

CITY OF LEWISTON

CITY COUNCIL

SEPTEMBER 3, 2013

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 6:00 P.M

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Absent/Excused: Councilor Libby (Note – Under the City Charter, the Mayor is permitted to cast a vote in the absence of a City Councilor.)

EXECUTIVE SESSIONS

VOTE (1)

Motion by Councilor Butler, seconded by Councilor Christ:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6) (c), to discuss Disposition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 7-0

VOTE (2)

Motion by Councilor Butler, seconded by Councilor Christ:

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (D) to discuss Labor Negotiations regarding the Lewiston Police Supervisory Command Unit.
Passed - Vote 7-0

7:00pm Regular Meeting

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Absent/Excused: Councilor Libby

Pledge of Allegiance to the Flag.

Moment of Silence.

RECOGNITION OF COUNCILOR NATE LIBBY

Councilor Butler stated that even though Councilor Libby was absent from this meeting due to a scheduling conflict, he did want to recognize him for his work facilitating the Youth Council Leadership training event.

PUBLIC COMMENT PERIOD

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

APPOINTMENT TO THE HISTORIC PRESERVATION REVIEW BOARD

VOTE (3)

Motion by Councilor Butler, seconded by Councilor Cayer:

To confirm the Mayor's nomination of Gabrielle Russell of 223 Lisbon Street to serve as an alternate member of the Historic Preservation Review Board and to appoint Ms. Russell as a member of the Board for a three year term, said term to expire January 5, 2016.

Passed - Vote 7-0

**APPOINTMENT TO THE LEWISTON HOUSING AUTHORITY
BOARD OF COMMISSIONERS**

VOTE (4)

Motion by Councilor Butler, seconded by Councilor Cayer:

To confirm the Mayor's nomination and to appoint Theresa Samson of 15 Shank Street (term to expire September 17, 2018) as a member of the Board of Commissioners of the Lewiston Housing Authority. Passed - Vote 7-0

APPOINTMENT TO THE BOARD OF LIBRARY TRUSTEES

VOTE (5)

Motion by Councilor Butler, seconded by Councilor Cayer:

To confirm the Mayor's nomination of:

- 1) Mohamed Abdillahi of 77 Rideout Avenue to serve as a member of the Board of Library Trustees and to appoint Mr. Abdillahi as a member of the Board of Library Trustees for a three year term, said term to expire January 5, 2016, and
- 2) Adam Sherman of 4 Laase Avenue to serve as a member of the Board of Library Trustees and to appoint Mr. Sherman as a member of the Board of Library Trustees for a three year term, said term to expire January 5, 2016.

Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE
OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE REGARDING THE
REGULATION OF SOLICITATION/AGGRESSIVE PANHANDLING**

The Mayor opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. The Mayor then closed the hearing. Councilor Saddlemire

expressed concerns with the ordinance being too restrictive on city sidewalks.

VOTE (6)

Motion by Councilor Butler, seconded by Councilor Cayer:

That the proposed amendment to the City Code of Ordinances, Chapter 50 “Offenses and Miscellaneous Provisions”, Article X. “Aggressive Panhandling”, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled City Council meeting for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE ON AMENDMENTS TO THE
SOLID WASTE ORDINANCE**

The Mayor opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. The Mayor then closed the hearing. The City Administrator noted the changes outlined in the workshop have been incorporated into the draft amendments.

VOTE (7)

Motion by Councilor Saddlemire, seconded by Councilor Christ:

That the proposed amendments to the City Code of Ordinances, Chapter 62 “Solid Waste”, Section 62-11 “Definitions”, Section 62-13 “Municipal collection of solid waste and recyclable materials”, Section 62-14 “Fee Schedule”, Section 62-22 “Recycling Agreement”, Section 62-23 “Spring cleanup event” and Section 62-24 “ePass program”, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled City Council meeting for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENT
REGARDING TATTOO ESTABLISHMENTS**

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

VOTE (8)

Motion by Councilor Butler, seconded by Councilor Cayer:

That the proposed amendments to Appendix A, Article II “Definitions”, Article XI “District Regulations”, and Article XII “Performance Standards”, of the City Zoning and Land Use Code, regarding tattoo establishments and zoning, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled City Council meeting for final passage. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT
PERMIT FOR THE DEMPSEY CHALLENGE**

VOTE (9)

Motion by Councilor Christ, seconded by Councilor Saddlemire:

To conduct a public hearing on an application from The Dempsey Challenge Committee for outdoor musical concerts to be held at Simard-Payne Memorial Park on October 12th and 13th, as part of The Dempsey Challenge, 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 organizing 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 7-0

CONDEMNATION HEARING FOR THE BUILDING LOCATED AT 91 PINE STREET

The Mayor opened the public hearing to receive citizen input and comment. An attorney from Drummond and Drummond stated he was present to represent the mortgage company. He noted the bank is aware of the situation and does not want to be responsible to demolish the building nor does it want to rebuild it. He stated the bank is not asking the Council to find one way or the other on this issue. The Mayor then closed the hearing. No City Councilor has a conflict of interest regarding the owners of this property. Gil Arsenault, Director of Planning and Code Enforcement, and Tom Maynard, Code Enforcement Officer, provided their professional background credentials regarding their working knowledge of building codes and building safety. Mr. Arsenault and Mr. Maynard then reviewed the City's efforts to communicate with the building owners and to work with them to resolve the numerous outstanding safety violations. They then outlined the condition of the building noting it is unsafe for habitation and is a danger to the neighborhood. They also showed photographs documenting the code violations and safety concerns.

VOTE (10)

Motion by Councilor Butler, seconded by Councilor Cayer:

With regard to the property at 91 Pine 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 7-0

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

The Mayor opened the public hearing to receive citizen input and comment. No member of the public spoke for or against this item. The Mayor then closed the hearing. No City Councilor has a conflict of interest regarding the owners of this property. Gil Arsenault, Director of Planning and Code Enforcement, and Tom Maynard, Code Enforcement Officer, provided their professional background credentials regarding their working knowledge of building codes and building safety. Mr. Arsenault and Mr. Maynard then reviewed the City's efforts to communicate with the building owners and to work with them to resolve the numerous

outstanding safety violations. They then outlined the condition of the building noting it is unsafe for habitation and is a danger to the neighborhood. They also showed photographs documenting the code violations and safety concerns.

VOTE (11)

Motion by Councilor Butler, seconded by Councilor Christ:

With regard to the property at 102 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 7-0

At this point, the Mayor took agenda item number 13 out of order and addressed it at this time.

REQUEST FROM THE ALZHEIMER'S ASSOCIATION FOR USE OF CITY SERVICES AND A WAIVER OF FEES REGARDING THE ORGANIZATION'S SEPTEMBER 7, FUND-RAISING EVENT

VOTE (12)

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve the request submitted by the Alzheimer's Association for a request for use of city services and a waiver of fees for the organization's September 7 fundraising event. Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A NEW LEASE WITH CATHOLIC CHARITIES MAINE FOR USE OF LEWISTON CITY HALL

VOTE (13)

Motion by Councilor Butler, seconded by Councilor Saddlemire:

To approve the Order authorizing the City Administrator to execute a new lease with Catholic Charities Maine for use of Lewiston City Hall:

Whereas, in September 2011, the City entered into a one year lease agreement with Catholic Charities Maine to provide space in City Hall to provide immigrant services for Lewiston residents; and

Whereas, continued cutbacks in federal immigrant funding have necessitated a reduction in Catholic Charities Maine personnel and services; and

Whereas, the new one year lease will be for reduced office space in City Hall and a smaller annual payment, but maintains Catholic Charities Maine's secondary migrant case management services;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that the City Administrator is authorized to execute a new lease with Catholic Charities Maine for use of Lewiston City Hall.

Passed - Vote 7-0

**POTENTIAL AMENDMENT TO THE JOINT DEVELOPMENT AGREEMENT WITH
PARALLAX PARTNERS, INC. REGARDING THE HOTEL DEVELOPMENT
PROJECT ON LISBON STREET**

The City Administrator noted this project is scheduled to close within the next 30 days.

VOTE (14)

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve the Order authorizing the City Administrator to execute a First Amendment to Joint Development Agreement between The City of Lewiston, Parallax Partners, Inc., and Lewiston Hampton Development, LLC:

Whereas, the City and the Developer executed a Joint Development Agreement dated December 20, 2011 under which the City agreed to sell and the Developer agreed to purchase two parcels located at 15 Lincoln Street and 29 Lincoln Street for the purpose of constructing a 90 to 100 room hotel; and

Whereas, while the Developer exercised its Option to purchase the property on July 9, 2012, a closing on the property was not scheduled within the 180 days required by the JDA; and

Whereas, the JDA required the City to contribute \$425,000 toward the design and construction of surface parking and public park infrastructure on the adjacent Combined Sewer Overflow site as well as other public improvements including streets, sidewalks, and landscaping; and

Whereas, the Developer has assigned its right to purchase the Properties from the City to Lewiston Hampton Development, LLC, as permitted by the JDA; and

Whereas, the Developer and Developer's Assignee have now obtained the necessary financing to schedule a closing to purchase the properties from the City; and

Whereas, the Developer and Developer's Assignee have contracted with Wright-Ryan Construction, Inc. to construct the Project, and Machias Savings Bank has agreed to provide financing; and

Whereas, the Developer and Developer's Assignee wish to purchase the Properties from the City for the purpose of completing the Project; and

Whereas, the City has agreed to sell the Properties to the Developer or Developer's Assignee in exchange for certain guarantees from the Developer, Developer's Assignee, and any of their successors or assigns that the City's contribution will be used for the specified purposes and that

the required public improvements will be completed;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute the FIRST AMENDMENT TO JOINT DEVELOPMENT AGREEMENT between THE CITY OF LEWISTON, PARALLAX PARTNERS, INC., and LEWISTON HAMPTON DEVELOPMENT LLC. in a form substantially as is attached hereto.

Passed - Vote 7-0

BALLOT FOR ELECTION OF THE ANDROSCOGGIN COUNTY BUDGET COMMITTEE MEMBERS

VOTE (15)

Motion by Councilor Butler, seconded by Councilor D'Auteuil:

To vote for City Councilor Richard Desjardins and resident Michael Marcotte for the Androscoggin County Budget Committee for District One. Passed - Vote 7-0

VOTE (16)

Motion by Councilor Butler, seconded by Councilor Christ:

To vote for City Councilor Donald D'Auteuil and resident Nel Anctil for the Androscoggin County Budget Committee for District Two. Passed - Vote 7-0

VOTE (17)

Motion by Councilor Butler, seconded by Councilor Cayer:

To vote for Greene Selectman Anthony Reny and Durham Selectman Jeffrey Wakeman for the Androscoggin County Budget Committee for District Three. Did Not Pass - Vote 3-4 (Councilors Christ, Saddlemire and Butler in favor)

VOTE (18)

Motion by Councilor D'Auteuil, seconded by Councilor Saddlemire:

To vote for Mayor Robert Macdonald and resident Pauline Gudas for the Androscoggin County Budget Committee for District Three. Passed - Vote 6-1 (Councilor Butler opposed)

REPORTS AND UPDATES

The Finance Director announced there is a Paddle After Hours event on Thursday and members of the public are welcome to attend. The City Administrator noted the year-end financial reports are much better than expected. The City Clerk reminded residents that nomination papers for municipal office are available and are due next month.

OTHER BUSINESS

No other business was presented at this time.

EXECUTIVE SESSIONS

VOTE (19)

Motion by Councilor Butler, seconded by Councilor Christ:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Real Estate Negotiations, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 7-0

Session started at 8:12pm and ended at 8:52pm.

VOTE (20)

Motion by Councilor Butler, seconded by Councilor Christ:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 7-0

Session started at 8:52pm and ended at 9:23pm.

VOTE (21)

Motion by Councilor Butler, second by Councilor Saddlemire:

To adjourn at 9:23P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine