

CITY OF LEWISTON

CITY COUNCIL

AUGUST 12, 2014

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Dubois, D'Auteuil, Libby, Christ, Cloutier, Cayer and Lachance, City Administrator Edward Barrett and City Clerk Kathleen Montejo.

EXECUTIVE SESSION

VOTE (232-2014)

Motion by Councilor Dubois, seconded by Councilor Christ:

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 7-0

Executive Session began at 6:00pm and ended at 6:25pm.

VOTE (233-2014)

Motion by Councilor Dubois, seconded by Councilor Libby:

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

Executive Session began at 6:26pm and ended at 6:50pm.

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Dubois, D'Auteuil, Libby, Christ, Cloutier, Cayer and Lachance, City Administrator Edward Barrett and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.

Moment of Silence.

PUBLIC COMMENT PERIOD

No members of the public offered comment at this time.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (234-2014)

Motion by Councilor Cayer, seconded by Councilor Libby:

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 \$1,489.00, or any portion thereof, in the case of the State of Maine vs. Nicholas Weekes, CR-14-1626 Court Records, being funds forfeited pursuant to the court process. It is further acknowledged that these funds shall be credited to the 'City of Lewiston Drug Enforcement Program' account.

Passed - Vote 7-0

**ORDER AUTHORIZING EXECUTION OF TWO MUNICIPAL QUITCLAIM DEEDS
FOR REAL ESTATE – 246 PARK STREET AND 128 BLAKE STREET**

VOTE (235-2014)

Motion by Councilor Cayer, seconded by Councilor Libby:

To approve the Orders authorizing execution of municipal quitclaim deeds for real estate payments:

Whereas, the owner LJM LLC failed to pay its tax bill on a timely basis for 246 Park Street (Tax Map 196, Lot 299, Parcel 00-007402); and

Whereas, a tax lien lien was filed on June 13, 2012 (Book 8417 Page 221) and matured on December 13, 2013 in the amount of \$1,872.13; and

Whereas, payment was received in full on February 19, 2014;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that a quitclaim is hereby authorized to be issued for 246 Park Street to release the City's interest in the property to the new owner Annubis Properties LLC.

Whereas, the owner LJM LLC failed to pay its tax bill on a timely basis for 128 Blake Street (Tax Map 195, Lot 540, Parcel 00-002227); and

Whereas, a tax lien lien was filed on June 13, 2012 (Book 8417 Page 217) and matured on December 13, 2013 in the amount of \$1,964.40; and

Whereas, payment was received in full on February 19, 2014;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that a quitclaim is hereby authorized to be issued for 128 Blake Street to release the City's interest in the property to the new owner Anubis Properties LLC.

Passed - Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL
AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE CARRIAGE
HOUSE, 1119 LISBON STREET**

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

VOTE (236-2014)

Motion by Councilor Libby, seconded by Councilor Christ:

To grant a Special Amusement permit for live entertainment to The Carriage House Plus, 1119 Lisbon Street. Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A GYM LEASE AGREEMENT BETWEEN THE CITY OF LEWISTON AND THE AUBURN-LEWISTON YOUNG MEN'S CHRISTIAN ASSOCIATION

VOTE (237-2014)

Motion by Councilor Lachance, seconded by Councilor Cloutier:

To approve the Order authorizing the City Administrator to execute a Gym Lease Agreement between The City of Lewiston and the Auburn-Lewiston Young Men's Christian Association:

Whereas, the City has provided a gymnastics program to residents and non-residents for many years, and

Whereas, the gymnastics program has provided an affordable, high quality recreation opportunity to a variety of age groups; and

Whereas, recent staffing reductions have required that the City consider alternatives to continue the administrative and equipment setup support for the program; and

Whereas, the Auburn-Lewiston Young Men's Christian Association has developed a reputation of offering and supporting high quality recreational opportunities for our residents and is extremely well positioned to assume the gymnastics program schedules, administration, programming and staffing which will help to ensure the program's quality and affordability for all existing and new participants;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute the Gym Lease Agreement between The City of Lewiston and the Auburn – Lewiston Young Men's Christian Association the form substantially as is attached hereto.

Passed - Vote 7-0

CONDEMNATION HEARING FOR THE BUILDING LOCATED AT 115 SHAWMUT STREET

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. No members of the Council personally know the property owner and therefore do not have a conflict of interest for this hearing. No one representing the property owner was present for the hearing.

VOTE (238-2014)

Motion by Councilor Libby, seconded by Councilor Cayer:

With regard to the property at 115 Shawmut 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

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO TAKE THE
NECESSARY STEPS TO ACCEPT OWNERSHIP OF 114 AND 118
BARTLETT STREET**

VOTE (239-2014)

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve the Order authorizing the City Administrator to take the necessary steps to accept ownership of 114 and 118 Bartlett Street:

Whereas, the buildings located at 114 and 118 Bartlett Street were destroyed by fire in the spring of 2014; and

Whereas, the property is owned by a limited liability corporation without additional assets; and

Whereas, the owner and the holder of a mortgage on the property have indicated a willingness to transfer the property free and clear to the City; and

Whereas, given that it is unlikely that the City will recover any of its costs related to demolition and clearance of the property, the property will likely come to the City when property tax liens are placed on it and subsequently mature; and

Whereas, City ownership will allow the City to adequately maintain the property and assist in its eventual redevelopment or reuse; and

Whereas, the Planning Board has recommended that the City take possession of the property and market it for disposition;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to take the necessary steps to accept the property located at 114 and 118 Bartlett Street.

Be it Further Ordered, that a request for proposals be issued seeking the reuse and redevelopment of the property.

Passed – Vote 7-0

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO
AGREEMENTS WITH THE UNITED STATES GOVERNMENT REGARDING
H.O.M.E. FUNDS**

VOTE (240-2014)

Motion by Councilor Libby, seconded by Councilor Christ:

To approve the Order authorizing the City Administrator to enter into Agreements with the United States Government regarding H.O.M.E. Funds:

Whereas, in June 2007, the City of Lewiston agreed to provide a HOME Investment Partnership Program (“HOME”) loan to Pine Properties, LLC in the amount of \$200,000 to rehabilitate residential rental properties located on Pine Street; and

Whereas, over a period of approximately 12 months, the City loaned Pine Properties, LLC approximately \$180,000 based on invoices for property rehabilitation provided by Travis Soule, the principal owner of Pine Properties, LLC; and

Whereas, the City subsequently became aware that some of the work for which Pine Properties was reimbursed from HOME funds was not actually performed; and

Whereas, upon verifying that the work had not been performed, the City immediately notified officials of the United States Department of Housing and Urban Development (“HUD”) and local law enforcement of the issue; and

Whereas, federal officials then instituted an investigation that eventually resulted in charges of making false claims and theft of public money against Travis Soule, who subsequently pleaded guilty in June of 2011 and was sentenced to 14 months in federal prison; and

Whereas, the City and its employees cooperated fully in this investigation and its associated legal proceedings; and

Whereas, of the \$180,000 in question, \$40,000 was subsequently recovered from a bank that improperly paid on a forged check endorsement; and

Whereas, in 2013, HUD officials notified the City of an administrative claim against it for reimbursement of the remaining \$140,000 in federal funds misused by Mr. Soule; and

Whereas, through negotiations with HUD, the City has agreed to a settlement pursuant to which a request will be made to HUD to permit repaying this amount through annual reductions in the amount of HOME funds that the City will receive over the next three years; and

Whereas, in 2013, the United States Department of Justice (DOJ) also made claims against the City under common law theories and under the federal False Claims Act, a federal statute which allows the federal government to seek both penalties, and treble damages associated with improper claims for payment submitted to the federal government; and

Whereas, under that law, the DOJ could seek a maximum recovery of in excess of \$600,000 which includes civil penalties, plus treble damages; and

Whereas, the City and the DOJ have negotiated a settlement agreement under which the City will pay \$40,000, such settlement recognizing that the City immediately brought Pine Street's fraudulent behavior to official attention and cooperated fully with the government in its legal proceedings against Mr. Soule; that the resolution is reached without any finding of liability on the part of Lewiston or its officials; and acknowledging that City has denied any and all such liability; and

Whereas, this agreement will mitigate the risk to the City of higher penalties and damages and will permit the City to avoid the legal costs required to defend such claims should they proceed to federal court;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator, on behalf of the City of Lewiston, is hereby authorized to execute such documents and enter into such agreements with the United States government as are necessary to settle claims advanced by the United States' Departments of Housing and Urban Development and Justice to allow for reimbursement of HUD in the amount of \$140,000 over a three year period through annual reductions in the City's HOME grant funding and to make payment to the DOJ in the amount of \$40,000 to settle any and all claims and matters arising from Pine Properties, LLC's fraudulent use of these funds.

Passed - Vote 7-0

RECEIPT OF CITY CLERK'S REPORT REGARDING VALID SIGNATURES FOR THE CITIZEN INITIATIVE PETITION REGARDING THE PROPOSED ORDINANCE FOR USE OF MARIJUANA BY PERSONS 21 YEARS OF AGE OR OLDER

VOTE (241-2014)

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

To accept the City Clerk's report regarding verified petition signatures for the petition regarding the proposed ordinance for "Use of Marijuana by Persons 21 Years of Age or Older".

Passed - Vote 7-0

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

VOTE (242-2014)

Motion by Councilor Cayer, seconded by Councilor Christ:

To appoint Deputy City Administrator Phil Nadeau to serve as a member of the Lewiston Auburn Transit Committee for a three year term, said term to expire June 15, 2017. Passed - Vote 7-0

VOTE (243-2014)

Motion by Councilor Libby, seconded by Councilor Cloutier:

To conduct a public hearing on an application for an outdoor entertainment event for the Kennedy Park, 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, for an outdoor music concert to be held at Kennedy Park on Saturday, August 16, contingent upon positive recommendations from the Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances. Passed - Vote 7-0

EXECUTIVE SESSIONS

VOTE (244-2014)

Motion by Councilor Dubois, seconded by Councilor Cloutier:

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

Executive Session began at 8:25pm and ended at 8:48pm.

VOTE (245-2014)

Motion by Councilor Dubois, seconded by Councilor Christ:

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 7-0

Executive Session began at 8:48pm and ended at 9:17pm.

VOTE (246-2014)

Motion by Councilor Libby, seconded by Councilor Lachance:

To adjourn at 9:17 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine