

LEWISTON CITY COUNCIL SPECIAL MEETING & WORKSHOP AGENDA

Tuesday, September 10, 2013

City Council Chambers

6:00 p.m. Special Meeting

Pledge of Allegiance to the Flag.

Moment of Silence.

SPECIAL MEETING

1. Appointments to the Voter Registration Appeals Board.
2. Adjourn.

WORK SESSION

1. Discussion of proposal to replace Pierce Street Multi-Family Housing lost in May Fire.
(45 minutes)
2. Discussion of amendments to the Solicitation/Aggressive Panhandling Ordinance
(15 minutes)

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 10, 2013

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Appointments to the Voter Registration Appeals Board.

INFORMATION:

State election law requires that all municipalities with a population of 5,000 or over have a local Voter Registration Appeals Board. The Appeals Board would meet on an as needed basis to conduct hearings to hear from any citizens that are appealing the decision of the Registrar of Voters if these citizens were denied the right to vote in Lewiston. In the past 14 years, this board has met only once.

The Board is made up of three people, per state statutes - the chairperson, who is nominated by the City Clerk and shall serve a four year term, and one representative from the local Democratic party and the local Republican party, who shall each serve for a three year term. The municipal officers are asked to confirm the nominations and formally appoint these citizens. The party representatives are typically the chairpersons of the local committee.

The City Clerk is nominating Gerald P. Berube, 34 Ashmount Street to serve as the chairperson. Ronella Paradis of 82 Prospect Avenue is the Lewiston Democratic Party Chairperson and James W. Sorcek is the Lewiston Republican Party Chairperson. All three residents have agreed to serve on this committee if appointed.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kwm

REQUESTED ACTION:

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To appoint Gerald P. Berube, 34 Ashmount Street, as the chairperson of the Voter Registration Appeals Board for a four year term, said term to fill an existing vacancy and to expire April 1, 2016; to appoint Ronella A. Paradis, 82 Prospect Avenue to serve as the Democratic party representative for a three year term, said term to fill an existing vacancy and to expire April 1, 2015 and to appoint James W. Sorcek of 20 Tall Pines Drive to serve as the Republican party representative for a three year term, said term to fill an existing vacancy and to expire April 1, 2015.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, SEPTEMBER 10, 2013
6:00 P.M.

1. Proposal to Replace Pierce Street Multi-Family Housing Lost in May Fire. (45 minutes)

Pierce Place, a Section 8 Project Based low income complex located on Pierce and Bartlett Streets and providing 29 units of housing, was destroyed in one of this spring's downtown fires. A waiver from HUD was sought and received to allow displace tenants to transfer to the Section 8 voucher program. Staff has been in close contact with both the current owner of the project and HUD officials in regard to rebuilding. During these conversations, it became apparent that the owner was not in a position to rebuild and an agreement has been reached to transfer ownership of this property and additional units on Park Street that are a component of it to Volunteers of America of Northern New England, and organization which is active in housing issues.

Representatives of VOA will be present on Tuesday to introduce themselves and their organization to you, present plans for the replacement housing, and outline what they are requesting from the City. Please see the attached memo and background information.

2. Amendments to Solicitation Ordinance (15 minutes)

At the last Council meeting, this proposed ordinance received first reading. There was discussion, however, regarding its possible amendment on second reading. The ordinance has been revised to address the concerns that were raised. Prior to finalizing it and placing it on the next agenda, we wanted to review the changes with you to ensure that all issues have been addressed. Please see the attached memo and revised ordinance.



City of Lewiston Executive Department

EDWARD A. BARRETT
City Administrator

PHIL NADEAU
Deputy City Administrator



September 5, 2013

To: Honorable Council Chair and Members of the City Council
Fr: Edward A. Barrett
Su: Pierce Place Section 8 Housing

Pierce Place, a Section 8 Project Based low income complex located on Pierce and Bartlett Streets and providing 29 units of housing, was destroyed in one of this spring's downtown fires. A waiver from HUD was sought and received to allow displace tenants to transfer to the Section 8 voucher program. If the project is rebuilt, those tenants would be able to relocate back to this new project based housing. HUD has made it clear that a new project must move forward quickly to maintain these 29 project based units in Lewiston.

Since the fire, we have been working with project's owner and representatives of HUD in an effort to replace this housing. During these discussions, it became apparent that the current owner is not in a position to move forward with new construction.

At the urging of HUD officials, Volunteers of America of Northern New England (VOA), an organization which is active in housing issues, was brought into the discussions. They are now in a position where they are able to step in, take ownership of the project, and work to move it forward.

The most immediate issue is timing. The Volunteers of America intend to utilize Low Income Housing Tax Credits (LIHTC) as a primary source for funding constructions of the project. Being awarded LIHTC is a competitive process, with each application scored as to how well they meet criteria and goals outlined by MaineHousing in a Qualified Allocation Plan. The application deadline for this coming year's round of LIHTC is September 26th.

Everything necessary to allow the project to move forward will have to be in place by the application deadline. The most pressing issues are:

- Assembling additional property to allow the 29 units to be replaced. This will require acquisition of 4 additional parcels abutting Pierce Place (2 where non-project structures were destroyed prior to the fire; 1 where the City recently condemned and removed a structure; and 1 with a building that suffered some damage in the fire and which is currently vacant and trending toward condemnation and demolition).
- Identifying financial assistance that the City may be able to provide to the project in successfully competing for the tax credits. This would include a TIF, waiver of land

development code and building fees, and other forms of assistance.

As to the land issues, to date the City has expended \$72,694.05 on non-project buildings that have already been demolished. Additional demolition costs are estimated at \$75,000. Note, however, that the project buildings were demolished by the owner at no expense to the City.

If the project is not reconstructed, the 29 project based vouchers associated with it will be lost.

Staff has had preliminary discussions with VOA regarding support for the project and an outline of a possible agreement with VOA is attached.

The advantages of moving forward include the re-creation of the lost units, many of which were two to four bedroom and primarily served large immigrant families. It would also be new construction of a nature and type similar to what we have seen in other such projects in recent years. Such construction could potentially serve as an impetus to other improvements in the area. It would also fill the unsightly "gap" in the landscape that resulted from the fires.

It should be noted that a significant number of housing units have been lost over the last few years as a result of the City's aggressive condemnation efforts and the most recent and other fires over the last several years. Since May of 2011, 176 units have been demolished and eliminated from our rental inventory and our efforts will continue in this regard.

We cannot, however, continue to simply eliminate housing and leave a patchwork of undeveloped and unsightly lots throughout the downtown residential area. Rather than stabilizing the area, this will more likely lead to further disinvestment due to real and perceived concerns over the viability of the area. While we must continue to remove substandard structures, we should also support new construction as a way to stabilize and inject new energy into the area.

Staff and representatives of VOA will be prepared to provide additional information and answer any questions you may have on this project on Tuesday. If there is support for moving forward, some formal Council actions will likely be required this month in order to meet the MaineHousing application deadline.

Please also be aware that there is no guarantee that this project will be successful. In order to receive tax credits, the needed land will have to be acquired, City financial support solidified, and site plans approved, all between now and the final application date.

Economic and Community Development

Lincoln Jeffers

Director



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Requested Public Assistance for Pierce Place Project
Date: September 5, 2013

As noted in Ed's cover memo, Volunteers of America (VoA) has come to terms with the owner to acquire the four parcels where the 29 units of Pierce Place formerly stood 145 and 149 Bartlett Street, and 110 and 114 Pierce Street. In order to make new construction of the project financially viable, and competitive for securing Low Income Housing Tax Credits (LIHTC), Volunteers of America has requested the following in public support for the project. All of the requested assistance earns points under the LIHTC allocation process:

- 1) A letter of support for the project from the City Council.
- 2) Assistance in acquiring 116 and 122 Pierce Street and 139 and 155 Bartlett Street. The City has already condemned the buildings, and at the city's cost, mitigated the environmental issues, and demolished the structures on Pierce Street and at 139 Bartlett Street. The City's total investment to date on mitigation/demolition on these properties is \$72,694. The City is being asked to convey the properties at no cost to VoA. Reducing the front end development costs (including land acquisition) increases the competitiveness of VoA's tax credit application.
- 3) Waiver of City development review application and building permit fees. The project has not been fully defined yet or been through development review, but Planning estimates the value of these foregone fees to be approximately \$17,400.
- 4) A return of 50% of the taxes paid on the project to VoA for a period of 15 years. If agreeable to the Council, the City will take action to create a TIF District and Program, allowing the City to take advantage of the sheltering benefits of TIFs. There is not time to put a TIF in place before the tax credit application deadline, but we will do so if the project moves forward.
- 5) A reduction in the parking requirement required by code, down to a ratio of 1 space per unit.

I look forward to discussing this project with you in greater detail at the September 10th workshop.



City of Lewiston Executive Department

EDWARD A. BARRETT
City Administrator

PHIL NADEAU
Deputy City Administrator



September 5, 2013

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Solicitation Ordinance

At the last Council meeting, an ordinance regulating solicitations received first reading. At that time, there was discussion of possibly amending it on second reading. A copy of the revised ordinance is attached.

In the process of reviewing the ordinance, numerous non-substantive language changes were made to simplify and clarify its language. As a result, a new version, rather than a markup of the original, is attached. The substantive changes are:

- Eliminating sidewalks from the definition of "street, road, or highway" to clarify that certain restrictions imposed by the ordinance on solicitations in what we normally understand as a street do not apply to solicitations on sidewalks.
- Section 50-268 (1) (c) has been revised to eliminate the language addressing obstruction of the vision of vehicle operators due to signs or objects. It has also been modified to mirror the state law on obstructing the public ways. This section now simply outlaws obstructing the free passage of pedestrians on sidewalks and shoulders or solicitations which result in vehicles stopping within the travel lane;
- Section 50-268 (1) (d) has been revised to clarify that solicitors cannot unreasonably obstruct vehicles moving into or out from a parking area into the travel way. This would apply, for example, to solicitations that block a driveway into a home or business.
- Section 50-270 has been shortened to eliminate the unnecessary language in subsections (2) and (3) which reference that individuals cited under the ordinance could also be warned or summoned under applicable state statutes. This is allowable whether such language is included in the ordinance or not, so it has been deleted for simplification purposes.

These revisions have been reviewed by the Police Department, which is supportive of the changes.

Given the discussion at the last meeting, we wanted to provide the Council with the opportunity to review these changes in advance to ensure that concerns have been addressed and a final version can be placed on the next agenda.

If you have any questions or concerns, please let us know.

**AN ORDINANCE PERTAINING TO SAFETY CONCERNS WITH REGARD TO
PEDESTRIAN ACTIVITIES OCCURRING IN TRAFFIC DIVIDING MEDIANS AND
AREAS IMMEDIATELY PERTAINING TO VEHICULAR TRAFFIC AND DEALING
WITH “AGGRESSIVE” PANHANDLING OCCURRING IN THE PUBLIC
CONCOURSE**

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 50 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 50

OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE X. AGGRESSIVE PANHANDLING

Sec. 50-266. Purpose.

The purpose and intent of this ordinance is: to prevent dangers to persons and property, to prevent delays, and to avoid interference with traffic flow caused by persons soliciting employment, business, contributions, or sales of any kind, or collecting monies for the same, in or on a publicly maintained street, road or highway used primarily for the conveyance of motorized vehicle traffic; to ensure unobstructed pedestrian travel within the public right of way, including sidewalks; and to protect the safety of the general public by imposing reasonable manner and place restrictions on the conduct of persons engaged in solicitation while respecting their constitutional rights of free speech. These purposes are derived from the following findings:

1. Actively soliciting from occupants of vehicles distracts drivers from their primary duties to watch traffic and avoid potential hazards, including pedestrians, in the roadway, to observe all traffic control signals or warnings, and to prepare to move through the City’s travel ways and intersections.
2. When persons approach vehicles to solicit from occupants, traffic flow is impeded, delays result due to obstruction of the free flow of travel, and congestion and blockage of travel ways, driveways to parking areas, and sidewalks results.
3. Distracted drivers are more prone to accidents, which constitute a serious traffic safety problem and impede and prevent the orderly flow of traffic. Distracted drivers constitute a threat to the safety of the person engaging in solicitation as well as that of other pedestrian traffic and traffic in general.
4. Aggressive solicitation creates fear and intimidation and results in a loss of access to and enjoyment of public places.

5. The State Statute dealing with divided highways, Title 29-A M.R.S. §2052(5), authorizes a municipality to limit the use of travel ways and to prohibit pedestrians from those ways. The State Statute addressing pedestrian traffic, Title 29-A M.R.S. §2056(2), clarifies how pedestrians are expected to conduct themselves on a public way. The State Statute dealing with offenses against public order, Title 17-A M.R.S.A. §505, addresses obstruction of a public way.

Sec. 50-267. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

- (1) “City” means the City of Lewiston, Maine.
- (2) “Curb” means the lateral lines of a street, road or highway, whether constructed above grade or not, beyond which vehicular travel is not intended.
- (3) “Median” means the area within a street, road or highway, generally in the middle, which separates traffic traveling in one direction from traffic traveling in another direction or which, at intersections, separates traffic turning left or right from traffic proceeding straight. A median may be physically separated from the area used by motor vehicles by curbing, landscaping, or other physical obstacles. A median may also be delineated by traffic control markings which prohibit use of a portion of the pavement of a street, road or highway by motor vehicles other than to drive generally perpendicularly across them or to idle on them awaiting the opportunity to cross or merge with opposing lanes of traffic (also known as “painted medians”, which are wider than a double yellow line). Medians also include other areas of a street, road or highway that are separated from motor vehicle traffic lanes by curbing, landscaping, or other physical obstacles designed to exclude motor vehicles (also known as an “island”).
- (4) “Public right-of-way” means real property:
 - a. Owned by a governmental entity or by a non-governmental entity or person and deeded, used, reserved or dedicated to or for public use for travel, transportation, or public utility purposes, including but not limited to, sidewalks, medians, curbs, shoulders, improved shoulders, walkways, paths and any other area so owned, dedicated, used, or reserved; and
 - b. The public right-of-way includes the area extending from the right and left of the center line of a public street, road, highway, sidewalk or walkway to the nearest property line which marks the juncture of private property and the public right-of-way.
- (5) “Shoulder” means the portion of a street, road or highway that is:

- a. Adjacent to the travel way;
 - b. Designed or ordinarily used for parking, standing, or stopping;
 - c. Distinguished from the travel way by different design, construction, or markings; and
 - d. Not intended for normal vehicular travel.
- (6) “Sidewalk” means an improved surface which is located between the curb or lateral lines of a street, road or highway and the adjacent property line and which is designed, intended, and ordinarily used for pedestrian travel.
- (7) “Solicitation” means the act of asking another for money or other items of value, whether or not in exchange for a service or item of value.
- (8) “Street, road or highway” means that portion of the public way open to vehicular travel, including shoulders but excluding sidewalks.
- (9) “Traveled portion” means that portion of the publicly maintained street, road or highway which is improved, designed or ordinarily used by moving motor vehicle traffic.

Sec. 50-268. Prohibited acts generally.

- (1) It is unlawful for any person to solicit a ride, employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any motor vehicle traveling upon any publicly maintained street, road or highway, when the person, while actively soliciting:
- a. Enters onto the traveled portion of a publicly maintained street, road or highway;
 - b. Is located on or within any median;
 - c. Is located on a sidewalk or shoulder intended for or capable of pedestrian travel such that the free passage of foot traffic is unreasonably obstructed or where such solicitation results in vehicles stopping within the travel lane to respond to the solicitation; or
 - d. Is located such that vehicles are unreasonably obstructed from moving into or out from a legal parking area into the travel way.

- (2) A person may not stand on or near any publicly maintained street, road or highway to solicit payment for watching or guarding a vehicle parked or to be parked on the public right of way.

Sec. 50-269. Invasively Aggressive Solicitation.

- (1) It is unlawful for a person to intentionally or recklessly position his or her self or any held or placed sign or object in such a manner as to interfere with the line of sight of a vehicle operator while actively engaging in solicitation.
- (2) A person may not intentionally or recklessly block, follow, accompany without consent, or threaten another person on a public right-of-way during a solicitation or after the solicited individual has declined the request.
- (3) A person may not use abusive or profane language, or make a statement, gesture, or other communication that is inherently likely to provoke an immediate violent reaction, before, during or after engaging in solicitation.
- (4) A person may not intentionally or recklessly block another person's entrance to a building or vehicle while engaging in solicitation.
- (5) A person who is making a solicitation request may not intentionally or recklessly touch or cause physical contact with another person without that person's consent.

Sec. 50-270. Penalty.

The civil penalty imposed for a citation issued for a violation of Chapter 50 Article X shall be in accordance with the city's policy manual as approved by the city council. The civil penalties imposed are cumulative.