INFORMATION:

The Lewiston Farmer's Market has been operating their market on Sundays in the city parking lot at Main Street and Lincoln Street since 2011 and this has been an extremely successful venture for them. The attached is a Use Agreement with the Market organizers for the 2013 season. Their proposal is to run the market at this site on Sundays from 10:00am to 1:00pm from May 26 through October 27.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAR/kmm

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 an Agreement with St. Mary's Health System for the use of the Municipal Service Parking Lot and Adjacent Properties at the corner of Main and Lincoln Streets for a Sunday Farmer's Market.



City of Lewiston, Maine
City Council Order
May 21, 2013



ORDER, Authorizing the City Administrator to Enter into an Agreement with St. Mary's Health System for the use of the Municipal Surface Parking Lot and Adjacent Properties at the Corner of Main and Lincoln Streets for a Sunday Farmer's Market.

Whereas, St. Mary's Nutrition Center has operated farmer's markets in several locations in Lewiston, including Kennedy Park; and

Whereas, the Center has been in discussion with City staff regarding the use of a high visibility location near Lincoln and Main Streets for a weekend market; and

Whereas, no objections to the use of the premises during the times/dates proposed have been raised by City or Bates Mill staff; and

Whereas, no current policy governs the use of the space proposed; and

Whereas, both the City and St. Mary's Health System wish to formalize this approval through entering into a use agreement;

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

the City Administrator is authorized to execute a use agreement, substantially in the form as attached, with St. Mary's Health System for the use of the municipal surface parking lot and adjacent properties on the corner of Main Street and Lincoln Street for the St. Mary's Nutrition Center's Sunday Famer's Market.

**USE AGREEMENT
BETWEEN
THE CITY OF LEWISTON
AND
ST. MARY'S NUTRITION CENTER**

The following is an agreement for use of municipal surface parking lot and adjacent properties on the corner of Main Street and Lincoln Street (including all or portions of parcels comprising 16 Lincoln Street & 103, 115, 131 and 137 Main Street) by St. Mary's Nutrition Center of Maine, part St. Mary's Regional Medical Center.

The purpose of this agreement is to set forth the terms and conditions under which St. Mary's Nutrition Center of Maine, part St. Mary's Regional Medical Center, a nonprofit corporation organized and operating in the State of Maine, and whose mailing address PO Box 7291, Lewiston ME 04243 ("User") has agreed to make use of the above-referenced location for its "Lewiston Farmers' Market at Bates Mill 5" from the City of Lewiston, a Maine municipality, with a mailing address of 27 Pine Street, Lewiston, Maine 04240 ("City") once a week for the 2013 farmers' market season.

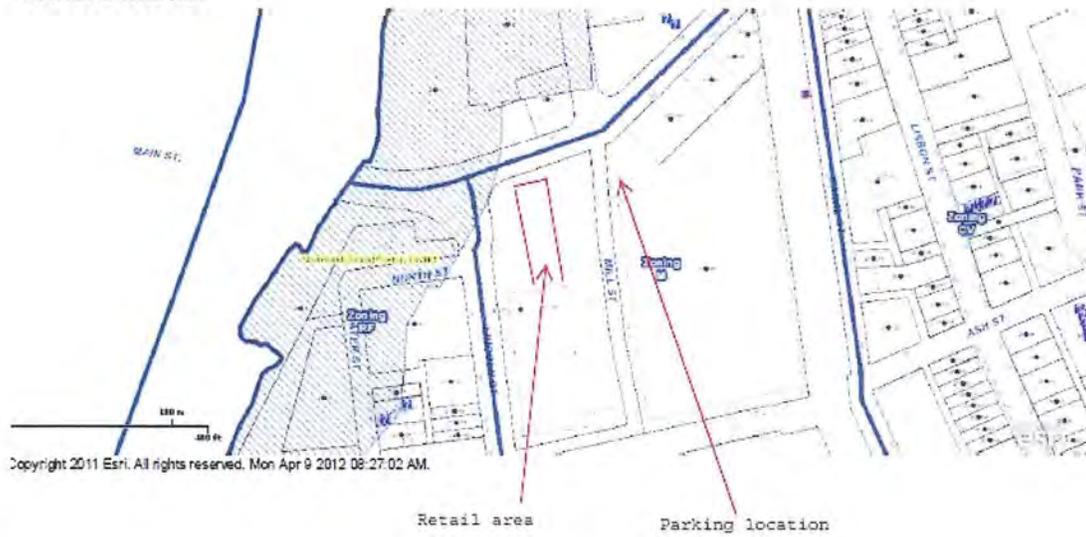
Premises Used	The premises consist of a Parking Lot and adjacent properties including all or portions of parcels comprising 16 Lincoln Street & 103, 115, 131 and 137 Main Street as described in Exhibit A. As per agreement the User will be permitted to set up the market on the ground floor of the parking garage on rainy days.
Duration of Use	The above referenced premises shall be used exclusively on Sundays beginning May 26th 2013 through October 27th 2013 for the hours of 10:00 am to 1:00 pm for regular market hours and from 8:00 am – 10:00 am and 1:00 pm – 3:00 pm for market set up and break down respectively. Future use of the premises will be discussed between the User and the City following the 2013 market season.
Use Fee:	The use of the property described herein shall be offered at no cost to the User.
Liability Insurance, Maintenance"	The User is responsible for these costs. The User agrees to maintain a liability insurance policy covering its operations on the Premises. Such policies will name City as an additional insured. User shall provide City with certificates evidencing such insurance coverage.
Modifications to Premises:	The User may make no alterations to the premises without express written permission from the City. The City may immediately terminate this agreement upon any violation of this clause.
Use:	The User will use the premises solely to maintain and operate a weekly farmers' market and uses ancillary and appurtenant thereto, and for no other use.
Signage:	The User may install a semi-permanent sign announcing the presence of the farmers' market. As per agreement, the City will be responsible for the sign posts. This semi-permanent sign can be installed one month prior to the farmers' market opening on May 26th, 2013 and must be taken down no later than November 1st 2013. Any additional signage will be at the User's expense, with approval from the City prior to installation. The User is responsible for securing applicable permits for all signage.
Termination:	The City will reserve the right to relocate the "Lewiston Farmers Market at Bates Mill 5." Notice of the relocation shall be provided in writing to the Tenant no less than thirty (30) days prior to the relocation. City shall also commit to work with Tenant to provide an alternate site enabling the Tenant to relocate prior to the end of

	<p>the notice period. Tenants failure to relocate on the last day of the notice shall result in the immediate termination of all City permitting issued to Tenant unless otherwise waived by the City Administrator or his/her designee.</p>
<p>Miscellaneous:</p>	<ol style="list-style-type: none"> 1. As per agreement the User shall be permitted to use the electric outlets located at Raymond Gateway Park to provide power for musical amps and a knife sharpening machine belonging to one vendor at no cost to the market. 2. The User shall be responsible for all activities associated with the farmers' market including but not limited to, coordinating the set up and break down of vendor stands, handling customer concerns and questions, cleaning up any and all debris left behind on premises after the market. If the User shall fail to uphold any of the above stated responsibilities in a way that is satisfactory with this agreement, the City may terminate this agreement upon 30 days' prior written notice to the User provided, that if the User shall have cured such violation to the satisfaction of the City prior to the expiration of such 30 day period, the City shall withdraw notice of termination. 3. The User shall also be responsible for coordinating any musical or entertainment events and acquiring proper permitting and permission from City officials. 4. All portions of the premises except as otherwise set forth in this agreement shall be open to the general public. The User shall not unreasonably restrict the rights of residents of Lewiston, Maine from attending the farmers' market, except for residents to have been found dangerous to customers and vendors or destructive to property at the market. 5. The City and the User will be in communication during the market season between the months of June and October 2013 to evaluate market operations and address any immediate concerns that may have arisen. The City and the User will meet at least once following the market season between October and December 2013 to further evaluate market operations, address any concerns and discuss future and possible use of the premises.

Exhibit A
Site Map of potential use Area

Exhibit A
Site Map of potential use Area

Farmer's Market



FARMERS MARKET
EXHIBIT A.