

CITY OF LEWISTON

CITY COUNCIL

JUNE 18, 2013

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Butler, Christ, Saddlemire, Cayer and Desjardins, City Administrator Edward Barrett, and City Clerk Kathleen Montejo. Absent/Excused: Councilors D'Auteuil and Libby. Note: Under the Charter regulations, the Mayor is able to vote on all matters due to the absence of a Councilor.

Pledge of Allegiance to the Flag.
Moment of Silence.

LEWISTON YOUTH ADVISORY COUNCIL

Farewell to graduating seniors – The Mayor, Councilor Butler and city staff presented certificates of service to the graduating members of the LYAC. A brief presentation was made to each student.

PUBLIC COMMENT PERIOD

John Horton of H & S Reny Property Management noted the City's Code Enforcement Office staff are knowledgeable and he encouraged the City Council to follow the advice and recommendations from that Department's staff members. He noted that 95% of the landlords are good and are trying to do the right thing for their buildings, tenants and by the city.

The Mayor asked City Planner David Hediger to explain the green t-shirts that staff and Council members are wearing at the meeting. He noted the shirts celebrate the upcoming kick-off of the Lewiston Planapalooza event which is a 5 day community dialog to help formulate the contents of the Comprehensive Plan.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (1)

Motion by Councilor Cayer, seconded by Councilor Christ:

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 the proceeds from the sale of one 9mm Black Hi-Point Model C9 Firearm, serial number P1445103, or any portion thereof, in the case of the State of Maine vs. Bobby Alan Keggins, CR-13-581 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 .

Passed - Vote 6-0

**ORDER AUTHORIZING THE CITY TO PARTICIPATE IN APPLYING FOR A
TARGETED ASSISTANCE GRANT FROM THE OFFICE OF REFUGEE
RESETTLEMENT FOR THE PURPOSE OF ASSISTING REFUGEES IN FINDING
EMPLOYMENT**

VOTE (2)

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve the Order authorizing the City to participate in applying for a Targeted Assistance Grant from the Office of Refugee Resettlement for the purpose of assisting refugees in finding employment:

Whereas, the United States Government's Office of Refugee Resettlement provides grants designed to assist local communities in finding employment for refugees residing in that community; and

Whereas, the State of Maine will be the lead applicant in seeking this grant and will contract with the City of Portland to implement the grant; and

Whereas, as proposed, the City of Lewiston will contract with the City of Portland to deliver services under the grant; and

Whereas, the grant period will run from October 2013 through September 2014; and

Whereas, the City's share of the grant would pay for a part-time contracted employment caseworker and a portion of the salary of the City's Social Services Director; and

Whereas, the employment caseworker would work closely with Lewiston Adult Education to train and secure employment for our refugee population; and

Whereas, refugee unemployment remains a serious concern in Lewiston; and

Whereas, the City's initial commitment toward securing this grant is a payment of up to \$800 to fund the City's share of a grant writer to prepare the grant; and

Whereas, these funds are available within the Social Services budget;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that the participation of the City in preparing and applying for a Targeted Assistance Grant from the Office of Refugee Resettlement is hereby authorized as is the payment of up to \$800 toward the cost of securing this grant, such funding to come from the current Social Services budget.

Passed - Vote 6-0

**PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE
BUILDINGS AND BUILDING REGULATIONS ORDINANCE REGARDING THE
PROPERTY MAINTENANCE CODE**

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

VOTE (3)

Motion by Councilor Cayer, seconded by Councilor Butler:

That the proposed amendments to the City Code of Ordinances, Chapter 18 “Buildings and Building Regulations”, Section 18-52. “Amendments to the Property Maintenance Code”, receive final passage by a roll call vote. Passed - Vote 6-0

PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE REGARDING THE REGULATION OF SYNTHETIC DRUGS

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

VOTE (4)

Motion by Councilor Butler, seconded by Councilor Christ:

That the proposed amendment to the City Code of Ordinances, Chapter 50 “Offenses and Miscellaneous Provisions”, Article IX. “Synthetic Drugs”, receive final passage by a roll call vote. Passed - Vote 6-0

PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS REGARDING NONCONFORMING USES OF SINGLE-FAMILY AND TWO-DWELLING UNITS

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

VOTE (5)

Motion by Councilor Cayer, seconded by Councilor Saddlemire:

That the proposed amendments to Appendix A, Article VI “Nonconformance”, Section 4, “Nonconforming Uses”, Subsection C “Abandonment” of the City Zoning and Land Use Code, regarding exemptions for single family and two-family dwellings, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled Council meeting. Passed - Vote 6-0

PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE LIBERTY FESTIVAL

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

VOTE (6)

Motion by Councilor Butler, seconded by Councilor Saddlemire:

To conduct a public hearing on an application from the Independence Day Committee for outdoor musical concerts to be held at Veteran's Memorial Park on July 4, as part of the Liberty Day Festival, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Independence Day Committee for the outdoor music concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances. Passed - Vote 6-0

At this time, agenda items number 9, 10, 11, 12, 13 and 14 were taken out of order and addressed at this time.

RESOLVE APPROVING THE FFY2013 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ACTION PLAN BUDGET FOR SUBMITTAL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Andrew Choate, chairperson of the CDBG Committee, noted the extra funds will be used to help with issues as a result of the recent downtown fires.

VOTE (7)

Motion by Councilor Butler, seconded by Councilor Christ:

To adopt the Resolve approving the FFY2013 Community Development Block Grant (CDBG) Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development (HUD):

Whereas, in accordance with applicable sections of 24 CFR Parts 91 and 570 and the City's Citizen Participation Plan, the City has provided citizens with adequate notice and opportunity to review and comment on its annual Action Plan budget; and

Whereas, the City Council has conducted a public hearing and accepted public comments on the proposed Action Plan; and

Whereas, HUD requires that final local acceptance of the CDBG Action Plan budget take effect a minimum of 45 days prior to the end of this fiscal year, which occurs on June 30, 2013; and

Whereas, the City Council approved a CDBG Action Plan budget at their May 7th meeting; and

Whereas, a final determination from Congress on the amount of CDBG allocation Entitlement Communities were to receive was delayed and HUD asked Lewiston to request an extension of the filing deadline for the Action Plan, which was done and extended to July 15th; and

Whereas, Congress increased the level of CDBG funding allocated to Lewiston for the FFY 2013 year to \$794,492; and

Whereas, Lewiston’s Citizen’s Advisory Committee has made additional funding recommendations based upon the increased level of funding,

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that the attached schedule of funds for the Federal Fiscal Year 2013 (FFY13) CDBG budget (Action Plan) is hereby adopted and City staff is hereby authorized to submit the FFY2013 Action Plan to the U.S. Department of Housing and Urban Development as adopted.

Passed - Vote 6-0

PUBLIC HEARING AND ORDER AUTHORIZING APPLICATION AND ACCEPTANCE OF FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE – EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM

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

VOTE (8)

Motion by Councilor Cayer, seconded by Councilor Saddlemire:

To approve the Order to authorize city staff to apply for and accept funds from the U.S. Department of Justice – Edward Byrne Justice Assistance Grant Program:

Whereas, the Lewiston and Auburn Police Departments are eligible to apply for a joint Byrne Memorial Justice Assistance Grant in the amount of \$46,809; and

Whereas, in order to apply for these funds, the City must accept the funds if they are awarded and provide opportunities for public feedback and the proposed uses of these funds; and

Whereas, the agencies involved will met and discuss how to spend their portions of this grant as outlined in the attached material from the Chief of Police;

Now Therefore, Be It Ordered by the City Council of the City of Lewiston that staff is hereby authorized to apply for and accept funding through the Edward Byrne Memorial Justice Assistance Grant program subsequent to the receipt, if any, of public feedback on the proposed uses of these funds.

Passed - Vote 6-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN EASEMENT DEED FROM THE LEWISTON AND AUBURN RAILROAD COMPANY APPURTENANT TO 46 BEECH STREET AND 46 BEECH STREET REAR

VOTE (9)

Motion by Councilor Saddlemire, seconded by Councilor Christ:

To adopt the Order authorizing the City Administrator to execute an Easement Deed from the

Lewiston and Auburn Railroad Company appurtenant to 46 Beech Street and 46 Beech Street Rear:

Whereas, the Riverfront Island Master Plan was recently completed and adopted by the City Council; and

Whereas, one element of that plan is the extension of Simard-Payne Memorial Park from Oxford Street to Lincoln Street; and

Whereas, the Lewiston and Auburn Railroad Company currently owns the property adjacent to the Grand Trunk Railroad Depot across which the park would be extended; and

Whereas, the Railroad Company has indicated its willingness to work with the City in improving this property by granting the City an easement, subject to certain conditions, to allow its use for pedestrian access to and from the Park and which will allow the City to landscape and improve the property; and

Whereas, this park extension has been identified as a high priority project which should be undertaken as one of the first steps in implementing the plan; and

Whereas, the City Council approved an initial draft of an easement on May 7, 2013; the draft was subsequently reviewed by the LARC Board which requested a minor modification to include in the easement a requirement that the City enforce existing prohibitions against motorized vehicles in Simard Payne Park and that such restrictions be extended to the easement area; and

Whereas, given this request, the proposed easement has been modified to include these conditions;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute an easement deed from the Lewiston and Auburn Railroad Company appurtenant to 46 Beech Street and 46 Beech Street Rear in a form substantially as attached hereto.

Passed - Vote 6-0

RESOLVE EXTENDING THE TERM OF THE KENNEDY PARK BANDSTAND RESTORATION COMMITTEE

Councilor Butler asked what the next items are for the committee, noting they were established in November 2011 and have raised \$8,000 in public donations so far, and the city dedicated \$75,000 toward the project and only \$4,000 of it has been used. It was noted the funds have been used for structural engineers to determine the condition of the building and other related matters.

VOTE (10)

Motion by Councilor Cayer, seconded by Councilor Saddlemire:

To approve the Resolve extending the term of the Kennedy Park Bandstand Restoration

Committee:

Whereas, on November 1, 2011, the City Council established the Kennedy Park Bandstand Restoration Committee and authorized it to undertake fund raising efforts for the restoration of the Kennedy Park Bandstand; and

Whereas, the Council has designated up to \$75,000 in Community Development Block Grant Funds to be used to match donations received by the City for the restoration; and

Whereas, the Committee also received Council authorization to expend up to \$4,000 of this \$75,000 to undertake design activities and to develop a cost estimate for the restoration project; and

Whereas, this work has been completed and the Kennedy Park Bandstand Restoration Committee has developed a fundraising brochure and a budget; and

Whereas, the initial term of the Committee expired on July 31, 2012 and was subsequently extended to June 30, 2013; and

Whereas, the Committee has requested a further extension to June 30, 2014;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that the term of the Kennedy Park Bandstand Restoration Committee is hereby extended to June 30, 2014.

Passed - Vote 4-2 (Councilors Butler and Desjardins opposed)

**RESOLVE AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF GRANTS
FROM THE NORTHERN BORDER REGIONAL COMMISSION**

VOTE (11)

Motion by Councilor Butler, seconded by Councilor Christ:

To approve the Resolve authorizing application for and acceptance of grants from the Northern Border Regional Commission:

Whereas, the Northern Border Regional Commission is now accepting applications for grants that will award \$1.2 million for eligible projects aimed at improving the economies within a thirty-six county region in Maine, New Hampshire, Vermont, and New York; and

Whereas, Androscoggin County is an area eligible for such grants; and

Whereas, Lewiston and Auburn, in conjunction with the Androscoggin Land Trust, have developed a plan for the installation of wayfinding and heritage signage throughout each community designed to provide directions and information for area visitors and to enhance the tourism and arts and culture based industries in our area; and

Whereas, this plan includes detailed plans indicating potential locations for such signage and plans for its construction and installation; and

Whereas, as a result, this project is shovel ready and can be quickly implemented; and

Whereas, the City of Lewiston is interested in separately seeking a grant to assist in the provision of parking for the proposed hotel to be located on Lincoln Street; and

Whereas, this project will also support the visitor industry in our region and create new and sustainable jobs; and

Whereas, this project can also be quickly implemented;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that application for an acceptance of a grant for wayfaring and heritage signage from the Northern Border Regional Commission is hereby authorized, such grant to be in conjunction with the City of Auburn and the Androscoggin Land Trust.

Be It Further Resolved, that application for and acceptance of a grant from the Northern Border Regional Commission for funding for a parking area to support the development of a hotel on Lincoln Street is hereby authorized.

Passed - Vote 6-0

CONSIDERATION OF REQUEST FROM THE AFRICAN IMMIGRANT ASSOCIATION FOR CITY CO-SPONSORSHIP OF A DIVERSITY CELEBRATION PLANNED FOR SEPTEMBER

Motion by Councilor Saddlemire, seconded by Councilor Cayer:

To co-sponsor the event with the African Immigrant Association.

VOTE (12)

Motion by Councilor Cayer, seconded by Councilor Butler:

To table this item to allow for additional time to gain additional information on this request
Passed - Vote 5-1 (Councilor Saddlemire opposed)

CONDEMNATION HEARING FOR THE BUILDING LOCATED AT 80 BIRCH STREET

The Mayor read a statement of proceeding for the hearing. Councilor Saddlemire recused himself from this item noting he knows the former owner of the property. Other Councilors noted they did not have a conflict regarding this item. Director of Planning and Code Enforcement Gil Arsenault and Code Enforcement Officer Thomas Maynard reviewed their findings from an inspection of the property as well as their history of communication with the property owner. Attorney Lauren Thomas stated she was representing the owner, Deutsche Bank

National Trust who became the owner as of April 23, 2013, and requested a delay of 60 days to allow time to liquidate the property to a third party.

VOTE (13)

Motion by Councilor Butler, seconded by Councilor Cayer:

With regard to the property at 80 Birch Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action. Passed - Vote 5-0 (Councilor Saddlemire recused himself.)

**CONDEMNATION HEARING FOR THE BUILDING LOCATED AT
92 WALNUT STREET**

The Mayor read a statement of proceeding for the hearing. Other Councilors noted they did not have a conflict regarding this item. Director of Planning and Code Enforcement Gil Arsenault and Code Enforcement Officer Thomas Maynard reviewed their findings from an inspection of the property as well as their history of communication with the property owner.

VOTE (14)

Motion by Councilor Butler, seconded by Councilor Christ:

With regard to the property at 92 Walnut Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action. Passed - Vote 6-0

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

VOTE (15)

Motion by Councilor Cayer, seconded by Councilor Saddlemire:

To suspend the Rules and to add an additional item to the agenda for consideration.
Passed - Vote 6-0

VOTE (16)

Motion by Councilor Butler, seconded by Councilor Christ:

To approve the Order authorizing the City to accept the easements for the Riverside Greenway

Bicycle/Pedestrian Facility and make applicable payments:

Whereas, Maine DOT supports and has funded the Planning, Engineering and Right-of-Way acquisition for the Riverside Greenway Bicycle/Pedestrian Facility project (Project Identification Number PIN 11848); and

Whereas, the City Council approved the local 20% share of the project on June 21, 2011 and funds are available in account 790 7907714; and

Whereas, the City's Engineering Division is completing the Planning, Engineering, and Right-of-Way portion of the project as a Locally Administered Project; and

Whereas, the proposed Greenway will traverse nine (9) properties where easements will be required; and

Whereas, the easement descriptions were prepared by the City and reviewed and approved by the Maine DOT; and

Whereas, independent appraisals were completed by an appraisal company and reviewed and approved by the Maine DOT Real Estate Division; and

Whereas, the project is now in the phase of negotiating and accepting easements from the affected property owners; and

Whereas, the City Council must authorize acceptance of any property including easements;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that the City Administrator and or the Engineering Division as his designated representative is authorized accept the easements for the Riverside Greenway Bicycle/Pedestrian Facility and make the applicable payments in accordance with the attached listing.

Passed - Vote 6-0

The City Administrator said the Police Department has a chance to obtain, at no acquisition cost to the City, a Hazardous Materials vehicle from the City of Portland. Councilors did not have an objection to the city accepting this and acquiring this unit.

EXECUTIVE SESSION

VOTE (17)

Motion by Councilor Christ, seconded by Councilor Cayer:

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 6-0

Session began at 8:30pm and ended at 9:12pm

VOTE (18)

Motion by Councilor Butler, second by Councilor Cayer:

To adjourn at 9:13P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine